COLOMBIA
FINANCIAL SECTOR ASSESSMENT PROGRAM

TECHNICAL NOTE
COMPETITION IN THE FINANCIAL SECTOR

Prepared By
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This Technical Note was prepared in the context of a joint IMF-World Bank Financial Sector Assessment Program (FSAP) mission in Colombia during May/June 2021 led by Zsofia Arvai, IMF and Raquel Letelier, World Bank, and overseen by the Monetary and Capital Markets Department. IMF, and the Finance, Competitiveness, and Innovation Global Practice, World Bank Group. The note contains the technical analysis and detailed information underpinning the FSAP assessment’s findings and recommendations. Further information on the FSAP program can be found at www.worldbank.org/fsap.
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<tr>
<td>API</td>
<td>Application Programming Interface</td>
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<tr>
<td>CN</td>
<td>Competitive Neutrality</td>
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<td>D-SIFIs</td>
<td>Domestic Systemically Important Financial Institutions</td>
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<td>EOSF</td>
<td>Organic Law of the Financial System</td>
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<td>EU</td>
<td>European Union</td>
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<td>FC</td>
<td>Financial Conglomerate</td>
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<td>FCL</td>
<td>Financial Conglomerates Law</td>
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<td>FSAP</td>
<td>Financial Sector Assessment Program</td>
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<td>HHI</td>
<td>Herfindahl-Hirschman Index</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>LAC</td>
<td>Latin America and the Caribbean</td>
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<td>MCPAT</td>
<td>Markets and Competition Policy Assessment Tool</td>
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<td>MOU</td>
<td>Memorandum of Understanding</td>
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<td>MSME</td>
<td>Micro, Small &amp; Medium Enterprises</td>
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<td>NPL</td>
<td>Non-performing Loan</td>
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<td>PSOs</td>
<td>Public Service Obligations</td>
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<td>RIA</td>
<td>Regulatory Impact Assessment</td>
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<tr>
<td>RoE</td>
<td>Return on Equity</td>
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<td>RoA</td>
<td>Return on Assets</td>
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<td>SFC</td>
<td>Superintendencia Financiera de Colombia</td>
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<td>SME</td>
<td>Small &amp; Medium Enterprises</td>
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<td>SOE</td>
<td>State-Owned Enterprise</td>
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<td>SOFI</td>
<td>State-Owned Financial Institution</td>
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<tr>
<td>SIC</td>
<td>Superintendencia de Industria y Comercio</td>
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<tr>
<td>URF</td>
<td>Unidad de Regulación Financiera of the Ministry of Finance</td>
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<td>WBG</td>
<td>World Bank Group</td>
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EXECUTIVE SUMMARY

Despite relatively high concentration and sticky market shares, price pressure, portfolio purchases and high customer mobility indicate the presence of competitive dynamics in the banking sector, particularly in the retail credit segment.

Market concentration, while not a problem per se, is significant and market structure has remained stable in the last few years. The Colombian banking sector is relatively concentrated, and the top-3 banks have a combined market share of more than 50 percent across most major lending and deposit product categories. The past decade has seen little variation in the consolidated market shares and ranking of Colombian banks as only few institutions have managed to significantly increase their position in specific product categories. The persistence of market shares comes on the back of few entries, exits and mergers in the banking sector that kept the number of banks operating in Colombia relatively constant and market shares sticky.

Nevertheless, credit markets appear to be quite dynamic. Profitability indicators of Colombian banks are in line with peer countries and do not suggest that banks are able to attract unusually high profits. Furthermore, lending interest rates have declined over the past years, particularly for consumer credit and credit card loans. Lending rates are often reduced through so-called portfolio purchases, where a bank offers clients better conditions if they move their outstanding loan to them. Such portfolio purchases are very present in the Colombian consumer banking market and, together with the falling interest rates, suggest a non-trivial degree of price competition. Portfolio purchases are also both cause and evidence of significant customer mobility, which is supported by regulatory safeguards that widely reduce switching and closing costs.

Non-conventional operators with new business models are likely to re-shape market dynamics and enhance competition in the banking sector.

Several regulatory initiatives are supporting an increasingly important role of digital operators. Colombia is home to one of Latin America’s largest FinTech sectors and the number of FinTechs in the country has tripled over the past five years. Authorities are working within a regulatory sandbox on a new licensing regime with staggered and flexible requirements for entities that implement ‘innovative technological developments’ and have introduced a special licensing regime for e-money entities that also allows them to take deposits. The entry of these players is likely to shape market dynamics going forward and increase competition for banks, particularly in the payments sphere. However, most FinTechs are not registered or licensed by the financial sector regulator the Superintendencia.

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1 This Technical Note has been prepared by Graciela Miralles Murciego, Oliver Masetti and Noelia Carreras Schabauer, all WBG. The note has also benefited from inputs of other FSAP team members including Alexander S. Berg, Maria Teresa Chimienti and Eva M. Gutierrez.
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_Financiera de Colombia_ (SFC) since they do not take deposits from the public and, therefore, will not be under its supervision.

Financial conglomerates and interlinkages between financial service providers and firms in the real economy warrant attention from a competition perspective as does the recent formation of the state-owned financial conglomerate Grupo Bicentenario.

The prominence of financial conglomerates and economic groups including financial operators impacts market dynamics. Colombia’s 13 financial conglomerates control more than 90 percent of the banking sector assets as well as a significant share of the non-bank credit, pension fund, mutual fund, and insurance sectors. While the recent _Financial Conglomerates Law_ strengthens both the prudential supervision and corporate governance of the conglomerates while the cross-selling of products is restricted by the general prohibition of tying and other specific regulations (i.e., regarding mortgage related insurance), linkages between financial and real sector entities within wider economic groups may raise competition concerns. Such linkages allow financial institutions to use the physical infrastructure network (i.e., retail stores, hospitals) of the related real sector entity to on-board clients and distribute products. They also allow them to exclusively access data for tailoring and pricing of products, subject to prior consent of the individual. Nevertheless, such linkages are not limited to entities within the same economic group as several agreements have been signed between unrelated entities that grant the financial institutions either access to the distribution network or client data.

In this context, the creation of a public financial conglomerate may pose new challenges to maintaining a level playing field with private operators. The government is in the process of consolidating its various holdings of first and second tier financial institutions into a new state-owned financial conglomerate, Grupo Bicentenario. Grupo Bicentenario will eventually be the third largest conglomerate in Colombia, and it plans to compete with private institutions in addition to its developmental role. In this sense, the final design and governance of the Grupo should be assessed from a competitive neutrality perspective to ensure that Grupo Bicentenario’s commercial activities do not benefit from its status as a state-owned entity.

Key elements of the payment system-infrastructure are vertically integrated and controlled by commercial banks, potentially affecting access of smaller and new players.

Vertical integration between large banks and the payment system-infrastructure requires additional competition safeguards. The main payment service provider, which accounts for 95 percent of all Automatic Clearing House (ACH) transfers, is a private entity owned by the major banks. While its pricing structure has recently been reformed and made more flexible, steeply declining costs per transaction make it disproportionally more expensive for small and new players with a lower volume of transactions to use the payment system infrastructure compared to large banks. Authorities have recognized the importance of competition in the retail payment system and enacted new regulation in late 2020 with the aim of reinforcing interoperability, prohibiting multihoming.

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2 Multi-homing refers to the ability of payment participants to connect and switch between more than one payment platform and thus, commonly using more than one provider.
limitations, facilitating divestiture of vertical integrated structures and establishing corporate
governance requirements.

*The institutional and regulatory framework for competition in the financial sector could be strengthened
to further support enforcement, especially given its shared mandate nature.*

**Formal instruments to articulate the cooperation of SFC and the cross-sectoral competition
authority, the Superintendencia de Industria y Comercio (SIC), both between themselves as well
as with other regulators, could reinforce their ability to tackle competition issues in the financial
sector.** On the one hand, SIC is in charge of enforcing and promoting competition across sectors,
including in financial markets. On the other hand, in addition to ensuring financial stability as its
primary function,3 SFC maintains a central role in shaping efficient market dynamics in the financial
sector both through regulation, as well as merger control powers when all parties are under its
supervision. In such cases, SIC’s intervention is channeled through non-binding opinions. However,
cooperation between the SFC and SIC has not been formalized through an MoU. In addition, given
the increasingly important role of financial service providers not supervised by SFC (e.g., a majority of
Fintechs) and the links to adjacent sectors (e.g., telecommunications) supervised by other regulators,
reinforcing inter-institutional cooperation in the financial sector could be key to shape efficient market
dynamics in the middle run.

**In turn, this could further support competition enforcement in the financial sector.** On the one
hand, SIC has become a regional reference in terms of enforcement,4 yet no anticompetitive practices
have been sanctioned in the financial sector in the past years.5 Although limited enforcement in the
financial sector is a trend observed in LAC, it could also be related to certain weaknesses still persisting
in the Colombian competition regulatory framework, from potential confidentiality challenges
affecting the effectiveness of the leniency policy6 to suboptimal level of fines.7 On the other hand,
horizontal and vertical mergers and acquisitions in the financial sector are not benefitting from the
strong analytical and procedural safeguards applied by the SIC across other sectors, from a multiphase
review that allows to adapt the analysis to simple/complex cases to strong
communication/cooperation with parties/other market operators in order to design remedies that
limit negative effects of market consolidation. Moreover, contrary to international experience,

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3 Decree 2555 of 2010, art. 11.2.1.3.1.
4 For example, between 2008 and 2014 SIC imposed sanctions for a total of approximately USD 24.477 million in 22 cases on
anticompetitive agreements, most of them hardcore cartels. In the same period, SIC imposed sanctions for a total of
approximately USD 41.9 million in 5 abuse of dominance cases, and settled 4 additional cases. See OECD, 2016. “Colombia
Assessment of Competition Law and Policy”. Pp. 20-26. Available at: [https://www.oecd.org/daf/competition/Colombia-
5 Some investigations have been opened, including a 2005 case which was closed with commitments of the parties. (see ¶46
for details). Lack of compliance with such commitments resulted in 7 decisions from SIC sanctioning operators for non-
compliance.
6 Leniency programs allow the first cartel member to approach the competition authority with information on a cartel to be
exempted from the fine. For more details see Footnote 91.
7 For example, in their most recent competition law assessment, the OECD recommended, among others, that Colombia
should provide a broader range of options to calculate fines to enable the imposition of heavier penalties; and modify the
leniency program to accord protection against disclosure of the identity of applicants and evidence submitted, and shield
participants from other types of criminal and civil liability. See OECD, 2016. Pp. 130-133.
conglomerate mergers are excluded from competition law scrutiny by SIC, thus SFC review could be instrumental to prevent anticompetitive effects and complement other measures to supervise financial conglomerates until amendments to the competition law are introduced. *Strengthening enforcement powers, in general, as well as the procedure to review the competition impact of mergers and acquisitions in financial markets in particular, including conglomerate mergers, would be important to reinforce competition warranties in the financial sector.*

*Despite regulations designed to foster market contestability, risks to maintaining a level playing field persist and may require additional competition safeguards.*

While the SFC, the *Unidad de Regulación Financiera* (URF) and SIC are taking critical steps to promote entry and access to financial infrastructure/data, the impact of these initiatives could be strengthened from a competition perspective:

A. **Fostering entry and tackling negative effects of market dominance:**

SFC’s differentiated licensing regime provides flexibility for potential market entrants, including licensing of FinTechs, but the latter are not yet widely used. As of 2020, only five FinTechs had obtained a license, although 2021 is seeing an increasing number of licensed players. In this context, it would be key to *continue fostering market entry of new financial providers.*

The ongoing initiative to implement Open Finance, key to further promoting competition in the financial sector, could be strengthened to support effective implementation. The proposed model, still under development, is leaning towards a voluntary framework with flexible timelines for implementation adaptable to each institution. This initiative has recently been published to receive comments from stakeholders, and certain aspects of the proposed model may still require further consideration, such as evaluating the incentives of banks to engage in a voluntary system, defining the role of the regulator, as well as the role granted to ACH, among others. In this sense, the *URF of the Ministry of Finance should ensure that the proposed model for open banking/finance effectively promotes entry and competition, while preserving a level playing field.*

B. **Enabling firms to choose strategic variables, decreasing the costs to compete, and limiting risks of collusion:**

*Vertical integration might make it more challenging for the new retail payment system regulation to achieve its intended goal.* Decree 1692, which enacted new sectorial regulation for retail payment systems, has been designed to facilitate competition (e.g., mandatory interoperability and protection of multi-homing). However, switching incentives for retail payment participants, mainly

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8 See Art. 9 of Law 1340.
9 Interventions have been classified following the WBG Markets and Competition Policy Assessment toolkit (MCPAT) adapted to the Financial sector as per the *’Guidance Note on Assessing Competition in the Financial Sector Assessment Program’* (WBG 2021).
10 Promoting inter-platform competition requires preventing exclusionary strategies to foreclose rival platforms from achieving scale or by impeding access to data or other critical resources for them to operate, degrade functionality and interoperability to favor related parties over competitors, increasing switching costs to avoid multihoming, among others.
commercial banks, are low since they own the main platform. Therefore, authorities should strive to support **inter-platform competition between interoperable payment systems administered by different competitors** and not only allow but also **promote the formation of new payment networks or systems instead of encouraging the permanence of incumbent payment systems**. Moreover, authorities should also try to **minimize intra-platform competition risks**, i.e., preventing strategies that self-favor the vertically integrated dominant platform, by ensuring that **Rules of Procedures developed by each retail payment administrator under the approval of SFC** are designed to guarantee interoperability with other platforms and payment systems participants.

Moreover, a systematic assessment of regulations from a competition perspective may help **leveling the playing field for small/new players**. Regulation geared to tackle a market failure in the financial sector might have unintended consequences from the point of view of competition. While the SFC has rightly focused on interventions from a prudential point of view, as per its primary financial stability mandate, embracing a competition lens will enable it to minimize, whenever possible, potential restrictions to competition caused by new prudential rules. **In this context, SIC’s competition advocacy mandate and experience will also be key to complement SFC efforts. Thus, closer coordination could facilitate implementation of a systematic competition assessment. The gradual implementation of a systematic regulatory assessment of impact on competition can be critical to identify potential concerns in rules, guidelines or broader prudential interventions and, when possible, design less distortive alternatives that still preserve the prudential policy objective.**

**C. Limiting the risks of discrimination and vested interest protection:**

**Given the State participation in the Colombian financial sector, especially through the creation of Grupo Bicentenario, enhanced competitive neutrality will be critical to foster a level playing field for all market players.** Regarding SOFIs, it implies additional efforts of SFC to **identify commercial and non-commercial activities, as well as develop clear criteria to compensate Public Service Obligations and allocate subsidies while minimizing their anticompetitive effects.**

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11 Promoting inter-platform competition requires preventing exclusionary strategies to foreclose rival platforms from achieving scale or by impeding access to data or other critical resources for them to operate, degrade functionality and interoperability to favor related parties over competitors, increasing switching costs to avoid multihoming, among others.

12 Rules of procedures are those that establish: i) communication protocols, security protocols, liability rules, and pricing.

13 Regulatory Impact Assessments (RIA) of new regulations, including competition dimensions, are typically carried by the authority with the mandate to pass regulations, in this case SFC. There is a wide range of institutional organizations for developing RIA frameworks but for RIA to be successful it always starts at the inception phase of the regulation-making process. Additionally, RIA should be fully integrated with other regulatory management tools. Executing a RIA should be the responsibility of government bodies that develop the regulatory proposals. See OECD, 2020. “OECD Best Practice Principles for Regulatory Policy: regulatory Impact Assessment” February 2020. Pp. 15, 18-20 Available at: https://www.oecd.org/gov/regulatory-policy/regulatory-impact-assessment-7a9638cb-en.htm
### Recommendations

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<th>Recommendations</th>
<th>Responsible Authorities</th>
<th>Time*</th>
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<tr>
<td><strong>Strengthening the institutional set-up for a more effective competition policy in the financial sector</strong></td>
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<td>1. Reinforce inter-institutional cooperation between SFC and SIC to promote competition in the financial sector through an MoU complemented by an Action Plan to foster implementation. (¶33-36, 59)</td>
<td>SFC, SIC</td>
<td>I</td>
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<tr>
<td>2. Complement existing inter-institutional mechanisms for SFC and SIC to cooperate with other sector regulators/public bodies supervising markets adjacent to the financial sector, e.g., the Comisión de Regulación de Comunicaciones (CRC). (¶33-36, 59)</td>
<td>SFC, SIC, CRC, others</td>
<td>NT</td>
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<td><strong>Preventing negative effects of market consolidation and deterring anticompetitive practices in the financial sector</strong></td>
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<td>3. Formalize key procedural steps to review the competition impact of mergers and acquisitions in the financial sector, including conglomerate mergers. (¶40-42, 60)</td>
<td>SFC, SIC</td>
<td>I</td>
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<td>4. Consider developing joint SIC/SFC/other sector regulators guidelines on the treatment of mergers having impact on competition across financial and non-financial markets. (¶40-42, 60)</td>
<td>SIC, SFC, other sector regulators</td>
<td>NT</td>
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<td>5. Consider reinforcing the general competition legal framework/Competition law by (i) including conglomerate mergers under the scope of SIC’s merger control; (ii) reinforcing confidentiality safeguards of the leniency program; and (iii) amending the fining system to adopt turnover-based fines. (¶42, 45, 60)</td>
<td>Executive, Parliament, SIC</td>
<td>MT</td>
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<td><strong>Developing/reinforcing tools to foster market contestability in the financial sector, including advocacy</strong></td>
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<td>7. Maintain and expand efforts to foster market entry of new FinTech providers. (¶48, 61)</td>
<td>URF, SFC</td>
<td>I-MT</td>
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<tr>
<td>8. Develop tools to embed competition in financial markets through advocacy/competition Regulatory Impact Assessments (RIAs). (¶54, 61)</td>
<td>URF, SFC, SIC</td>
<td>NT</td>
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<td>9. Strengthen implementation of the competitive neutrality framework, especially in the context of the newly established Grupo Bicentenario. (¶19-21, 56-58, 61)</td>
<td>Executive, Parliament, SFC, SIC, MHCP</td>
<td>I-NF</td>
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<td><strong>Ensuring equal access to infrastructure to level the playing field among market operators in the financial sector</strong></td>
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<td>10. Ensure that the proposed model for open banking/finance effectively promotes entry and competition, while preserving a level playing field. (¶49, 62)</td>
<td>URF, SFC</td>
<td>I-NT</td>
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<td>11. Improve competition in payment systems by: (1) encouraging inter-platform competition by implementing public policies to facilitate expansion of interoperable retail payment system platforms, and (2) minimizing intra-platform competition risks by carefully assessing the Rules of Procedures of each retail payment administrator before approval by SFC, and when required, intervene in the rules of procedures of dominant platforms that present vertical integration. (¶51-53, 62)</td>
<td>URF, SFC</td>
<td>NT-MT</td>
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* I (immediate) = within one year; NT (near term) = 1–3 years; MT (medium term) = 3–5 years.
A. Introduction

1. **Competition is conducive to important policy objectives in the financial sector, such as innovation, efficiency, and financial inclusion.** Measures of efficiency have been shown to improve with increased competition in the banking sector.\(^{14}\) Competition reduces the cost of finance, increases the availability of credit, including to SMEs,\(^{15}\) and enhances efforts among banks to attract customers with more competitive offers thus contributing to financial inclusion. However, several market features inherently limit competition intensity in the banking sector. Natural barriers to entry include significant fixed costs, customer inertia and switching costs, as well as network effects. Government interventions can exacerbate these market features or otherwise limit competition to address prudential regulation concerns. Regulatory instruments to safeguard stability may have an impact on competition to various degrees.

2. **Policies to foster competition in the banking sector are still incipient in many Latin America and the Caribbean (LAC) economies.** A recent assessment of seven large LAC economies (Argentina, Brazil, Chile, Colombia, Mexico, Peru and Uruguay)\(^{16}\) shows that restricted or distorted competition might be an important supply-side driver of the considerably expensive provision of banking services in LAC. Yet, competition enforcement and advocacy targeting financial markets remain relatively limited in the region. Additionally, country-sector level evidence points to high and growing market concentration, and low levels of contestability. Descriptive and empirical evidence suggests that, with some exceptions, higher bank market shares are correlated with less competitive pricing both in retail deposit and lending products. In this context, key recommendations of this analysis included, among others, the development of an *ex ante* protocol to assess competition impact of prudential regulation, the review of regulatory provisions for entry and operations by financial operators to eliminate unwarranted competitive restrictions, the introduction of specific guidelines for the assessment of mergers and imposition of remedies in the banking sector, and the prioritization of antitrust enforcement and advocacy initiatives in the banking sector with stronger coordination and cooperation mechanisms between competition authorities and banking regulators. See Box 1 for additional details on the results of the assessment.

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Box 1: Key conclusions of the WBG Assessment of competition in retail banking services in LAC

Access to financial infrastructure:
Access to payment systems is negatively affected by lack of competition. Despite a more proactive role from regulators to promote competition in payment systems, exclusionary and other anticompetitive practices still pose a significant challenge across the region. Participants of payments markets have created vertical structures that allow them to restrict competition and further development of the payments systems. Costs of participation in payments infrastructure still represent significant barriers to entry, and caps on fees are not widely used due to weak institutional capacities to periodically assess their market impact. Incumbents could also have incentives to favor the usage of a specific payment instrument which could result in anticompetitive practices.

On consumer data, authorities need to ensure a level playing field between Big Techs and banks. The use of alternative data for credit worthiness evaluation can increase access to credit. However, Big Techs gather a large stock of data as a by-product of their main business which is then utilized as input to offer wider services including financial services. Thus, since Big Techs could become dominant through data advantages, authorities need to understand the potential impact on competitive conditions of financial services.

Elimination of restrictive regulation:
The enabling statute of most LAC banking regulators recognize competition as a regulatory principle. In practice, few comprehensive efforts have been made to assess the impact of regulatory interventions on competition and regulators lack mechanisms to assess such impact ex ante or ex post. The introduction of regulatory impact assessments would be key to enable the review of current interventions affecting entry and conduct. These assessments can identify competitive impacts and alternatives that could preserve the prudential policy objective while minimizing competition restrictions. Further collaboration with competition authorities could be beneficial for the implementation of these assessments.

Competition law enforcement and advocacy initiatives:
LAC authorities are well equipped to investigate anticompetitive practices, execute market studies and engage with other authorities to push for a more competitive banking sector. However, efforts should be increased to apply instruments that have been successful in other sectors (e.g., leniency programs) to the banking sector and to have a more proactive approach to advocacy following the lead of regional peers such as Mexico. Some competition authorities in LAC are not involved in the clearance of certain mergers in the banking sector. In this context, powers to impose remedies that minimize the impact on competition must be expanded when needed, including joint design or monitoring of remedies with the banking regulator. Additionally, some countries still lack formal predetermined procedures for clearing the merger by multiple agencies which negatively affects predictability. Finally, strengthening independence and institutional capabilities of competition authorities would strengthen antitrust enforcement in the banking sector.


3. Moreover, the nature of competition in the financial sector is rapidly evolving through entry of operators with business models that leverage new technologies. The digital economy has impacted the provisions of financial products and services widening the perimeter of the financial system and affecting its competitive dynamics. New entrants (FinTech and BigTech firms) apply competitive pressure on conventional incumbent firms by leveraging technology and digital solutions to enable innovative business models. At the same time, a renewed regulatory framework has to account for these changes and balance potential risks/opportunities. BigTechs and FinTechs often use unbundling and rebundling mechanisms which causes services to no longer fall within the traditional perimeter of financial services (banking, financial and insurance) but via markets which are not subject
to financial supervisory rules.\textsuperscript{17} The business models of traditional banks are being challenged. Trends show that banks either implement in-house strategies based on digital channel creation, or participate in new FinTech, native digital banks or broader digital platforms within their economic groups.\textsuperscript{18} Most importantly, incumbents facing new competition could have incentives to suffocate it through anticompetitive practices.

4. \textbf{Colombia has tackled competition issues in the financial sector mainly through \textit{ex ante} regulatory interventions.} The Colombian Constitution explicitly provides for the protection of competition, defining it as a protected right.\textsuperscript{19} This has been translated into the financial sector. Among others, regulation has been approved to allow financial institutions and new operators to issue electronic money through \textit{Sociedades Especializadas en Depósitos y Pagos Electrónicos},\textsuperscript{20} introduce fair and non-discriminatory access obligations to payments systems infrastructure,\textsuperscript{21} and regulate information sharing agreements between credit providers in the \textit{habeas data} law.\textsuperscript{22} There have also been initiatives to streamline and standardize licensing procedures and to enable the entry of new players through a regulatory sandbox.\textsuperscript{23} In addition, the consumer protection framework in the financial sector includes guarantees such as the “freedom of choice” allowing consumers to select the provider of the financial products or services, while providers have to ensure a non-discriminatory treatment, justifying refusals to deal.\textsuperscript{24} The consumer protection law also includes a general prohibition of abusive clauses in contracts, and forbids specific abusive practices, including the tying of products and services.\textsuperscript{25} In turn, the competition law grants the competition authority the ability to issue non-binding opinions regarding the effect on competition of proposed regulations, including in the financial sector.\textsuperscript{26} Finally, the Colombian Government has the ability to introduce price controls when levels of competition are deemed too low in a given relevant market.\textsuperscript{27}

5. \textbf{Despite having a well-established competition authority with ample enforcement tools, antitrust enforcement and merger review has taken a backseat in the promotion of competition in the financial sector.} In 2009, a new law separated the prudential supervision mandate from competition law enforcement by granting the \textit{Superintendencia de Industria y Comercio} (SIC) powers previously held by the \textit{Superintendencia Financiera de Colombia} (SFC), the financial regulator, to apply competition law to the financial sector. However, SFC retained powers to unilaterally clear mergers that exclusively involve parties under its supervision with a non-binding opinion from SIC regarding: (i) the impact on competition of the merger, and (ii) any conditions for approval, if needed.\textsuperscript{28} In this

\begin{itemize}
\item \textsuperscript{17} Tanda, A. and Schena, C.M., 2019. “FinTech, BigTech and Banks”. 2019, p. 47. Available at: https://doi.org/10.1007/978-3-030-22426-4_1
\item \textsuperscript{18} Ibid., p. 52.
\item \textsuperscript{19} Colombia Constitution, articles 88 and 333.
\item \textsuperscript{20} Law 1735 of 2014
\item \textsuperscript{21} Decree 2555 of 2010.
\item \textsuperscript{22} Law 1266 of 2008.
\item \textsuperscript{23} Decree 1234 of 2020.
\item \textsuperscript{24} Law 1328 of 2009, art. 3 (b)
\item \textsuperscript{25} Law 1328 of 2009, art. 12.
\item \textsuperscript{26} Law 1340 of 2009, art. 7.
\item \textsuperscript{27} Law 1430 of 2010, art. 62. However, there appears to be no methodology for the Ministry of Finance or SFC to define relevant markets in order to determine whether price controls need to be introduced in a given market.
\item \textsuperscript{28} Law 1340, art. 28.
\end{itemize}
context, all notifiable transactions have been approved by SFC without raising competition concerns. Moreover, ‘conglomerate mergers’ are not subject to *ex-ante* merger review by SIC which may be a critical gap since financial conglomerates in Colombia control substantial assets in the financial sector. Finally, although SIC opened an investigation in 2011 against 2 banking associations, 15 banks and 2 payment systems operators regarding an agreement among banks to fix interchange fees, it was later closed through commitments and no other decision or sanction for anticompetitive practices has been imposed to financial operators.

6. **This note assesses competitive dynamics and potential regulatory/institutional constraints to competition in Colombia’s financial sector in order to provide actionable policy recommendations.** This note contains both a quantitative as well as qualitative assessment of competition. The quantitative assessment explores market characteristics and dynamics, including market structure and concentration, cross-ownership and vertical integration, network effects and customer conditions/consumer power. The quantitative assessment is complemented by a qualitative analysis of the regulatory and institutional framework to understand how private and public interventions shape market dynamics and result in specific market outcomes, including efficiency, degree of market power and consumer mobility (Figure 1). The note will focus primarily on the retail banking sector as well as payment systems and discuss competitive dynamics in other parts of the financial sector only to the extent that they affect these two areas, for example in the context of financial conglomerates. Recent analytical pieces of the World Bank Group on competition in the Colombian financial sector have also been taken into account for this assessment.

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29 WBG, 2020a, p. 55.
30 SIC Resolution 40478 dated June 28th, 2012.
31 A case closed through commitments implies that investigated parties agree to undertake certain actions to restore competition to the market. For more details on the case, see Box 7.
32 A detailed assessment of competition in the asset management industry in Colombia, which looks into pension funds, insurance companies, mutual funds can be found under:
Figure 1: Assessing competition in the financial sector

Market characteristics that shape competitive dynamics:
- Economies of scale
- Network effects
- Digital technology
- State ownership and control
- Multimarket contact
- Cross-ownership and vertical integration
- Switching costs

Public and private interventions that restrict competition:
- Interventions that limit entry or reinforce dominance
- Interventions that facilitate collusion or restrict firms’ choice of strategic variables
- Interventions that discriminate and protect vested interests

Institutional and regulatory framework for competition enforcement and advocacy in the financial sector:
- Institutional architecture
- Mergers
- Cartels
- Abuse of dominance
- Competition advocacy

Market outcomes

<table>
<thead>
<tr>
<th>Market conduct</th>
<th>Degree of market power</th>
<th>Prices</th>
</tr>
</thead>
</table>

Source: adapted from Calice, P. “Guidance Note on Assessing Competition in the Financial Sector Assessment Program” building on the WBG MCPAT.
B. Market Characteristics, Dynamics and Outcomes

7. While banks maintain a prominent position in Colombia’s financial intermediation, a number of non-regulated entities are increasingly providing credit. Total assets of financial intermediaries in Colombia stood at 78 percent of GDP in 2020. By far the largest sub-segment is the banking sector, which accounts for 93 percent of total financial intermediaries’ assets. Banking sector assets are focused on the loan portfolio, which accounts for 63 percent of banks’ assets in Colombia and is roughly split between retail (30 percent consumer credit, 14 percent mortgage) and commercial credit. Bank credit expanded rapidly between 2010 and 2016 - increasing from 32 percent of GDP to 45 percent of GDP - but stagnated between 2017 and 2019, before growing again in the wake of the COVID-19 pandemic in 2020. The stagnation in credit growth between 2017 and 2019 was primarily driven by subdued growth of the commercial credit segment. At around 50 percent, the credit-to-GDP ratio in 2020 is in the medium range when compared to peer countries in the region. Chile (93 percent of GDP) and Brazil (67.2 percent of GDP) have substantially higher credit-to-GDP ratios, while the ratio is lower in Mexico (21.4 percent of GDP) or Argentina (12 percent of GDP). The regulated non-bank credit sector in Colombia is relatively small as combined assets of corporaciones financieras, compañías de financiamiento and cooperativas de ahorro y crédito account for only 5 percent of GDP. Additionally, given the law allows non-supervised agents to participate in the loan market,34 credit is provided by an increasing number of entities that are not regulated nor supervised by SFC, such as retail stores or FinTech companies. However, while growing strongly, the credit volume extended by these entities remains small.

Table 1: Structure of financial intermediaries

<table>
<thead>
<tr>
<th></th>
<th>Dec-20</th>
<th></th>
<th>Share in total assets</th>
<th>Dec-15</th>
<th></th>
<th>Share in total assets</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Total assets (COP bn)</td>
<td>Total assets (% of GDP)</td>
<td>Number</td>
<td>Total assets (COP bn)</td>
<td>Total assets (% of GDP)</td>
</tr>
<tr>
<td>Banks</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Domestic private banks</td>
<td>16</td>
<td>518,321</td>
<td>52%</td>
<td>14</td>
<td>342,736</td>
<td>43%</td>
</tr>
<tr>
<td>Bancolombia</td>
<td>185,363</td>
<td>18%</td>
<td>24%</td>
<td>116,533</td>
<td>14%</td>
<td>17%</td>
</tr>
<tr>
<td>Davivienda</td>
<td>106,532</td>
<td>11%</td>
<td>14%</td>
<td>63,103</td>
<td>8%</td>
<td>9%</td>
</tr>
<tr>
<td>Banco de Bogota*</td>
<td>105,873</td>
<td>11%</td>
<td>14%</td>
<td>76,677</td>
<td>10%</td>
<td>11%</td>
</tr>
<tr>
<td>Foreign banks</td>
<td>9</td>
<td>183,670</td>
<td>18%</td>
<td>10</td>
<td>139,254</td>
<td>17%</td>
</tr>
<tr>
<td>BBVA Colombia</td>
<td>68,413</td>
<td>7%</td>
<td>9%</td>
<td>50,184</td>
<td>6%</td>
<td>7%</td>
</tr>
<tr>
<td>State-owned bank</td>
<td>1</td>
<td>27,851</td>
<td>3%</td>
<td>1</td>
<td>22,690</td>
<td>3%</td>
</tr>
<tr>
<td>Banco Agrario</td>
<td>27,851</td>
<td>3%</td>
<td>3%</td>
<td>22,690</td>
<td>3%</td>
<td>3%</td>
</tr>
<tr>
<td>Corporaciones financieras</td>
<td>6</td>
<td>22,514</td>
<td>2%</td>
<td>3%</td>
<td>14,125</td>
<td>2%</td>
</tr>
<tr>
<td>Compañías de financiamiento</td>
<td>10</td>
<td>12,199</td>
<td>1%</td>
<td>2%</td>
<td>16,246</td>
<td>4%</td>
</tr>
<tr>
<td>Cooperativas de ahorro y crédito**</td>
<td>178</td>
<td>16,678</td>
<td>2%</td>
<td>2%</td>
<td>181,031</td>
<td>1%</td>
</tr>
<tr>
<td>Total</td>
<td>761,231</td>
<td>78%</td>
<td>69,352</td>
<td>87%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Banco de Bogota is part of a financial conglomerate (Grupo Aval) that includes three other banks (Banco de Occidente, Banco Popular and Banco Av Villas). The combined market share of these banks is 26% of total assets in Dec 2020.
** Under the supervision of the Superintendencia de la Economía Solidaria (SES)

Source: SFC, SES

34 Law 1480 of 2011, article 45.
8. **Financial access has significantly increased in the last decade, yet informality still hampers financial inclusion.** The percentage of adults with at least one financial product increased from 73.9 percent in 2014 to 87.8 percent in 2020. The progress in financial access has been increasingly driven by digital delivery channels. During the COVID-19 pandemic, digital transfer of government subsidies further supported digital financial inclusion. However, high access indicators are largely driven by very basic (and often inactive) transaction accounts. As of 2020, only a little more than one-third of the adult population had access to credit from formal financial institutions. Usage of credit products is particularly low for lower income households and MSMEs that are often informal and lack the necessary documents and collateral to obtain credit. High informality thus limits the pool of ‘bankable’ clients for whom banks compete. Regulated non-bank credit providers, such as credit cooperatives also attempt to work with these ‘bankable’ clients but additionally serve the borrowers in the informal sector. Credit from non-regulated sources such as retail stores is largely focused on the un-banked segments and borrowers that lack alternative sources of credit.

In spite of a concentrated banking sector with relatively stable market shares, non-conventional operators with new business models are likely to re-shape market dynamics going forward.

9. **The banking sector is relatively concentrated across all major products.** The banking sector consists of 25 private institutions, nine of which are foreign-owned, and one first-tier state-owned bank. 13 banks are part of financial conglomerates that include other financial institutions, such as insurance companies, non-bank credit providers, asset managers or pension funds, under the same holding company. The largest banks in terms of assets are, in order of importance, Bancolombia, Davivienda and Banco de Bogota. Banco de Bogota is part of the financial conglomerate, Grupo Aval, which comprises three other medium-sized banks. The combined market share of the top-3 banks stands at 56.7 percent of banking sector assets or 68.7 percent if Grupo Aval is considered as one entity. Bancolombia, Davivienda and Banco de Bogota, together with BBVA Colombia, the fourth largest bank, are designated as domestic systemic financial institutions (D-SIFIs) by SFC. The asset Herfindahl-Hirschman Index (“HHI”), a measure for market concentration, stands at 1830 and thus indicates moderate market concentration in the banking sector. The asset HHI is higher than for most LAC peer countries, but appears more in the medium range when international peers such as South Africa or Morocco are considered as well (see Figure 2). At the product level, concentration

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35 While improvements in financial access have been broad there still exist significant differences in access between urban and rural municipalities (access indicator stood at 96 percent for urban areas, while only at 58 percent in dispersed rural areas) as well as by age and gender. Data as of 2020. Source: SFC.
36 This refers only to Banco Agrario as it is the only tier-1 state-owned financial institutions. State-owned financial institutions are discussed in ¶22-24.
37 A more detailed discussion of financial conglomerates is provided in ¶18-21.
38 Grupo Aval is the only financial conglomerate that includes multiple banks within the same conglomerate. The combined market share of all four banks within Grupo Aval (Banco de Bogota, Banco Occidente, Banco Popular and Banco AV Villas) is 27 percent of total banking sector assets.
39 SFC considers the four banks belonging to Grupo Aval as separate entities due to their different business lines and policies.
40 The U.S. Department of Justice defined markets in which the HHI is between 1,500 and 2,500 points as moderately concentrated, and markets in which the HHI is in excess of 2,500 points as highly concentrated. See USDOJ and FTC, 2010. “Horizontal Merger Guidelines”. August 2010. Available at: https://www.justice.gov/atr/horizontal-merger-guidelines-08192010#5c
measures are highest for commercial and housing loans, while they are significantly lower for consumer loans. Concentration is at similar levels when it comes to the liability side of bank’s balance sheets, with deposits from individuals (especially saving deposits) being more concentrated than corporate deposits. Over the last decade concentration measures have increased moderately for most asset and liability products.

**Figure 2 : Concentration in the banking sector**

<table>
<thead>
<tr>
<th>Asset concentration*</th>
<th>Asset HHI (international comparison)*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Top-3 market share (individual institutions)</td>
</tr>
<tr>
<td></td>
<td>HHI (individual institutions), rhs</td>
</tr>
<tr>
<td></td>
<td>Colombia</td>
</tr>
<tr>
<td></td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>2011201220132014201520162017201820192020</td>
</tr>
</tbody>
</table>

**Concentration by lending product**

HHI, individual institutions

<table>
<thead>
<tr>
<th>Concentration by deposit product</th>
</tr>
</thead>
<tbody>
<tr>
<td>HHI, individual institutions</td>
</tr>
</tbody>
</table>

Note: * The conglomerates view treats all four banks within Grupo Aval as on entity when calculating market shares and concentration indicators.

Source: SFC and FitchConnect

10. **While the top-3 banks play a significant role in all major product market segments, some of the smaller banks have established themselves as key players in niche segments.** Bancolombia, Davivienda and Banco de Bogota have a combined market share of more than 50 percent in almost all major lending and deposit product categories. However, several smaller institutions have managed to achieve a double-digit market share in specific niche markets. For example, smaller banks are the second (Scotiabank Colpatria) and third (Banco Falabella) largest provider of credit cards in

41 It is lower at 45 percent for consumer credit.
Colombia. Similarly, in the micro-credit segment, state-owned Banco Agrario has a market share of almost 50 percent and three other specialized smaller banks have double digit market shares.

11. **From a geographic perspective, market concentration is higher, particularly in rural regions served by a few banks only.** Market definition in banking services need to consider product segments (e.g., mortgage loans or SME loans) and then define geographic markets accordingly for each segment. While banking markets are generally regarded to be national in scope, there may be a local dimension to competition as well, especially for customers who prefer accessing banking services by visiting their local branch. In Colombia, concentration levels are inversely related to population density with rural and semi-rural areas experiencing significantly higher levels of credit concentration than urban centers. Higher concentration in rural areas is linked to the fact that they are served by fewer institutions. While the 103 municipalities defined as ciudades y aglomeraciones are on average served by more than 8 different banks, the average drops to less than two for rural municipalities and 1.2 for municipalities defined as rural disperse. In many rural municipalities, the sole provider of credit is Banco Agrario, the only institution that has branches in all municipalities across the country.

12. **The number of banks operating in Colombia has been stable over the last years with few market entries, exits and mergers.** Between 2012 and 2020 the number of banks operating in Colombia saw a net increase of two. Most of the new banking licenses were given to institutions that were already operating in the market as financial companies (compañías de financiamiento) but wanted to convert and ‘upgrade’ their license to a full banking license (see Figure 3). Over the same period three banks were merged but the last merger between banks took place in 2014. Subsequent M&A activities largely focused on banks acquiring financial companies, which was triggered by changes in the regulation that allowed banks to directly offer leasing products, an activity previously limited to financial companies, and contributed to the sharp drop in the number of financial companies operating in Colombia.

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42 The largest provider Tuya is linked to Bancolombia.
43 For consumer credit, the HHI stands at 1040 in ciudades y aglomeraciones, at 1750 in areas defined as intermedio, at 1729 in rural areas and at 2080 in rural disperse areas. Data as of September 2020. Source: Banca de las Oportunidades.
44 Numbers refer to the number of different institutions that provide consumer credit in a certain municipality in September 2020 and are taken from Banca de las Oportunidades.
45 Two international banks are expected to enter the Colombian market in 2021.
13. **In turn, in spite of some changes in specific product categories, aggregate market shares in the banking sector have also remained relatively stable, especially at the top.** The past decade has seen little variation in the consolidated market shares and ranking of Colombian banks. The composition and relative position of the top 5 banks in 2020 were the same as in 2011 and over the past decade only three banks have been able to increase their market share (in terms of total assets) by more than one percentage point. The relative stability in market shares holds true across the different segments. Figure 4 shows that between 2015 and 2020 most banks saw their market share in the commercial, consumer and housing credit market change by less than one percentage point. In all three segments, only two banks increased their market share by more than one percentage point, while between three and four banks lost more than one percentage point in market share. Dynamics were higher in funding markets, especially regarding firm deposits, where four banks saw their share in savings or checking deposits increase by more than one percentage point.

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**Figure 3: Entry, exit and mergers of financial intermediaries**

<table>
<thead>
<tr>
<th>Year</th>
<th>Bank</th>
<th>Financial Company</th>
<th>Financial Cooperatives</th>
<th>E-Money</th>
<th>Δ 2012-2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>(+)</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>+2</td>
</tr>
<tr>
<td>2014</td>
<td>(+)</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>-12</td>
</tr>
<tr>
<td>2015</td>
<td>(+)</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>-1</td>
</tr>
<tr>
<td>2016</td>
<td>(+)</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>+5</td>
</tr>
<tr>
<td>2017</td>
<td>(+)</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>-1</td>
</tr>
<tr>
<td>2018</td>
<td>(+)</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>-1</td>
</tr>
<tr>
<td>2019</td>
<td>(+)</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>-1</td>
</tr>
<tr>
<td>2020</td>
<td>(+)</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>-1</td>
</tr>
</tbody>
</table>

**Source:** SFC
14. **Recent years, however, have seen a sharp increase in the number FinTechs that could compete with conventional operators in selected market segments.** The number of FinTechs operating in Colombia has tripled over the past 5 years to around 320 in early 2021, making Colombia the third largest FinTech market in the LAC region. Most FinTech companies are not registered or licensed by SFC as only activities that involve “...the managing, use or investment of funds deposited by the public” require a financial license. FinTech entities that are pursuing deposit taking activities can obtain an e-money license (Sociedad Especializada en Depósitos y Pagos Electrónicos – SEDPE) but as of end 2020, only five FinTechs had obtained such license. Several other FinTechs operate as digital or neo-banks, either through direct links with commercial banks and under the banks’ license, or under a financial company license. Within its Regulatory Sandbox (Decree 1234 of 2020), SFC is also working on developing a new, special licensing regime for digital banks that would introduce staggered requirements during the initial ‘proof of concept’ period of the new entity. So far, the relationship between FinTechs and incumbent banks has been mostly complementary and focused on extending the banks digital offering, rather than directly competing. The lending volumes extended by...

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47 Article 335 of the Constitution ([https://www.constitucioncolombia.com/titulo-12/capitulo-1/articulo-335](https://www.constitucioncolombia.com/titulo-12/capitulo-1/articulo-335)). See ¶51-52 for a further discussion about the licensing regime.
independent FinTech credit providers are still very small and focused on niche markets and thus do not yet present a challenge for the conventional banking sector. However, in recent months prominent BigTech companies (i.e., Mercado Pago) and international successful FinTechs (i.e., Brazil’s Nubank) have announced their intention to enter the Colombian market. The arrival of these large players can in the medium term create competitive pressures, especially in the transaction banking segment.

Financial conglomerates and interlinkages between financial service providers and firms in the real economy (economic groups) might raise competition concerns but risks seem mitigated by regulatory safeguards and lack of prominent market positions of the operators involved.

15. The existence of financial conglomerates throughout the financial system shape market dynamics. The 13 financial conglomerates (FCs) present in Colombia include 13 banks, 8 non-bank credit providers, 14 insurance companies, 3 pension fund operators and 28 investment funds and asset management companies. Some of the conglomerates also include payment system operators or e-payment platforms. The share of assets controlled by entities that are part of the conglomerates ranges from more than 90 percent in the banking sector, to 85 percent for pension fund operators to 36 percent for insurance companies (see Figure 5). The largest conglomerates Conglomerado Financiero Sura (Bancolombia), Conglomerado Financiero Aval (Banco de Bogota) and Conglomerado Financiero Bolívar (Davivienda) also have a strong international presence particularly in Central America. In addition, a public financial conglomerate, Grupo Bicentenario, has been recently created.

Figure 5: Private financial conglomerates

![Structure and activities of financial conglomerates](image)

48 MercadoPago received a provisional license (autorización para constitución) in December 2020.
49 Two of the pension funds operators are part if the largest FC, which thus have a significant share of the pension market.
50 See para 21.
16. The Financial Conglomerates Law (FCL) of 2017 and subsequent regulations reinforced comprehensive and consolidated supervision but did not directly address competition concerns. The FCL extended the scope of supervision to financial holding companies (FHC), even if it does not directly exercise a financial activity. The FCL provides SFC with the powers to: (i) assess and supervise the risks of FCs on a consolidated basis; (ii) require changes in the structure of FCs to facilitate their supervision and resolution \(^{51}\) if necessary; (ii) authorize direct or indirect capital investments of the financial holding company; and (iv) approve the risk management internal controls and corporate governance structure of FCs. Supervision under this framework considers risks at the individual level (credit, operational, market, etc.), plus risks at the consolidated level: strategic risks, concentration risks and contagion risks. Since 2018, the SFC has also issued regulations to implement the FCL on transactions with related parties and conflicts of interest, risk management framework of FCs, governance structure, and capital adequacy. However, no competition provisions are included in this framework as the objective of the FCL is focused on giving the government instruments of intervention and expanding supervisory powers to the SFC rather than addressing competition issues. This means that FCs remain under the general regime of competition law, which does not cover conglomerate mergers \(^{52}\) but still provides the authority to investigate and sanction abusive practices of post-merger entities.

17. Financial institutions within the same conglomerate benefit from the use of shared services and infrastructure but seem to compete and do not necessarily acquire their inputs within the conglomerate or tie/bundle “conglomerate” products. Although the different entities within FCs are independent, many conglomerates generate synergies by using shared back-office solutions, such as IT support. Conglomerates have also been able to benefit from economies of scale,

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\(^{51}\) Or revoke the license of FCs with FHCs located outside Colombia if the SFC assessed that the information provided is not adequate to perform effective supervision.

\(^{52}\) Law 1340 of 2009, article 9.
for example when negotiating a conglomerate-wide contract with the credit bureaus that grant volume discounts. Further, conglomerates that have multiple credit institutions use joint ATM networks and do not charge fees for clients of affiliated institutions. In some instances, entities within the same FC participate and overlap in the same market segment (i.e., the four different banks within Grupo Aval or bank and non-bank credit providers within Grupo Bancolombia are all offering retail savings and credit products) but interest rate dispersion and portfolio purchases\(^{53}\) between the related entities suggest that these entities compete with each other. Cross-selling of products across different types of financial institutions within the same conglomerate seems limited, as tying of financial products is not permitted independently of the conglomerate structure (Legal Basic Circular Part 1, Chapter III, Title 1 and Article 12 of Law 1328 of 2009). For example, while banks enter into multi-year agreements with insurance companies for offering insurance products that they take on behalf of their clients (i.e., life insurance, fire and earthquake insurance for mortgages) these contracts are awarded through open tenders. This practice has resulted in outcomes that saw both insurers within the conglomerate as well as external insurance companies receive the business. Additionally, bank clients have always the option to use a different insurer than the one pre-selected by their bank.\(^{54}\)

18. **Linkages between financial and real sector entities arise either from economic group structures or through exclusivity agreements that may warrant attention from the competition perspective.** While financial conglomerates are not allowed to own real sector entities, in several instances they are part of the same economic group. This allows financial institutions within the same economic group to use the physical infrastructure network (i.e., retail stores, hospitals) of the real sector entity to on-board clients and distribute products. It also allows them to exclusively access data, subject to prior consent of the individual, for tailoring and pricing of products. However, linkages between financial institutions and real sector entities are not limited to entities within the same economic group as several agreements have been signed between unrelated entities that grant the financial institutions either access to the distribution network or client data (i.e., data from utility companies). Recently, banks have also started to forge partnership agreements with big online platforms (i.e., in the food delivery sector). In general, such practices may raise concerns when implemented by an operator with market dominance. While the position of the financial institutions involved does not seem too prominent, this might not be the case of those in the real sector.

*Moreover, in spite of relatively modest individual market shares of state-owned financial institutions (SOFIs), their recent consolidation within a single financial conglomerate, Grupo Bicentenario, may raise concerns in terms of competitive neutrality\(^{55}\)*

19. **Colombian SOFIs provide both public (non-commercial) services as well commercial services, especially banking and insurance, where they compete with private operators.** Colombia has one first-tier state-owned bank, Banco Agrario. Banco Agrario, the only bank in the country with branches in all 435 municipalities, is primarily a development bank with a mandate to provide financial services to rural farmers. These agriculture loans are often covered by a guarantee

\(^{53}\) See ¶30.

\(^{54}\) Decree 2555 / 2010

\(^{55}\) A more thorough analysis of SOFIs beyond competition issues is included in the TN on Role of the State
from the National Guarantee Fund and funded by FINAGRO, a state-owned second-tier fund focused on providing funding to the private sector. In addition to these developmental activities, which account for roughly 60 percent of Banco Agrario’s balance sheet, the bank also engages in commercial activities.\textsuperscript{56} These activities include lending to larger agricultural producers, MSMEs and consumer lending. In those areas the bank competes with private financial institutions. Banco Agrario may enjoy some advantages on the funding side as its large branch network allows it to attract sizeable deposit funding and it also benefits from the fact that it is the sole recipient and administer of ‘judicial deposits’.\textsuperscript{57} While this source of funding offers a competitive advantage for Banco Agrario compared to private institutions, the scale of the distortion may have been limited by the small size of Banco Agrario. Its total assets account for less than 4 percent of total banking sector assets and its commercial activities account for less than 2 percent of total banking sector assets. In the insurance sector, the government owns one life insurance company (Positiva Compañía de Seguros S.A.) and one general insurance company (Previsora). The two companies each have a market share of roughly 8 percent in the respective markets. While the state-owned insurance companies have commercial mandates and compete with private players, they also perform some not clearly identified ‘developmental tasks’, such as providing insurance solutions to high-risk clients that would not be served by private companies. The insurance companies do not benefit from a special treatment or regulation and thus compete on equal footing with commercial insurers.

20. **Access to funding from second-tier public financial institutions is open to public and private financial institutions.** Colombia has three major second-tier lending institutions: FINAGRO, which promotes rural finance; FINDETER, which is a development finance institution focused on supporting infrastructure investments by sub-national governments; and BANCOLDEX, focused on SME development and export support.\textsuperscript{58} The second-tier institutions obtain financing mostly from capital markets but in the case of FINAGRO also from Títulos de Desarrollo Agropecuario (TDAs). TDAs are mandatory investments for all private banks, and thus Banco Agrario is exempted. Since TDAs are remunerated below market rates, they present a cost to private banks while it does not burden Banco Agrario.\textsuperscript{59} Funds obtained by the second-tier institutions are passed on to private banks, microfinance institutions or Banco Agrario, which ultimately on-lend to the final beneficiary (see Figure 6 for a schematic representation of state-owned credit institutions). Access to funding from the second-tier institutions is generally open to all credit institutions and usually at the request of the ultimate borrower. However, in practice most of the FINAGRO funds are disbursed by Banco Agrario due to its branch network and focus on small farmers. FINDETER and BANCOLDEX funds in contrast are mainly disbursed by private financial institutions.

\textsuperscript{56} According to Article 5 of the bank’s corporate statutes, at least 70 percent of the portfolio balance must be intended for the funding of rural activities, agriculture, pecuniary, fishing, forestry, and agro-industrial.

\textsuperscript{57} Judicial deposits are funds that are frozen by a judge until the procedure is decided.

\textsuperscript{58} BANCOLDEX has also a small direct lending facility.

\textsuperscript{59} This has previously been identified as a subsidy, since banks that do not lend a given amount of their funding to the agricultural sector must invest in bonds (TDAs) that are remunerated at below market rates, whose proceeds are used to fund the operations of a first-tier agricultural development bank (Banco Agrario). WBG, 2019c. “Integrated State-Owned Enterprises Framework ISOF – Guidance Note: Module 5 Assessment of State-Owned Financial Institutions”. P. 13
21. Plans to consolidate state-owned financial institutions in the newly established *Grupo Bicentenario* may hinder competitive neutrality due to the scope, mandate and governance of the new entity. *Grupo Bicentenario* is a recently incorporated financial conglomerate that is planned to eventually comprise 18 SOFIs, including *Banco Agrario*, the second-tier lending institutions, the insurance companies as well as several smaller state-owned financial institutions. The main goal behind the foundation of *Grupo Bicentenario* is to enhance efficiency, utilize economies of scale and increase the economic and social value of the state-ownership in the financial sector. The Government estimates that *Grupo Bicentenario* would be the third largest financial conglomerate in the country and wants the group to compete with private institutions in addition to its developmental roles. However, whether this should be the role of *Grupo Bicentenario* or it should rather focus on the gaps not filled by the private sector remains an open question. Moreover, *Grupo Bicentenario* may not be able to achieve the synergies necessary to leverage its size as some SOFIs may keep acting independently due to legacy issues. In any case, this consolidation may have a negative impact in terms of competitive neutrality absent the necessary competition guarantees. Although plans are not yet finalized, options include that *Banco Agrario*’s large branch network is used to distribute services offered by other entities within *Grupo Bicentenario*, such as housing loans, leasing or insurance products. Such plans need to be considered carefully from a competition perspective to ensure that *Grupo Bicentenario*’s commercial activities do not benefit from its status as a state-owned entity.
While credit information infrastructure seems independent and open, key elements of payment system-infrastructure are controlled by commercial banks and the pricing structure might create disadvantages for smaller market participants.

22. **On the one hand, credit information in Colombia is provided by two credit bureaus and appears to be broadly accessible to all financial institutions.** The credit bureaus are linked to internationally operating credit information providers and not owned by domestic financial institutions. The credit bureaus collect positive and negative information on firms and individuals and coverage is with 82.4 percent of the adult population, well above the LAC average (47.6 percent). In addition to data from banks and other financial institutions, the credit bureaus also collect data from large retailers and utility companies. Yet, access to positive data in certain public registries remains limited/or is not easy to check, e.g., information on real estate ownership or on legal representation of a company (digital validation is not possible).\(^{60}\) Access to the credit bureau data is not specifically regulated, except when it relates to data protection issues, and all financial institutions, including FinTechs, can access the same credit data. The prices for access to data are a function of the number of inquiries and thus marginal costs are lower for large entities that have a higher number of inquiries. This also benefits financial conglomerates that are able to negotiate contracts at the conglomerate level rather than at the level of the individual institution. Nevertheless, the price differences are not perceived to disadvantage smaller institutions.

23. **On the other hand, significant parts of the retail payment infrastructure are owned by private banks and the pricing structure appear to benefit larger players.**\(^ {61}\) The main retail payment system operator in the country is ACH Colombia, which operates an Automated Clearing House (ACH), an online payment platform and a new low value P2P payment platform through mobile phones. ACH Colombia handles approximately 95 percent of all ACH transactions in the country. The other clearing house in Colombia is operated by the central bank (ACH Cenit) but is not widely used. ACH Colombia is a private entity owned by 15 shareholders, most of them are the large domestic and international banks. The top-3 banking groups in Colombia control more than 50 percent of the shares. In addition to its shareholders, ACH Colombia has 30 non-shareholding users, which are either smaller banks, trust companies, financial cooperatives or SEDPEs. To reduce the risk that shareholders use their ownership in ACH to impose competition barriers to non-shareholders, authorities recently moved the authority to set prices from a five-member committee that included two representatives from the shareholder banks, two independent members and the Director of ACH Colombia, to an independent ACH administration (Decree 1692 of 2020). Fees vary by the type of service – ACH Colombia stopped requiring users to purchase an ‘all-inclusive’ package in 2016 and now allows to selectively purchase services – but generally include a fixed fee and then variable costs that decline with the number of transactions. This pricing structure means that the marginal costs of transactions are significantly higher (up to four times) for users that have a low number of transactions compared to users that have a high number of transactions. It thus presents a challenge for new and smaller

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\(^{60}\) This aspect was identified during interviews. While not uncommon, mainly due to technological issues, it can hinder the development of the credit information market.

\(^{61}\) A more in-depth analysis of the retail payment infrastructure is included in the TN on Digital Financial Inclusion.
players as they have significantly higher transaction costs when using the ACH compared to the major banks.

*Profitability indicators do not suggest that banks are able to extract unusually high profits but show that the larger banks benefit from economies of scale.*

24. **The profitability of Colombian banks is comparable to peer countries, with large banks being consistently more profitable than smaller banks.** The system-wide return on assets (RoA) and return on equity (RoE) were at relatively low levels of 1.6 percent and 12 percent in 2019 and dropped to 0.5 percent and 4.5 percent, respectively, in the wake of the COVID-19 pandemic in 2020. Both the pre-COVID as well as the 2020 profitability ratios are close to the median of peer countries and do not suggest that Colombian banks have been able to generate excess profits. Within Colombia, however, profitability is higher for larger banks as the correlation between banks average market share and profitability is positive. Several small banks that are focused on niche segments manage to achieve higher profitability than the large banks, but this tends to be an exception and on average the profitability of larger banks exceeds those of smaller banks (see Figure 7). This trend has been true for most of the past decade as the RoA of the smaller banks declined substantially and has been on average 0.7 percentage points lower than that of the top-3 banks.
Figure 7: Profitability and efficiency

25. **Larger banks exhibit lower costs and higher efficiency indicators suggesting that they benefit from economies of scale and/or more efficient internal systems.** The ratios of cost to assets, non-interest expenditure\(^{62}\) to assets as well as personnel expenditure to assets are significantly lower for the larger banks suggesting that they operate more efficiently compared to smaller banks (see Figure 7). This is not surprising and is likely linked to economies of scale of the larger banks that allow them to recoup fixed costs and benefit more easily from synergies as well as more efficient and streamlined internal processes.

\(^{62}\) Both ratios exclude the costs related to valuation effects.
26. **Decomposition of interest margins confirms a moderate contribution of profits but shows heterogeneities between large and small banks.** The economic literature identifies a high contribution of profits to interest rate spreads usually as a sign of limited competition in the financial sector. In the case of Colombia, however, a decomposition of the interest margins using a simple accounting identity (see Appendix for details) reveals that profits explain only around one quarter of net interest margins, with the highest contributors being loan-loss provisions and non-interest costs (net of non-interest income). Differentiating between the top-3 banks and the smaller banks shows that profits account for higher share of net interest margins for the large banks, while for small banks non-interest costs are a significantly higher. This confirms the previous observations that the larger banks are more profitable and more cost-efficient than their peers. The contribution of loan-loss provisions to the net interest margin has increased further in 2020 as banks built higher provisioning in the wake of the COVID-19 pandemic. The slightly higher contribution of loan-loss provisions for larger banks reflects their higher levels of NPLs in 2020 (5.6 percent of total loans compared to 4.2 percent of total loans).

Price pressure, portfolio purchases and high customer mobility indicate a significant degree of competition particularly in the retail credit segment.

27. **Lending interest rates have decreased particularly for consumer credit and credit card loans and together with widespread ‘portfolio purchases’ point to competitive pressure in those segments.** Over the past decade, and with a particular acceleration over the past 5 years, interest rates have declined for all major lending products in nominal and real terms (see Figure 8). The decline was 4.7 percentage points (3.4 ppt in real terms) and 4.9 percentage points (3.6 ppt in real terms), for consumer loans and for credit card loans respectively, higher than for commercial loans (2 ppt nominal, 0.7 ppt in real terms). The decline in interest rates on consumer loans came despite a substantial growth in consumer lending volumes that expanded access to credit to new, higher risk groups and makes it unlikely that compositional effects or the average risk profile of the portfolio are behind the reduction in rates. Lending rates on consumer loans, credit cards, and also mortgages for existing clients are often reduced through so-called portfolio purchases (compras de cartera) where a bank offers clients of a different bank better conditions if they move their outstanding loans to them. This also puts pressure on the original bank to lower rates in order to keep the client. Such portfolio purchases are very present in the Colombian consumer banking market (some banks estimate that more than 3 percent of their portfolio are affected by portfolio purchases per year) and together with the falling interest rates suggest that there is significant price competition in the consumer lending segment.

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63 In the economic analysis of spreads, Demirgüç-Kunt and Huizinga (1999) regress spreads and profits on measures of concentration (as an indicator of competition) and conclude that, aside from other factors, lack of bank competition drives bank spreads and profits across countries. Similarly, Beck and Fuchs (2004) conclude that the high profit margins that explain part of the high spreads in Kenya are due to lack of competition in the banking sector.

64 Numbers refer to the median interest rate across banks.
28. In contrast, price competition for deposits is low as banks focus on differentiation through a better customer experience and digital offerings rather than higher deposit rates to attract clients. The decline in lending rates was not accompanied by an increase in deposit rates over the past decade. In contrast, deposit rates fell for almost all maturities of checking and savings deposits and are only above the annual inflation rate for deposits with a tenure of more than 6 months (see Figure 8). Rather than offering higher deposit rates, banks try to attract and retain clients by enhancing their digital product offering. The pressure to digitalize banking services comes both from the demand side where customers increasingly expect to be able to transact through mobile and digital solutions rather than physical branches, as well as from the supply side where new FinTech/BigTech entrants as well as the digital banks linked to the main banks in Colombia introduce sophisticated solutions that set the standard for the industry.

29. Customer mobility is high and supported by regulation that widely limits switching costs. Primarily through the practice of portfolio purchases (see ¶30) it is common that borrowers switch their bank. Between January 2020 and February 2021, 2.5 million private credits worth COP 18 trillion were transferred or cancelled. The vast majority of the transferred loans (94 percent) were consumer loans and only 6 percent were mortgage loans. Portfolio purchases are not common for commercial credits that require a closer banking relationship. Customer mobility is facilitated by regulations that restrict banks from imposing costs for most early loan repayments. It is generally enough for the consumer to make an early payment by changing their current lender for another one that will pay off the debt to become the new lender. The regulation stipulates that this is a right of

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65 Source: DataCrédito Experian Balance Transfer Report
66 Law 1555 of 2012, which modified Law 1328 of 2009, established financial consumers can do early loan repayments of any type of loan without any penalty or cost if the debt amount is under 880 SMMLV (approx. US$ 210,000). For debts over 880 SMMLV, prepayment conditions are those determined in the contract. Home loans can be paid in advance or transferred to another creditor without penalty, as per Law 546 of 1999.
consumers and banks cannot impede this under penalty of receiving administrative measures against
them. Similarly, there are no closing costs or other statutory requirement that a financial consumer
must meet to switch savings accounts to another financial institution. Banks are not allowed to refuse
the return of the money deposited by the consumer when requested and the consumer can select the
bank of choice. The regulation also prevents mandatory payroll arrangements. Voluntary payroll
arrangements exist, especially for larger firms, and are an attractive business for banks but employees
do not face obstacles if they want to switch to a different bank.

30. **Moreover, multi-bank relations are common for households but more limited for SMEs.**
Roughly two-fifths of borrowers have relations with more than one bank. Multi-bank relations are
more prevalent for households than for SMEs where only around 18 percent have a relation with more
than one bank. Six percent of borrowers even have four or more different banking relationships. These
percentages have remained stable for the last two years. While the widespread existence of multibank
relationships for households points towards consumer power to choose and switch across different
banks, the incentives for multi-banking relations for clients are reduced by relatively high costs of
transferring money across bank accounts charged by some institutions, when they belong to different
banks or conglomerates (interbank fund transfers).
C. Interventions that shape market dynamics

I. Institutional and regulatory framework

31. Mapping the private and public actors that can shape competition in the Colombian financial sector is a critical first step to understand market dynamics. Financial operators can negatively affect competition through strategic behavior, whether through unilateral or coordinated conduct, mergers and acquisitions, or through co/self-regulation. Industry associations are one of the venues where these phenomena may occur, for instance, by promoting/organizing information exchanges between market players. Strategic behavior of financial operators may have a wide range of effects, from softening competition by enabling coordination among market players or by restricting the free determination of certain competitive variables to full blown market foreclosure. Furthermore, governments and prudential regulators intervene in markets to pursue a wide array of policy objectives, notably financial stability. These interventions, while having legitimate public policy objectives, may have the unintended consequence of distorting/reducing competition. In this sense, private and public interventions may distort competition to the extent that they may: (i) limit entry or reinforce dominance; (ii) enable agreements among competitors and raise the ability/costs to compete; and (iii) discriminate among market players and protect vested interests.

32. The protection of competition in the financial sector is enshrined by the constitution and developed by the applicable laws. The Colombian Constitution explicitly considers competition as a protected right. In turn, the Organic Law of the Financial System (EOSF for its initials in Spanish) prohibits anticompetitive agreements and submits interventions in the sector to a pro-competition regulatory principle. Additionally, Colombia has a long-standing competition policy framework, with the first competition law dating back to 1959 and its most recent iteration from 2009. While the competition law covers the financial sector, state interventions may supersede competition law and there is an explicit exclusion in the case of interventions regarding failing banks (salvamento and protección de la confianza).

Shared institutional mandates to tackle competition concerns in the financial sector may pose coordination challenges absent formal mechanisms to articulate the inter-institutional cooperation.

33. On the one hand, the SFC maintains a central role in shaping efficient market dynamics in the financial sector both through regulation as well as merger control powers. According to its statute, the SFC has supervisory and technical regulatory powers over operators of the financial

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67 Colombia Constitution, articles 88 and 333.
68 Law 663 of 1993, art. 98 (1) and art. 326 (5o.) (f).
69 Law 663 of 1993, art. 46 (e)
71 Law 1340 of 2009.
72 Law 1340 of 2009, art. 2.
73 Law 1340 of 2009, art. 31.
74 Law 1340 of 2009, art. 28.
sector and associated sectors such as insurance and securities. The Unidad de Regulación Financiera (URF) of the Ministry of Finance also has regulatory powers in the sector, which it exercises with technical support from SFC. Regulatory powers include all traditional regulatory instruments as well as consumer protection. In addition, SFC retains merger control powers when all merging parties are under its supervision, with restrictions to competition being among the reasons for which a given merger may be objected. In those cases, SIC’s intervention is limited to providing a non-binding opinion to SFC regarding: (i) the competition impact of the merger, and (ii) any necessary conditions/remedies to limit potential anticompetitive effects. Since merger control powers build upon the competition law, ‘conglomerate mergers’ remain excluded from antitrust scrutiny/ex-ante merger review by SIC.

34. On the other hand, SIC is in charge of enforcing and promoting competition across sectors including in financial markets. SIC was granted enforcement authority in 1992 with the enactment of Decree No. 2153, while Law 1340 of 2009 defined its exclusive mandate to apply the competition law, and Decree 4886 of 2011 granted it consumer protection powers. In the banking sector, the 2009 Law separated the prudential supervision from competition law enforcement by conferring SIC competition enforcement powers previously held by SFC, except for merger review involving supervised entities. However, SFC must inform SIC of any notified merger involving an entity under its supervision, upon which SIC may issue a non-binding opinion on the matter. Given the increasing importance of non-regulated entities providing financial services, SIC powers to control anticompetitive effects of mergers and acquisitions involving such operators, notably Fintech and BigTech, are becoming increasingly relevant to shape market dynamics in the financial sector. These enforcement powers are complemented with advocacy powers to foster market contestability and foster a level playing field among financial operators. Colombia remains as one of the few countries in the region having introduced obligations for regulatory authorities to explicitly justify deviations or dismissals of recommendations issued by competition authorities through advocacy initiatives.

76 Law 1340 of 2009, art. 9. See also OECD 2016 at p. 135 stating that SFC could approve a merger against SIC opinion in the context of a financial emergency: “The procedures and substantive standards applicable to merger reviews conducted by the SFC are provided in Decree 663 of 1993 (…) Decree 663 does not enable the SFC to approve an anti-competitive merger on prudential grounds. Article 28 of Law 1340, which provides an exemption from the competition law for financial emergencies, must be invoked to accomplish that result.”

77 Law 1340 of 2009, art. 8.

78 Law 1955 of 2020, art. 146.
35. In this context, the role of the Central Bank to promote competition in the financial sector remains limited, except for knowledge generation. The mandate of the Central Bank, Banco de la República, is defined in the Colombian Constitution and includes, among others, monetary, foreign exchange and credit policies, as well as the issuance of legal tender, and the administration of international reserves. Neither the Constitution nor its enabling statute grant competition policy functions to the Central Bank, or explicitly provide for the need to align the Central Bank’s intervention with pro-competition principles or competition advocacy functions. Despite this, as part of their knowledge generation activities, the Central Bank has produced at least three reports on competition in the Colombian banking sector including, for example, recommendations to measure market power, and two assessments of the relationship between concentration and financial stability. Beyond that, the Central Bank has had limited involvement in competition policy in the banking sector.

36. Developing instruments to articulate the cooperation of SFC and SIC both between themselves as well as with other regulators could strengthen their ability to foster competition in the financial sector. SFC and SIC have worked together to assess mergers and collaborated in a series of market studies produced by SIC on different competition issues in the banking sector. However, this cooperation has not been formalized through an MoU that could better articulate aspects such as (i) management of complaints; (ii) designation of technical focal points/working groups; (iii) development of joint action plans/platforms for sharing know-how and expertise; (iv) development of implementing procedures for consultations/opinions for case handling/regular information exchanges/comments to key regulations. In contrast, SFC does have an MoU with the Central Bank to enable information exchange. In addition, given the increasingly important role of financial service providers not supervised by SFC (e.g., a majority of Fintechs) and the links to adjacent sectors (e.g., telecommunications) supervised by other regulators, it would also be important to

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Table 2: Summary of the division of labor on competition policy between SIC, SFC and the Central Bank

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<th>SIC</th>
<th>SFC</th>
<th>Central Bank</th>
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<tr>
<td><strong>Anticompetitive Practices</strong></td>
<td>✓</td>
<td>×</td>
<td>×</td>
</tr>
<tr>
<td><strong>Merger review</strong></td>
<td>✓</td>
<td>✓</td>
<td>×</td>
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<tr>
<td><strong>Competition advocacy</strong></td>
<td>✓</td>
<td></td>
<td>✓</td>
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<tr>
<td><strong>Explicit inclusion of regulatory principle of “competition promotion”</strong></td>
<td>✓</td>
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develop mechanisms to foster cooperation on competition issues with other regulators such as the Comisión de Regulación de Comunicaciones (CRC).  

*Increasing competition safeguards for private and public bodies could further support efficient market dynamics in the financial sector.*

37. **Private sector organizations, such as ASOBANCARIA, have been intensely involved in reform initiatives, yet mechanisms to foster members’ compliance with the competition law have not been put in place.** The Banking and Financial Entities Association (ASOBANCARIA), which comprises 37 banking and financial institutions, was formed in 1936. ASOBANCARIA has been heavily involved in initiatives to introduce self-regulation instruments including the introduction of standard contractual agreements, the indicador bancario de referencia initiative, proposals to promote standards for payment systems, Fintech innovation (fintechgracion), use of biometrics, among others. All these need to be closely monitored by SFC and/or SIC since unwanted restrictions to competition may occur as a result of competitors being excluded or otherwise deprived of competitive advantages due to rules that favor incumbents. Activities by trade associations can trigger antitrust concerns as decisions by their members could infringe provisions forbidding agreements among competitors. Risks of anticompetitive conduct within associations usually arise due to the collection and sharing of sensitive information, lack of transparency on meeting agendas, lack of codes of conduct or standards, or the use of standard-setting to unduly advantage certain competitors. For instance, ASOBANCARIA was involved in the only cartel investigation in the sector which ended with commitment of the parties, including from ASOBANCARIA itself. Despite including compliance with competition law in its code of ethics, ASOBANCARIA lacks any detailed guidance on compliance with competition law, which is often necessary to minimize risks of anticompetitive practices within trade associations.

38. **Colombian SOFIs also have a role in shaping market dynamics, particularly when they compete with private operators.** The presence of SOFIs and their provision of commercial services in competition with private operators has an impact on market dynamics. The relative importance of SOFIs in shaping market dynamics could increase with plans to consolidate them in Grupo Bicentenario, which will become the third largest financial conglomerate in Colombia.

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83 SFC also has MOUs with two credit bureaus Cifin-Transunion and Datacredito-Experian.
84 The IBR is a short-term interest rate for the Colombian peso, which reflects the price at which the agents are willing to offer or raise resources in the money market. See: https://www.banrep.gov.co/es/estadisticas/indicador-bancario-referencia-ibr
85 Law 2159, article 7.1.
86 See paragraph 44 for details of the case.
88 For further details see TN on Role of the State.
II. Competition enforcement: regulatory and institutional aspects

The competition regulatory and institutional framework in the financial sector could be strengthened to further support enforcement.

39. While the competition law applies to the financial sector with minor exceptions and SIC has developed critical tools to tackle anticompetitive practices, enforcement remains limited. The Competition Law prohibits practices that restrict competition including: (i) agreements between competitors to limit competition (i.e., price fixing, market partitioning/sharing and bid rigging); and (ii) unilateral abusive conduct by firms with a dominant position in the market. The law also includes a merger control framework for SIC to prevent operations with a high probability of restricting market competition. However, mergers between entities supervised by SFC are carved out of SIC’s mandate and are subject to the review and clearance of SFC as part of a prudential merger control framework that coexists with the one established in the competition law.\(^0\) Since at least 2013, SIC has developed key capacities to tackle anticompetitive practices, notably through enhanced access to evidence of the infringements. These include powers to perform unannounced inspections, a comprehensive leniency program\(^1\) and the ability to perform in-house IT forensics, which the OECD has qualified as a full arsenal of powers to enforce competition law.\(^2\) In fact, SIC has made significant progress in the

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91 A well-functioning leniency program can destabilize and deter cartels by creating a permanent threat that any of its members may come forward to the authority in order to avoid the fine. The difficulty in stopping cartels is secrecy. Leniency programs can break the code of silence among cartel members and uncover conspiracies that might otherwise go undetected. Additionally, they make investigations more efficient and effective. The programs that have proven to be the most successful give complete amnesty to the first cartel member to come forward and reveal the inner workings of the cartel to competition law enforcers. Thus, most competition agencies around the world, including the EU and the US, Colombia, Turkey, Canada, Brazil, Mexico, Chile, China, Korea and India, have the ability to offer either total immunity or significant fine reductions to violators that cooperate in their investigations. Miller (2009) found that the leniency program in the US reduced the rate of cartel formation by 59% and increased the rate of cartel detection by 62%.
92 OECD, 2016. P. 130.
prosecution of cartels, as shown in Figure 9. However, similarly to other LAC countries, enforcement of competition law in the banking sector has been limited, with no sanctions imposed for anticompetitive practices in the financial sector to date.

40. **First, all mergers and acquisitions in the financial sector have been approved without objection.** The power to control anticompetitive effects of mergers and acquisitions aims at limiting harmful market effects of economic concentrations and to this end, remedies tend to play a critical role. Merger control allows to identify *ex ante* situations in which a change in market structure may increase the likelihood of anticompetitive practices thus affecting market outcomes and harming consumers. In the past few years, both structural and behavioral remedies are becoming ever more important to support efficiency-driven market consolidation. The Colombian merger control is dual, with SIC and SFC having their own coexisting regimes, delineated both by the competition law and the EOSF but neither SIC nor SFC have ever objected to a merger on competition grounds, although some of SIC opinions identified potential competition-related risks (See Box 2). Before the COVID-19 pandemic hit, SIC raised concerns for the first time regarding a Joint Venture among the largest banks in the country to establish a digital identity platform. SIC identified potential remedies to limit anticompetitive effects of the operation but the banks ultimately desisted.

**Box 2: Merger control in the Colombian financial sector: procedure, standard of review and enforcement record**

The Organic Law of the Financial System (EOSF for its initials in Spanish) regulates mergers involving supervised financial and insurance institutions, with the competition law remaining as a suppletory instrument only (i.e. covering issues not addressed by the EOSF). The EOSF requires all mergers between supervised entities to be notified to SFC for pre-merger clearance. The SFC can object to the merger if, among others, the merged entity can incur in abusive practices or otherwise restrict competition in the markets where it operates, and no remedies are sufficient to address those concerns. Note that a merger is presumed to induce no harm to competition when the merged entity has a share of less than 25 percent of the affected markets. When SFC clears a merger, it issues a declaration of non-objection.

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93 The WBG Cartel Database covers hard core cartels sanctioned in first instance between 1980-2019. Colombia, with 52 hard core cartels sanctioned, ranks in third place, only below ranks as one of the top regional performers, only behind Brazil and Mexico. The database for the period covers the following LAC countries: Brazil, Mexico, Colombia, Peru, Chile Argentina, Panamá, El Salvador, Costa Rica and Honduras.

94 For example, only 2 percent of cartels prosecuted in LAC between 1980 and 2019 affected financial or insurance activities. See WBG (Forthcoming), “Fixing Markets Not Prices: Policy Options to Tackle Economic Cartels in Latin America”.

95 Remedies are a way to minimize risks of potential anticompetitive effects of a given merger and are commonly sufficient to address concerns related to negative effects on competition of specific relevant markets. Remedies can be designed to address the individual concerns in a given market without blocking a merger. Structural remedies include, for example, the divestment of branches, but behavioral remedies such as cap of fees may also be imposed.

96 For instance, SIC analysis on the integration of sociedades Grupo de Inversiones Sudamericana S.A. e ING Administradora de Pensiones y Cesantias S.A. – 2011 identified potential risks to competition related to the vertical integration of the merged entity.

97 This case was referred during the interviews both by the SFC and SIC.


99 Law 663 of 1993, art. 55.

100 Law 663 of 1993, art. 56.

101 Law 663 of 1993, art. 58 (2) (d).

102 Law 663 of 1993, art. 60.
SFC has a checklist with the documents and information that the notifying parties must submit. The checklist requires parties to identify the products offered and the geographic markets served by the merging parties to assess the impact the merger will have. However, it does not require the parties to assess (or propose remedies) for any potential negative impacts on market competition in particular, which is key for a more efficient review by the authorities.

For each merger, SFC prepares a technical study to identify if any objections must be raised. Since the EOSF does not include a substantive test to assess whether a merger eliminates, limits or otherwise restricts competition, then the competition law should apply. The competition law indicated that SIC will object to a merger when “it is prone to produce an undue restriction to free competition”.\(^\text{103}\) As evidenced by a review of SFC’s declaration of non-objection, for any competition concerns the SFC defers to SIC’s opinion on how the operations will affect the market competition.

In the past few years, SFC has assessed mergers and acquisitions involving financial, insurance and credit institutions:

- **Financial institutions**: In the last ten years, SFC has reviewed a total of nine mergers. All the mergers were cleared since no competition concerns were identified. SFC has not imposed any remedies in the context of its review of the mergers. Mergers included: (i) two mergers between trust companies; (ii) two mergers between pension funds administrators; (iii) four mergers between brokerage firms; (iv) one merger between market infrastructure providers.
- **Insurance institutions**: The SFC has declined to object to six merger operations.
- **Credit institutions**: The SFC has reviewed a total of 13 merger operations, only 1 of which was objected but not on competition grounds.

To date, SIC has not issued an opinion recommending SFC to object a merger on competition grounds. Figure 10 summarizes the grounds included on SIC’s opinions regarding a total of 28 mergers of supervised entities.

\[\text{Figure 10: Grounds of SIC’s no-objection opinions}\]

- 28% No change of control
- 52% Below market share threshold
- 20% Other/Not available

*Source: Law 1340 of 2009 and Law 663 of 1993.*

41. **Lack of a standard procedural review for financial mergers and acquisitions might limit the ability of SIC and SFC to identify and address competition concerns, respectively.** International experience on competition merger review confirms the need for a systemized approach that includes (1) efficient communication with parties not only during but even before the review (e.g. pre-notification contacts, information requests during the analysis, oral hearings, including witness testimony, to respond to statements of objections); (2) a multiphase procedural approach that allows to expedite review of simple cases and devote additional resources to complex ones (i.e. Phase I and Phase II reviews, simplified notification procedure for non-problematic cases); (3) clear economic framework for the analysis (i.e. criteria for evaluating potential anticompetitive effects: unilateral and coordinated effects, treatment of efficiencies, pass through to consumers and compensation of.*

\(^{103}\) Law 1340 of 2009, art. 11.
anticompetitive effects, failing firm defense); and (4) criteria to set remedies or conditions that can remove anticompetitive concerns. Most of these aspects are part of the review that SIC applies to other markets and could potentially apply to the financial sector with minimum additional institutional costs.\footnote{SIC guidelines for the assessment of mergers include, among others, criteria on the applicable procedure, determination of control, scope of operations under review, market definition, assessment of effects, entry barriers, potential entrants, buyer power, assessment of efficiencies, commitments, etc. All these aspects are key for a comprehensive competition assessment of the merger. See SIC, 2018. “Guía de Análisis de Integraciones Empresariales.” Available at: https://www.sic.gov.co/sites/default/files/files/Proteccion_Competencia/Integraciones_Empresariales/2019/Gu%C3%ADa%20Integraciones%20Empresariales_agosto16_2019_%20(1).pdf}

42. In addition, as long as conglomerate mergers remain excluded from competition law scrutiny, SFC review could be instrumental to prevent anticompetitive effects and complement other measures to supervise financial conglomerates. Contrary to international experience, the Colombian competition law limits SIC’s merger control powers to economic concentration where merging parties participate in the same economic activity or within the same value chain (i.e., horizontal and vertical mergers), thus excluding conglomerate mergers from ex ante review. Given the prevalence of financial conglomerates in Colombia, conglomerate mergers may raise competition concerns due to reduced potential competition from the target, non-coordinated effects, tying, bundling or leveraging of portfolio effects. Moreover, competition aspects of financial conglomerates are not specifically addressed in the FCL which mostly deals with prudential risks. In this context, until amendments to the competition law are introduced to expand SIC merger control powers, SFC could play an important role in reviewing competition effects of mergers and acquisitions involving financial conglomerates building on the mandate provided under the EOSF.

43. Second, in the financial sector, SIC has favored the use of remedies instead of sanctions to close investigations into potentially anticompetitive practices. To date, SIC has opened two investigations involving financial operators engaged in both for presumptive price fixing practices in relation to payment systems. In 2005, when SIC shared competition enforcement powers in the financial sector with SFC, the competition authority investigated a payment system operator and a bank association/joint venture for a presumptive agreement to fix merchant fees for credit and debit cards and interchange fees which ended with commitments. Following the monitoring of commitments, SIC issued seven decisions pertaining to compliance gaps. In 2011, a similar case arose when SIC again investigated ASOBANCARIA, a number of banks and payment operators for jointly fixing interchange fees that ended with commitments (Box 3). Sanctions to a financial operator have only taken place in the context of a bid rigging case where the operator was part of one of the consortia found to have colluded to obtain a concession.
Despite having imposed no sanctions on cartel cases, SIC has opened 2 investigations related to potential price fixing agreements among competitors that ended with commitments proposed by the parties to restore competition in the market. These decisions, pertaining to retail payment systems, did not formally establish the existence of a competition law infringement.

- Agreement to fix merchant commissions for credit and debit cards and interchange fees (2005):

  In 2005, SIC opened an investigation concerning an agreement between a retail payment system operator and a joint venture formed by banks on maximum merchant commissions for credit and debit cards, and interchange fees. SIC confirmed that the parties investigated had sent communications to merchants that included the same fee structure and variations and that this could amount to price fixing. To address SIC concerns, the investigated retail payment system operator offered to establish the interchange fees (tarifa interbancaria de intercambio or TII) according to objective criteria including, among others, type of product, merchant and transaction, as well as volume of transactions. The banks offered to define merchant commissions with vendors independently. Parties agreed to report to SIC the objective criteria and methodologies used to determine the TII/commissions as well as the fees/commissions themselves. However, failure to report complete information as agreed in the commitments resulted in seven decisions of SIC (2006-2011) sanctioning parties for lack of compliance.


- Agreement to fix interchange fees (2011):

  Following an SFC communication, SIC opened an investigation in 2011 regarding a potential price fixing agreement in payment systems carried by 15 banks, 2 payment system operators and 2 banking associations. The investigated banks had notified to SFC an agreement to determine the TII among themselves, no longer involving payment system operators. To address SIC concerns, the investigated parties offered a new model to define the TII (the REMI model) which, among others, would be administered by a third party (Colombia Stock Exchange). This Third Party would determine the TII for each segment according to independent inputs provided by each bank. In turn, each bank remains in charge of establishing merchant commissions. In addition, banking associations offered to modify their charters to eliminate the possibility to coordinate regarding the TII and explicitly recognized the need to protect competition and engage in advocacy activities. No sanctions were imposed by SIC regarding non-compliance with these commitments.

  Source: Resolution 26255 of 2011 and Resolution 40478 of 2012.

44. Nevertheless, cartels/anticompetitive agreements in the financial sector are pervasive across countries. Cartels and horizontal agreements result in a welfare loss for the economy as a whole; for instance, price-fixing agreements among competitors impose significant costs on society. While these practices may simply not exist in the Colombian financial sector given overall competitive market dynamics, many countries have identified collusion in the financial sector at the domestic/multijurisdictional levels. Cartels have been found in a reference index (LIBOR), credit default swaps, interest rate derivatives, foreign exchange, precious metals, and bonds.
45. In this context, limitations in the leniency and fining policies may be detrimental to promote collaboration of cartel members with the authorities, especially in the financial sector. Leniency programs allow the first cartel member to approach the competition authority with information on a cartel to be exempted from the fine. In this sense, leniency programs destabilize and deter cartels by creating a permanent threat that any of its members may come forward to the authority in order to avoid prosecution and provide authorities with access to strong evidence at a much lower cost than if other investigative techniques were used. However, confidentiality concerns have been raised regarding SIC’s leniency framework (Programa de Beneficios por Colaboración) and this may be particularly problematic in the financial sector given its intrinsic dynamics. The WBG Cartel Database shows that the leniency program was used in 11 percent of cartel cases reviewed by SIC, which is low compared to other countries where similar programs have contributed more significantly such as Brazil (43 percent), Chile (27 percent) and Mexico (20.7 percent). Regarding fines, Colombia’s fining system is based on caps rather than turnover which may result in sanctions that are too low to effectively deter anticompetitive practices. This has led both international organizations such as the OECD as well as national ones to recommend an increase in the level of fines. For instance, Colombia’s Consejo Privado de Competitividad recently made similar recommendations.

46. Similarly, in the past decade, there have been no abuse of dominance cases. Instead, authorities have focused on ex ante interventions to prevent abusive practices. For instance, SFC prohibited tying of financial products and SIC conducted a number of assessments of market conditions (See Box 5).

105 Confidential handling of leniency applications is key to assure the success of the program as it strengthens the incentives for leniency applicants to come forward. An applicant may be concerned about disclosure of his identity, or the information provided within the leniency application given (a) potential civil damage actions in Colombia and other countries and (b) “reputational damage” in the business community. Information contained in documents and statements produced within a leniency application typically include evidence and admissions that would not have been obtained through a regular investigation. Since such admissions will not be available from the other cartel members, the leniency applicant may be disadvantaged, unless the information it supplies is treated confidentially.

106 See Marquez, P., & Castiblanco, D., 2019. “Retos del derecho de la competencia: El fin de la delación en Colombia.” Describing how despite its initial success in uncovering long-standing cartels, early participants in the leniency program were not sufficiently shielded from liability and information filed before SIC was used in judicial procedures against them. Available at: https://centrocompetencia.com/retos-del-derechos-de-la-competencia-el-fin-de-la-delacion-en-colombia/

107 Law 1340 of 2009 sets a maximum fine of 100,000 minimum monthly wages or 150% of the illegal benefit obtained from the practice. These caps could either be too low or too difficult to calculate.

108 OECD, 2016, p. 131.


110 Legal Basic Circular Part 1, Chapter III, Title 1 and Article 12 of Law 1328 of 2009.
### III. Financial regulation and infrastructure

Despite regulations designed to foster market contestability, risks to maintaining a level playing field persist and may require additional competition safeguards.

While the SFC, URF and SIC are taking critical steps to promote entry and access to financial infrastructure/data, the impact of these initiatives could be strengthened from a competition perspective:111

A. Fostering entry and tackling negative effects of market dominance:

47. **SFC’s differentiated licensing regime provides flexibility for potential market entrants.** Activities relating to the managing, use or investment of funds deposited by the public require a financial license granted by SFC. 112 Prospective credit institutions have several licensing options available that differ in terms of minimum capital and other prudential requirements as well as in the scope of allowed activities (see Figure 11). The most comprehensive are full banking licenses that require a minimum amount of regulatory capital of around US$ 29.8mn. 113 Alternatively, prospective credit institutions can apply for the license of a financing company, which has lower capital requirements but poses some limitations on activities, such as offering current accounts. Furthermore, for financial institutions focused on capital market activities (e.g., financial advisory services, asset management, securities intermediation, custody, back-office for asset managers) rather than credit intermediation, the *Draft Law 413 on Payment Systems and Capital Markets* introduces a functional licensing regime, with financial requirements proportional to the

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111 Interventions have been classified following the WBG Markets and Competition Policy Assessment toolkit (MCPAT) adapted to the Financial sector as per the “Guidance Note on Assessing Competition in the Financial Sector Assessment Program” (WBG 2021)

112 Pursuant to Article 335 of the Constitution and according to Section 11, Article 11.2.1.4.2, D2555

113 Minimum capital requirements as of 2021 and converted to US$ using the exchange rate as of 31.12.2020. Minimum initial capital amounts are subject to annual inflation indexation and thus change periodically.
nature of the activities performed by the operator, rather than based on the type of entity who performs these activities (i.e., an institutional license regime).

48. **In addition, new regulatory options have been developed to support the licensing of FinTechs, but they are not yet widely used.** Licensing of FinTechs and the improved oversight that generally comes with it are important from a competition perspective as they make it easier for trustworthy operators to differentiate from non-trustworthy ones and to build trust among consumers, which turn improves their ability to compete with conventional operators. To widen the licensing spectrum for new technology players, SFC introduced in 2014 a dedicated licensing regime for electronic deposit and payment specialized companies (*Sociedades Especializadas en Depósitos y Pagos Electrónicos – SEDPEs*)\(^{114}\) with lower capital requirements (US$ 2.3mn). Alternatively, FinTechs can obtain a finance company license, an intermediate licensing regime between SEDPEs and banks (see Figure 11). Despite these options, licensing of FinTechs remained relatively rare and by the end of 2020 only 10 FinTechs were licensed, five of which had a SEDPE license. However, interest has picked up in 2021 and a number of new entrants have received preliminary approval from SFC (*autorización para la constitución*) even though the final license (*autorización de funcionamiento*) is still pending.\(^{115}\)

To further widen the licensing options for digital operators in the financial sector, SFC is working within its regulatory sandbox (*Espacio Controlado de Prueba* established by Decree 1234 of 2020) on a new licensing regime for entities that implement “innovative technological developments”.\(^{116}\) The sandbox licensing regime would introduce staggered requirements and allow for flexibility to test the business model of new entrants that, upon completion of the sandbox phase, could then apply for other types of license.

49. **The ongoing initiative to implement Open Finance, key to further promote competition in the financial sector, could be strengthened to support effective implementation.**\(^{117}\) URF initially proposed a bill to introduce an Open Banking framework in Colombia\(^{118}\) by 2022 to promote competition in the sector, which was recently expanded to an open finance project\(^{119}\) to encompass non-bank entities that handle users’ financial information which is positive, in particular, due to the significant number of unbanked customers. The model proposed by URF will be voluntary, and timelines for implementation flexible and adaptable to each institution. The model is still under development and URF has recently published it to receive comments from stakeholders. URF needs to properly evaluate the incentives of banks to engage in a voluntary system, as, in general, voluntary access by data holders will only incentivize transfers expected to increase their own profits while mandatory access is a real threat to the market power of incumbents. Another key aspect is the need

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\(^{114}\) Article 1, Law 1735 of 2014

\(^{115}\) These include four finance companies (MercadoPago, Uala, Bold, and Rappipay) and one payment and deposit company (Alacaja). One new neo-bank, Lulo, and one new SEDPE, Global Colombia 81, received their final approval to operate in June and July 2021, respectively.

\(^{116}\) Bill 04/2021.

\(^{117}\) For further details see TN on Digital Financial Inclusion.

\(^{118}\) URF, 2020. “Open Banking y Portabilidad en Colombia”. Available at: [https://imgcdn.larepublica.co/cms/2020/12/17115612/Documento-de-la-URF-sobre-open-banking.pdf](https://imgcdn.larepublica.co/cms/2020/12/17115612/Documento-de-la-URF-sobre-open-banking.pdf)

to define the role of the regulator in such regime, including its ability to set standards and sanction non-compliance. This choice should consider market dynamics, especially potential anticompetitive behavior of market operators.\textsuperscript{120} Alternatives include considering partially mandatory regimes for only specific actors in the industry, and voluntary for the rest (see Box 4 for additional details). Also, the role granted to ACH as an operator that may provide payment initiation services may not provide enough incentives for entry of new PISPs and create entry barriers.\textsuperscript{121} Internal policies\textsuperscript{122} to deal with conflict of interest might result insufficient to counteract the potential risks to competition generated by ACH Colombia’s market power and control of infrastructure. Finally, interoperability must be accompanied by stronger regulatory safeguards\textsuperscript{123} to allow competition between PISPs to challenge ACH’s position.

\textsuperscript{120} See CGAP/WB, 2020. “Open Banking: how to Design for financial inclusion”. Pp. 18-19, explaining how markets with high potential for anticompetitive practices might require a stronger role of the regulator, while, absent such concerns, operators might take a stronger role. Available at: https://www.cgap.org/research/publication/open-banking-how-design-financial-inclusion

\textsuperscript{121} ACH Colombia is the dominant platform owned and connected to the main issuer banks. It is unlikely to see entrance of new PISP, mainly because they will face a very strong competitor, ACH Colombia, which is already connected to the main issuers (network externalities) and that is providing payment initiation services through its own infrastructure.

\textsuperscript{122} Regulation concerning Payment Initiation Services allows ACH Colombia and its shareholders (the main issuer banks) to provide payment initiation services through its own infrastructure, the only requirement set by the legislation is to have internal policies to identify, prevent and solve conflict of interest.

\textsuperscript{123} The regulatory provisions to promote competition in such a market structure must take the following into consideration: (i) review access criteria to ACH Colombia platform, access criteria should encourage competition and any access restriction (including any technical provision that might reduce interoperability) to ACH’s platform should be carefully assessed to minimize impact on competition; (ii) monitor prices and service conditions in the ACH platform, price caps and price regulation in a developing market could be counterproductive for market growth, but authorities may review prices and service policies of ACH and monitor closely to generate historic information to be able to regulate in the future if needed; and (iii) assess the possibility to prohibit ACH to act as PISP and platform when the market is more mature.
Box 4: Notes on Open Banking as an instrument to promote competition

Open Banking offers a menu of options to be adapted to the dynamics of domestic financial markets:

![Figure 12: Open Banking as a spectrum of features](image)

Regulation of Open Banking must consider a variety of issues:

- Voluntary access by data holders will only incentivize transfers expected to increase their own profits while mandatory access is a real threat to the market power of incumbents.
- Establishing technical standards for APIs/data transfers can maximize interoperability and competition, while potentially avoiding coordination problems/conflicting incentives. However, room for innovation via competing standards should remain open in the long term.
- Regulation of data recipients’ activities is also relevant as misuse or security breaches of financial data may result in significant consumer harm and stalling engagement.

There is a trade-off between breadth and ease of implementation of Open Banking frameworks. Design choices include, among others, (1) broad financial services vs narrow banking services; (2) defining data providers by specific institutions vs broad activity types; and (3) determining which data will be provided on services, customers and/or transactions. The broader the range of activities and entities covered, plus the greater interoperability of data transfers, the larger the expected impact on competition. However, more ambitious schemes imply greater implementation challenges, risks and delays. A balance could be stricken by maximizing the breadth of content included in Open Banking but sequencing implementation.

Another key aspect of Open Banking is the principle of reciprocity. One-way data transfers might have negative long-run outcomes. An asymmetric regime may challenge current incumbents’ power but result in the transfer of that power to new entrants. Thus, two-way data transfers between financial service providers/intermediaries seems
more desirable and feasible. Although, grace periods for reciprocity in data sharing could be granted to start-ups until they reach scale.

Consumer engagement is also important. While Open Banking services may reduce the overall need for consumer engagement with banks, switching to a new Open Banking provider requires consumer consent and different types of consumers may have different levels of willingness to switch.

Other relevant questions include additional support measures for FinTech development such as regulatory sandboxes and start-up financing as well as developing regulatory technical expertise to successfully implement Open Banking.


B. **Enabling firms to choose strategic variables, decreasing the costs to compete, and limiting risks of collusion:**

50. **Interest rate caps may limit the ability of financial institutions to compete for more risky customers.** The commercial and criminal code set interest rate ceilings by stipulating that effective lending rates cannot exceed a market reference rate (‘interés bancario corriente’), which changes periodically, by more than a factor of 1.5. SFC is responsible for defining and calculating the reference rate and since 2014 three different reference rates are used and thus different ceilings for ordinary consumer credit, micro-credit and low value are in place. Additional ceilings are in place for mortgage loans. However, there is no differentiation of interest rate caps by type of institution (i.e. different caps for non-deposit taking institutions with higher costs of funds) which might discourage the entrance of specialized financial institutions that target riskier borrowers (e.g. finance companies, microfinance organizations). Authorities see the interest rate caps primarily as a tool to prevent usury and protect consumers from predatory lending practices with the need for this being reinforced by the fact that the provision of credit in Colombia is not regulated or restricted to supervised entities. However, the ceilings might prevent banks from expanding beyond their low-risk client base and limit the ability of microfinance entities and FinTech lenders to reach un-banked parts of the population. In addition, interest rate caps may reduce the overall supply of credit and impede efficient risk-based allocation of capital, disproportionally affecting poorer borrowers.

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124 Art. 884 of the Código de Comercio, art. 72 of Law 45 of 1990, and art. 305 of the Criminal Code.
125 The frequency of adjustments is four weeks for ordinary consumer credit, 12 weeks for microcredit and 12 months of low value consumer credit.
126 The ceiling for ordinary and consumer credit is 25.62%, the ceiling for micro-credit is 56.04% and the ceiling for Low value consumer credit is 45.52 percent (as of October 2021).
127 The current ceiling in place for this portfolio is defined in the Resolution 3, from May 2nd, 2012. According to this, the maximum interest rate applicable to low-cost mortgages (it is Vis loans) is 10.7% adding to it the 12 months variation in the UVR (Real Value Unit) at the moment of disbursement. Similarly, the maximum interest rate applicable to mortgages different from Vis (it is No Vis loans) is 12.4% adding to it the 12 months variation in the UVR (Real Value Unit) at the moment of disbursement.
51. In retail payment systems, authorities recently passed new regulation to facilitate competition by reinforcing interoperability, prohibiting multihoming limitations, facilitating divestiture of vertical integrated structures and setting corporate governance requirements. In late 2020, the URF issued Decree 1692, which enacted new sectorial regulation for retail payment systems. The new regulation set by Decree 1692 establishes interoperability as an obligation for retail payment systems' administrators and participants, and grants SFC powers to create a committee where platform administrators and participants may discuss technical standards to maintain interoperability. This regulatory provision is desirable because interoperability is necessary for entry and expansion of new retail payment platforms, as it reduces switching costs. Decree 1692 also reinforces competition among platforms by prohibiting multihoming limitations, but it does not eradicate the switching costs created by the integrated market structures. Finally, corporate governance provisions of relevance to competition include, among others, defining rules of procedure for each payment system, procedures to determine fees where decisions exclude the Board of Directors and the participants of the network that have ownership of the platform, creation of an access committee, and the prohibition for all platform administrative entities to perform as payment acquirers or issuers.

52. However, switching incentives for retail payment participants, mainly commercial banks, remain low since they own the platform. As ACH shareholders, Colombian banks have incentives to stay in the network and keep expanding it, instead of switching to the central bank operated ACH Cenit. Therefore, ownership of the main banks of the dominant platform administrator in ACH transfers remains an important market characteristic to be addressed by regulation to promote inter-platform competition. While Decree 1692 does establish a provision to facilitate banks divesting their shares of platform administrators, it does not set up binding requirements on shareholder structure or create incentives to promote divestments. The continuance of this vertical integration may reduce the impact of the new regulatory provisions and maintain concentration of market shares. Decree 1692 tries to address the risks to competition of this vertically integrated market structure by establishing corporate governance requirements, including Rules of Procedures yet to be designed by each system and approved by the SFC. The risk management of ACH vertical integration will rely heavily on the optimal design of these Rules of Procedures (specially on pricing mechanisms, conflict of interest and entry policies), as well as their consistent application. Country experience in LAC has

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129 For further details see TN on Digital Financial Inclusion, para 55-57.
130 Also referred as low value payment systems in Colombian regulation.
131 The elimination of limitations for shareholder structures in retail payment platform administrators only facilitates share divestiture, but it doesn’t imply that the commercial banks will have incentives to divest.
132 The corporate governance requirements include: i) Establishment and publication of Rules of Procedures in every retail payment system which must include: methods to identify and avoid conflicts of interests and a pricing methodology where decisions exclude the Board of Directors and the participants of the network that have ownership of the platform. Rules of Procedures must be approved by the Financial Superintendency of Colombia. ii) Operation of an Access Committee to decide the admission of new participants to the network, which must be integrated by, at least, 5 members of the Board of Directors and 25% must be independent. iii) Prohibition for all platform administrative entities to perform as payment acquirers or issuers.
shown that consistent application of such rules is hard to monitor/ensure by sectorial authorities because the massive vigilance required.\(^\text{133}\)

53. **In addition, pricing policies will be key to support competition in each platform.** Decree 1692 establishes general rules regarding the design of pricing mechanisms for the *Rules of Procedures*. These include excluding Board of Directors/participants of the system that own the platform administrator in vertically integrated platforms from pricing decisions concerning interchange fees\(^\text{134}\) and requiring payment systems administrators to publish interchange fees and commissions in their websites.\(^\text{135}\) However, SIC’s preliminary opinion on this Decree identified risks associated to full price transparency\(^\text{136}\) as well as the need to consider pricing regulation as an alternative. The latter was dismissed by financial regulators due to concerns regarding over-regulation. Yet, international experience offers a wide spectrum of potential regulatory measures to prevent anticompetitive pricing, from price caps to interchange fees\(^\text{137}\) to revision mechanisms for payment system fees carried by Central Banks.\(^\text{138}\) Such mechanisms limit the risk of overregulation while allowing financial authorities to review the different fees before they are applied in the payment platforms. Usually, the disclosure of methodologies, fees and commissions is not enough for Financial and Competition Authorities to assess payment platform pricing.

54. **In addition, the competition impact of financial regulations is not systematically analyzed.** Performing *ex-ante* regulatory impact assessments (or RIAs) for new laws and regulations, including their impact on competition has become a critical tool to foster regulatory efficiency. Lack of mechanisms for the simplification and evaluation of regulations, in particular of a systematized analysis of the competition impact of financial regulations (Competition RIA), could be stopping regulators from preventing or tackling the potential negative impact on market dynamics of

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\(^{133}\) Competition Authorities in Mexico, Argentina and United Kingdom have analyzed similar vertical integrated structures on card payment systems to conclude the need to divest this type of vertical integrated structures instead of relying on corporate governance restrictions. In Mexico, vertical integrated structures between commercial banks and payment system administrators diminished competition in payment systems even though the Mexican Central Bank implemented mechanisms to verify pricing strategies and frequent supervision of the payment system administrators. Today the Federal Economic Competition Commission (COFECE) hasn’t issued the final resolution of the Mexican card payment system case, but the preliminary assessment concluded the possible lack of effective competition in this market due, among others, to vertically integrated market structures. The preliminary opinion recommended to order commercial banks to divest the shares of the platform administrators they own.

\(^{134}\) The interchange rate in card payment systems is the price that issuer entities must pay to acquirer entities; while in ACH transfers it’s the price that the originating depository financial institution must pay to the receiving depository financial institution (see Box 3).

\(^{135}\) The Decree has forbidden the administrator of the payment system from setting interchange fees, which remain the sole responsibility of the schemes. Decree 1692, art 1 that amends art. 2.17.2.1.9 of Decree 2555 of 2010.

\(^{136}\) Total transparency on pricing strategies, especially acquiring commissions usually set by bilateral agreements between acquirers and merchants, may enable collusive conducts, as it would allow monitoring compliance/deviation from a price fixing cartel.

\(^{137}\) See EU Interchange Fee Regulation which established maximum interchange fees for consumer debit and credit cards. Available at: [https://eurlex.europa.eu/legalcontent/EN/TXT/?uri=celex%3A32015R0751](https://eurlex.europa.eu/legalcontent/EN/TXT/?uri=celex%3A32015R0751)

\(^{138}\) Review mechanisms mandate platform administrators and participants to submit to the Central Bank the costs and information used to apply their pricing methodology. For example, interchange fees and other services fees like routing, clearing and settlement fees are reviewed and published by the Mexican Central Bank before they are applied in the payment platform.
government interventions. Regulation geared to tackle a market failure in the financial sector might have untended consequences from the point of view of competition. A systematic regulatory impact assessment of competition can be critical to identify potential concerns in rules, guidelines or broader interventions and design less distortive alternatives, when compatible with prudential regulation. For instance, the proposal to lower the factor to calculate the usury rate from 1.5 to 1.2 could further increase the competition risks identified in paragraph 50.¹⁴⁰

55. To this end, strengthening competition advocacy activities will be key to foster and maintain a more pro-competitive regulatory environment in the financial sector. Competition advocacy embraces all these activities typically conducted by competition agencies and/or regulators related to the promotion of a competitive environment by means of non-enforcement mechanisms. As a regulator, SFC is in a unique position to identify and eliminate/tone down, whenever possible, barriers to competition in financial regulation. In this context, SFC has conducted a series of market studies for supervisory purposes. In addition, the SIC has undertaken critical advocacy initiatives in the sector from opinions that helped shaping critical pieces of legislation, e.g., the low value payment systems approved in 2020, two analysis of market conditions addressed to the Congress on various topics, including credit/debit cards and mortgages (See Box 5). However, the public versions of these analyses do not typically include policy recommendations to address the identified issues. In addition, no general assessment on competition conditions across key markets in the financial sector has been conducted yet. Enhancing cooperation among both institutions to embed competition principles in the financial sector would be key to leverage the synergies of their respective mandates.

¹³⁹ See OECD PMR indicators for Colombia 2019 Q13a.3.2 indicating that there is no obligation to perform a RIA regarding primary laws, and indicating that the RIA applicable to secondary legislation: Q13a.3.4 (i) does not include an assessment of the impact on competition and Q13a.2.8 (ii) is not subject to review by a government body outside of the sponsoring entity. PMR indicators underlying data available at: https://www.oecd.org/economy/reform/indicators-of-product-market-regulation/
¹⁴² SFC has already performed analysis of credit lines, such as credit cards and payroll credits which have been used for supervisory purposes. SFC identified the main players in a specific segment of the market, the profitability structure of each credit line and some practices used by financial intermediaries to set the active interest rates.
Box 5: Advocacy initiatives in the financial sector by SIC (2011-2021)

SIC advocacy opinions in new legislation:

- Opinion on draft amendment to Decree 2555 of 2010 regarding low value payment systems (Aug. 2020): SIC analyzed the draft and gave six recommendations to address a series of concerns from a competition perspective. SIC recommended: (i) explicitly stating the ability to impose additional conditions to operate as acquirers, (ii) reevaluating restrictive conditions to operate as acquirers that excluded potential entrants, (iii) introducing a mechanism to cap interchange fees, (iv) eliminating committees to fix interchange fees, (v) introducing fair and non-discriminatory access obligation and (vi) eliminating restrictions to ownership of firms in the sector. Upon issuing Decree 1692 of 2020, the Presidency decided to dismiss recommendations (ii), (iii) and (vi). Available at: https://www.sic.gov.co/sites/default/files/20-233343%20URF.pdf

- Opinion on draft amendment to Decree 2555 of 2010 regarding rules for financial institutions in relation to the provision of insurance products for their debtors (April 2014): SIC analyzed the draft and recommended to include obligation for banks and insurance companies to report to SIC potential anticompetitive practices in order to minimize the risks of collusion given the small number of players. The recommendation was taken up with the issuance of Decree 673 of 2014. Available at: https://www.sic.gov.co/sites/default/files/14-742.pdf

Analysis on market conditions addressed to Congress:

- Diagnostic of the Mortgage Credit Market in Colombia (Dec. 2019): the study gathered information from 11 Colombian banks offering mortgage loans between 2009 and 2019 to conclude that the market for mortgage loans is highly concentrated, with more coverage but with important differences in interest rates, which creates risks of unfavorable conditions for users. Available at: https://www.sic.gov.co/sites/default/files/documentos/112020/EstudioFinanciero_mercado_creditoHipotecario2019.pdf

- Studies on debit cards (Aug. 2014) and credit cards usage by department and commercial activity (Feb. 2014): These studies assessed the market positions of the debit/credit cards business of Visa and Mastercard including their shares in the different market segments and prices, as well as an assessment by regions. The studies included concentration indicators for each segment/region and analyzed their evolution between 2009 and 2012. Available at: https://www.sic.gov.co/sites/default/files/files/resumen_informe_feb.pdf and https://issuu.com/quioscosic/docs/resumen_ejecutivo_informe_ii

- Credit cards in Colombia (Aug. 2013): the study included a general assessment of the financial system and, in particular, the credit card market between 2009 and 2012. The assessment included the level of concentration of the credit card market in different segments to “identify red flags regarding activities that could be affecting free competition”. Available at: https://www.sic.gov.co/sites/default/files/files/resumen_informe_feb.pdf

Source: SIC website

C. Limiting the risks of discrimination and vested interest protection:

56. Given the state participation in the Colombian financial sector, especially through the creation of Grupo Bicentenario, competitive neutrality policy will be critical to foster a level playing field for all market players. According to the principle of competitive neutrality (CN), all enterprises—public or private, domestic, or foreign—should face the same set of rules to foster
competition in the market\textsuperscript{143} (see Box 6) given that SOFIs compete with private operators in the provision of commercial services, notably in developmental and commercial lending to agricultural producers, MSMEs and consumers, as well as in the provision of life insurance and general insurance. The creation of Grupo Bicentenario will reinforce this position and therefore requires additional competitive guarantees to avoid crowding out private investment.

**Box 6: Elements for an effective Competitive Neutrality (CN) framework**

While there is no universal definition of the concept of CN, there are accepted interpretations of this principle. For instance, according to the European Union, competitive neutrality should be “broadly defined and cover all forms of direct and indirect public interventions of whatever nature, which may provide public or private undertakings with undue advantages over their actual or potential competitors, thereby distorting the competitive process.”

CN policy initiatives directly foster mechanisms to guarantee no undue market advantage is granted to direct government participation in markets. CN policy recognizes that government business activities that are in competition with the private sector should not have a competitive advantage merely by virtue of government ownership and control. Market advantages in this context manifest in a number of ways.

In practice, CN policy is a regulatory framework (i) within which public and private enterprises face the same set of rules and (ii) where contact with the state does not bring competitive advantage to any market participant. CN policy assumes that markets which are competitively neutral foster a level playing field, which allows resources to flow to efficient producers, regardless of whether they are privately or government owned.

Key analytical elements sustain the implementation of an effective CN policy. The CN building blocks include: (i) the control of state support measures to SOEs in order to minimize anti-competitive market distortions; and (ii) specific measures to level the playing field between public and private operators such as the implementation of regulatory neutrality or the need for SOEs to achieve a commercial rate of return. Based on international practice, the building blocks of CN policy are summarized in Figure 13.

**Figure 13: Competitive Neutrality Implementation Framework**

57. **On the one hand, regulatory neutrality limits competitive risks associated to public ownership.** Lack of exclusions or exemptions benefiting SOEs in the application of laws/regulation constitutes a key positive feature of the Colombia regulatory framework.\(^{144}\) More specifically, the application of competition law to mergers and acquisitions involving SOFIs will be critical to limit potential negative effects of market consolidation. To this end, strengthening the current merger control framework in the financial sector as discussed above\(^ {145}\) can also have a positive impact on competitive neutrality.

58. **On the other hand, certain aspects of the regulatory framework applied to SOEs in general, including SOFIs, may pose challenges to the implementation of the competitive neutrality principle in the Colombian financial sector.** First, as identified by the OECD Product Market Regulation data, there is no economy-wide framework that offers a clear definition or requires the separation of commercial/competitive vs. non-commercial/non-competitive activities of SOEs, including SOFIs.\(^ {146}\) While such separation may be difficult to articulate in the financial sector, a clear identification of functions/activities considered commercial and non-commercial would increase transparency and constitute a step into the right direction. Second, compensation policies to SOFIs for the delivery of public service obligations (PSOs) are not clearly established for all operators.\(^ {147}\) However, the EOSF states that when *Banco Agrario* provides PSOs, it should be compensated through a specific budget allocation.\(^ {148}\) Third, SOFIs are not obliged to cover direct costs using internally generated revenues, or to achieve a commercial rate of return. Similarly, there is no obligation to sign performance-based management contracts between the Government and SOFIs’ boards. Boards. In addition, SOEs, in general, can access finance at conditions that at better than those available to private firms.\(^ {149}\)

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\(^{144}\) See OECD PMR indicators for Colombia 2019 at Q13b.1.6 and Q13b.1.7 indicating that SOEs are not exempt from the application of specific laws and regulations applicable to private firms, including the competition law. PMR indicators underlying data available at: [https://www.oecd.org/economy/reform/indicators-of-product-market-regulation/](https://www.oecd.org/economy/reform/indicators-of-product-market-regulation/)

\(^{145}\) See para. 36

\(^{146}\) See OECD PMR indicators for Colombia 2019 Q13b.1.10 indicating that when SOEs perform one or more non-competitive activities and one or more potentially competitive activities, there is not a requirement for them to separate the non-competitive activities from the potentially competitive ones. PMR indicators underlying data available at: [https://www.oecd.org/economy/reform/indicators-of-product-market-regulation/](https://www.oecd.org/economy/reform/indicators-of-product-market-regulation/)

\(^{147}\) SFC reports that compensation policies are in place for *Banco Agrario* in relation to which the provision of PSO occurs in specific situations, such as natural disasters and winter waves. SFC notes that this information is extended to the general public so that parties that meet the program criteria can apply, and an specific budget is defined for each program. In 2010, the Agricultural Debt Relief Plan was activated for small and medium producers affected by the winter wave, for which the Ministry of Agriculture contributed $33.000 million pesos to *Banco Agrario* for the execution of the Program.

\(^{148}\) See EOSF, Art. 253.

\(^{149}\) See OECD PMR indicators for Colombia 2019 Q13b.1.8 indicating that SOEs can access finance at conditions that are better than those available to private firms in all sectors. PMR indicators underlying data available at: [https://www.oecd.org/economy/reform/indicators-of-product-market-regulation/](https://www.oecd.org/economy/reform/indicators-of-product-market-regulation/)
D. Policy Recommendations

Strengthening the institutional set-up for a more effective competition policy in the financial sector

59. In the context of shared institutional mandates (e.g., SFC and SIC for merger control, SFC and URF for ex ante regulation), SFC and SIC together with URF should reinforce their inter-institutional coordination and cooperation mechanisms both among themselves as well as with other regulators/public bodies. This may require:

   a) **Reinforcing inter-institutional cooperation between SFC, URF and SIC to promote competition in the financial sector through an MoU complemented by an Action Plan to foster implementation.** Critical aspects to clarify through an MoU include: (1) management of complaints; (2) designation of technical focal points/working groups; (3) development of joint action plans/permanent platform for sharing know-how and expertise; (4) development of implementing procedures for consultations/opinions for case handling/regular information exchanges/comments to key regulations. The MoU should be complemented with an action plan in order to establish concrete objectives, timelines and indicators to support effective implementation of the inter-institutional cooperation between SFC, URF and SIC.

   b) **Complementing existing inter-institutional mechanisms for SFC, URF and SIC to cooperate with other sector regulators/public bodies supervising markets adjacent to the financial sector, e.g., the Comisión de Regulación de Comunicaciones (CRC).** The dynamics of adjacent markets can have a significant influence in the competitive landscape of the financial sector. Thus, bodies with a competition policy mandate in the financial sector (SFC, URF and SIC) should be able to interact with regulators in those sectors to address common challenges. Similar aspects as those described under point a) above should be considered.

Preventing the negative effects of market consolidation and deterring anticompetitive practices in the financial sector

60. Mergers between financial institutions should benefit from the strong analytical and procedural safeguards applied by the SIC across other sectors by:

   a) **Formalizing key procedural steps to review the competition impact of mergers and acquisitions in the financial sector, including multiphase review and due consideration for remedies/conditions to minimize negative impact.** Clear procedural steps to ensure a full competition review of mergers would be key to better articulate the rights and obligations of market operators and ensure that competition concerns are fully taken into account in decision-making. SFC and SIC could: (i) develop procedural steps to assess competition impact of M&As in financial markets following the model applied by SIC across sectors (multiphase procedure, communication with merging parties, coordination on potential remedies/market tests) and (ii) formalize cooperation steps/mechanisms with SIC through an MoU.
b) Conducting competition assessments on conglomerate mergers involving financial operators building on the mandate under the EOSF. Contrary to best practices conglomerate mergers are excluded from competition law scrutiny but, until the law is amended, in the context of merger review powers under the EOSF, SFC’s review could be instrumental to prevent anticompetitive conglomerate effects of mergers involving financial institutions that are part of broader conglomerates, as a complement to other prudential measures of supervision.

c) Developing joint SIC/SFC/other sector regulators guidelines on the treatment of mergers having impact across financial and adjacent markets. In particular, these could cover the effects of conglomerate mergers as well as the treatment of digital platforms (notification thresholds, building counterfactual, specific remedies for digital platforms).

d) Consider reinforcing the general competition legal framework to include conglomerate mergers within SIC’s review, address legal and regulatory limitations to effectively tackle anticompetitive practices in the financial sector through better confidentiality guarantees in the leniency programs and revising the fining system. Key aspects to be considered in this context is including conglomerate merger under the scope of review of SIC, perfecting the leniency policy to incentivize cartel members to approach SIC in exchange for immunity through better confidentiality guarantees. Another key issue to address is to consider revising the fining system based on caps to replace it with a turnover threshold which will enable SIC to impose sanctions to effectively deter anticompetitive practices.

Developing regulatory tools to foster market contestability in the financial sector, including advocacy.

61. SFC and SIC have taken a proactive role to foster market contestability in the financial sector. However, it could further be reinforced through a closer alignment of regulatory/monitoring powers with competition principles by:

a) Continue fostering market entry of new financial providers. This will require promoting a wider use of the licensing regime for FinTechs by fine-tuning the SEDPEs licensing framework and, once approved, using the new functional licensing regime to trigger more widespread use and advancing work in the regulatory sandbox on the special and staggered licensing regime for entities that implement ‘innovative technological developments’.

b) Developing tools to embed competition in financial markets through advocacy/competition RIAs. This would require developing a systematic methodology to: (1) identify markets affected by the regulation; (2) assess the characteristics and dynamics in those markets; (3) assess potential unintended impact on competition that may result from

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150 See footnote 91
the regulatory intervention; (4) identify (regulatory/non-regulatory) alternatives, if any, which may mitigate such unintended impact.

c) **Strengthening implementation of the competitive neutrality framework, especially in the context of the newly established Grupo Bicentenario.** Key aspects include: (1) clearly identifying commercial/non-commercial functions of SOFIs (i.e., subject to public mandate/PSO); (2) implementing a specific analytical framework to decide which SOFIs will receive subsidies/clear rules on subsidy design to minimize competition distortions.

*Ensuring equal access to infrastructure to level the playing field among market operators in the financial sector.*

62. **Fostering equal access to infrastructure will be key to enable smaller and newer players, notably FinTechs, to compete with incumbents.** To this end, SFC should take a proactive role to:

a) **Ensuring that the proposed model for Open Finance effectively promotes entry and competition, while preserving a level the playing field.** Some key aspects to consider include the need to: (1) properly evaluate the incentives of banks to engage in a voluntary system; (2) define the role of the regulator in such regime, including its ability to set standards and sanction non-compliance.; as well as the role granted to ACH.

b) **Improving competition in payment systems by:**

1. **Encouraging inter-platform competition by implementing public policy decisions to facilitate expansion of interoperable retail payment system platforms.** This means that competition between interoperable payment systems administered by different competitors should be encouraged. Public policy decisions should allow and promote the formation of new payment networks or systems instead of encouraging the permanence of incumbent payment systems.

2. **Minimizing intra-platform competition risks by carefully assessing the Rules of Procedures of each retail payment administrator before approval, and when required, intervene in the rules of procedures of dominant platforms that present vertical integration.** Key aspects to consider before approving the Rules of Procedures of vertically integrated retail payment administrators include: (1) design mechanisms to monitor and evaluate the impact of pricing strategies; (2) ensure effective supervision and oversight and include reporting obligations to allow effective but cost-efficient monitoring and supervision of the rules.
E. Bibliography / References


Morales, M. and Zamudio, N. 2013. “¿Qué tipo de relación existe en Colombia entre concentración bancaria y estabilidad financiera?’. Available at: https://repositorio.banrep.gov.co/bitstream/handle/20.500.12134/6486/espe.pdf


OECD PMR Indicators for Colombia with information as of January 2019. Available at: https://www.oecd.org/economy/reform/indicators-of-product-market-regulation/


F. Appendix

Box A 1: Decomposing bank net interest margins

An accounting decomposition of bank net interest margins (the value of a bank’s net interest income divided by assets) can be derived from a straightforward accounting identity:

Before-tax profits to assets \( (BTP/TA) \) = After-tax profits to assets \( (ATP/TA) \) + taxes to assets \( (TX/TA) \).

From a bank’s income statement, before-tax profits must satisfy the accounting identity:

\[
BTP/TA = \frac{NI}{TA} + \frac{NII}{TA} - \frac{OV}{TA} - \frac{LLP}{TA}
\]

where \( NI \) is net interest income, \( NII \) refers to noninterest income, \( OV \) stands for overhead costs, and \( LLP \) refers to loan loss provisioning. The identities above allow for a decomposition of net interest margins \( (NI/TA) \) into its components:

\[
NI/TA = ATP/TA + TX/TA - NII/TA + OV/TA + LLP/TA
\]


To the extent that high spreads are explained by high profit margins, these studies infer that lack of competition could be a factor. In the economic analysis of spreads, Demirgüç-Kunt and Huizinga (1999) regress spreads and profits on measures of concentration (as an indicator of competition) and conclude that, aside from other factors, lack of bank competition drives bank spreads and profits across countries. Similarly, Beck and Fuchs (2004) conclude that the high profit margins that explain part of the high spreads in Kenya are due to lack of competition in the banking sector.

Table A 1: Mergers involving financial institutions over the past decade

<table>
<thead>
<tr>
<th>Year</th>
<th>Entities involved</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>Banco de Occidente - Leasing de Occidente (CF)</td>
<td>Bank -CF</td>
</tr>
<tr>
<td>2010</td>
<td>Financiera América (CF) – Finamérica S.A. - Financiera Compartir S.A. (CF)</td>
<td>CF-CF</td>
</tr>
<tr>
<td>2012</td>
<td>Banco Davivienda - Confinanciera S.A. (CF)</td>
<td>Bank -CF</td>
</tr>
<tr>
<td>2013</td>
<td>Banco Colpatria - Scotiabank Colombia</td>
<td>Bank-Bank</td>
</tr>
<tr>
<td>2014</td>
<td>Banco Corporanca - Helm Bank</td>
<td>Bank-Bank</td>
</tr>
<tr>
<td>2014</td>
<td>Banco GNB Sudameris - HSBC</td>
<td>Bank-Bank</td>
</tr>
<tr>
<td>2015</td>
<td>Banco Davivienda - Leasing Bolivar (CF)</td>
<td>Bank -CF</td>
</tr>
<tr>
<td>2016</td>
<td>Bancolombia - Leasing Bancolombia (CF)</td>
<td>Bank -CF</td>
</tr>
<tr>
<td>2019</td>
<td>Banco Procredit- CREDITOS y Ahorro CREDITFINANCIERA (CF)</td>
<td>Bank - CF</td>
</tr>
<tr>
<td>2019</td>
<td>OPPORTUNITY INTERNATIONAL COLOMBIA (CF)- CRezCamos (microfinance)</td>
<td>- other</td>
</tr>
<tr>
<td>2020</td>
<td>Banco W - Financiera Pagos Internacionales (CF)</td>
<td>Bank -CF</td>
</tr>
<tr>
<td>2020</td>
<td>Banco Compartir - EDYFICAR</td>
<td>Bank-Other</td>
</tr>
</tbody>
</table>

Source: SFC, SIC