

***The Mexican Credit Reporting Industry Reform: A Case Study***  
*Johanna Gil Hubert*

Draft, February 23, 2004

**Abstract**

A country's legal and regulatory framework for credit reporting and data protection has a significant impact on how, and even whether, a credit reporting industry develops. The primary objective of this case study is to learn about Mexico's experience encouraging competition in the credit information market. While this paper does not intend to be an exhaustive analysis of the reform, it touches upon its key aspects, including the main drivers and objectives; the reform stages and constituents and institutions involved in them; obstacles faced and how they were overcome; results and outcomes of the reform; and some of the lessons learned.

In addition to the existing literature and regulation in the matter, the author conducted personal interviews with key players of the reform process, including members from the *Buró de Crédito*, Mexico's credit reporting agency, *Secretaría de Hacienda y Crédito Público*, Mexico's Economy Ministry, *Banco de México*, Mexico's Central Bank and *Comisión Federal de Competencia*, Mexico's Federal Competition Commission,<sup>1</sup>

The views expressed are those of the authors and do not necessarily reflect official views of the World Bank.

---

<sup>1</sup> For the purpose of the case study the following people were interviewed: **Buró de Crédito**: Ing. Mauricio Gamboa Rullán, General Director; **SHCP**: José Luis Bracho Ortiz, General Director of the Department of Analysis of Financial Legislation; **Banco de México**: Lic. José Quijano, General Director of the Department of Analysis of the Financial System, Lic. Alejandro Díaz de León, General Director of the Department of Macroeconomic Analysis and Dr. Rafael del Villar, Senior Economic Investigator in *Banxico* and Director of the Department of Competition Studies of the Mexican **Federal Competition Commission** in the early 1990's.

## I. Pre-reform situation

Prior to 1993, regulation relating to the credit reporting industry and the protection of personal data was for all practical purposes non-existent in Mexico. The lack of a legal framework coupled with weak governmental supervision resulted in an incipient credit information market. Most of the credit information exchange was done by informal mechanisms<sup>2</sup>.

The few registries that maintained credit information databases were either created by the *Asociación Bancaria Mexicana (ABM)*<sup>3</sup>, the Bank Association, or by *Banco de Mexico (Banxico)*, Mexico's Central Bank. In 1964, acknowledging the need to improve the quality of credit data available to the financial sector, *Banxico* created and began operating a public credit registry, *Servicio Nacional de Información de Crédito Bancario (Senicreb)*, as a service to commercial banks, development banks and other financial intermediaries. In order to collect the information, *Banxico* compelled the financial institutions (banks and other entities of the financial sector) to participate and exchange credit information with *Senicreb*. The information was used as part of the financial sector supervision process and distributed back to the financial entities that provided the data based on reciprocity principles. *Senicreb* collected and shared both positive (good credit) and negative information (late payments or defaults) on borrowers. However, loans below the 20 thousand USD threshold were not collected or reported. As a result, *Senicreb* did not capture information on consumer and small business/commercial loans. Presently, the *Senicreb* is still operated by the Central Bank and continues to function under the same processes and principles, however, as it will be discussed in another section of the document, its scope and objectives have changed over time.

### ➤ The 1993-1995 Reform Genesis and Objectives

After the privatization of the Mexican banking sector in the early 1990s, the government began to establish a regulatory framework that allowed for the liberalization of the financial market. The first reforms, which happened at the constitutional level, allowed the public sector to divest its banking assets.<sup>4</sup> In addition, two of the most important laws governing financial sector were issued in 1990, the Credit Institutions Law, *Ley de Instituciones de Crédito*, and the law that regulates financial groups, *Ley para Regular*

---

<sup>2</sup> The cheapest and most effective way of collecting credit information is by exchanging it with other lenders. This exchange of information sometimes takes place via informal contact between the lenders, and in other cases it takes place via formal mechanisms such as credit reporting agencies or credit bureaus.

<sup>3</sup> The first known credit registry was created in 1930 by the Mexican Bank Association under the name of "Department of Duplicated Credit Information" (Departamento de Creditos Duplicado). The banks later formed the "Department of Information and Receivables" (Central de Informes y Cobranzas). Both databases were limited in scope and the quality of the information was very poor.

<sup>4</sup> The 1989 and 1990 reforms modified Article 28 of the Mexican Constitution.

*las Agrupaciones Financieras (LRAF)*.<sup>5</sup> However, neither law contemplated regulation on a private market for credit reporting agencies (CRAs).

In 1993, the Mexican government began to establish legal and regulatory safeguards on the exchange of credit information. The primary objective of the reform was to address the lack and quality of information in the credit market by promoting the creation of private CRAs and building the consumer and businesses' confidence in them<sup>6</sup>. The first step taken was to modify the *LRAF* and include an article, Article 33, to regulate private CRAs. This article did not provide much detail around the requirements for the creation and operation of CRAs, however, it contemplated the issuance of a general set of rules that would lay out that detail. Discussion on these rules began in early 1994 and lasted for over a year.

Although the 1994 Mexican financial crisis did not spur the reform, it did accentuate the urgency of the matter. The lack of reliable, timely and accurate credit information was identified as a key driver for the poor quality of bank credit portfolios and nonperformance of the credit market. Furthermore, the crisis highlighted the deficiencies of the existing regulatory framework and motivated the government to undertake a number of important reforms with the objective of reactivating the credit market

In 1994, the *Secretaría de Hacienda y Crédito Público (SHCP)*, Mexico's Economy Ministry, took the lead in the creation of the *General Rules to regulate the activities of credit reporting agencies*<sup>7</sup>. The Mexican Competition Commission, *Comisión Federal de Competencia (CFC)*, participated extensively in the discussions with the objective of establishing a competitive market structure for CRAs. A driver behind CFC's involvement in the reform was the fact that even before the 1995 Rules were issued and the first CRA was authorized, several investors had already contemplated entering the CRA market and expressed concern on potential anti-trust practices in the market.

### ➤ Key Reforms

The credit reporting market reform was conformed of Article 33 of the *LRAF* and the 1995 *General Rules issued by SHCP*. The reform created the legal concept of private credit reporting agencies (CRAs) under the name of *Sociedades de Información Crediticia*.

The regulation was focused on establishing the legal basis and requirements for the creation of CRAs, as well as on clarifying the scope of the services that could be provided and information that could be maintained and shared. In addition, it also aimed

---

<sup>5</sup> See José Antonio Murillo "La Banca en México: Privatización, Crisis y Reordenamiento" for more information on the 1990 privatization of the Mexican banking sector.

<sup>6</sup> Reliable credit information works as a discipline device for borrowers and, by diminishing the moral hazard and adverse selection problems in the financial market, reduces the costs of financial services.

<sup>7</sup> *Reglas General a las que deberán sujetarse las Sociedades de Información Crediticia a que se refiere el Artículo 33 de la Ley para Regular las agrupaciones financieras.*

at regulating the "*Users*"<sup>8</sup> of the information or services provided by CRAs. The commercial objective and activity of the CRAs was defined as "the formation and management of databases containing information pertaining to credits and other financial liabilities (bank assets) that result from the transactions between the consumer and banks or other financial entities". It is important to notice that, for all practical purposes, CRAs are financial entities and their regulation has a financial scope. In addition, the regulating institutions are the financial authorities like *SHCP*, *Banxico* and *Comisión Nacional Bancaria y de Valores (CNBV)*, the Mexican bank supervisory authority. As it will be discussed later, limiting the regulation to a financial scope has significantly curtailed the CRAs' ability to collect non-financial information and offer a broader set of services.

In order to begin operations, the CRA's were required to obtain authorization from *SHCP*, which had discretionary authority to grant or deny it after considering the opinions of *Banxico* and *CNBV*. To apply for authorization, the CRA needed to comply with the requisites established in rules 8,9 and 10. To emphasize the importance of reputation in the credit information market, the rules required the investors, advisors and upper management of the CRA to be people of recognized moral integrity and technical abilities. In addition, the rules required an applicant to provide an overview of its operations, a description of products and services to be offered, a depiction of processes for the collection and management of information, as well as of the security measures and systems to be put in place to safeguard the information.

An important focus of the regulation was on outlining the permissible boundaries under which information could be exchanged without violating the Bank Secret,<sup>9</sup> established in Article 117 of the credit institutions law, *Ley de Instituciones de Crédito*. According to the new law and rules, the exchange of information strictly related to credits and other liabilities (bank's and financial institution assets) between the CRA and the *Users* does not constitute a violation to the secret. Aside from that exception, the employees of both the CRA and the banks are still required to observe the Bank Secret and held liable for any wrongdoing.

The new reform mandated a basic, but limited protection for individuals and business alike. The *Users* were required to obtain explicit and written authorization from the consumer or legal representative of the business whose information was requested. In addition, the consumer or legal representative that requested the credit or initiated a financial transaction with a bank or another financial entity had the right to request a copy of his credit history directly to the bank or financial entity. If the consumer needed to rectify the information, he could only do so directly with the creditor, who would then make the appropriate rectification with the CRA.

Neither Article 33 nor the 1995 General rules established that it was mandatory for the financial institutions to share their information with the CRA, nor it required them to

---

<sup>8</sup> Article 33 and the 1995 Rules refers to the "*Users*" any entity or authority that use the CRA's services as the ". cualquier persona o autoridad que se encuentre facultada para solicitar información a las Sociedades

<sup>9</sup> In Mexico the law on bank secrecy protects information on both deposits and credits.

consult a credit report before granting a loan. In fact, Article 33 stated that the financial entities *could* provide their information to CRAs. Notwithstanding this, in 1998 the *CNBV* issued regulation that for all practical matters forced banks to consult a CRA before granting a loan and, given the reciprocity agreements for use of data in CRAs, implied compulsory participation in the CRA. In its *Communication # 1413*<sup>10</sup>, *CNBV* required banking institutions to set up an additional provision of 100% of the principal of the credit if: i) the credit was granted by the entity without previously obtaining a Credit Report on the borrower from a CRA, ii) the report was not kept in file or iii) the report showed that the borrower was in default<sup>11</sup>. The provision could only be released if the banking institutions obtained a report from the CRA that showed evidence that the borrower had been paying the credit regularly over a given period of time<sup>12</sup>. It is important to note that the regulation only applied to those institutions that the *CNBV* regulates, that is, banking institutions, and did not apply to other non-bank *Users* of the CRA. Although at present the provisions are still required, in 2001 some of the conditions established in the *Communication #1413* have been relaxed.<sup>13</sup>

#### ➤ Reform Impact

The credit reporting industry reform was seen as positive by domestic and international investors. Before the 1995 Rules were issued, the three principal U.S. CRAs had already begun developing alliances with Mexican investors with the objective of establishing a presence in the Mexican market. The first US credit reporting agency to obtain authorization in 1995 from *SHCP* to begin operations was TRW, the well-known US CRA (now known as Experian). TRW made an alliance with a group of entrepreneurs from Guadalajara and set up the first CRA under the legal name of *Datacredit*. In 1995, two other US CRAs, Trans Union and Equifax, obtained authorization to enter the market. The Credit Bureau (Buró de Crédito) was formed from the alliance of Trans Union and *ABM*, the Mexican Bank Association. As members of *ABM*, the majority, if not all, of the Mexican commercial banks became stockholders of Buró de Crédito, although their ownership stakes was not equal<sup>14</sup>. When Buró de Crédito was established, the three banks with the highest % of ownership were Banamex, Bancomer and Serfin,

---

<sup>10</sup> Circular #1413 de la *CNBV* de 1998.

<sup>11</sup> The default conditions and definition of late payments was established in the Circular.

<sup>12</sup> In the Circular, this is referred to "*pago sostenido de Crédito*".

<sup>13</sup> The changes will be explained when the 2001-2002 reform is discussed.

<sup>14</sup> According to the original act under which Buró de Crédito is constituted (Acta Constitutiva), the % of ownership (out of a total of 20 million stocks) is the following: Bancomer, Banamex y Serfin each owned 15% of the stock (3,000,000 stocks), Inverlat 6.6% (1,320,777 stocks), Bital 4.3% (855,276 stocks), Confia 2.4% (486,825 stocks), Banorte 1.5% (290,274 stocks), Banco del Atlántico 1.4% (274, 612 stocks), Bancrecer 1.2% (238,534 stocks), Banco Mexicano 1.1% (212,848 stocks), the remaining 28 banks (like Banco Unión, Banoro, Cremi, Banco del Centro, Probusa, etc.) each owned than 1% and together they had 11.5%. With respect to the foreign investors, Trans Union owned 25% (5,000,005 stocks) and Fair Isaac owned 5% (1,000,000 stocks).

with a 15% each<sup>15</sup>. Seven other banks had stakes of more than 1% but less than 7% and the rest of the banks had symbolic percentage of less than 1%. Trans Union and Fair Isaac owned 20% and 5% respectively. The banks also partnered with Dun and Bradstreet to create a commercial information credit bureau.

As *SHCP* was evaluating Buró de Crédito's application for authorization, the *CFC* approached the *SHCP* and expressed a concern about to the conflict of interest created by the bank's ownership in a credit bureaus. However, the financial authorities, recognizing the need to have the buy-in of the banks in the CRA market, granted the authorization to Buró de Crédito and tried to address the conflict of interest by establishing additional regulation. In particular, the 1995 rules contemplated the exchange of each CRAs "*primary databases*" between each other.

Despite the government's and the investment community's expectation, the credit reporting industry did not thrive. By 2000, both Equifax and Datacredit had exited the Mexican market and the only remaining CRA, Buró de Crédito, was not well regarded by the consumers. The quality of Buró de Crédito's information and services was considered to be poor and the credit reports were viewed as incomplete and inconsistent. A reason behind the report's heterogeneity was that, given the lack of clarity, each financial institution would characterize and register the information differently. In order to manage the financial crisis, the government had developed several debt restructuring programs however, these programs did not clearly established how to classify the debt once it was restructured. For example, some banks considered that if a credit was restructured and a portion of the loan was "forgiven" at a cost to the bank the default should be registered in the CRA, while other banks did not.

In the end, the most affected party ended up being the consumer. The availability of credit information from the CRA did not facilitate the process of requesting a credit. Moreover, if the consumer erroneously fell into the "black list" of the CRA, it could be years before the consumer could verify and rectify his information.

#### ➤ Pitfalls of the 1995 Framework

Although the 1995 legal framework was a first step towards creating a competitive market, its weakness can be attributed to several flaws. One of the biggest loopholes in the regulation was related to the rights of the consumers with respect to their personal information. In general, the 1995 legal framework did not contemplate any guidelines or efficient processes to allow consumers to access, verify and rectify their information. Some of the deficiencies are outlined below:

- Consumers and Business could only access their credit reports by personally requesting the information from the user (bank, department store, etc) of the information, and not directly from the CRA.

---

<sup>15</sup> At present the three largest shareholders in Buró de Crédito are Banamex, Bancomer and Santander. Each holds close to 18% of the stocks.

- In order to clarify or rectify their information, consumers or businesses had to visit their creditors, who would then contact the CRA to submit the appropriate corrections. This process was costly and difficult for the consumers. In addition, there was no time limit established for how long the verification and rectification process should last.
- Consumers had no right to know what entities or users had asked for and received their credit information.
- There were no dispositions in the law to guarantee that the information the CRA reported to the users was provided according to a standard or uniform way.

Another important pitfall of the 1995 framework was that it did not specify the amount of time that the information should be kept in the database and made available to the users. Although it is important to provide people with the opportunity to rehabilitate poor credit histories, it is also important not to omit negative (and positive) data from credit reports after a short amount of time (one or two years) or erased them when the obligation is paid. Erasing negative data after a short time erodes the usefulness of CRA's services and weakens the disciplinary effect on consumers.

➤ Vertical Integration of the Banks in the Credit Reporting Agency

From the perspective of government officials, an important obstacle to competition in the credit information market was and still is the fact that in 1995 the banks were allowed to be both owners and users of the CRA. The conflict of interest brought about by vertical integration discourages banks to share information with other CRAs and also discourages third parties (for example, non-financial entities in other sectors) to exchange information with the vertically integrated CRA out of the concern that the information can be unduly accessed and used. In contrast, the banks and Buró de Crédito argument is that vertical integration was necessary and beneficial, especially in the beginning, as it facilitated building and cleaning up the database as well as establishing the necessary security standards. Moreover, they argue that the vertical integration has not increased the banks' market power in the credit market.

A discussion about the conflict generated by the banks', (and in general any industry group's), ownership in a credit reporting agency can best be framed in terms of the impact in both the credit reporting market (upstream) and the credit market (downstream).

In Mexico, competition in the upstream market was clearly curtailed by the existing vertical integration. The banks and Buró de Crédito had little incentive to share the information with competing CRAs. Therefore, banks abstained from providing information to and requesting the services of other CRAs. The only two firms that attempted to compete with Buró de Crédito, TRW and Equifax, found it impossible to obtain information from the banks and thus were never able to provide competitive services. As a result, they both went out of business<sup>16</sup>. Before exiting the market,

---

<sup>16</sup> Datacredit exited the market in 1997 and Equifax in 2000.

however, both firms repetitively approached the authorities, including the *CFC*, *SHCP* and *Banxico*, to denounce anti-competitive practices.<sup>17</sup>

The vertically integrated arrangement proved to be resilient to actions by regulators. When *SHCP* authorized Buró de Crédito, the potential drawbacks brought about by the vertical integration were already recognized. However, the authorities tried to address it by including a rule related to information sharing between CRAs. Rule 17 of the 1995 General Rules established that the CRAs could exchange and share information with other CRAs without having to request the authorization of the consumer or business. In addition, a CRA could request a competitor's primary database. The CRA receiving the request was obligated to share its database at the expense of the CRA that requested it. In December 1996, given that Buró de Crédito had not yet shared its database with Datacredit or Equifax, *Banxico* took a further step and laid down detailed rules for the sharing negative information (at a cost) between the CRAs<sup>18</sup>. Under these rules, the CRAs were required to share their primary database (negative information) with other CRAs in the market. The primary database consisted of information on credits that were in default (*cartera vencida*) and fraudulent operations, as defined in the 1995 *SHCP* Rules. It was established that the CRAs should convene with the *Users* that did not have the criteria to identify defaults and make sure the definitions were established and the appropriate information was received. The rules contemplated not only the initial exchange of information between the CRAs (in a time span of a month or less after receiving the petition), but also a monthly exchange to keep the database updated.

The implementation and enforcement of the December 1996 *Banxico* Rules proved to be extremely challenging for the authorities. After these rules were issued, the *ABM* began discussions on defining the "*primary database*" and determining the amount of the information that would be exchanged between the *SICs*. The discussion lasted several months and in 1997 the concept of the "*primary database*" was modified. As a result, the obligation to share "*information of credits in default*" was changed to the obligation to share "*information related to credits in default*". The effect of these changes was to reduce the amount of information that needed to be exchanged between the CRAs<sup>19</sup>. According to Equifax, after the modifications only about 10% of Buró de Crédito Database was required to be shared. It was during this period that Datacredit exited the market.

---

<sup>17</sup> Even before the 1995 Rules were issued and thus *SHCP* was able to authorize the CRAs, Datacredit had issued a formal complaint to the *CFC* against the alliance between the banks and Trans Union. However, given that neither CRA was yet legally authorized by *SHCP* to operate in the market and thus the anti-competitive act (denial of the banks to share information with other CRAs) had not legally happened, the *CFC* did not begin the formal process of investigation and resolution of the conflict.

<sup>18</sup> "*Disposiciones de carácter general a las que se sujetarán las Sociedades de Información Crediticia para proporcionar su base de datos a otras Sociedades de Información Crediticia.*", issued by Banco de México and published in the Diario Oficial de la Nación on December 27, 1996.

<sup>19</sup> For example, with respect to credit cards (revolving credits), the information that was to be shared was on those card holder, which had not made the minimum payment during a period of 120 days. However, under the criteria of credits in default established by the *CNBV*, a credit card holder is in default after he misses the payment by 2 or more months, that is 60 days or more. A similar situation existed for mortgages (180 days in default instead of 90 days) and credits for the consumption of non-perishable goods (120 days in default instead of 90 days).

In addition to redefining the "primary database", the implementation of the *Banxico* 1996 rules was also held up by discussions on the security measures that needed to be in place for the exchange of information between CRAs. The rules required the CRAs to get together and decide on the standards and security that needed to be set for the transfer the information. Although *Banxico* had already recommended the use of an international standard for the exchange of information, the discussion on what standards to use lasted several months. In this matter, it is important to highlight the importance of security (standards and systems) in the credit reporting market. One of the largest investments that credit reporting agencies make are related to security measures that ensure that the information remains intact, is not tampered with and that the database cannot be swiped or unduly accessed. If other CRAs do not have the same security standards and systems, it could endanger the information and make the investment in security practically worthless. Given that security is a priority in the industry, Buró de Crédito emphasized the importance of setting up the correct measures and to date expresses some security-related concerns with respect to sharing the information with other CRAs. Nonetheless, even though Buró de Crédito's concerns with respect to security were and are viewed as valid, the financial authorities also considered that international security standards were available and had been used effectively around the world, thus they shouldn't have been an obstacle for the implementation of the rules.

With respect to competition in the downstream market, the question to be answered is whether the banks' ownership in the credit bureau has increased their ability to control consumer credit, which would further strengthen their market power and dampen competition.

Information sharing tends to increase competition among banks in credit market by eliminating their information advantages. Nonetheless, it is also argued that in some instances information-sharing arrangements may lead to a reduction of competition in the credit market via the creation of an additional barrier to entry for outsiders.<sup>20</sup> In the case of collusion between banks, the information sharing agreement can be used as a collective tool to prevent entry by outsiders, which further reinforces collusion. For example, if the majority of the banks in the market are vertically integrated with a CRA, they could establish restrictions on the number of reports that an outside bank can obtain from the CRA or establish limits based on the size and credit supply of the outside bank. However, in the case of Mexico, the Buró de Crédito has not established limits on what parties can use their services nor has it established a limit or restriction in the number of allowable inquiries.

From the perspective of Buró de Crédito, the vertical integration has not constituted a barrier to entry to the credit market. Any bank, financial institution or commercial entity can celebrate a "User" contract with the Buró under which it has the same rights as any of the other users. Furthermore, the same pricing methodology is applied to all users. There are no established limits to the number of reports an entity can obtain from the Buró. The

---

<sup>20</sup> See Japelli, Tullio and Marco Pagano, "Information Sharing in Credit Markets", CSEF Working Paper #36.

only advantage that a bank could have over another user would be with respect to the cost of obtaining the report. The pricing policy of the Buró is based in a matrix of three discounts: Discount by early payment of the services, discount by volume requested and discount by the size of the database that it shares with the Buró. Based on this methodology, a larger bank can clearly have a cost advantage over smaller banks. However, the fairness of the pricing methodology will depend on the slope of the pricing curve between costs and volumes.

Another argument given by Buró de Crédito is that the banks and foreign CRAs who jointly own the Buró have opposing objectives and incentives, creating a balance between the parties and facilitating an internal corporate control. The banks, as users of the information, want to decrease the cost of accessing credit reports while the foreign firms want to maximize profit. Although this argument may hold true, it is important to consider that the banks' participation in the Buró de Crédito for Consumer is 70%, while the participations of Trans Union and Fair Isacc Co. are 25% and 5% respectively. In addition, the three main shareholders, Banamex, Bancomer and Santander, hold close to 50% of the stock. Moreover, the objectives of smaller banks may be different from those of larger banks, even if they are both owners. Whereas it is true that the smaller bank will want better prices, the larger bank may already be paying extremely low prices thus their objective may be to protect the status quo.

Although the impact of the vertical integration on the downstream market is not easily measured and is still open for debate, the financial regulators are still concerned that the CRA's ability to form a complete, accurate and reliable database is compromised by vertical integration. The creation of databases that contain financial and non-financial information from all the sectors of the economy is extremely useful for the correct decision-making by different economic agents. With vertical integration, other “non-bank” entities may have the perception that the CRA favors its owners, thus they may be reluctant to use the CRA's services and share their own information out of concern that the owners can unduly access it and use it to compete against them. As a result, the CRA database may only be limited to bank-related and other financial information and not contain other information such as home leases, labor related, telephone service, etc. Another factor, independent of the incentives brought about by the vertical integration, that has contribute to having “industry” or “sector” focused registries is the fact that the CRA regulation in Mexico is a financial regulation. The only activities that are regulated under the CRA law and secondary rules are credit or credit-related activities. Thus, the legal scope of the law also limits the types of information that can be collected and shared.

### III. The 2001-2002 Reform and 2004 Amendments

#### ➤ Reform Genesis and Objectives

The discussions about reforming the legislation on credit reporting agencies gained momentum around mid 2001. An important driver of the reform was the consumers' discontent regarding their rights with respect to the information that is managed by

CRA. However, it is important to note that consumer groups in Mexico are not as evolved or have the same voice as a constituency as they do in other countries, for example, in the United States. Thus, the pressure was not exerted by a consumer group. Rather, it came from several individual consumers who expressed their concerns to people in influential position or were actually in a position to make a change. Specifically, Senator Alejandro Gutiérrez Gutiérrez, a well-known politician who had worked in several initiatives regarding financial markets, was close to the concerns. Well aware of the inefficiencies in the operation of Buró de Crédito, he began pushing for a reform. Other initiatives for a Law for the Protection of Personal Data were also being promoted inside the House of Representatives and Senate.<sup>21</sup>

Although not part of a bundle of reforms, the credit information reporting reform was drafted in the same spirit as the Mexican federal law for transparency and access to Public Information, *Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental*<sup>22</sup>, of April 2002. Both laws are driven by an interest to protect consumers and facilitate the process by which they can access their personal information.

Another important factor in the reform genesis was that governmental officials in both the legislative and executive branches were concerned with the fact that the Mexican credit market was weak and had not recuperated or grown at the desired pace after the financial crisis. The government acknowledged that the 1995 reforms had not been successful in creating a competitive and high quality credit information market, and thus the expected beneficial impacts in the financial sector had not materialized. It also recognized the deficiencies that resulted from the existing legal framework, in particular low quality data, heterogeneous databases and reports and lack of consumer protection.

The main objective established for the 2001-2002 reforms was to establish the fundamental rights of the consumers with respect to their own information. When the rights of an individual are correctly safeguarded, he is more willing to share his data and participate in the system, thus increasing the flow of information. In addition, if the consumer is given the right to access and rectify his information the quality of the databases is improved and the incentives to share the information are increased.

### ➤ The 2001-2002 Reform

---

<sup>21</sup> There was an initiative for a new Law for the Protection of Personal Data (which encompassed the credit reporting agencies and industry) from Senator García Torres and another one from Dip. Miguel Barbosa, a member of the House of Representatives.

<sup>22</sup> The Transparency and Access Law, *Ley de Transparencia y Acceso a la Información Pública Gubernamental*, has the objective of providing the necessary processes and channels for the access of the consumer to his personal information in the hand of Governmental Agencies, Constitutional Organisms or any Federal Entities.

The recent credit reporting market reform is comprised of the 2001 Law to Regulate CRAs, the *Banxico* 2002 rules applicable to CRAs<sup>23</sup>, and the 2004 amendments and additions to the law.

Congress passed the Law to Regulate CRA, *Ley para Regular las Sociedades de Información Crediticia*, on December 27, 2001 and it was published in the *Diario Oficial de la Federación*, the national official diary, in January 15, 2002. The 1995 *SHCP* General Rules applicable to CRAs were taken as a starting point for the law, however the reform aimed at filling out the gaps present in the legal framework. When comparing the law with the rules, it is evident that several of the definitions and articles of the 1995 Rules were kept in the new law. For example, the necessary requisites to set up a new CRA, the need for explicit authorization from the consumer, as well as the provisions around the Bank Secret were left intact. In addition, articles that were very specific and targeted to the case of Mexico, like the rule of information sharing between CRAs, were also kept in the new law. However, the reform did contemplate several new requirements and rules. The three biggest reforms were with respect to consumer protection, the right to erase history after a given period of time and sanctions to the users and CRAs who commit an infraction to the law and rules. Although not in the 2001 law, the divestment of the banks in the *Buró de Crédito* was also discussed as a possible modification.

The 2001-2002 reform is for the most part focused on the consumers (referred to as the *clients* in the law given it represents a person or a business). In the law, a whole chapter is dedicated to the consumers' rights, among which the most important are access to, as well as verification and rectification of their information.<sup>24</sup> The 2002 CRA law contemplates direct access of the consumer to his own information from the *user* of the information (bank or other credit institution), as well as directly from the CRA. The consumer has the right to request the CRA for a "Specialized Credit Report"<sup>25</sup>, which should provide a clear, complete and accessible understanding of his credit history and situation, and should be received by him in less than 5 days after he requested it. In addition to the Credit Report, the CRA should send the consumer a summary of his rights and processes through which he can verify and rectify his information. One Specialized Credit Report is free of charge per year. The report has to contain the names of the entities that have requested and obtained access to his credit information in the last two years. If the consumer is in disagreement with his information contained in the report, the revision of the information can be done directly with the CRA and the 2 first disputes are free of charge. A process to file a complaint in person or by electronic means is established and a period of a month is set to resolve disputes. Once the investigation has concluded, the information subject to dispute is either kept as it is, corrected or erased depending on the particular case.

---

<sup>23</sup> "Reglas Generales a las que deberán de sujetarse las operaciones y actividades de las sociedades de información crediticia y sus usuarios", issued by Banco de México in March 2002.

<sup>24</sup> Ing. Mauricio Gamboa, General Director of *Buró de Crédito*, consider that the reform was focused on protecting and gaining the confidence of the consumer. This is beneficial to the *Buró de Crédito*. However, he does not consider that the reform really provided new incentives to the banks to provide more credit or at least, it is too hard to measure. The increase in credits in the last 2 years is spurred by other factors.

<sup>25</sup> " The new law introduces the legal concept of Credit Report and Specialized Credit Report

Although the law details the processes through which the consumers are allowed to exercise their rights, it still leaves a window open for *Banxico* to establish secondary regulation in the matter. In particular, Article 41 and 42 of the law state that *Banxico* can issue rules on the terms and conditions that the CRA has to follow to provide a Specialized Credit Report or to rectify a client's information. In the 2002 *Banxico* General Rules applicable to CRAs, it is established that the consumer can obtain his Specialized Credit Report through mail, fax, e-mail, telephone, Internet and in person by visiting one of the CRA's branches. In addition, it establishes safeguards to verify the identity of the client and maximum rates to guarantee the affordable access to and rectification of the information.

In Article 23 of the CRA law, the maximum time that information (both positive and negative) can remain in the database and be shared with the users is set at 7 years (84 months). The period begins after the date in which the credit is paid in full; a legal sentence to force the debtor to pay the obligations comes into effect, the right of the actor/debtor to execute the sentence prescribes; or the debtor loses the right to collect the payment. If any of the above conditions are met, then the *User* needs to notify the CRA, which will then eliminate the corresponding history. It is important to notice, however, that this provision excludes consumer loans that, at the time of default, have an outstanding principal balance of 300,000 UDIs.<sup>26</sup> (~100K USD) or greater. In addition, it is not applicable to any information related to credits of commercial entities or businesses (*personas morales*).

A new chapter on penalties was established in the law, which contemplates the correction of any damages that may occur if the information is misused or if the Bank Secret is violated. The *CNBV* was chosen as the governmental entity that can enforce and apply the penalties.

Another important reform that is worth mentioning relates to Article 20 of the CRA law. In this article, *Banxico* is granted the right to issue dispositions to force financial entities to provide their information to a CRA if it deems it necessary, taking into consideration market conditions and the size of the financial sector. Under this right, in the 2002 *Banxico* Rules, Rule 13 established if a financial entities provides information to a CRA, then it needs to provide the same information simultaneously and without a cost to all the other CRAs in the market, using the same formulary<sup>27</sup> and the same detail. This rule is aimed at addressing the vertical integration still present in the market. Instead of requiring the CRAs, which are competing entities, to share information amongst each

---

<sup>26</sup> UDI stands for "Unidad de Inversión" and it is an investment unit or currency that incorporates the Inflation rate.

<sup>27</sup> Rule 9 of the 2002 *Banxico* Rules established that the formularies that the *Users* need to fill when sending their information to a CRA cannot be proprietary should be shared with the public through its web page and can be used by other CRAs. The reason behind this is to not allow a CRA to argue that, when a bank or entity shares his information with it, it cannot use the same formulary to send it to another CRA, given that the formulary is proprietary. If the formularies were proprietary, an additional cost would be incurred by the User of the information as it would have to have different formularies for different CRAs and each time that it send information, it would have to formatted in different ways.

other, it requires the financial entities to send the information in a uniform manner to all the CRAs, thus avoiding some of the past problems related to the reluctance of banks to participate in other CRAs.

In addition to the main changes discussed above, another important objective of the law is to ensure that the databases and the way that the information is transmitted be uniform and homogeneous. Processes on how the data can be gathered were established and the CRAs were required to issue a formulary and manuals for the collection and transmittal of the information.

During 2001, the *CNBV* also reformed its 1998 *Communication #1413*. In a new Communication, *Circular # 1503* of August 2001, the *CNBV* relaxed the requirement to set up a 100% provision if the borrower is in default. Instead, it requires financial institutions to have procedures and policies that establish how to best use information contained in credit reports to identify, evaluate and limit the risks involved in granting a credit. If these procedures and guidelines are followed appropriately, then the 100% provision can be released. However, the provision is still required if a credit report is not consulted, thus the inquiry and participation in the CRA is still compulsory. From the perspective of the banks, this changes were not sufficiently diffused at the time of issuance, thus several banks continued to maintain a 100% provision if they had granted the loan or refrained from granting it. Thus, when the 2002 CRA law was issued, the authorities took the opportunity to better communicate and diffuse these changes.

#### ➤ Managing the Reform Process

In 2001, given the close relationship between Senator Alejandro Gutiérrez Gutiérrez and *SHCP's Dirección de Banca y Ahorro* (Department of Banks and Savings), *SHCP* coordinated the effort to formulate a new reform in the credit reporting industry. At first, the discussion was limited to modifying Article 33 of the *LRAF* to include more and better rights for the consumer. However, as discussions progressed, it was determined that a new law was necessary and a task force to formulate the reform was constituted.

The task force was composed of members from *SHCP*, *Banxico*, *CNBV* and the National Commission for the Defense of Users of Financial Services, *Comisión Nacional para la Defensa de los Usuarios de Servicios financieros (CONDUSEF)*, as well as representatives from the Mexican Bank Association and Buró de Crédito. The participants of *SHCP*, *Banxico*, *CNBV* and *CONDUSEF* in the reform task force are well-qualified technical staff, mostly with a background in economy and law.<sup>28</sup> In addition, the Director of the Buró de Crédito, Mauricio Gamboa, was an active participant in the 2001-2002 reform.

---

<sup>28</sup> The leading participants of *SHCP* were Agustín Carstens, *Sub-Secretary of SHCP*, Jose Antonio Meade, Director of *SHCP's Dirección General de Banca y Ahorro*, and Lic. Carlos Provencio. Guillermo Güemez, member of the Board of Governors of Banco de México, led the *Banxico* team in which Dr. Rafael del Villar and Lic. Alejandro Díaz de León, both senior level technical staff, participated.

When *SHCP* began the project, it approached *Banxico* to discuss the possible reforms given the latter's active participation in the 1995 and subsequent regulation of CRAs. The central bank had already identified some of the deficiencies of the current regulatory framework and was working on a comprehensive proposal for a Data Protection Law. In a 2000 *Banxico* working document<sup>29</sup>, the legal framework of the United States, European Union and some Latin American countries was compared and pointed out to the fact that Mexico was lagging behind several countries in the matter. Some Latin American countries like Argentina, Colombia and Peru were generally following international experience and had recently issued specific laws for credit reporting agencies or personal data protection. In contrast, Mexico did not meet several of the data protection and information flow international principles laid out by the OCDE and UN guidelines. The 2001-2002 reform took the international principles and experience as a guideline for establishing the consumer's rights, especially with respect to access, verification and rectification of the information.

It is fair to say that the 2001-2002 reform was reached through a consensus from all the parties involved. To date, the government and stakeholders, including Buró de Crédito, consider the 2001-2002 reform as fair and beneficial. Throughout the reform formulation there was an ongoing negotiation process. The formulation stage began with the task force around August 2001 and lasted until November of the same year. In November, the law was introduced to Congress' financial-economic policy and legislative studies Commissions, *Comisiones Unidas de Hacienda y Crédito Público y de Estudios Legislativos*. The draft for the law was further discussed and enhanced by the Commissions and presented to the Senate for approval. The Senate approved the law in December 2001 and, given that it allowed for secondary regulation to be issued from *Banxico*, the General Rules applicable to CRAs were published and modified respectively in March and August of 2002.

In the negotiation process, participant groups held common fronts. For example, the governmental entities aimed at developing a healthy credit market by promoting registries with complete, reliable, timely and accurate credit information. From the financial authority perspective, the credit reporting industry should be a useful instrument for the issuance of credit and thus new legal conditions needed to be established in order to address the deficiencies and inefficiencies present in the CRA industry. The *ABM* and Buró de Crédito shared common goals as they both represented the banks. However, it is important to note that even within the Association and the Buró the incentives of the smaller banks and other commercial entities (other actual and potential user of credit Buró) and the larger banks are not necessarily aligned. Whereas larger banks with a higher ownership stakes want to preserve the status quo in which they enjoy advantages because of volume and control issues, smaller banks would prefer to have more and cheaper access.

---

<sup>29</sup> See del Villar, Rafael, Alejandro Díaz de León and Johanna Gil, "La Regulación de Datos Personales y Sociedades de Información: Un estudio comparativo de países selectos de América Latina, los Estados Unidos y la Unión Europea", Banco de México Working Paper (2001).

The *ABM* and Buró de Crédito entered the negotiation with the objective of protecting the interest of its investors and making sure that the reform made sense and did not impose unrealistic demands or over-regulated the industry. Although there was not an ex-ante assessment of the costs and benefits of the reform, it was recognized that there was a financial burden for Buró de Crédito resulting from the new processes that needed to be established to meet the protection requirements for the consumer/business. However, Buró de Crédito was also very conscious of the benefits that the reform could bring, in particular the opportunity to clean up the image of the Buró in the eyes of the consumers.

Besides having a keen interest in the consumer protection, *Banxico* and *SHCP* were also pushing for the divestment of the banks in Buró de Crédito. However, in the negotiations process, *SHCP* understood the need for political tradeoffs and the divestment proposal was never presented to the Senate, but remained as an internal discussion. There were some other suggestions pushed by *Banxico* that were not included in the law proposal, however, some of those concerns were addressed by allowing *Banxico* to issue secondary regulation, which it did by issuing General Rules in March and amending them in August of 2002. It is important to note that in the 2002 CRA law, *Banxico* gained institutional weight in the regulation for CRAs. For example, Article 12 of the law states that “the CRAs activity is regulated by the law, as well as by the general dispositions and rules that *Banxico* issues”. In addition, as discussed above, article 20 allowed *Banxico* to issue dispositions to require financial entities to provide their information to CRAs, which it did by establishing rule 13 in the 2002 secondary regulations.

The establishment of greater consumer protection came both at a cost and benefit to Buró de Crédito. In addition, the establishment of sanctions further limited its actions. However, there were clearly tradeoffs from all sides given the divestment of the banks with the Buró were not included and the penalties chapter was not as comprehensive as the financial regulators wanted it to be. This is evidenced in that in 2004 the regulators modified the law to address these last two issues.

#### ➤ The 2004 Reforms

In the financial sector, the rights of the consumer are constantly being balanced against the interests of the financial institutions. This is why any reform needs to be analyzed in the context of other financial reforms. The recent modifications (2004 amendments) to the CRA framework can be understood to a certain extent as a response to the consumer concerns around the new legal dispositions on banking collateral and guarantees, the *Miscelánea de Garantías* of April 2003. The *Miscelánea* gave banks and other credit institutions more power to enforce and collect the guarantees/collateral of debtors. Although a clear framework around the enforcement of guarantees should, in general, promote the issuance of credits, some groups, and in particular the consumers, received it with discontent. In order to counterbalance the effect of the *Miscelánea*, the 2004 modifications to the CRA law contemplated a transitory article that forces Buró de Crédito to erase all the default registries, limited to \$3000 pesos (~300 USD) in relation

to consumers and of \$10,000 (~1000 USD) pesos in relation to business, that occurred before January 1, 2000.

The 2004 reform was initially prompted by a 2003 initiative introduced in Congress by Diputado Jorge Carlos Ramírez Marín, a member of the House of Representatives. The objective of the initiative was solely to reform Article 23 (right to erase history after a period of time) of the CRA law by decreasing the period of 84 months to 60 months. In addition, the proposal included a transitory provision that all the information related to credits on which the debtor had defaulted between December 1994 and March 2000 should be erased from the database. The executive branch, led by *SHCP* and *Banxico*, considered that some modification to the 2002 law were necessary, however, viewed the proposal from Dip. Ramírez Marín as not addressing the outstanding issues of the 2002 reform. Thus *SHCP* and *Banxico* undertook a broader reform, which was introduced in Congress by Senators Eric Rubio Barthell and Dulce Maria Sauri.

The formulation period for the amendments lasted approximately 3 months and the modifications were passed by Congress on December 23, 2003. Being a proposal introduced by the Senate, the amendments were first discussed in the Senate, later discussed in the House of Representatives and came back to the Senate for approval. The law came into effect on January 23, 2004, the day it was published in the official diary of the federation. Unlike the 2001-2002, not all the stakeholders participated in the 2004 amendments. The cooperation was mainly between *SHCP*, *Banxico*, and *CNBV*, however there was some participation from the *ABM*. Although Buró de Crédito was invited to participate in the whole process, it decided to only participated in the early stages of the process.

The first concern with respect to the 2002 law was the applicability or effectiveness of the maximum time period that the history could remain in the database. It was considered that, given the triggering conditions established in the law, the period that the data would remain in the database would *de facto* be longer than 84 months. For example, the 84-month period would begin counting at the moment the credit was collected. However, collecting the credit could be interpreted as the moment when the borrower makes the last payment on the debt. For a 20-year mortgage, this would imply that the information would remain in the database for over 27 years. In addition, the establishment of triggering conditions around legal proceedings was looked upon with uncertainty. A legal procedure around the collection of a credit in Mexico implies going through a judicial process that can take a long time. Years can pass before a firm legal sentence is made, thus also extending the "maximum" period to well over 7 years

The 2004 reform also established a maximum time period of seven years (84 months) during which the information (negative and positive) can remain in the database. However, it removed the unrealistic triggers laid out in the 2002 law and established a "movable" window. The 7-year period starts counting from the day that any "*event or act related to the credit situation of the borrower*" occurs. Thus, for example, if a borrower makes a payment (or defaults) on his loan on January 1, 2004, the information on that particular payment (or default) will remain in the database until January 1, 2011,

date in which it will be erased. However, at that point in time the payment (or default) that the borrower made on that loan in February 1,2004 is still kept in the data base for one more month. Thus, once the 7-year period is met, only the information of that particular event is erased and not all the information relating to the loan. The financial authorities consider that this mechanism addresses the concern for the rehabilitation of the borrower. If the borrower defaults on a loan in a given month but starts paying again thereafter, after 7-years the information on the default is erased but that of the payment made on the following month is kept for one more month in the benefit of the borrower. In addition, the creditors continue to count on historical information for the purposes of extending credit.

In the amendments to Article 23, "*the event or act*" is clearly left in very broad and generic terms. In contrast, some countries clearly define "*the event or act*" as the first time the negative event occurs (example, the first default)<sup>30</sup> or when the first payment of the debt is due. However, in Mexico, it was left in broad terms in order to encompass all the possibilities (when it is paid, when it is not paid, when it is restructured, etc.) and not allow any entity to take an exception to the rule, unless it is established by the law. In modifying Art. 23 this article, the authorities tried to make sure that the right established in the article is truly applied and the window "renews" itself after each event.

A second focus for the 2004 modifications was with respect to the control and corporate governance of CRAs established in Article 8 of the 2002 law. Given the concerns around the conflict of interest brought about with vertical integration, the 2004 amendments to Art. 8 limited the percentage of ownership that a *user* (bank, financial institution, commercial entity, etc.) of the CRA can have (directly or through a representative) in the CRA. It is important to note, however, that the reform applied on a forward looking basis given that the % was set at a ceiling that still allows the status quo and does not require the banks to divest. The allowable maximum participation was left at the 18%, currently the highest percentage of ownership of a user (Banamex) in the Buró de Crédito. In the original proposal presented to the Senate, *Banxico* and *SHCP* pushed for a 5% ownership ceiling. In the first Senate discussion of the ownership ceiling was taken out of the proposal and sent to the House of Representatives (Diputados). However, before entering the House of Representatives for discussion, the article was re-introduced by *SHCP* at a 18% ceiling, which was finally approved by the House of Representatives and later by the Senate.

The Law's sanction's chapter was modified to include more detail on what constitutes an infraction and the governmental body that can enforce and apply the penalties. The *CNBV* was established as the governmental body that can impose penalties to the financial sector, mainly the commercial banks and the CRAs. *Banxico* was also given implementation and sanctioning capabilities for any wrongdoing or infractions by a CRA. As far as overseeing CRA *users* who are not part of the financial sector, for example a commercial companies, the department of defense of the consumer, *Procuraduría Federal del Consumidor (PROFECO)* was chosen as the appropriate governmental

---

<sup>30</sup> This is the case of the US and Chile.

entity. The reason for this was that neither *SHCP*, *CNBV*, nor *Banxico* have legal jurisdiction over the commercial entities as they are regulators of the financial sector.

Finally, the transitory articles of the amendments of the CRA law required all the registries containing information of defaults that occurred before January 1, 2000 (limited to \$3000 pesos (~300 USD) if it relates to a consumer and of \$10000 (~1000 USD) pesos if it relates to a business) to be erased from the database.

➤ Reform implementation

The 2001 CRA law established a 6-month period during which the CRAs and financial entities affected by the law were required to modify their systems, structures and policies in order to meet the new requirements. Given that Buró de Crédito is the only CRA in the Mexican market since 2000, it was the only CRA that incurred the costs and met the requirements in the established timeframe. In order to adjust to the new law and the General Rules, Buró de Crédito made an investment in the magnitude of 1- 2 million dollars. A major portion of the investment was on increasing the number of employees in order to support the processes for the consumer access, verification and rectification of the information. Currently, of the 170 employees, 60 of them are completely dedicated at looking over and helping the consumer exercise his rights through a hotline and web site. In addition, the Buró also invested in security systems for the transfer of the specialized Credit Reports and opened a branch to provide personal service to the consumer. From the perspective of *CNBV* and *Banxico*, Buró de Crédito has appropriately met the requirements and deadlines set by the law.

Although the new regulatory framework does not contemplate a new agency or governmental institution, the 2001-2002 reforms and in particular the 2004 modifications clarify, delineate and strengthen the implementation and enforcement capacity of *CNBV*, *Banxico*<sup>31</sup> and the *PROFECO*. Article 17 of the 2002 CRA law specifies that the CRAs are subject to the supervision of the *CNBV* and need to provide the authorities with the required information outlined by *Banxico's* General Dispositions. In addition, Rule 14 of the 2002 Rules establish that the CRAs are obligated to provide *Banxico*, *CNBV* and *CONDUSEF* with the information that they request under their legal scope. Only the *CNBV* has the authority to do an *in-situ* investigation on the CRA or banks. *Banxico*, having a role in the supervision of the financial sector, has the right to require information from the CRAs and if it deems that an investigation is necessary, it can approach *CNBV* to act upon the request. It is important to note, however, that the reforms did not contemplate the establishment of new infrastructure or processes to supervise CRAs and enforce the law. The *CNBV* uses the same resources to regulate CRAs that it uses to regulate the financial entities.

With the 2004 modifications, the sanctioning capacity of the authorities as well as the penalties were clearly outlined and strengthened. Power to impose sanctions was divided

---

<sup>31</sup> The Department of Banco de México in charge of enforcing the law is the *Dirección General de Análisis del Sistema Financiero*, headed by José Quijano.

between the *CNBV* (can sanction the financial entities as well as the CRAs), *Banxico* (can sanction the CRAs) and *PROFECO* (can sanction commercial entities ).

With the recent issue of the 2004 reforms, Buró de Crédito has to take some additional steps in order to meet with some of the new rules, for example, reformatting the Specialized Credit Reports to include definitions and explanations of what is presented in them. In addition, the Buró is required to erase from the database all of the defaults before 2000 on consumers for loans of \$3000 or lower and on business for loans of \$10,000 or lower.

An important action for the implementation of the law was and is the broad communication from the part of the financial authorities and Buró de Crédito to the consumers to make them aware and educate them with respect to their rights and the processes that are available to enforce them. The website of both the authorities (*Banxico, Profeco, etc*) and Buró de Crédito describe the regulatory framework in place and list the rights in a simple and accessible way.

➤ Reform Impact and the Present Credit Reporting Agency Market

Before the 2001, consumers were the most affected since their rights with respect to their personal information were extremely limited and the conditions under which consumers could obtain credit were disadvantageous. The poor quality and unreliability of the credit information in the market and the accompanying moral hazard and adverse selection problems resulted in higher credit prices. Moreover, in order to obtain better loan conditions the consumer had to incur in higher costs to show and prove a positive credit history or to include more collateral.

The Buró de Crédito was also in a disadvantageous position. Consumers had little confidence in the Buró and thus assigned little value to its services. In addition, the Buró de Crédito was burdened by consumer complaints and the pressure from the financial regulators with respect to the low quality of the databases. The financial regulators were also worried and frustrated with respect to the legal framework and its impact in the credit market.

The 2001-2002 credit reporting industry reform is in general considered beneficial and viewed upon positively by all the relevant parties. Clearly, the consumer was the big "winner", with the reform focusing on its rights. However, all parties benefited. The reform was an opportunity for Buró de Crédito to change its image. By participating in the reform process, complying with the CRA law and establishing the appropriate processes for the consumer to validate his rights, the Buró began to gain consumers' confidence. Greater confidence and trust has allowed the Buró to put together more useful and reliable databases. In addition to an image change, the access and rectification process has become a powerful measurement tool for Buró de Crédito. It has allowed Buró de Crédito to clean up the database and by looking at the ratio of the number of rectification petitions to the number of access requests, it is able to monitor the quality of his information services. In this respect, the Buró de Crédito is very pleased with the quality of its services, out of the monthly average access requests, only 5% come back with a request to verify and rectify the information. As shown in the **Table 1** below, at present the Buró de Crédito has on average 46,000 access requests per month and 2,157 petitions to correct the information per month.

**Table 1**

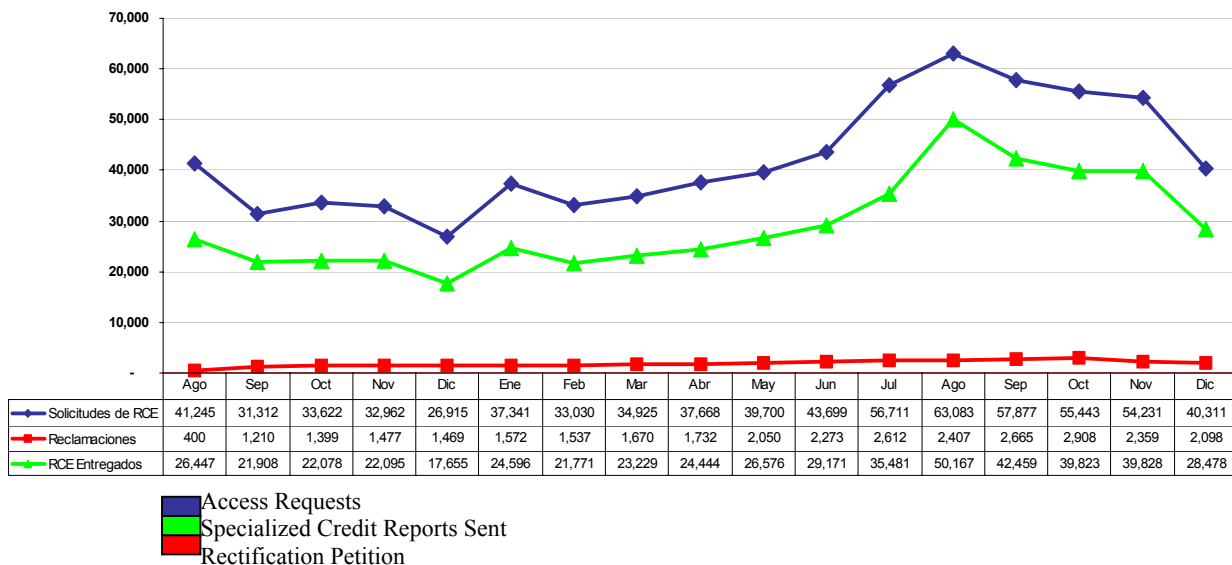
**Consumer Access and Rectification**

	<b>Consumer</b>	<b>Business</b>
<b>Access Requests</b> (Monthly Average)	46,000 83%	19,000 88%
<b>Means of Requests</b>		
Via Internet	83%	88%
Via Telephone	13%	6%
Via Other Means	4%	6%
<b>Means of Delivery</b>		
Electronic Mail	93%	96%
Other	7%	4%
<b>Rectification Petitions Received</b> (Monthly average)	2157	140
General Data	71%	93%
Financial/Accounting Data	29%	7%
Resolved by modifying Database	75%	79%

*Source: Buró de Crédito*

Since the reform, consumers have been exercising their rights with respect to personal information. Most access requests are done via the Internet and other electronic means, which highlights the convenience of the processes set up by Buró de Crédito. *Graph 1* also shows the growth of access requests, the issuance of specialized credit reports as a response to the requests and rectification petitions on the part of the consumer from August 2002 to December 2003.

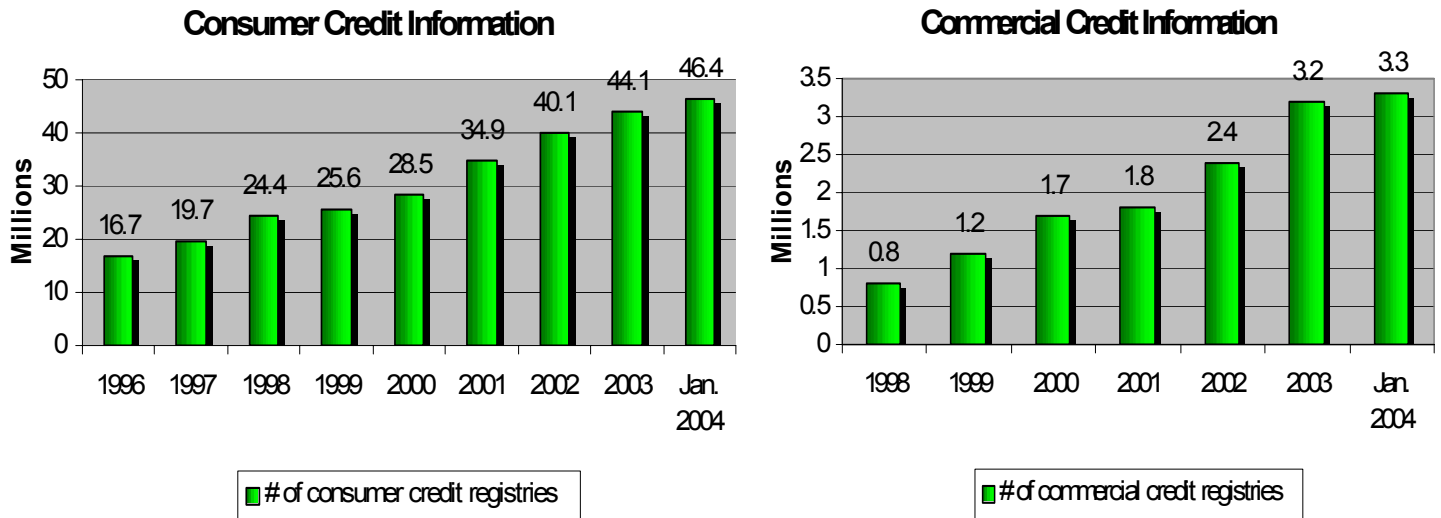
**Graph 1**  
**Consumer Access and Rectification**  
**August 2002 to December 2003**



*Source: Buró de Crédito*

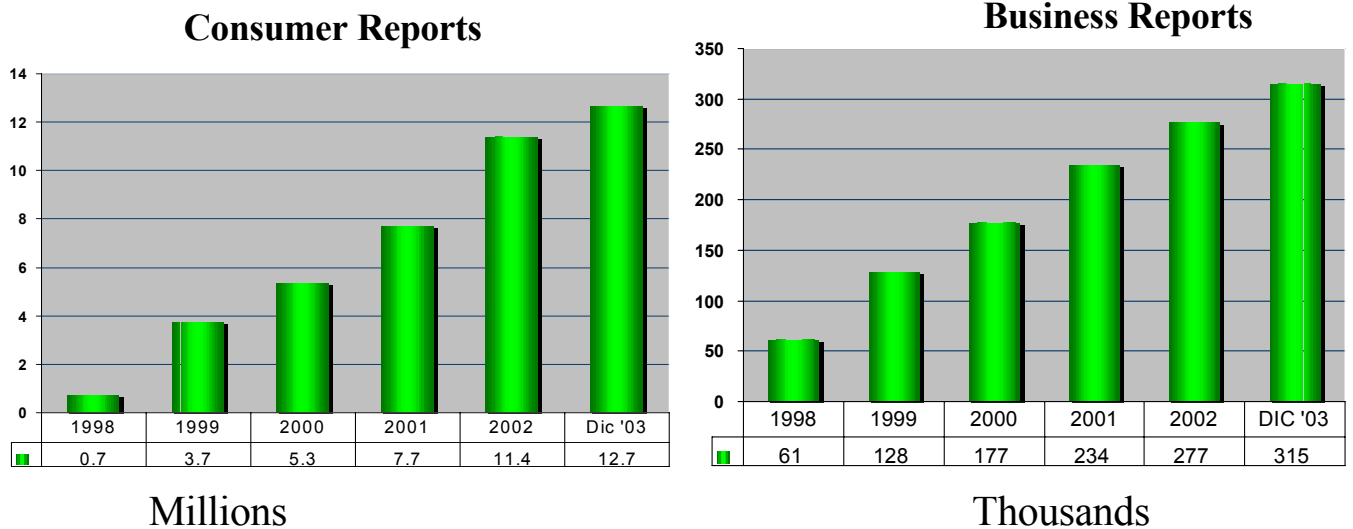
At this point it is still very hard to isolate and measure the impact that the reform has had on the credit reporting market, as well as in the credit market, in particular given that only a relatively short time has elapsed since the reform went into effect. The number of credit registries in the Buró's database and the number of user inquiries have been growing steadily since the CRA began operations and doesn't seem to have spiked significantly since the 2002 reforms were implemented. The number of consumer credit registries and of commercial credit registries grew on average 16% and 33% respectively from 1996 to 2001. The average for 2002 and 2003 was 12% for consumer credits and 33% for commercial credits. Notwithstanding the foregoing, analyzing the number of consumer credit registries (See *Graph 2*) one can notice that during 1998 to 2000 the number of registries seemed to have reached a plateau but gained impetus again in 2001. In January 2004, the Buró de Crédito had 46.4 million consumer registries, which seem to be considerable given Mexico's population of about 100 million people, of which part are still not economically active. However, one must keep in mind that a single person could have three or more loans, thus questioning the usefulness of this number in understanding the % of the population that is covered by Buró de Crédito. With respect to the volume of credit reports consulted by the users, it has also been growing steadily since 1998.

**Graph 2**  
**Number of Credit Registries in Buró de Crédito's Database**



**Graph 3**

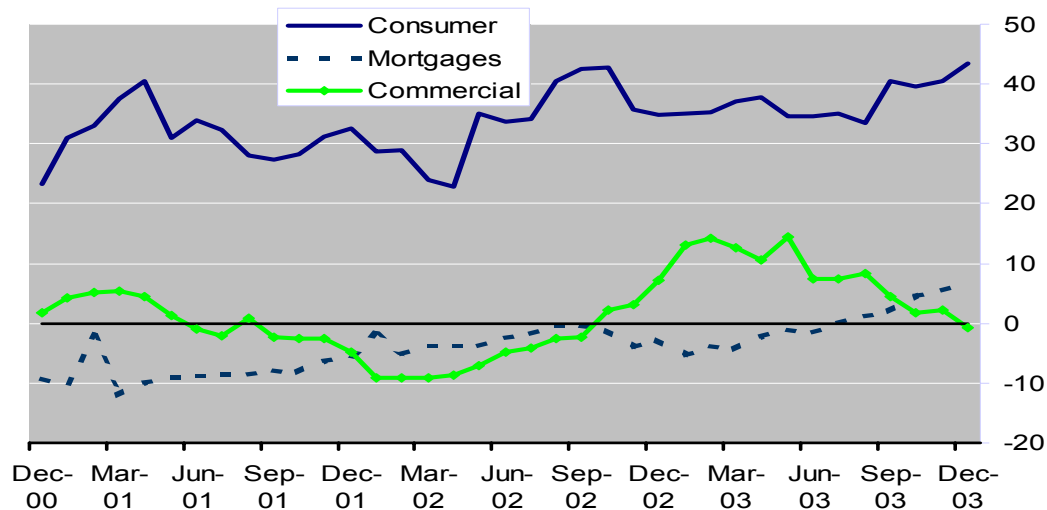
**Volume of Credit Reports Consulted by Users of the Information**



*Source: Buró de Crédito*

For the most part, the growth in the volume of reports in the last two years can be related to an increase in the provision of consumer and commercial credit in 2001 and 2002, as shown in the graph below. The factors that contribute to the growth in the issuance of credit can be of different natures and cannot solely be contributed to the existence of better credit information.

**Graph 3**  
**Credit Portfolio in the Mexican Banking System\***



\*Does not include credits in default  
\*Source: Banco de México

At present there is no competition in the CRA market. Since 2000, Buró de Crédito has been the only operating CRA in the Mexican market. Despite the reforms and incentives set forth with the rule that requires financial institutions to share their information with all the CRAs if they share it with one CRA, there are no new players in the market. Thus, to date, the rule has had no effect and financial institutions have not had the need to comply with it.

It is important to note that *Senicreb* still exists and is operated by *Banxico*. However, its role related to providing the institutions with timely and useful information for their credit decisions has faded out. The *Senicreb* no longer has the technological platform necessary for the timely receipt and exchange of information and it is not intended to compete against Buró de Crédito. Nonetheless, it still serves its banking supervision purpose. Currently, it is a useful database that is used by *Banxico's* Department of the Analysis of the Financial Sector to put together credit statistics, analysis of risk concentration by economic sector and other statistical information.

There is still an important concern from regulators with respect to segmented or industry focused databases resulting from the vertical integration of the banks with the Buró.

Although the number of clients in the Buró de Crédito has grown in the last few years, is still relatively small. As of the time of this writing, the Buró has 709 Users of consumer credit information, of which 103 are financial entities and 606 are commercial entities. There are only 604 users of commercial or business credit information, of which 91 are financial entities and 513 are commercial entities.<sup>32</sup> This compares unfavorably to other Latin American countries where the number of clients is in the thousands range. (See *Table 2* and *Table 3*).

**Table 2**  
**Number of Users of Buró de Crédito**

	Consumer information Credit Bureau	Business and Commercial Information Credit Bureau
<b>1996</b>	89	
<b>1997</b>	119	
<b>1998</b>	255	171
<b>1999</b>	335	269
<b>2000</b>	367	273
<b>2001</b>	387	280
<b>2003</b>	709	604

**Table 3**  
**Number of Users of CRAs in selected Latin American Countries**

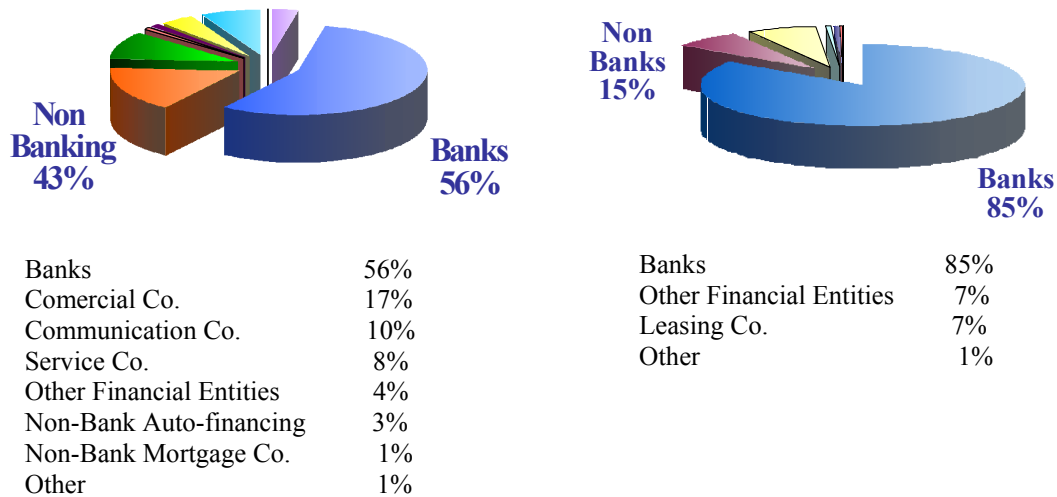
Equifax in Latin América	Number of clients:
<b>Argentina</b>	More than 10,000
<b>Chile</b>	More than 6,000
<b>Perú</b>	More than 2,000
<b>El Salvador</b>	More than 2,000
<b>Brazil</b>	More than 28,000

Source: [www.equifax.com](http://www.equifax.com)

In addition, the scope of the information that the Buró de Crédito can collect and manage is very limited. Of the 709 user of consumer credit information and of the 604 users of commercial or business credit information, banks still provide 56% and 85% respectively of the information in the database.

<sup>32</sup> Information provided by Buró de Crédito

**Graph 4**  
**Percentage of Information in Buró de Crédito's Database provided by the Different User**



The Consumer Bureau of Buró de Crédito contains information on mortgages, car loans, banking, department store and service credit cards, cell phone services, cable TV and some leasing information. The Commercial or Business Bureau of Buró de Crédito contains information on banking credits, commercial credits cell phone services, Cable TV and leases. The Buró's database does not contain information related to Infonavit<sup>33</sup>, Fonacot<sup>34</sup>, domestic services (gas, electricity, predial<sup>35</sup>), public registries (for example, of property and commerce), property leases, medical information and labor information.

As discussed above, a contributing factor to the limited scope of information in the database may be that third parties do not have the incentive to share their information with the Buró because of the vertical integration present in the market. Another reason is simply that the scope of the CRA is limited to the financial sector and the financial authorities do not have the legal jurisdiction over non-financial information. The 2004 reforms attempted to begin addressing this problem by clearly distinguishing between the financial and commercial users of the CRA and by giving the PROFECO the authority to impose sanctions. It is considered that establishing a legal framework that incorporates other sectors of the economy and their information can broaden the limited scope of the databases. At present, several proposal for a General Data Protection law have been introduced and discussed in the Senate and the House of Representatives and several governmental entities have been involved in the process.

<sup>33</sup> A governmental agency whose objective is to provide mortgages and house related credits to the working class.

<sup>34</sup> National Fund to promote and guarantee the consumption of the working class.

<sup>35</sup> Federal Property tax

➤ *Lessons Learned*

In the past decade there has been important advances in the Mexican credit reporting legal framework. The CRA regulation has evolved from being a set of rules focused on the creation and operation of private credit reporting agencies, to a CRA law and secondary regulations that incorporates international principles with respect to consumer rights and data protection. However, since the beginning the scope of the CRA regulation has been limited to the financial sector. From the perspective of the regulators, this has curtailed the CRAs' ability to collect non-financial information and offer a broader set of services. In this respect, it is considered that CRAs should not be regulated by sector-specific laws. Instead, a legal framework that embraces several sectors of the economy and their information, allows for broader and more complete databases.

Another important lesson from the Mexican experience is that the vertical integration of an industry group with its own credit bureau has a negative impact on the competition in the CRA market. There have not been new entrants in the CRA market since Datacredit and Experian withdrew from it, thus Buró de Crédito is the only CRA in Mexico. Furthermore, regulator's efforts to promote competition in the credit reporting market have not been successful. By authorizing banks to become owners of the CRA from the beginning, regulators have been forced to issue rules and requirements that otherwise were not needed. For example, the compulsory exchange of information between competing CRAs was established to counter affect the owner's conflict of interest with respect to sharing their information with other CRAs. However, regulators have recognized that this rule over-regulates the sector and may result in market distortions. In addition, although less distorting, the new requirement that banks send their information simultaneously to all CRAs can also be considered a "second best" answer. The best solution would be to force banks to sell their stake in the CRA and have the right to make individual inquires between each other. The 1998 *CNBV communication*, which results in the compulsory participation of financial entities in Buró de Crédito, can also be viewed as a "second best" solution to some of the inefficiencies present in the credit market.

Finally, it is important to understand the effects of governmental policies similar to the 2004 transitory article established in the CRA law. This article requires Buró de Crédito to erase registries containing information of defaults that occurred before January 1, 2000. Although the effect of the rule may not be very significant given that it is limited to registries of less than ~300 USD if it relates to a consumer and ~1000 USD if it relates to a business, it can still introduce some distortions. Such policies may re-introduce moral hazard and adverse selection problems, thus increasing the costs of financial services to consumers and benefiting "bad" borrowers over the "good" borrowers. A "good" borrower that wishes to obtain a loan may now need to expend more effort and incur more costs in order to prove his credit history. Whereas before that information was readily available in the CRA's database.