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**LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM**

**Session III: Addressing Competition Challenges in Financial Markets**

**-- Contribution from Brazil (SEAE) --**

**4-5 April 2017, Managua, Nicaragua**

*The attached document from Brazil (SEAE) is circulated to the Latin American and Caribbean Competition Forum FOR DISCUSSION under Session III at its forthcoming meeting to be held on 4-5 April 2017 in Nicaragua.*

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# LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM



15th Latin American and Caribbean Competition Forum  
4-5 APRIL 2017, Managua, Nicaragua

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## Session III: Addressing Competition Challenges in Financial Markets

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### CREDIT CARD FINANCING: ALTERNATIVE CREDIT LINE IN ORDER TO REDUCE THE DEBTOR OVER-INDEBTEDNESS

-- CONTRIBUTION FROM BRAZIL (SEAE) --

#### 1. Summary

1. In its competition advocacy role, SEAE is responsible to promote competition among the government agencies, including financial market regulation. In the case presented in this paper, the regulation would affect the financial market in its credit card financing subsector. The resolution proposed aimed to decrease the debtor over-indebtedness and SEAE highlighted there was an opportunity to increase the competition in this market by (i) improving transparency; and (ii) increasing the possibility of new offers entry.

#### 2. Brazilian System of Competition Defense

2. The Law n. 12.529, as of 30 November 2011, is the cornerstone of the Brazilian System of Competition Defense (*Sistema Brasileiro de Defesa da Concorrência – SBDC*), which is presented by two entities:

- Administrative Council of Economic Defense (*Conselho Administrativo de Defesa Econômica – CADE*): antitrust authority that investigates cartels, mergers and anticompetitive conducts; and
- Secretariat of Economic Monitoring (*Secretaria de Acompanhamento Econômico – SEAE*): competition advocacy.

3. It is important to highlight that SEAE is part of the Ministry of Finance and CADE is an autonomous entity, since it can investigate and punish the acts related to cartels, mergers and anticompetitive conducts. On the other hand, SEAE is responsible, in short, to:

- analyze and recommend changes in normative proposals of regulated public services subject to public consultation;
- conduct market studies in order to support the Ministry of Finance in public policies assessments;
- propose the revision of laws, regulations and other normative acts that affect or may affect competition in any economic sector; and
- analyze the competitive impact of trade defense measures, such as antidumping measures.

4. Therefore, SEAE advocates in aspects related to competition promotion in all economic sectors and government agencies.

### **3. Financial Market Regulation**

5. The Minister of Finance, the Ministry of Planning and the governor of the Central Bank of Brazil (CBB) composes the National Monetary Council (*Conselho Monetário Nacional – CMN*). CMN responsible for formulating the credit and currency policies in order to achieve currency stability and social and economic development. Shortly, CMN, is responsible for:

- FX regulation, including gold and SRW;
- Credit regulation, including endorsements and warranties on behalf of financial institutions;
- Regulating the financial institutions monitoring and oversighting conducted by the CBB;
- Defining the financial institutions accounting standards; and
- Stipulating capital requirements to be complied by the financial institutions

6. Ultimately, all regulations regarding the financial system have to be approved by CMN through Resolutions that enforce all financial system players, such as banks, stock market and payments arrangements.

7. As above-mentioned, SEAE is part of the Ministry of Finance. Therefore, in its role of competition advocacy it is possible to act in the financial market regulation, since the Minister of Finance is the president of CMN. In this sense, SEAE can recommend changes in the financial market regulation by following-up the CMN agenda in order to advocate for the competition promotion.

### **4. Resolution proposal**

8. The resolution analyzed by CMN aimed to contribute to decrease the creditor over-indebtedness by allowing the debtor have a more-advantageous alternative compared to the credit cards, provided that this sort of debt, in Brazil, is the most expensive credit line for the debtors.

9. Currently, there are three possibilities for paying the credit card debt until its due date:

- i) Full-debt payment: the credit card is used as a post-paid instrument of payment, with no financial charges;

- ii) Outstanding balance installment: the credit card is used as a credit instrument, with financial charges, such as interest and taxes, fixed in contractual terms; and
- iii) Payment between 15%-100% of the debt: the consumer uses the credit offered by the credit card issuer, with interest and financial charges on the remaining balance. This is the most expensive option, due to the risk incurred by the financial institution in this credit line.

10. According to CBB reports, the average interest rate for the credit offered by the credit card issuer (possibility “iii”) was up to 482.1% per annum in November 2016 and for the outstanding balance installment (possibility “ii”) amounted to 155.0% per annum. Therefore, by keeping their debts in usual credit offered by credit card issuers, the debtors can face their debts be multiplied by six in one year, which can lead to their above-mentioned over-indebtedness.

11. In order to decrease this issue, the resolution presents, in short, the following guidelines:

- The debt balance of the credit card invoice, when not fully paid at maturity, can only be financed in the form of the possibility “iii” until the maturity of the subsequent invoice;
- The finance of the debtor balance by other credit lines on more advantageous terms may be granted at any time before the due date of the subsequent invoice;
- After the expiration of the subsequent invoice, the remaining balance may be financed through a personal credit line (with warrants and income assessment), provided that under more advantageous conditions for the client in relation to those practiced in the credit described in the possibility “iii”; and
- The amount financed by the financial institution should be considered in the client’s risk assessment and definition of credit card limits.

12. In summary, the resolution aims to discourage the incurrence of the financial charges of the credit card issuers due to the high interest rates related to this credit line, which affects indebtedness of the debtors. In order to mitigate these effects, the financial institutions will have to offer their clients other types of credits, such as personal credits or outstanding balance installment, since these credit lines are more advantageous to their clients.

## **5. Competitive impact**

13. First, SEAE explored the need to regulate the above-described situation. In terms of market efficiency, the borrower would be capable to analyze the best alternative to finance his or her consumption and the financial institutions would be able to offer the best credit line to this consumer. In this case, if an effective competition were in place, the lender would offer an interest rate at a market price, with no abnormal margins. Therefore, from a competitive perspective, it is questionable the need to regulate the credit cards financial charges in order to avoid the debtors’ over-indebtedness.

14. However, since the resolution proposed by CBB was already ongoing, SEAE pointed-out to CMN some suggestions in order to improve the transparency in this market and to increase the possibility of the entry of new competitors. SEAE concluded the resolution has the potential to increase competition in the credit market as it encourages competition from financial institutions in offering better financing charges on the credit card outstanding debt. Given that the financial institution will have to offer other credit lines to its clients, the debtors will have the opportunity to compare the financial charges among the other players in this market.

- However, to be more effective in the competition perspective, SEAE suggested that the resolution should include the following directives:
- The credit card invoice has to present the full financial charges applied in alternative credit lines offered to the client;
- The financial institutions have to publish in their websites the average cost of credit offered to their clients; and
- The CBB will publish in its website the average cost of credit of each player in the credit card market.

15. Those proposals aim to become the resolution more effective in decreasing the financing costs, since the debtors would be able (i) to compare the charges offered by others players in the market; and (ii) to negotiate better conditions with other competitors.

16. Moreover, financial institutions that is not credit card issuer (usually small-size banks) would be able to compete in this market by offering the possibility to financing the outstanding debt of the credit card invoice. This possibility would increase the variety of incumbents in this market and the competition for this type of client.

## **6. Conclusion**

17. CMN approved the resolution in mid-January, but the SEAE's suggestions will only be discussed in the forthcoming months. Since the financial institutions will have to change their processes of financing in the credit card market, CMN concluded it would not be appropriate to include other changes in the sector. Moreover, CBB and CMN will address competition issues in the near future, since the resolution analyzed aimed to decrease the interests paid by the debtors instead of improve the competition in this market.