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Amendments to Circulars 4/2017 and 3/2012 of Banco de México (Transition to *Overnight TIIE*)

On April 13, 2023, Banco de México published Circular 3/2023 and Circular 4/2023 in the Official Gazette of the Federation, amending Circular 14/2007 (regarding interest rates in terms of the LTOSF¹) and 3/2012 (regarding transactions of banks and other financial entities), respectively. The modifications eliminate the existing methodology for calculating the Equilibrium Interbank Interest Rate (TIIE) for terms longer than one Banking Business Day, and gradually will limit the possibility for Financial Institutions² that enter into Loans³ to use the referred TIIE for terms longer than one Banking Business Day as a reference rate.

The most relevant amendments are:

- » A new definition of “TIIE *de Fondeo*” (Overnight TIIE) is included. TIIE de Fondeo (Overnight TIIE) is the TIIE for one Banking Business Day calculated according to the methodology included in Circular 3/2012.
- » Financial Institutions that enter into TIIE Loans denominated in local currency, may only use the TIIE *de Fondeo* (Overnight TIIE) for such Loans and not TIIE with other terms, in addition to other authorized rates⁴.
- » The definition of “TIIE for Terms Longer than One Banking Business Day” is added in order to merge the current 28, 91 and 182 day TIIE rates within the same methodology.
- » The current methodology to calculate the 28, 91 and 182 day TIIE rates is eliminated and Annex 11 of Circular 3/2012 will implement a synthetic calculation of such TIIE rates that are for terms longer than one banking business day.
- » The synthetic methodology to calculate the TIIE for Terms Longer than One Banking Business Day will continue to apply for reference rates of the Loans entered into before the entry into force of Circular 4/2023, and the calculations of such rates will be published until Banco de México deems it convenient. In the event that Banco de México stops publishing the TIIE for Terms Longer than One Banking Business Day, it will inform such event on a timely manner and will specify the rate that will replace it.

¹ Law for the Transparency and Regulation of Financial Services.

² Circular 14/2007 defines financial institutions as: (i) banks and (ii) regulated multiple purpose financial companies.

³ Circular 14/2007 defines Loans as the credits, loans or financing granted by financial institutions.

⁴ Pursuant to Rule 2. 5 of Circular 14/2007, for Loans denominated in local currency, only the following rates may be used as reference rates other TIIE for one Banking Business Day (Overnight TIIE) are: (a) the yield rate in primary placement of *Certificados de la Tesorería de la Federación* (CETES); (b) the cost of term deposits of liabilities denominated in domestic currency that Banco de México deems representative of the set of multiple banking institutions and that it publishes in the Official Gazette of the Federation (CCP); d) the NAFIN Rate (NFR) published in the Official Gazette of the Federation; e) the rate agreed upon in the instruments documenting development bank or public economic development trust loans, only for loans discounted with such development banking institutions or trusts, or granted with funds from such institutions or trusts; f) the weighted bank funding rate (*tasa ponderada de fondeo bancario*) or, g) the weighted government funding rate (*la tasa ponderada de fondeo gubernamental*). The latter two rates will be those published by Banco de México on its web page on the Internet under the domain name www.banxico.org.mx.

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- » These changes will become effective on January 1, 2025, subject to the following dates and exemptions:

Entry in to force and exemptions:

- » As of January 1, 2024, new loan agreements entered into, must refrain from using 91-day and 182-day TIIE rates as a reference in such agreements. Notwithstanding the foregoing, Financial Institutions may continue to use 91-day and 182-day TIIE rates for Loans, as well as securities issued in connection with multiannual investment programs, which have been issued, executed or formalized, respectively, before January 1, 2024. In this case, the Financial Institutions may continue to use such references to the TIIE for the remaining term of the contracts.
- » As of January 1, 2024, Banco de México will calculate the 91-day and 182-day TIIE rates synthetically, according to the methodology established in Annex 11 of Circular 3/2012.
- » As of January 1, 2025, Financial Institutions, new loan agreements entered into must refrain from using the 28-day TIIE as a reference in such agreements. Notwithstanding the foregoing, Financial Institutions may continue to use the 28-day TIIE for those Loans, transactions, as well as securities issued in connection with multiannual investment programs, which have been issued, executed or formalized, respectively, prior to January 1, 2025. In this case, the Financial Institutions may continue to use such references to the TIIE for the remaining term of the contracts.
- » As of January 1, 2025, Banco de México will calculate the 28-day term TIIE synthetically according to the methodology established in Annex 11 of Circular 3/2012.

We strongly advise Financial Institutions to set forth mechanisms to be in compliance with the aforementioned rules and avoid any possible contingency. If required, we can assist them in this process.

Should you require additional information in this regard, please contact Pablo Perezalonso Eguía (pperezalonso@ritch.com.mx) partner of Ritch Mueller's Banking and Finance practice.

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