

# Greater banking digitalisation a top priority, says Sabadell legal director

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The covid-19 crisis has accelerated the need for more digitalisation in the banking sector, says Luis Alberto Cárdenas Díaz, the director of legal business for Banco Sabadell in Mexico, as well as for more efficient use of legal resources both in-house and by outside counsel. These are now immediate priorities for the banking sector, he says.

The covid-19 crisis presents serious challenges for the Mexican banking sector. These can be observed in the digitalisation of banking services, remote management of human resources and external counsel, and the default and restructuring of current financings.

The digitalisation of banking services is a priority for the banking sector and has been the object of several legal reforms since 2018. Nonetheless, in practice, it has been limited to low-value transaction accounts and microcredits, as the digital offering and electronic execution of other bank products requires approval from the Mexican Banking and Securities Commission (which, as of today, has only granted this consent to one bank).

Because of the covid-19 crisis, it has become evident that a more thorough legal framework regarding digital banking is needed. Mexican authorities have recognised this necessity and have issued an exception to the current legal provisions, allowing banks to offer mid-value transaction accounts and credits (up to approximately 196,3801 Mexican pesos) without prior governmental authorisation, as long as they comply with the procedure provided in such exceptions. At the same time, the Mexican Banking and Securities Commission drafted an amendment to the current legal framework mirroring the requirements provided in the exception (although the draft – as opposed to the exceptions issued – requires prior government authorisation). This draft is currently being studied by the banking sector.

Digital banking (understood as the online execution of banking products and services) presents three main challenges. These are identity theft, the possible use of digital banking as a facilitator of money laundering, and the technical aspects required for its proper implementation. Technology is intertwined with all banking services but represents a particular challenge when used to open deposit accounts and credits, as opposed to just operating banking products and services.

All three challenges are being addressed by the proposed legal framework, which prescribes that clients will have to provide banks with their voter identification. Banks will be required to corroborate this identification and, in principle, verify the client's biometric information against a governmental database. Additionally, the proposed framework establishes detailed technical procedures and technological requirements that banks must comply with to allow for the digital opening of deposit accounts and credits.

Soon, we can expect more banking products and services to be available in a completely digital form (whether directly from banks or in partnership with third parties under banking-as-a-service models). Such availability will promote financial inclusion, reduce banking costs and stimulate economic growth.

### **Necessary adjustments**

This crisis has also evidenced the need to develop completely digital procedures to execute all agreements necessary for the correct functioning of banks (particularly those agreements by which banks contract third parties as service providers). This has been a practical challenge, as most of the previous organisational procedures required physical signatures and did not allow for digital consents.

The pandemic presents major organisational and management issues, as – almost from one day to another – all our operations and interactions went from a physical setting to a digital world. In the beginning, I was somewhat sceptical of this transition, but time proved me wrong. Our operation became more efficient and we were able to transition without any major disruptions to our internal and external clients. Today we are functioning almost entirely remotely.

Aside from such organisational challenges, the economic consequences of the covid-19 crisis have forced in-house lawyers to reduce legal expenditure, particularly regarding outside counsel. Under this scenario, a thorough analysis has been made to efficiently relocate work to company lawyers, develop or adjust internal processes and,

where possible, automatise procedures. This last aspect – atomisation – is becoming a major consideration when managing a legal team efficiently in a way that properly addresses the needs of the organisation.

In most cases, law firms have recognised the extent of the economic crisis and have become more conscious of the costs associated with their advice, reducing or reviewing their fees and putting an emphasis on high-quality legal services at a reasonable price, with a more business-like approach. Firms are starting to see themselves as “partners” of their clients in a sense that their objectives are aligned, rather than just considering their clients as their main revenue source.

### **The new economic reality**

The more serious problem derived from the current economic situation is the health of Mexican banks’ credit portfolios. This problem has been recognised by the Mexican government since the early days of the lockdown. The government issued special accounting regulations looking to facilitate credit restructurings while protecting the stability of the banking sector and allowed for the deferral of payments (mostly benefiting credit card and mortgage holders).

Most Mexican banks have made use of these special provisions and have been restructuring their credits, with the purpose of recognising the current economic scenario and, when possible, increasing their collaterals.

A real risk exists that some credits will default, not because of an unwillingness to pay but rather incapability to pay, because of the new economic reality. In such scenario, besides the financial impact for the banks and the banking system as a whole, internal legal departments will be the object of additional stress, as the soundness of their legal structures will be called into question if judicial or extrajudicial collection procedures are initiated.

From an in-house legal perspective, we need to assist our financial and business areas in achieving quick and satisfactory credit restructures that will reduce the risk of default. Likewise, we need to adequately communicate the necessity of legally sound structures that protect the bank in case a default arises.

Since the 1995 financial crisis – and through the 2008 crisis – the Mexican banking sector has continuously strengthened its structure, capitalisation and liquidity indexes. In that sense, Mexican banks are more than adequately capitalised and have the necessary resources to properly address the current economic crisis. We can expect this setback not to have an overarchingly negative effect on the sector but, in the long-term, it will provide additional elements that will help banks to better serve their functions as promoters of growth and financial inclusion.