

COFECE sanctions diverse economic agents and a Public Notary for closing and formalizing an unauthorized concentration

- *The Board of Commissioners sanctioned Multifamily Fund VIII, Invex, Cibanco, HSBC and Monex and a Notary Public for closing a concentration that was not notified to COFECE; the fines amount to 10.3 million Mexican pesos.*
- *Public notaries have the legal obligation of not registering a transaction on public record if it exceeds the thresholds established by the Federal Economic Competition Law and do not have the Commission's approval.*

Mexico City, June 1st 2017.- The Federal Economic Competition Commission (COFECE or Commission) imposed fines on Mexico Multifamily Fund VIII (MMF), Invex, Cibanco, HSBC and Money for 365 thousand pesos to each Economic Agent, and to Mexico City's Public Notary number 151 for 8 million 545 thousand pesos, having determined their responsibility for closing and formalizing, respectively, a concentration that did not have the approval of the competition authority.

A concentration is a merger, acquisition of control or any other act by means of which companies, associations, stock, partnership interests, trusts or assets in general are consolidated, and which is carried out among competitors, suppliers, customers or any other Economic Agent. According to article 86 of the Federal Economic Competition Law (FECL), notification of concentrations to the Commission is mandatory in the case, among others, when the amount of the transaction exceeds 18 million times the current daily

Likewise, as a result of the 2013 constitutional reform on competition, article 127, section XIII of the new FECL, in force since 2014, establishes that Notaries or attesting officials that participate in formalizing acts concerning concentrations that exceed thresholds established in the Law, and which have not been authorized by the Commission, will be fined up to 180 thousand times the daily general minimum wage.¹

In April 2016, the Board of Commissioners authorized the *CIM Group Acquisitions* and *Compass Group Holdings* to acquire six trust assets operated by the fiduciary division of HSBC Mexico. The transaction was approved in the terms it was presented.

¹ For the calculation of fines, the daily general minimum wage is equal to a Unit of Measure and Update (UMAs) which has a value of 75.49 pesos.

Months later, when the Economic Agents tried to confirm that the authorized transaction had been carried out, the Commission noticed that the buyer was *Mexico Multifamily Fund VIII*, property of *CIM Group*; a company not authorized by the Commission to carry out the concentration. That is, *MMF and CIM Group Acquisitions* are different companies, even when they belong to the same economic group: *CIM Group*. As for its part, Mexico City's Public Notary number 151 formalized the transaction through six notarized instruments, omitting that *MMF* was not part of the agents authorized by COFECE.²

Omitting notification of a concentration, as required by law, impedes the Commission from exercising its role in prevention, which is of great importance to the effective protection of markets from illegal concentrations. The attesting officials are a fundamental part of the prevention system as they are obligated, by their assistant role to the State, to verify that operations conform to those stipulated in the LFCE and, when such operations are contrary, they should abstain from formalizing.

For these reasons and according to the Law, the involved were fined.

For more information (in Spanish): [Notification thresholds and Public notaries responsibilities regarding concentrations.](#)

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The Mexican Federal Economic Competition Commission guarantees competition and free market access. Thus, it contributes to the welfare of people and efficient functioning of markets. Through its work, it seeks better conditions for consumers, greater and better output and services, as well as a “level playing field” for companies.

² When the operation was carried out, the fiduciary agents of the trust assets were Invex, Monex, Cibanco and HSBC.