

Resolutions and provisions issued by the National Banking and Securities Commission to face the contingency derived from SARS Cov-2 (COVID-19)

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On April 8, 2020, the National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores* or “CNBV”) published a press release¹ informing that the CNBV issues resolutions and provisions to face the contingency derived from COVID-19. In this sense, the CNBV, among others:

- Approved temporary amendments to the General Provisions Applicable to Credit Institutions (*Disposiciones de Carácter General Aplicables a las Instituciones de Crédito* or the “Provisions”), regarding capitalization.

The CNBV determined to grant temporary regulatory support measures regarding capitalization, between April 1, 2020 and March 31, 2021, in order to allow banks to use the capital conservation supplement (known as “capital buffer”) without impairing its minimum solvency².

Regulatory support measures consist, among others, on the fact that banks will not have to submit the capital conservation plan for CNBV’s approval when using capital conservation supplements, provided that such supplement is consumed in a maximum of 50%. The CNBV, and not its board of directors, must be informed of the causes that originated the use of the supplement; otherwise, authorization must be requested from the CNBV so that, in justified cases, the banks can increase the amounts disposed of the loans granted to related persons.

- Postponed the entry into force of regulations on international standards and prudential provisions.

The entry into force of international standards and other prudential provisions contained in the Provisions are postponed, in particular:

- (a) The entry into force of the Resolution published in the Official Gazette of the Federation (DOF) on March 13, 2020, regarding the implementation of the international standard known as IFRS9 and the

¹ Please enter: https://www.gob.mx/cms/uploads/attachment/file/545968/Comunicado_de_Prensa_022_Ampliacion.pdf, to access the entire text of the publication.

² In the Provisions in force, the Early Alerts System (Sistema de Alertas Tempranas) of capitalization considers that banks may use supplements of capital conservation, precisely to face stressed scenarios like the current scenario of contingency caused by COVID-19, as provided in the international prudential standards of the Basil Committee.

recalibration of the commercial credit portfolio, which was originally scheduled for January 1, 2021, will be on January 1, 2022.

- (b) The Business Indicator Method (*Método del Indicador de Negocio*) for calculating capital requirements for operational risk, currently under public consultation on the webpage of the National Commission for Regulatory Improvement (*Comisión Nacional de Mejora Regulatoria* or “CONAMER”), which will be published in the DOF until it is determined that there is stability in the capital indicators, or when the operating capacity of the institutions is reinstated, after assessing the situation.
- (c) The standard related to the Total Loss-Absorbing Capacity (*Capacidad Total para la Absorción de Pérdidas*), which will be published in the DOF when it is considered that the economic conditions allow for its implementation by credit institutions.
- (d) The amendment to the Provisions regarding lending transactions diversification, in order to implement the international standard known as “Large Exposures” (*Grandes Exposiciones*), currently under public consultation at CONAMER, which limits systemically important global banks (known as G-SIBs) on exposures to counterparties or groups of counterparties connected by control business ties, or by the existence of an economic dependency between them. As a measure to encourage credit flow, the aforementioned standard for banks of local systemic importance will enter into force on January 1, 2021 (instead of October 1, 2020 as originally established), keeping the terms applicable to the rest of the banks.
 - Extended authorities to its President, regarding the suspension of terms.

The authorities of the President of the CNBV were extended, as provided for in the “Resolution establishing temporary and extraordinary measures, and suspending some deadlines applicable to financial entities and persons subject to supervision by the CNBV, due to the coronavirus named COVID-19” (*Acuerdo por el que se establecen las medidas temporales y extraordinarias y se suspenden algunos plazos para la atención de las entidades financieras y personas sujetas a supervisión de la CNBV, a causa del coronavirus denominado COVID-19*), published in the DOF on March 26, 2020, for the time necessary to face the health contingency and its effects, so that the President is empowered to extend the period for the suspension of terms.

- Granted temporary administrative support measures that issuers with securities registered in the National Securities Registry (*Registro Nacional de Valores*) (hereinafter the “Issuers”) may use in order to comply with the applicable stock exchange regulations.

These support measures consist essentially of the following:

(a) **Annual Information.**

The deadline for the Issuers to submit their annual information (originally the third business day following the day on which the general ordinary shareholders’ meeting resolving the results of the fiscal year is held), is extended to **July 8, 2020**.

In the case of annual financial statements or equivalent, of Issuers of CKDs or CERPIs, which allocate at least 70% of the resources of their issuances to investment in collective investment mechanisms not listed in any stock exchange, the corresponding deadline is extended to **September 1, 2020**.

(b) **Reports.**

The deadline (originally June 30) for the Issuers of shares or credit instruments, to submit their report on (i) the relevant directors and executives of the Issuer that holds more than 1%; (ii) natural or legal persons, trusts and other investment vehicles, who are direct or indirect beneficiaries of 5% or more of the Issuer’s stock capital; and (iii) the 10 shareholders with the largest direct ownership, is extended to **September 1, 2020**.

(c) **Letters.**

The deadline (originally April 30) for the obligations on Issuers of shares or credit instruments, to (i) send a letter to each of the members of the board of directors and their relevant executives, requesting the number, series and class of shares to which they are beneficiaries, directly or indirectly, as well as the

amount and percentage with respect to the Issuer's stock capital; and (ii) send a letter to the broker-dealers requesting the list of shareholders they represent, is extended to **July 3, 2020**.

In relation to the persons referred to in subsections (i) and (ii) of section b) above, the term (originally no later than May 15) that they have to provide the Issuer with the obligation referred to in subsection (i) of this section c), is extended to **July 19, 2020**.

(d) **Annual Report.**

The deadline (originally April 30) for the Issuers to deliver the annual report to the CNBV and the stock exchange(s) in which they list their securities, is extended to **July 3, 2020**.

In the case of annual financial statements or equivalents, of Issuers of CKDs or CERPIs, which allocate at least 70% of the resources of their issuances to investment in collective investment mechanisms not listed in any stock exchange, the corresponding deadline is extended to **September 1, 2020**.

(e) **Shareholders' Meetings.**

The deadline (originally June 30) for the Issuers to deliver the general shareholders' meeting approving the bylaws (*compulsiva de estatutos sociales*) duly formalized, to the CNBV and the stock exchange(s) in which they list their securities, is extended to **September 1, 2020**.

(f) **Quarterly Information.**

The deadline (originally within the 20 business days following March 31, 2020, that is, April 20, 2020) for the Issuers to deliver their quarterly information corresponding to the first quarter of 2020, is extended to **July 3, 2020**.

(g) **Auditors' Letter.**

The deadline (originally the date on which the prospectus, supplement or informative brochure is submitted) for the Issuers to submit the consent letter issued to that effect by the external auditors, so that the issuer includes the external audit report in the annual report, prospectus, supplement or informative brochure, is extended to **July 3, 2020**.

In the case of annual financial statements or equivalents, of Issuers of CKDs or CERPIs, which allocate at least 70% of the resources of their issuances to investment in collective investment mechanisms not listed in any stock exchange, the corresponding deadline is extended to **September 1, 2020**.

(h) **Miscellaneous.**

Extension of the deadline for Issuers to submit on **July 8, 2020**, (i) their statement of responsible persons and officers (in terms of Article 32 of the Audit Provisions (*Disposiciones de Auditoria*)), (ii) the statement of the external audit report that the external auditor renders (in terms of Article 35 of the Audit Provisions); (iii) the external audit report together with the basic financial statements and their notes (in terms of Section II of Article 36 of the Audit Provisions); (iv) the independence letters of the external auditor (in terms of Articles 37 and 38 of the Audit Provisions),

In the case of annual financial statements or equivalents, of Issuers of CKDs or CERPIs, which allocate at least 70% of the resources of their issuances to investment in collective investment mechanisms not listed in any stock exchange, the corresponding deadline is extended to **September 1, 2020**.

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