

FINTECH

Spain



Fintech

Consulting editors

Angus McLean, Penny Miller

Simmons & Simmons

Quick reference guide enabling side-by-side comparison of local insights into fintech innovation and government / regulatory support; regulatory bodies and regulated activities; cross-border regulation; regulation of sales and marketing and of changes of control; financial crime; peer-to-peer and marketplace lending; artificial intelligence, distributed ledger technology and crypto-assets; data protection and cybersecurity; outsourcing and cloud computing; intellectual property, competition, tax and corporate immigration considerations; and recent trends.

Generated 01 August 2022

The information contained in this report is indicative only. Law Business Research is not responsible for any actions (or lack thereof) taken as a result of relying on or in any way using information contained in this report and in no event shall be liable for any damages resulting from reliance on or use of this information. © Copyright 2006 - 2022 Law Business Research

Table of contents

FINTECH LANDSCAPE AND INITIATIVES

General innovation climate

Government and regulatory support

FINANCIAL REGULATION

Regulatory bodies

Regulated activities

Consumer lending

Secondary market loan trading

Collective investment schemes

Alternative investment funds

Peer-to-peer and marketplace lending

Crowdfunding

Invoice trading

Payment services

Open banking

Robo-advice

Insurance products

Credit references

CROSS-BORDER REGULATION

Passporting

Requirement for a local presence

SALES AND MARKETING

Restrictions

CHANGE OF CONTROL

Notification and consent

FINANCIAL CRIME

Anti-bribery and anti-money laundering procedures

Guidance

PEER-TO-PEER AND MARKETPLACE LENDING

Execution and enforceability of loan agreements

Assignment of loans

Securitisation risk retention requirements

Securitisation confidentiality and data protection requirements

ARTIFICIAL INTELLIGENCE, DISTRIBUTED LEDGER TECHNOLOGY AND CRYPTO-ASSETS

Artificial intelligence

Distributed ledger technology

Crypto-assets

Digital currency exchanges

Initial coin offerings

DATA PROTECTION AND CYBERSECURITY

Data protection

Cybersecurity

OUTSOURCING AND CLOUD COMPUTING

Outsourcing

Cloud computing

INTELLECTUAL PROPERTY RIGHTS

IP protection for software

IP developed by employees and contractors

Joint ownership

Trade secrets

Branding

Remedies for infringement of IP

COMPETITION

Sector-specific issues

TAX

Incentives

Increased tax burden

IMMIGRATION

Sector-specific schemes

UPDATE AND TRENDS

Current developments

Coronavirus

Contributors

Spain



Alfredo De Lorenzo

alfredo.delorenzo@simmons-simmons.com

Simmons & Simmons



Álvaro Muñoz

alvaro.munoz@simmons-simmons.com

Simmons & Simmons



Carlos Jiménez de Laiglesia

carlos.jimenezlaiglesia@simmons-simmons.com

Simmons & Simmons



Ignacio González

ignacio.gonzalez@simmons-simmons.com

Simmons & Simmons



Juan Sosa

juan.sosa@simmons-simmons.com

Simmons & Simmons



María Tomillo

maria.tomillo@simmons-simmons.com

Simmons & Simmons



FINTECH LANDSCAPE AND INITIATIVES

General innovation climate

What is the general state of fintech innovation in your jurisdiction?

The Spanish fintech community is one of the biggest in Europe. In this regard, Spain continues to promote this type of business, and the number of companies that use innovation and technology in the financial industry increases each year. Recent studies show that 70 per cent of the total number of fintech companies provide services linked to credit activities. The number of companies focused on electronic payments is increasing as well as those dedicated to investment solutions.

Law stated - 30 June 2021

Government and regulatory support

Do government bodies or regulators provide any support specific to financial innovation? If so, what are the key benefits of such support?

The Spanish Securities Market Commission (CNMV) has set up a point of contact for business initiatives related to financial innovations currently available on the online portal of the CNMV (the CNMV Fintech Portal). This site gives online support to promote fintech initiatives that deliver better outcomes for consumers and that improve the efficiency and competitiveness of the Spanish financial markets. Through this site, the CNMV collaborates with fintech businesses and financial institutions, providing guidance regarding the interpretation and application of rules and regulations where appropriate. In February 2020, the draft act that regulates a fintech sandbox in Spain, following the models already established in other jurisdictions, was approved. Under this draft act, among others, the following objectives are met: financial sustainability control and risk minimisation, mitigation and adaptation of the regulatory burden, creation of an space to boost the development of open financial innovation and attraction of international investment. The final implementation will create opportunities for this country and important advantages to better the position of the Spanish fintech sector. The Spanish Association of Fintech and Insurtech actively participated in the creation of this fintech sandbox. The sandbox is designed to position Spain as a leader in financial innovation.

Law stated - 30 June 2021

FINANCIAL REGULATION

Regulatory bodies

Which bodies regulate the provision of fintech products and services?

The regulator in charge of supervision of fintech products and services is the Spanish Securities Market Commission (CNMV) together with the Bank of Spain and the General Directorate for Insurance and Pension Funds, depending on the type of entity intending to provide services in Spain and the exact nature of those services.

Law stated - 30 June 2021

Regulated activities

Which activities trigger a licensing requirement in your jurisdiction?

There are a large number of activities that, when carried out in Spain on a professional and ongoing basis in respect of

specified financial instruments, trigger licensing requirements. These are set out in a number of different regulations, including those implementing the second Markets in Financial Instruments Directive in Spain as well as legislation that governs activities carried out by financial institutions, such as credit entities.

The most common activities that may require a licence with respect to specified financial instruments include:

- the reception and transmission of orders;
- the execution of orders on behalf of clients;
- portfolio management;
- providing investment advice (which requires that specific recommendations are made as opposed to providing generic advice only);
- the underwriting or placing of financial instruments, or both;
- dealing in investments as the principal or agent;
- arranging or bringing about deals in investments; and
- making arrangements with a view to transactions in investments.

To carry on any of these activities in relation to specified financial instruments on a professional and ongoing basis in Spain, the relevant entity or natural person must obtain the appropriate authorisation or passport. In addition to this authorisation, registration is a requirement to operate in Spain. Authorisation is also required to carry out marketing or canvassing of clients on a professional basis, as well as prior or preliminary activities related to investment services and offering of financial instruments.

A similar regime applies to the provision of services that are typical activities carried out by credit entities. The Spanish implementing text of the Capital Requirements Directive expressly states that the activity of taking repayable funds from the public (whether in the form of deposits, loans or temporary transfers of financial assets or other analogous actions) is a licensable activity that can only be carried out by credit entities that are authorised to operate in Spain and duly registered with the Bank of Spain. Taking repayable funds from the public using capital markets through the issuance and placement of instruments with the aim of giving credit is a reserved activity.

Notably, the provision of loans does not trigger licensing requirements, even though it is a typical activity of credit entities. However, while the activity of extending credit is not a reserved activity, it is usually connected to other regulated activities that trigger licensing requirements.

Regarding payment services, it is prohibited for entities or natural persons who are not payment service providers (apart from certain exceptions derived from the second Payment Services Directive (PSD2)) to provide payment services in Spain on a professional basis.

Law stated - 30 June 2021

Consumer lending

Is consumer lending regulated in your jurisdiction?

Although it has traditionally been an activity carried out in Spain by credit institutions and financial credit establishments, in the case of a non-financial institution (ie, neither a credit institution nor a financial credit establishment) that is dedicated solely to the activity of granting consumer loans, this non-credit institution (formed as a company) may carry out this activity without a licence. The number of persons who tend to get credit from non-financial institutions offering personal loans rather than other traditional means (eg, banking credit cards and banking loans) is increasing.

The regulatory regime for consumer credit is governed by Act 16/2011, of 24 June, on Credit Agreements for

Consumers. This regulatory regime applies to all contracts where entities or natural persons in the course of their business activity, profession or craft, grant or promise to grant a consumer credit in the form of a deferred payment, loan, opening credit or any other equivalent means of financing, with the aim of covering personal needs outside of his or her professional or business activity and amounting to at least €200. This regulation broadly sets out the requirements that lenders need to comply with in relation to the provision of information, documents and statements, and the detailed requirements as to the form and content of the credit agreement itself, including advertising, information to consumers, content, form of the contracts, cases of null-and-void contracts, right of withdrawal and costs.

In addition, Spanish Legislative Decree 1/2007, of 16 November, for the Protection of Consumers and Users also applies to consumer lending. Depending on the circumstances, other Spanish supplementary regulations may also be relevant.

Law stated - 30 June 2021

Secondary market loan trading

Are there restrictions on trading loans in the secondary market in your jurisdiction?

Provided that the loan itself is being traded, and not the loan instrument (the financial instrument creating or acknowledging indebtedness), there are no restrictions on trading loans in the secondary market.

Law stated - 30 June 2021

Collective investment schemes

Describe the regulatory regime for collective investment schemes and whether fintech companies providing alternative finance products or services would fall within its scope.

The general regulatory regime for collective investment schemes (CISs) in Spain consists of the transposition of the Undertakings for Collective Investment in Transferable Securities Directive and the Alternative Investment Fund Managers Directive (AIFMD), in addition to the regime that applies specifically to Spanish CISs.

CISs are a regulated product in Spain and must be locally registered. Management and distribution of CISs (ie, marketing, promotion and advertising) may only be carried out by licensed entities in Spain as these activities trigger licensing requirements. Marketing of CISs is defined as those activities aimed at raising funds from clients by way of any advertising activity for their investment into the CIS. Advertising activity consists of targeting the public through telephone calls initiated by the CIS or its management company, home visits, personalised letters, emails or any other electronic media forming part of a dissemination, promotional or marketing campaign.

Whether a fintech company falls within the scope of this regulatory regime will depend on the exact nature of its business and the type of activities being carried out.

Law stated - 30 June 2021

Alternative investment funds

Are managers of alternative investment funds regulated?

Managers of alternative investment funds are regulated in Spain under the AIFMD, which was implemented in Spain by Act 22/2014, of 12 November, governing private equity entities, other closed-ended collective investment undertakings, and the management companies of closed-ended collective investment undertakings, which amended Act 35/2003, of

4 November, on Collective Investment Schemes.

Law stated - 30 June 2021

Peer-to-peer and marketplace lending

Describe any specific regulation of peer-to-peer or marketplace lending in your jurisdiction.

Peer-to-peer lending is considered a crowd-lending activity under Spanish legislation and is regulated by Act 5/2015, of 27 April, on the Promotion of Business Financing.

Law stated - 30 June 2021

Crowdfunding

Describe any specific regulation of crowdfunding in your jurisdiction.

Crowdfunding is regulated by Act 5/2015, of 27 April, on the Promotion of Business Financing. This Act affects reward-based crowdfunding, equity crowdfunding and crowd lending, and governs, among others, the normal operating model and regime of platforms, the accreditation of the investor and the limits established for the amount of the investment. These limits, which are some of the most restrictive elements established in the Act, include limitations on:

- raising funds for start-ups that amount to €5 million for accredited investors (ie, professional investors) and to €2 million for non-accredited investors;
- equity crowdfunding projects, which cannot exceed 125 per cent of the project's projected target; and
- platforms and projects to be invested in by non-accredited investors, which are capped at €10,000 and €3,000 respectively.

It is expressly established that these types of investments are not covered by the guarantee fund.

Additionally, Regulation (EU) 2020/1503 of the European Parliament and of the Council, of 7 October 2020, on European crowdfunding service providers for business, which regulates and tries to harmonise the functioning of these alternative financing systems, shall enter into force on 10 November 2021.

Law stated - 30 June 2021

Invoice trading

Describe any specific regulation of invoice trading in your jurisdiction.

There is no specific regulation of invoice trading in Spain. As a general rule, there are no restrictions on invoice trading; however, the activities and structure of a firm engaged in invoice trading should be analysed to determine whether a regulated activity that requires permission or authorisation is taking place.

Law stated - 30 June 2021

Payment services

Are payment services regulated in your jurisdiction?

Payment services are regulated by Royal Decree 736/2019, of 20 December, on the legal regime on payment services and payment entities, which completes the transposition of PSD2 in Spain, which was partially implemented by means of the Royal Decree 19/2018, of 23 November, on payment services and other financial measures.

Payment services include:

- services enabling cash to be placed on a payment account, as well as all the operations required for operating a payment account;
- services enabling cash withdrawals from a payment account, as well as all the operations required for operating a payment account;
- execution of payment transactions;
- transfers of funds on a payment account with the user's payment service provider or with another payment service provider;
- execution of payment transactions where the funds are covered by a credit line for a payment service user;
- issuing and acquiring of payment instruments;
- money remittance; and
- execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device, and a payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods and services.

To provide payment services in Spain, a firm must fall within the definition of a 'payment service provider', which includes:

- credit institutions;
- electronic money institutions;
- the national postal service of Spain;
- the Bank of Spain; and
- the Spanish general government administration, autonomous communities and local bodies.

A firm that provides payment services in or from Spain as a regular occupation or business activity (and is not exempt) must apply for registration as a payment institution. Sanctions may be imposed on any natural or legal person providing payment services without authorisation. Since December 2019, entities wishing to act as payment institutions must follow the specific procedure established under the aforementioned Royal Decree 736/2019, of 20 December, and submit a request with the Bank of Spain to obtain relevant authorisation. The cross-border business of payment institutions will be possible in Spain as far as relevant passports to set up a local branch or agents have been received by the Bank of Spain from entities located within the territory of the European Union. The provision of services without the presence of these entities in Spain will be also available if relevant notifications are received by the Bank of Spain. Spanish entities will provide services abroad if the Bank of Spain has received relevant notifications. In the case of the provision of activities in or from entities located out of the European Union, express authorisation is needed. In certain cases, the Bank of Spain may reject this authorisation.

Law stated - 30 June 2021

Open banking



LEXOLOGY

Getting The Deal Through

© Copyright 2006 - 2021 Law Business Research

www.lexology.com/gtdt

10/28

Are there any laws or regulations introduced to promote competition that require financial institutions to make customer or product data available to third parties?

No.

Law stated - 30 June 2021

Robo-advice

Describe any specific regulation of robo-advisers or other companies that provide retail customers with automated access to investment products in your jurisdiction.

There is no specific regulation of robo-advisers or other companies that provide retail customers with automated access to investment products in Spain. In terms of licensing requirements, Spanish legislation does not distinguish based on the profiles of targeted investors, whether professional or retail. Automated access to investment products through fintech companies in Spain is only possible if relevant licences are duly obtained. Fintech companies may provide automated activities related to investment advice (when referred to specific financial instruments taking into account the personal circumstance of the investor) and portfolio management in Spain, but these activities imply the provision of certain services that trigger licensing requirements. In any case, authorisation and registration with the CNMV will be mandatory. In Spain, there are a number of entities providing this type of service, most of them being investment firms exclusively dedicated to providing investment advice.

Law stated - 30 June 2021

Insurance products

Do fintech companies that sell or market insurance products in your jurisdiction need to be regulated?

Selling or marketing insurance products in Spain is a regulated activity and entities providing this service fall under the relevant Spanish regulation. In this regard, a fintech company must act under the form of a regulated entity (eg, insurance company or insurance intermediary as broker or agent). The Association of Fintech and Insurtech has published a white paper on fintech regulation in Spain, aimed at creating an adequate framework for these types of entities and to encourage alternatives to the existing Spanish regulations for financial services providers in Spain, including insurance services providers. In addition, there is draft legislation relating to the distribution of insurance products in Spain, which will make significant changes to the insurance product market sector.

Law stated - 30 June 2021

Credit references

Are there any restrictions on providing credit references or credit information services in your jurisdiction?

The rules on credit ratings laid down in Regulation (EC) 1060/2009 (as amended) apply in Spain. A credit-rating agency is required to adopt, implement and enforce adequate measures to ensure that its credit ratings are based on a thorough analysis of all the information that is available and that is relevant to its analysis according to its rating methodologies. At present, there are only two credit-rating agencies domiciled in Spain and included in the official

register of the CNMV.

Law stated - 30 June 2021

CROSS-BORDER REGULATION

Passporting

Can regulated activities be passported into your jurisdiction?

An EEA firm may exercise passport rights to provide services in Spain and may provide services through a local branch, agent or on a cross-border basis without presence in the territory. A non-EEA firm or an EEA firm that is not undertaking an activity that can be passported into Spain, must establish a local presence, obtain an appropriate licence or, in some cases, receive authorisation from the relevant regulator to operate on a cross-border basis.

Law stated - 30 June 2021

Requirement for a local presence

Can fintech companies obtain a licence to provide financial services in your jurisdiction without establishing a local presence?

An EEA firm may exercise passport rights to provide services in Spain. A non-EEA firm or an EEA firm that is not undertaking an activity that can be passported into Spain, must establish a local presence, obtain an appropriate licence or, in some cases, receive authorisation from the relevant regulator to operate on a cross-border basis.

Law stated - 30 June 2021

SALES AND MARKETING

Restrictions

What restrictions apply to the sales and marketing of financial services and products in your jurisdiction?

Investments

Although general rules on marketing and advertising shall apply to the investment business, there are specific regulations covering the sales and marketing of investment services and products in Spain. In accordance with the Spanish Securities Market Act (which transposes the second Markets in Financial Instruments Directive (MiFID II) in Spain), this activity must be only carried out by entities that are authorised or passported to provide the relevant investment service.

Although the sales and marketing of financial services is not an investment service itself, the activity consisting of marketing as well as the canvassing of clients triggers licensing requirements in Spain.

Advertising and marketing of investment services and products are covered under sectorial regulations, in particular the Order EHA/1717/2010, of 11 June, of Regulation and Control of Advertising of Investment Services and Products covers this type of advertising in Spain and includes a definition of advertising activity. In this regard, advertising activity includes a communication to the general public aimed to promote, directly or indirectly through third parties, the contracting of a specific investment service or product (covering financial instruments under MiFID), as well as those communications made in the course of a public offer with the aim of impacting its result. It is expressly contemplated that advertising activity shall exist in respect of communications to the general public on management or marketing of

collective investment schemes, private equity schemes or securitisation vehicles, although these communications do not refer to a specific product. This legal provision determines those procedures and controls that entities must have in place when producing advertising materials in connection with investment services and products.

The content of the advertising material in no case may contradict or play down the importance contained in the prospectus and the key investor information document. Advertising materials must be clearly recognisable as such and the promotional character of the message must be explicit and evident. All information included in the materials must be fair, clear and not misleading, with the ultimate goal of abiding by the general obligation to act in an honest, loyal and professional manner and in the best interests of clients while rendering investment services.

The Spanish Securities Market Commission (CNMV) has supervisory functions in respect of marketing and advertising of investment services and products.

Banking

In respect of banking activities, Order EHA/1718/2010, of 11 June, on the Regulation and Control of Advertising of Banking Services and Products regulates this type of advertising in Spain. In addition, this legal provision is complemented by Circular 6/2010, of 28 September, for Credit and Payment Entities, on Advertising of Banking Services and Products.

This Circular determines general principles and criteria to be followed when preparing marketing materials and procedures and controls that entities must have in place in connection with banking services and products. Other rules such as Order EHA/2899/2011, of 28 October, on Transparency and Protection of Clients of Banking Services may also apply.

Although this regime is still in place (this regime basically follows ex post control of advertising material), it is clear that a review of this system is needed to adapt it to digital technology and guarantee compliance. In this regard, on 1 July 2019, a draft of a new Circular of the Bank of Spain was published in respect of advertising of banking services and products, which will give clarity to the advertising of these type of services and products and will enhance client protection. This new regulation, if finally enacted, may lead to significant changes in advertising as it would be the first time that social networks and audiovisual media are regulated in Spain.

The CNMV has supervisory functions in respect of the marketing and advertising of investment services and products.

Law stated - 30 June 2021

CHANGE OF CONTROL

Notification and consent

Describe any rules relating to notification or consent requirements if a regulated business changes control.

There are specific rules relating to change of control of regulated entities. Where a person (whether acting separately or with others) decides to acquire, directly or indirectly, shares in a credit institution, insurance company or investment firm that imply acquiring a significant holding or taking control of the entity, the relevant regulators (the Bank of Spain, Spanish Securities Market Commission or General Directorate for Insurance and Pension Funds) must first be notified and provide their consent. The notification must be accompanied by documents and information that will enable the relevant regulator to analyse the suitability of the potential acquirer. Once the relevant regulator expressly states that there are no grounds to prevent the acquisition, the acquisition may take place.

A prior request must always be sent to the relevant supervisory authority and the acquisition may not take place before receiving relevant authorisations. There are specific procedures and standardised forms that must be used in these

circumstances.

Law stated - 30 June 2021

FINANCIAL CRIME

Anti-bribery and anti-money laundering procedures

Are fintech companies required by law or regulation to have procedures to combat bribery or money laundering?

There is no specific legal or regulatory requirement for fintech companies to have anti-money laundering procedures. The Spanish Anti-Money Laundering Act applies to a number of regulated entities and persons carrying out certain activities. Compliance with the Anti-Money Laundering Act is compulsory and includes an obligation to have appropriate policies and procedures in place to combat money laundering and terrorism financing.

Spanish legislation does not regulate anti-bribery and corruption separately. The relevant regulation establishes monitoring mechanisms to avoid illicit activity in organisations while also providing a range of sanctions, including the suspension of the activities and the dissolution of the company engaged in illegal activities. Regardless of whether they are regulated, fintech companies should adopt a proactive position to establish preventive criminal monitoring measures and appropriate policies and procedures as a matter of good governance and risk management.

Where initial coin offerings (ICOs) fall under the classification of a public offer, procedures to combat bribery or money laundering should be in place.

In May 2018, the EU approved new anti-money laundering legislation targeting anonymity in the cryptocurrency market.

On 29 April 2021, Royal Decree Law 7/2021 entered into force, amending Spanish Act 10/2010 on the prevention of money laundering and terrorist financing and implementing the Fifth AML Directive. The following developments shall be taken into account:

- new obliged entities:
 - virtual currency service providers for the exchange of fiat currencies and for the custody of electronic wallets for these virtual currencies;
 - entities providing account information services (commonly known as 'aggregators'); and
 - insurance companies authorised to operate investment related insurance business (amendment, not a new category);
- creation of a central and single registry of beneficial ownership throughout the national territory of Spain; and
- creation of a registry of virtual currency providers.

Law stated - 30 June 2021

Guidance

Is there regulatory or industry anti-financial crime guidance for fintech companies?

There is no anti-financial crime guidance specifically for fintech firms. However, firms that are subject to the Anti-Money Laundering Act for carrying out certain types of activities subject to anti-money laundering checks should comply with it. In addition, these entities should follow the general recommendations for internal monitoring to prevent money laundering and terrorism financing issued by the Spanish Executive Service of the Commission for the Prevention of Money Laundering.

Regulatory and financial crime rules apply as far as the entities are subject to these regulations considering the type of

activity or the type of entity (banks, insurance companies, asset managers, investment firms, etc). In this regard, there is an initiative proposing the creation of a specific regulatory framework for the fintech sector.

Law stated - 30 June 2021

PEER-TO-PEER AND MARKETPLACE LENDING

Execution and enforceability of loan agreements

What are the requirements for executing loan agreements or security agreements? Is there a risk that loan agreements or security agreements entered into on a peer-to-peer or marketplace lending platform will not be enforceable?

Spanish law does not generally impose any formal requirements for executing loans. An exception to this is in respect of consumer loans for which there is a requirement that the agreement has to be drawn up on paper or another durable medium. Electronically signed documents are recognised and are enforceable. The market practice, however, is that loan agreements are generally made in writing and are notarised by a Spanish public notary for the lenders to be able to enforce the loan through certain special summary foreclosure procedures for notarised agreements. Only loans of small amounts are not executed in this way.

Security agreements, on the other hand, are subject to strict formalities and they will not be enforceable if these formalities are not met. All security agreements (with the exception of financial collateral arrangements) have to be notarised and certain other formalities are required depending on the type of security. Real estate mortgages have to be registered with the land registry. In the case of ordinary pledges, the possession of the charged asset has to be delivered to the creditor or to someone acting on its behalf. Pledges over shares, claims or bank accounts have to be notified to the company, the debtor or the account bank, respectively.

Law stated - 30 June 2021

Assignment of loans

What steps are required to perfect an assignment of loans originated on a peer-to-peer or marketplace lending platform? What are the implications for the purchaser if the assignment is not perfected? Is it possible to assign these loans without informing the borrower?

Under Spanish law, the transfer of a loan originated on a peer-to-peer (P2P) marketplace lending platform requires only the agreement of the transferor and the transferee. The loan agreement could impose additional requirements that would then be required for the effectiveness of the assignment in relation to the borrower, but this is not customary except in large loans. The transfer is valid even if no notice is given to the borrower. However, until this notice is given, or the borrower is aware of the transfer, the transfer is not effective against the borrower and he or she may discharge his or her obligations by payment to the transferor, without any liability to the transferee. In addition, the transfer will not be fully effective against third parties (including the transferor's creditors) unless the transfer agreement is executed and notarised with the intervention of a public notary. As a result, transfer agreements are usually notarised, and the parties notify the transfer to the borrower as soon as it is effective.

Any security interest that secures the loan will transfer automatically with the loan and will secure the new creditor. In practice, however, it is necessary to carry out certain additional acts to put the security under the name of the new lender. In the case of mortgages, it is necessary to register the transfer in the land registry and in the case of pledges over shares, claims or bank accounts, notice should be given to the company, the debtor or the account bank respectively.

Securitisation risk retention requirements

Are securitisation transactions subject to risk retention requirements?

Application of the EU risk retention rules to securitisations of loans originated on a peer-to-peer or marketplace lending platform (P2P securitisations)

The risk retention requirements set out in the sectoral EU legislation will apply to P2P securitisations that are offered to European banks, investment firms, alternative investment funds or insurers. Under the current sectoral EU risk retention rules, certain investors (such as credit institutions, Markets in Financial Instruments Directive-regulated firms and alternative investment fund managers) will be subject to higher regulatory capital charges where they invest in securitisation positions that do not comply with the risk retention rules. Those rules require that either the sponsor, originator or original lender in respect of the securitisation explicitly discloses to the investor that it will retain, on an ongoing basis, a material net economic interest in the securitisation (which in any event is not less than 5 per cent) using one of five prescribed retention methods. Those methods include (among other things) retention of:

- the most subordinated tranche or tranches, so that the retention equals no less than 5 per cent of the nominal value of the securitised exposures;
- 5 per cent of the nominal value of each of the tranches sold to investors; or
- randomly selected exposures equivalent to no less than 5 per cent of the nominal value of the securitised exposures. The definitions of 'sponsor' and 'originator' as used in the sectoral EU legislation are set out in the legislation. The term 'original lender' is undefined.

The risk retention rules set out in the sectoral EU legislation have been replaced as of 2 January 2019 with the risk retention rules set out in the EU Securitisation Regulation. The retention requirement and the methods of retention remain the same under the EU Securitisation Regulation. However, there is now a direct requirement on the sponsor, originator and original lender to agree on an entity that will act as retention holder and to ensure compliance with the retention requirement. In the absence of agreement among the originator, sponsor or original lender as to who will be the retention holder, the originator will be the retention holder. Definitions of 'sponsor', 'originator' and 'original lender' are set out in the EU Securitisation Regulation.

The EU Securitisation Regulation does not explicitly set out the jurisdictional scope of the 'direct' retention obligation, but there is a helpful note in the Explanatory Memorandum to the European Commission's original proposal for the EU Securitisation Regulation that the intention is that the direct approach would not apply to securitisations (including P2P securitisations) where none of the originator, sponsor or original lender is 'established in the EU'. 'Establishment' is typically described by reference to the jurisdiction in which the legal entity is incorporated or has its registered office. Therefore, the non-EU subsidiary of an EU entity may not be subject to the direct retention obligation because a subsidiary is typically a separate legal entity, whereas a non-EU branch of an EU entity may be caught within this provision because a branch is typically not a separate legal entity. Market participants are still seeking clarity on this and it is expected that this point will be raised as part of the ongoing European Banking Authority (EBA) consultation on risk retention.

Possible retaining entities in respect of P2P securitisations

Typically, a P2P lending platform will not qualify as the sponsor, originator or original lender of a P2P securitisation, and another entity with the capacity to retain will therefore need to be identified. The range of entities with capacity to retain

is broader under the EU Securitisation Regulation than under the current EU sectoral legislation and, therefore, the ability of an entity to retain will depend on the rules that apply at the time the securitised notes are issued. Any entity that retains in the capacity of originator is expected to be an entity of substance, and the EU Securitisation Regulation expressly provides that an entity shall not be considered to be an originator where it has been established or operates for the sole purpose of securitising exposures. The EU Securitisation Regulation does not specify in what circumstances an entity will be considered to have been established for the sole purpose of securitising exposures but, in December 2017, the EBA published a consultation paper that proposed that an originator will not be considered to have been established with the 'sole purpose' of securitising exposures if it satisfies certain conditions, including that:

- it has a broader business enterprise and strategy;
- it has sufficient decision makers with the required experience; and
- its ability to make payment obligations depends neither on the exposures to be securitised nor on any exposures retained for the purposes of the risk retention regulations.

Law stated - 30 June 2021

Securitisation confidentiality and data protection requirements

Is a special purpose company used to purchase and securitise peer-to-peer or marketplace loans subject to a duty of confidentiality or data protection laws regarding information relating to the borrowers?

The entity assigning loans to the special purpose vehicle (SPV) must ensure that there are no confidentiality requirements in the loan documents that would prevent it from disclosing information about the loans and the relevant borrowers to the SPV and the other securitisation parties. If there are these restrictions in the underlying loan documentation, the assignor will require the consent of the relevant borrower to disclose to the SPV and other securitisation parties the information they require before agreeing to the asset sale. In addition, the SPV will want to ensure that there are no restrictions in the loan documents that would prevent it from complying with its disclosure obligations under Spanish and EU law (such as those set out in the Credit Rating Agency Regulation). Again, if these restrictions are included in the underlying loan documents, the SPV would be required to obtain the relevant borrower's consent to this disclosure. In addition, if the borrowers are individuals, the SPV, its agents and the P2P platform will each be required to comply with the statutory data protection requirements under Spanish law.

Law stated - 30 June 2021

ARTIFICIAL INTELLIGENCE, DISTRIBUTED LEDGER TECHNOLOGY AND CRYPTO-ASSETS

Artificial intelligence

Are there rules or regulations governing the use of artificial intelligence, including in relation to robo-advice?

The Spanish Securities Market Commission (CNMV) has stated that the fact that the investment advice or portfolio management is automated does not make a difference in the way that the service is regulated and that the relevant conduct of business rules, suitability assessments and other rules apply in the normal way. In this regard, there are no specific rules or regulations governing the use of artificial intelligence.

Law stated - 30 June 2021

Distributed ledger technology

Are there rules or regulations governing the use of distributed ledger technology or blockchains?

No.

Law stated - 30 June 2021

Crypto-assets

Are there rules or regulations governing the use of crypto-assets, including digital currencies, digital wallets and e-money?

On 29 April 2021, Royal Decree Law 7/2021 entered into force, implementing the Fifth AML Directive and amending certain provisions of Spanish Act 10/2010 on the prevention of money laundering and terrorist financing. The Act includes regulation of the information to be disclosed by service providers of digital currency exchange, transfer of digital currency and custody of digital currency, among others.

The Act considers service providers as subject to the Spanish AML legislation. Crypto-asset service providers must be included in the relevant register at the Bank of Spain. They have nine months from the entry into force of Royal Decree Law 7/2021 to be included in the relevant register. Breach of the registration obligation and the provision of these services to Spanish residents would be qualified as a very serious infringement.

Law stated - 30 June 2021

Digital currency exchanges

Are there rules or regulations governing the operation of digital currency exchanges or brokerages?

A consultation process has been initiated in relation to the Circular that will be issued by the Spanish Securities Market Commission (CNMV), regulating advertising activities on crypto-assets. Said consultation period will end on 31 July 2021 and the CNMV has already published a draft Circular (the Draft Circular).

The Draft Circular regulates advertising activity aimed at investors resident in Spain on crypto-assets that are the object of investment. Furthermore, the main objective of the Draft Circular is to establish administrative control of the advertising of crypto-assets.

For supervisory purposes, the draft considers two types of campaigns:

- mass advertising campaigns, targeting more than 100,000 people: in order to develop the advertising piece, the CNMV must be sent the campaign documentation at least 15 working days before starting the campaign; and
- advertising campaigns that are not considered mass campaigns: they do not require prior notification to the CNMV, unless the CNMV requires it.

Advertising does not require prior notification to the CNMV, except in the case of mass advertising campaigns, as mentioned above. However, the regulator may require certain obliged entities to submit prior notice for all their advertising campaigns, when it considers this to be necessary in view of the impact they may have on the target audience.

Furthermore, in September 2020, the European Commission made a proposal for regulation of the crypto-assets market (the MiCA Proposal). This new regulation intends to cover and regulate those crypto-assets that are not regulated by the current regulation in force (an example of a regulated crypto-asset would be electronic money). However, a large part of the crypto-assets typology is not framed within said regulation.

In this sense, the aim of the MiCA Proposal is to harmonise the entire legal regime within the scope of currently unregulated crypto-assets; thus, all national regulations on any matter within its scope of application would be voided, based on the principle of the primacy of EU law.

An additional purpose of the MiCA Proposal is to guarantee an appropriate legal framework for the promotion of innovation and new technologies guaranteeing investor protection.

Finally, it should be noted that the proposed regulation will apply to all providers who:

- issue or advise on the issuance of crypto-assets; and
- provide crypto-assets services within the European Union.

Some crypto-assets are considered as electronic money (eg, stablecoins), and these will not be regulated by the MiCA Proposal.

Although there are no local regulations governing this type of product in Spain, the CNMV and Bank of Spain have expressed their concern on multiple occasions regarding the risks involved when dealing with this type of product. In this regard, the last publication was a joint press statement by the CNMV and the Bank of Spain on cryptocurrency investment risks. Following the previous joint press statement published in 2018, where the Bank of Spain and the CNMV warned about the high risk posed by these types of investments owing to, among other factors, their extreme volatility, complexity and lack of transparency, now both supervisory authorities in Spain include express alerts to the public on the fact that these products are complex instruments that may not be appropriate for small-scale savers, their price having a high speculative component that may even entail the loss of the amounts invested. Other aspects have been a matter of concern, such as the existence of leverage-derivative products linked to cryptocurrencies through which it is possible to indirectly invest in those instruments, and the risks linked to the use of cryptocurrencies as means of payment, among others.

Law stated - 30 June 2021

Initial coin offerings

Are there rules or regulations governing initial coin offerings (ICOs) or token generation events?

Given the complexity of the phenomenon, criteria in this regard are subject to review in light of the experience accumulated and the debate that is currently taking place at an international level and, in particular, within the European Securities and Markets Authority. The CNMV and Bank of Spain are jointly working on this topic, setting out criteria applying in relation to ICOs. There is an official document that provides guidance on, mainly, the consideration of tokens as transferable securities, the need and scope of intervention of entities authorised to provide investment services, as well as representation of tokens and the consequence of their trading on trading platforms, and, finally, the requirement for a prospectus.

Law stated - 30 June 2021

DATA PROTECTION AND CYBERSECURITY

Data protection

What rules and regulations govern the processing and transfer (domestic and cross-border) of data relating to fintech products and services?

On 25 May 2018, the EU General Data Protection Regulation (GDPR) came into force with direct effect across the entire EU. The GDPR governs the storage, viewing, use of, manipulation and other processing by businesses of data that relates to a living individual. In summary, the GDPR requires that businesses only process personal data where that processing is done in a lawful, fair and transparent manner, as further described in the GDPR.

The GDPR requires that any processing of personal data be done pursuant to one of six lawful bases for processing. The most commonly used lawful basis for processing is to obtain the consent of the data subject to that processing – in relying on this lawful basis, the business must ensure that the consent is freely given, specific, informed and unambiguous, and capable of being withdrawn as easily as it is given. This places a significant burden on businesses to ensure that their customers are fully informed as to what their personal data is being used for, which is a crucial change to the previous regime under which disclosure did not need to be so transparent. Other lawful bases for processing data include where that processing is necessary for the business to perform a contract it has with the data subject, or where required to comply with an obligation the business has at law (not a contractual obligation).

The GDPR further differs from the previous regime in that it places a significantly increased compliance burden on businesses, including, for example, mandatory requirements to notify regulators of data breaches, obligations to keep detailed records on processing and requirements for most entities to appoint a data protection officer.

Businesses that infringe the GDPR may be subject to administrative fines of an amount up to €20 million or 4 per cent of global turnover, whichever is higher.

The Spanish parliament approved the Organic Act 3/2018, of 5 December (SLDP), to implement the measures and sanctions developing the GDPR. The main topics included in the new law are:

- data inspection and the appointment of an agency with responsibility for inspections;
- penalties, including some exemptions from fines under the GDPR;
- proceedings in the case of a breach with different conditions depending on whether the breach is solely within Spain or whether other jurisdictions are involved; and
- setting new digital rights as net neutrality, universal access to the internet, rights to security and digital education, right of digital disconnection, digital last will, portability and right to be forgotten.

Likewise, the SLDP, also covers the rights of freedom of speech on the internet and the right to reply or clarify in relation to online news.

Oversight of compliance with the GDPR and related legislation is carried out by the Spanish Data Protection Agency.

With regard to transferring the data, the SLDP refers directly to the GDPR. In this sense, provisions of articles 44–49 of the GDPR shall apply, as explained below.

International data transfers involve a flow of personal data from Spanish territory to recipients established in countries outside the European Economic Area (the countries of the European Union plus Liechtenstein, Iceland and Norway).

Data controllers and data processors may carry out international data transfers without the need for authorisation from the Spanish Data Protection Agency, provided that the data processing complies with the provisions of the GDPR and that the following circumstances apply:

- Adequacy decision: the European Commission may recognise through its adequacy decisions relating to some or all of the third countries to which you want to transfer personal data that they offer an adequate level of protection. The following countries have been recognised as providing adequate protection: Andorra, Argentina, Canada (commercial organisations), Faroe Islands, Guernsey, Israel, Isle of Man, Japan, Jersey, New Zealand, Switzerland and Uruguay.
- In the absence of an adequacy decision, international transfers may be carried out with any of the following guarantees:
 - a legally binding and enforceable instrument between public authorities or bodies;
 - binding corporate rules;
 - standard data protection clauses adopted by the Commission that remain valid;
 - standard data protection clauses adopted by a supervisory authority and approved by the Commission;
 - codes of conduct, together with binding and enforceable commitments of the controller or processor in the third country to implement appropriate safeguards, including those relating to the rights of data subjects; and
 - certification mechanisms, together with binding and enforceable commitments of the controller or processor in the third country to implement appropriate safeguards, including those relating to the rights of data subjects.
- In the absence of an adequacy decision and appropriate guarantees, international transfers may only be carried out if one of the following conditions is met:
 - the person concerned has explicitly given his or her consent;
 - the transfer is necessary for the performance of a contract between the data subject and the controller or for the performance of pre-contractual measures taken at the request of the data subject;
 - the transfer is necessary for the conclusion or performance of a contract, in the interest of the data subject, between the controller and another natural or legal person;
 - the transfer is necessary for important public interest reasons;
 - the transfer is necessary for the establishment, exercise or defence of claims;
 - the transfer is necessary to protect the vital interests of the data subject or of other persons, where the data subject is physically or legally incapable of giving his or her consent; and
 - the transfer is made from a public register that, under Union or member state law, is intended to provide information to the public and is open to inspection by the public in general or by any person who can establish a legitimate interest, but only in so far as the conditions for inspection laid down by Union or member state law are met in each individual case.

In any case, the recent judgment of the Court of Justice of the EU known as Schrems II emphasised the responsibilities of exporters and importers to ensure that the processing of personal data has been and will continue to be carried out in compliance with the level of protection set by EU data protection law. Additionally, to suspend the transfer or terminate the contract where the importer of the data is not, or is no longer, able to comply with standard data protection clauses incorporated in the relevant contract between exporter and importer. Whatever mechanism chosen for international transfer of data, must ensure that, overall, the transferred personal data will have the benefit of an essentially equivalent level of protection as in the EU. Recently, the European Data Protection Board published new guidelines regarding the Standard Clauses applicable since Schrems II .

Law stated - 30 June 2021

Cybersecurity

What cybersecurity regulations or standards apply to fintech businesses?

There are no local rules on cybersecurity for fintech companies, although Directive (EU) 2016/1148 on cybersecurity

has been transposed by means of Royal Decree Act 12/2018, of 7 September.

Law stated - 30 June 2021

OUTSOURCING AND CLOUD COMPUTING

Outsourcing

Are there legal requirements or regulatory guidance with respect to the outsourcing by a financial services company of a material aspect of its business?

There are no regulations specific to the outsourcing of IT systems, including in relation to cloud computing and the internet of things. However, depending on the activities contemplated, consideration will need to be given to restrictions on the processing of personal data under the General Data Protection Regulation, aspects of the Intellectual Property Act approved by Royal Legislative Decree 1/1996, of 12 April, and parts of the General Telecommunications Act 9/2014, of 9 May.

Financial services companies planning to outsource certain services or activities may be subject to specific regulations. In general, credit institutions may delegate the provision of certain services and the carrying on of certain functions to a third party provided that:

- there is no resulting void in the credit institution's functions or reduction in its internal control capacities; and
- supervisory authorities can continue to perform their supervisory responsibilities.

Importantly, outsourcing does not reduce a credit institution's liability for its legal obligations.

Additional restrictions apply to the delegation by a credit institution of essential services or essential functions. Generally, a service or function is considered essential if it could affect compliance with the terms of a credit institution's authorisation, financial results, solvency or the continuity of banking activity. Financial institutions must notify any agreements delegating essential services or functions to the Bank of Spain, the Spanish Securities Market Commission or both one month in advance.

Bank of Spain Circular 2/2016 sets out further details regarding the extent to which outsourcing is permitted.

Credit institutions providing investment services must comply with additional requirements set out in Royal Legislative Decree 4/2015, of 23 October.

Law stated - 30 June 2021

Cloud computing

Are there legal requirements or regulatory guidance with respect to the use of cloud computing in the financial services industry?

Not at the national level.

The EU Agency for Network and Information Security (ENISA) guidance entitled 'Secure Use of Cloud Computing in the Finance Sector' contains analysis of the security of cloud computing systems in the finance sector and provides recommendations. Cooperation between financial institutions, national financial supervisory authorities and cloud service providers is encouraged. ENISA advocates a risk-based approach to developing cloud computing systems in the finance sector.

INTELLECTUAL PROPERTY RIGHTS

IP protection for software

Which intellectual property rights are available to protect software, and how do you obtain those rights?

Computer programs are protected by copyright as literary works. Registration is recommended.

Law stated - 30 June 2021

IP developed by employees and contractors

Who owns new intellectual property developed by an employee during the course of employment? Do the same rules apply to new intellectual property developed by contractors or consultants?

Copyright and database rights created by an employee in the course of his or her employment are owned by the employer. Contractors or consultants are also governed by the same disposition.

Law stated - 30 June 2021

Joint ownership

Are there any restrictions on a joint owner of intellectual property's right to use, license, charge or assign its right in intellectual property?

Spanish law differentiates between works made in a collaborative way and collective works. The first is made by the collaboration of different authors and its division must be agreed by all the authors, although no author can unreasonably hold his or her consent for any exploitation once division has been agreed. Each author is able to exploit his or her part of the work unless it prejudices the common work. The collective work is made by different authors but under the initiative and coordination of another person, who has the rights over it.

Law stated - 30 June 2021

Trade secrets

How are trade secrets protected? Are trade secrets kept confidential during court proceedings?

Confidentiality is mainly protected under the agreements or contracts that pertain to it, although its breach can be construed in certain cases as a criminal offence. The Trade Secrets Directive has been implemented in Spain by means of Act 1/2019, of 20 February, on trade secrets.

Law stated - 30 June 2021

Branding

What intellectual property rights are available to protect branding and how do you obtain those rights? How can fintech businesses ensure they do not infringe existing brands?

Brands can be protected as registered trademarks either in Spain alone (as a Spanish trademark) or across the EU (as an EU trademark). Certain branding, such as logos and stylised marks, can also be protected by design rights and may also be protected by copyright as artistic works.

The Spanish Patent and Trademark Office has a database that can be searched to identify which trademarks are already registered. In addition, the EU trademark database can be searched to identify registered or applied-for trademark rights with effect in Spain.

Law stated - 30 June 2021

Remedies for infringement of IP

What remedies are available to individuals or companies whose intellectual property rights have been infringed?

The main remedy is legal action with interim measures or preliminary measures. Both measures can be taken before filing a legal action, but this has to be filed within a certain period of time to keep the protection granted by them. There are no injunctions in Spanish law.

Law stated - 30 June 2021

COMPETITION

Sector-specific issues

Are there any specific competition issues that exist with respect to fintech companies in your jurisdiction?

No.

Law stated - 30 June 2021

TAX

Incentives

Are there any tax incentives available for fintech companies and investors to encourage innovation and investment in the fintech sector in your jurisdiction?

No specific tax incentives are available for fintech companies. General R&D tax credits are available, amounting to 25 per cent (up to 42 per cent under certain scenarios) for expenses incurred for R&D activities. Further tax credits available for R&D staff expenses (17 per cent), technological innovation (12 per cent) and R&D fixed assets and properties (8 per cent). For R&D, outsourcing is permitted (only with EU companies) as long as the economic risk of the innovation project can be supported.

Law stated - 30 June 2021

Increased tax burden

Are there any new or proposed tax laws or guidance that could significantly increase tax or administrative costs for fintech companies in your jurisdiction?

Yes. In the last budget bill, the government included tax measures where, among other things, we can highlight the modification of the participation exemption regime. Up to 2020, corporate income tax law provides for a full participation exemption for domestic and foreign dividends and capital gains derived by Spanish corporations, provided certain holding requirements are met. From 1 January 2021, the participation exemption would be limited to only 95 per cent of the relevant income.

On top of that, during 2021, the following taxes have been approved.

Digital services tax

A digital services tax, as an indirect tax assessed on a quarterly basis. The taxable event is the provision of certain digital services in Spain such as the sale of online advertising space, online intermediary services and the transfer of user-related data gathered from digital platforms. The tax rate is 3 per cent of gross revenue.

Financial transaction tax

The government decided to unilaterally propose a local financial transaction tax (FTT) given the lack of real progress of the enhanced cooperation procedure for the adoption of an FTT. It has been implemented as an indirect tax. The taxable events for the financial transactions tax are:

1. the acquisition of qualifying shares of Spanish companies (ie, shares listed on a regulated Spanish or EU stock exchange with a market capitalisation as at 1 December of the year before the acquisition exceeding €1 billion);
2. the acquisition of securities corresponding to depositary receipts representing qualifying shares; and
3. the acquisition of qualifying shares or securities (as provided in (1) or (2) above) derived from the execution or settlement of convertible or exchangeable notes or bonds, financial derivatives, any financial instruments or certain financial agreements.

The tax basis is defined as the consideration for acquisitions subject to the tax. The tax rate would be 0.2 per cent.

Law stated - 30 June 2021

IMMIGRATION

Sector-specific schemes

What immigration schemes are available for fintech businesses to recruit skilled staff from abroad? Are there any special regimes specific to the technology or financial sectors?

EEA nationals do not require a work or residence permit.

Non-EEA nationals must obtain work and residence permits to live and work in Spain. A range of licences can be issued by employers, each licence has its own specific requirements.

As a general rule, for the technology and financial sectors, the quickest and easiest way to recruit skilled staff from

abroad is through the highly qualified foreign professionals (HQP) permit. This type of permit is for professionals who are graduates or postgraduates of universities and prestigious business schools who will be employed in Spain and whose fixed annual salary will be set at least at €45,000. The HQP permit has a streamlined process: according to the law, an application for a residence permit must be resolved by the Spanish authorities within a maximum of 20 working days from when it was duly registered, attaching all necessary documents. Once the permit has been granted, the candidate will need to request a visa at the Spanish consulate of the candidate's country of residence.

Law stated - 30 June 2021

UPDATE AND TRENDS

Current developments

Are there any other current developments or emerging trends to note?

There are no relevant developments to note. From time to time, the Spanish Securities Market Commission updates a question-and-answer document answering the most relevant questions raised by the industry in Spain. In addition, there is now a guide to be followed by entities interested in submitting their projects through the Spanish sandbox, which was finally approved by means of Act 7/2020 of 13 November, for the transformation of the financial sector. In June 2021, the General Secretariat of the Treasury and International Financing published a resolution by means of which access to the sandbox is open to receive requests. This new open process will end in October 2021.

Law stated - 30 June 2021

Coronavirus

What emergency legislation, relief programmes and other initiatives specific to your practice area has your state implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

In view of the covid-19 pandemic, several measures have been published during 2020 and 2021, starting from 14 March 2020 (the date of the declaration of the state of alarm in Spain), and some of them still in force. The Spanish government and the majority of regional and local authorities have approved during the pandemic times several sets of legal measures to mitigate the adverse effects that this situation is having on the Spanish economy. Emergency legislation and relief programmes have been published that impact the financial sector; however, no specific measures have been put in place for the fintech sector. In addition, at the global level, fintech associations have worked together in a series of measures in the regulatory, legislative and political environment to improve the ability of clients to access financial digital services and improve the financing of fintech companies, with the aim of offering solutions in view of covid-19 and to boost the digital market and to harmonise the legislative measures, creating a unique market for digital financial services. The main purpose of these proposed measures, and specifically financing solutions, is to protect fintech companies from collapse as they may greatly help the economy to recover.

Law stated - 30 June 2021

Jurisdictions

	Australia	Piper Alderman
	Belgium	Simmons & Simmons
	Brazil	Machado Meyer Advogados
	Canada	Stikeman Elliott LLP
	China	Simmons & Simmons
	Denmark	Plesner Advokatpartnerselskab
	Egypt	Soliman, Hashish & Partners
	France	Kramer Levin Naftalis & Frankel LLP
	Germany	Simmons & Simmons
	Gibraltar	Ince
	Hong Kong	Simmons & Simmons
	India	Kochhar & Co
	Indonesia	SSEK Legal Consultants
	Ireland	Matheson
	Japan	Anderson Mōri & Tomotsune
	Kenya	Bowmans
	Liechtenstein	NÄGELE Attorneys at Law
	Malta	Ganado Advocates
	Mexico	Nader Hayaux & Goebel
	Netherlands	Simmons & Simmons
	New Zealand	Anderson Lloyd
	Pakistan	Asma Hamid Associates
	Singapore	Simmons & Simmons
	South Africa	Bowmans
	Spain	Simmons & Simmons

	Switzerland	Niederer Kraft Frey
	Taiwan	Lee and Li Attorneys at Law
	Turkey	SRP Legal
	United Arab Emirates	Simmons & Simmons
	United Kingdom	Simmons & Simmons
	USA	Seward & Kissel LLP
	Vietnam	YKVN