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LEGAL BASIS OF PRACTICE AND IMPLEMENTATION OF DIGITAL FINANCIAL SERVICES IN FOREIGN COUNTRIES

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Abstract:

We would like to dwell on the positive and negative aspects of the implementation of digital financial technologies, which are taking their place in the financial market in the world today.Currently, there is a lot of research on digital financial technologies, depending on the field, and the issues aimed at regulating these relationships, which are actually a product of the existing technological revolution, have reached a dead end. Because, it can be observed that mankind has gradually continued to develop using the traditional method of regulating relations over the years and has relied on them to overcome existing problematic situations.

Keywords: Fintech, fintech companies, internal innovation centers, cloud computing, activities, agency model.

While the process of implementing the result of technological development has accelerated today, the issues of legal regulation of these relations are significantly lagging behind. Therefore, there is a need to conduct extensive research in this topic and find a positive solution to it.

Therefore, we found it necessary to analyze the development trends of digital financial technologies on the example of Latin American countries and pay special attention to their positive features.

Latin American countries are actively competing in this field through platforms created by large digital technology companies. As the main factor for this, large technology companies have a clear advantage with their existing privileges, the possibility of free access to the database and the competitiveness of the platforms created by them. In particular, in this regard, the specific business approaches of Google (artificial intelligence), Amazon (cloud computing - relying on a large database), Apple (mobile communication tools), Microsoft (enterprise applications and cloud computing) and Facebook (managing big data in social networks) it is worth noting. In contrast, large transaction P2P payment systems and "digital wallets" (Paypal, Wechat-Tencent and even WhatsApp) are becoming an important alternative in financial markets, where they are a source of tension for traditional banking.

It should be noted that the traditional banking industry until today has felt the hidden competition threats on a global scale as a result of this Fintech revolution. Therefore, in recent years, in order to achieve a better provision of technological services through "internal innovation centers", there are aspects of using new business models to improve their human capital with the help of Fintech startups, to fundamentally change the activities of procurement-alliances.

Instead, we consider it necessary to provide information about the results of the bank survey on the development of Fintech-Digital Banking in Latin America during the analysis process. In particular, the banks surveyed, aware of the modern competitive "threats" of Fintech, responded as follows based on their strategies:

– 36% to support activities by opening alliances with fintech companies;

– participation of "organic" innovation within banks, where many entities have implemented their internal "digital laboratories" or innovation centers, 29%;

– outsourcing digital services to Fintech companies 21%;

– Acquisition of fintech companies and application to financial processes 9%[1].

The results of the conducted analysis show that although there are favorable signs and elements of development in the provision of digital banking services in the region, it can be observed that many users and service providers prefer to use the traditional method of banking services.

Along with the promising issues in the development of the digital financial services industry in Latin America today, some problematic situations can

[1] Claessens S., Frost J., Turner G. Fintech Credit Markets around the World, BIS Quarterly Review, September de 2018. –R.58.

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be observed. They consist of:

– insufficient formation of the legal framework regulating this field;

– cyber security aspects are not reliably protected;

– we can point out the main factor is the preference of organizations in the field of financial services not to give up working on the basis of the old model.

However, the results of a survey of financial services companies show that in the next five years, banks believe that the conditions are ripe for abandoning traditional banking and existing methods.

According to researchers, the process of digitization of the financial services sector is entering the society at lightning speed, causing a real revolution in the banking and financial market.[2]. This process is also recognized by the scientific community with the term Fintech, as it corresponds to technologies in the service of the financial system.

At its core, the term fintech includes technological products used in traditional banking - financial services extend to the full range of capital markets, including platforms, internet services, mobile phone applications and more.[3].

Fintech is already "Amazon-Alibaba" in e-commerce retail, "Uber-Lyft-Cabify" in transportation, "Airbnb" in residential rental and sales, "Netflix" in media and digital content, information on citizens' own preferences. information, advertisements, personal information of a person in a partial form has reached high levels in the form of social networks such as "Facebook-Google" and "AD" cards. The common feature and goal of all of these was the highly effective use of Big Data and its application to expand the customer base.

As we can see, all this includes the space that constitutes the "society of relations", which is called "capitalism without capital", given the rapid pace of investment in intangible assets.[4].

Its distinctive features include high-speed resolution of valuation of intangibles related to business transformation, patenting and their "technological application". Through fintech, we can envision Uber, the largest transportation company without a single vehicle, Airbnb, a large hotel in the world without ownership of a single room, and Amazon, a global retail space without any stores.

Currently, the comparative advantages of large technology companies are clearly manifested in technical know-how and large R&D budgets. In this regard, the "big four" of America, i.e. Amazon, Facebook, Google, Apple, and the "BATs" of China, i.e. Baidu, Alibaba, Tencent, stand head and shoulders above their competitors.[5]. All of these competitive threats from these giants are highly debated issues among Latin America's central financial-banking sector. However, although there are sufficient technical grounds for the implementation of such actions regarding the digitization of the banking and financial system, the contribution of Latin American countries in this field is 28%. This situation does not match the competitive threats posed by the proliferation of online lending platforms over the past five years[6].

As a research object, we have been observing evidence that we do not have enough skills or knowledge about Fintech long-term banking service delivery system. It is natural for everyone to wonder whether the penetration of the digital financial services system into various aspects will lead to increased competition, the introduction of new technological attributes into practice, and whether there is a need to radically replace outdated practices in the financial system today.

In order to find answers to these questions, we need to consider three main aspects, namely:

– whether it is possible to determine the financing and revenue structure of Fintech compared to existing financial services companies or banks;

– whether there is an opportunity to ascertain the potential competitive reaction ratio between existing banking services and Fintech;

– Are there laws and regulations that regulate the provision of digital financial services through fintech, or can we regulate it through the legal framework that we use in practice?

Based on the analysis of the financial services sector of the above countries, we found it necessary to answer the following as a research object. When studying the financial services sector in Latin America,

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[2]Galloway S. The Four: The Hidden DNA of Amazon, Apple, Facebook and Google, Penguin Random House, 2017. -R.153.

[3]Agrawald A., Goldfard A. y Gans J. (2018), "Prediction Machines: The Simple Economics of Artificial Intelligence", Harvard Business Review Press, 2018. -R.278.

[4]Haskel J., Westlake S. Capitalism without Capital: The Rise of the Intangible Economy, Princeton University Press, 2017. -R.134-150.

[5]Galloway S. The Four: The Hidden DNA of Amazon, Apple, Facebook and Google, Penguin Random House, 2017. -R.164.

[6]Claessens S., Frost J., Turner G. Fintech Credit Markets around the World: Size Drivers and Policy Issues // BIS Quarterly Review, September de 2018. –R.64.

the financing and income system in it was studied as an object of analysis. The main activity of fintech operators is based on the following models, supply and demand on the digital platform, namely:

– Agency model - in the provision of digital financial services, Fintech operators organize their activities and thereby do not retain the credit risk they take;

– Wholesale model - where banks buy funds from lenders and sell them to borrowers, but keep the credit risk on their books.

The difference between these two business models is not only who bears the credit risk, but also the composition of revenues. Through traditional banking services, they act on the prices paid to the lender and received by the borrowers, and on the interest rates, and get most of the money from the interest rate. And when it comes to providing digital financial services, digital platforms make money on payments.

In its place, the question arises: how sustainable is the purely "agency model" in the field of digital financial services? In our view, there are two crucial issues here. The first is related to scale, i.e. the scope of the digital financial services sector, while the second covers the issue of how to identify and dispose of borrowers.

As a key factor, scale or scale requires the flexibility to be efficient and both sides of the digital marketplace, borrowers and lenders, willing to be "in the same space". The presence of the ability to match both sides of the market, the probability of finding a good partner increases proportionally with the high potential of both sides. The property is set to steer the course in the frenzy of financial market consolidation seen in online markets, with companies like Google and Amazon, themselves digital service hegemons, the winners. Also, lending platforms have high fixed costs and low marginal costs. Thus, they have to operate on a large scale, as fees are paid on each transaction, which generates the bulk of the revenue.

The second factor that underpins the agency model is that platforms are multi- or two-sided markets when we discuss the rules for identifying and discarding borrowers. Since participants need both parties, profit-maximizing payments should influence each party's actions based on their own potential. This requires relatively greater support and even subsidization of the less flexible side of the market. This has a significant impact on the quality of the lending process. Fee-based profitability, the need for a stable and possibly increasing source of lending, and network externalities to control the activities of retail participants will encourage lending platforms to make as many deals as possible "no matter what." In addition, platforms charge relatively high fees to borrowers, who are generally less flexible than lenders, making the problem of adverse selection particularly acute for this side of the market.

One of the smart solutions to avoid this risk can be seen as the case recently adopted by the UK platform Zopa, which announced the opening of its own bank. This allows you to rely on funds directly from online deposits, as well as other traditional sources of bank financing. Based on this situation, we will return to the first banking cycle, and through this strategy, Fintech will be brought closer to traditional banking.

In its place, the extent to which Fintech can cope with competition in the provision of financial services should be studied as an object of analysis. Many Fintech firms are entering specific segments of the multi-product financial industry with a business model that is somewhat antithetical to universal banking. They operate in single and largely unregulated sections of the industry and try to stay away from the costs and burdens of banking regulation and compliance.

The danger for traditional banks is that these intersections may also be the most profitable intersections, providing lending, payment services and financial advice to borrowers with limited market power.

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