

New beginnings

Mariángela Pellerano and Alessandra Di Carlo of Pellerano & Herrera
examine the nascent state of the fintech sector and its regulations

The current situation regarding fintech in the Dominican Republic is not very different from the rest of Latin America. According to Quarterly Bulletin No. 34 corresponding to the period of January/April 2017 and issued by the Association of Commercial Banks of the Dominican Republic (*Asociación de Bancos Comerciales de la República Dominicana*), which is an association formed by the 17 institutions of the Dominican multiple banking system, there are diverse companies in our jurisdiction that offer financial services to users through technological platforms. These include: companies for online payments; companies for mobile payments; crowdfunding management companies; companies that provide online loans; consulting companies for financial products and services; and personal finance consolidation companies, among others. These first cases of fintech in the Dominican Republic reliably show that the private sector has recognised the potential of this industry.

Although the presence of the fintech in the Dominican Republic is not yet significant (there are no official statistics on the matter), given the rise in the use of the internet for e-commerce, social networks and the development of electronic platforms, there is no doubt that start-ups of this nature will continue to emerge more and more. Moreover, this reality is evident considering that multiple banks in our country have incorporated new technologies into their lines of business. These latter include internet pages and mobile applications, in which users can make transactions (such as for example, product consultation, transfers between accounts of the same bank and other banks and payments to third parties, among others) that were previously only possible through what we know today as traditional banking, in which it was necessary to visit the physical establishment of the financial institution.

Although some authors have highlighted several disadvantages in fintech, such as the vulnerability of users' financial information, they could be significantly mitigated through the approval, implementation and, above all, the execution of an appropriate regulation in the matter; a topic that we will address later. For this reason, the financial



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About the author

Mariángela Pellerano joined Pellerano & Herrera in 2003 and became a partner in 2012. She has 13 years of experience practising law, concentrating her practice at the firm in project finance, M&A, trusts, mining, energy and corporate and banking law.

Pellerano advises local and international companies in connection with project financing and corporate matters and has broad experience in M&A. She has participated in highly complex business deals in the Dominican Republic, such as assisting Barrick Gold Corporation, the largest gold producer in the world, with the complete installation and operation of the Pueblo Viejo gold mine project. Valued at \$2.7 billion, it is the largest foreign investment project in the history of the Dominican Republic. Likewise, she served as local counsel of Barrick Gold in securing a \$1.2 billion syndicated financing for the operation of its gold mine at Pueblo Viejo, which was recognised as Deal of the Year 2010 in project financing by Latin Lawyer.

Pellerano counselled underwriters in connection with the issuance of sovereign bonds, including an issuance of \$ 2.5 billion, the largest such issuance to date in the history of the Dominican Republic, awarded Sovereign Liability Management of the Year 2015 by LatinFinance Deals of the Year Awards.



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Alessandra Di Carlo joined the firm in 2007. She has over 10 years' experience practising law, focusing on providing advice on contracts, corporate law, banking and capital markets. Di Carlo advises clients on M&A, joint-ventures, project finance and the entry of global companies to the Dominican market, as well as international funding for large value transactions. In addition, Di Carlo represents clients on IPOs and handles other financial market transactions. She has extensive experience advising various market participants both locally and internationally.

Di Carlo advised Companhia de Bebidas das Americas (AmBev) in the acquisition of a controlling interest in Cervecería Nacional Dominicana (CND), the largest acquisition in the history of the Dominican Republic, for more than \$2 billion. She also advised the dealers in connection with the drafting and structuring of the financing for the construction, operation and maintenance of multiple highway projects of over \$400 million, as well as a US private equity fund in asset acquisitions in the local hotel industry, amounting to over \$150 million. She has advised initial purchasers in different bond issuances by the Dominican Republic under Rule 144A Reg-S, as well as commercial financial institutions and companies in issuances of \$1 billion, \$300 million and \$100 million.

technologies, beyond their intrinsic risks due to the high technological component of the industry, undoubtedly represent a great opportunity for the financial system and its related service providers and in particular, an opportunity for growth and expansion to segments of the population where previously the use of financial services was unviable. In other words, it is expected that this developing industry will allow wide improvements in our country to access to the financial system for those users who have not had it historically through traditional banking. It is worth highlighting the case of small and medium-sized companies in the Dominican Republic, which has been a sector that in the past has encountered specific difficulties in accessing financing from traditional banks.

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In particular, as part of these disadvantages, the authors have mentioned that the operations carried out through these technological platforms could potentially facilitate money laundering; however, in the specific case of our jurisdiction it should be noted that a much stricter law to prevent money laundering was recently approved. As a result of the joint efforts made by the different sectors (specifically the financial sector) involved in the prevention of money laundering to promote the legal framework against such illegal activity and the financing of terrorism, on June 1 2017, the Law against Money Laundering and Terrorism Financing 155-17 (Law 155-17) was enacted in the Dominican Republic, replacing and repealing Law 72-02 regarding Money Laundering

proceeding from Drug Trafficking, enacted on June 7 2002.

It should be noted that this new legislation constitutes an important progress for the Dominican Republic, given that it introduces new international standards into its legal system regarding the prevention of asset laundering and terrorism financing pursuant to the recommendations of the Financial Action Task Force on Money Laundering (FAFT), issued in February 2012 and updated in 2016.

In short, in the specific case of the Dominican Republic, the main challenge regarding the development of fintech companies is and will be the regulatory aspect. The behaviour of fintech's development in the Dominican Republic to date, and the continuance of the aforementioned development in accordance with expectations, raises not only the need but also the obligation of a regulation duly adjusted to the nature of this new industry, and its combination with financial services, their risks and the participants involved.

By virtue of the above, it would be expected that in the short to medium term there will be a reaction from the corresponding government entities in the Dominican Republic to address the need for regulation that clearly and specifically establishes the obligations and rights of all

participants of the fintech industry. In a very timely manner, and the reason why the regulatory aspect is so necessary, lies in the importance of users having at their disposal

As part of this preventive work, for the time being, and while the political will to issue an appropriate regulation becomes a reality for the development of fintech, the Central Bank

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mechanisms and tools that allow them to verify that the fintech they use for their financial operations complies with basic standards according to regulation, particularly, for the protection of their financial information. In other words, providing the market with formality and clear standards.

Likewise, users will need mechanisms that guarantee their rights when they have been violated. Definitely, the present situation of fintech in the Dominican Republic raises the need to find the balance between technological innovation and the stability of our financial system, so that its growth is sustainable and users who have a lower financial education are protected from fintech being used as a mechanism for deception or violation of rights.

of the Dominican Republic through an official communication on June 29 2017, warned the general public that operations related to virtual assets (such as cryptocurrencies) are not covered by current financial regulations, as a way of protecting and making users aware of operations that are not regulated. This is due to the rapid rise of cryptocurrency companies that offer their services in the Dominican Republic.

However, we are very confident that the market will have at its disposal the appropriate regulation for the consistent, stable and coherent development of financial services through fintech, in the face of the undoubted growth of this sector in the near future.