

Competition - Colombia

Competition authority to define financial services markets

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Competition authorities for financial and insurance sectors Definition of financial and insurance markets

Competition authorities for financial and insurance sectors

The application of competition laws in the financial sector is assigned to two authorities:

- the Superintendence of Industry and Commerce (SIC); and
- the Superintendence of Finance.

Law 1340/2009 appointed the SIC as Colombia's national competition authority with exclusive capacity to investigate and decide administrative cases related to anti-competitive practices and unfair competition in all economic sectors, including the financial sector. In 1998 the SIC, in conjunction with circuit judges, was appointed to decide jurisdictional unfair trade cases in all economic sectors, including the financial sector.

The SIC is also the primary – but not sole – authority in charge of the application of the merger control regime. The Aeronautic Authority is charged with authorising operations between airlines (Article 8 of Law 1340); and the Superintendence of Finance oversees merger control in the financial and insurance sectors (Article 9 of Law 1340). In such cases, the Superintendence of Finance must consult the SIC's opinion with regard to the effects of a transaction on competition. If a transaction is to be conditioned in order to preserve free competition in the market, the SIC is entitled to suggest conditions.

The Superintendence of Finance is tasked with general surveillance of the operations and activities of all institutions in the financial and insurance sectors.

Definition of financial and insurance markets

In 2012 Congress passed a new tax reform law (1607/2012). Article 191 of this law added Article 63-1 to Law 1340 appointing the SIC as the authority in charge of defining relevant markets in the financial and insurance sectors.

This endeavour as yet has not been undertaken in Colombia. Even though specific competition statutes for the financial sector have existed since the enactment of Law 45/1990, the Superintendence of Finance – at the time in charge of their application⁽¹⁾ – failed to make any headway in defining the relevant markets and failed to initiate any investigations related to the breach of competition laws.

Article 63-1 requires the SIC to:

- define relevant markets in the financial and insurance sectors; and
- evaluate competition levels in such markets and highlight any discernible market failures.

Such an assessment must be conducted every six months and presented to the government and Congress.

With this information to hand, the SIC will be in a position to recommend new regulation to the authorities in order to foster competition, boost efficiency and improve consumer welfare in the financial and insurance sectors.

If the financial and insurance sectors increase in efficiency:

- consumers will experience improved rates and increased security for their funds;

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- the reputation of and trust in these sectors will improve; and
- there will be increased use of the financial system by the population at large, thus advancing Colombia in this regard.

The SIC will also be able to initiate new investigations related to the possible breach of competition laws, which should make the financial and insurance sectors more efficient and compliant with competition laws.

For further information on this topic please contact [Alfonso Miranda Londono](#) at Esguerra, Barrera & Arriaga by telephone (+57 1 312 2900), fax (+57 1 310 4715) or email (amiranda@esguerrabarrera.com).

Endnotes

(1) Before Law 1340 was issued in 2009, the competition authority for the financial and insurance sectors was the Superintendence of Finance. Law 1340 defined the SIC as the national competition authority in charge of the application of all competition laws in all economic sectors – the only exception being the application of the merger control regime in the financial and aeronautic sectors.

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