

International Comparative Legal Guides



Practical cross-border insights into fintech law

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1 The Fintech Landscape

1.1 Please describe the types of fintech businesses that are active in your jurisdiction and the state of the development of the market, including in response to the COVID-19 pandemic and ESG (Environmental, Social and Governance) objectives. Are there any notable fintech innovation trends of the past year within particular sub-sectors (e.g. payments, asset management, peer-to-peer lending or investment, insurance and blockchain applications)?

Prominent leader. For the third year in a row, Lithuania is the largest fintech hub in the European Union and is globally recognised as one of the most attractive jurisdictions for the fintech industry. Fintech-friendly regulation, tremendous fintech community, innovative infrastructure, and talent pool availability were determining factors for more than 265 fintech companies to settle and operate in Lithuania. Lithuania's fintech sector remains strong in payments and digital banking, where more than half of the market participants hold an electronic money institution, payment institution or specialised banking licence. The majority of them can offer digital wallets or issue prepaid cards on top of money transfers. In addition, there has been a significant increase in financial software service providers (payment software, lending software, POS). Other sub-sectors of fintech, such as peer-to-peer lending and crowd-funding, stand out due to their growth.

Development of the market. The Lithuanian market maintains constant growth of new participants each year by demonstrating its resilience to various external factors. Being the front-runner for several years has been challenging. Thus, the Bank of Lithuania has decided to set itself up for digital maturity, one of the most critical keywords in the market from a regulatory perspective. The regulator seeks to pursue qualitative aspects and expects the same from financial market participants. From the financial supervisory perspective, the regulator has completed its homework already by upgrading the internal record setting CENTROLINK payment system widely used by financial market participants and continues to develop new regtech solutions that should reduce the administrative burden, costs, and most importantly, gain insights on potential market risks.

Trends. According to the market participants survey performed by Invest Lithuania, two-thirds of companies claimed that the pandemic became an opportunity rather than a challenge as it did not impede the growth and scalability of the sector. A significant increase in the demand for online purchases and the reliability of digital infrastructure spurred growth. Besides substantial market growth, promotion of innovation

and technological transformation, we can identify shifting focus to pursuing long-term sustainability and ESG objectives by more and more participants. ESG objectives are being pursued by setting respective criteria in the business plans, establishing corporate governance measures or social responsibility initiatives, and introducing new business lines and products that might offer synergies between various market participants. The knowledge and resources that fintech market participants have gained are likely to move across to other sectors such as Wealthtech as part of the ESG outcome.

1.2 Are there any types of fintech business that are at present prohibited or restricted in your jurisdiction (for example cryptocurrency-based businesses)?

There are no types of fintech business that are prohibited or restricted in Lithuania. However, the Bank of Lithuania expressed its position that supervised financial market participants (i.e., those who hold licences or permits to provide financial services) should not pursue activities or provide services related to virtual assets. Such prohibition does not apply to other companies and does not restrict the possibility of financial market participants servicing entities engaged in virtual assets-related business.

2 Funding For Fintech

2.1 Broadly, what types of funding are available for new and growing businesses in your jurisdiction (covering both equity and debt)?

The most common financing types of funding for new and growing businesses in Lithuania are equity and debt financing instruments. Fintech companies usually seek venture capital or an early seed stage fund's investment and raise funds using crowdfunding platforms.

However, debt financing from credit institutions is rather challenging for start-ups as credit institutions would usually only finance companies with reliable track records and sufficient collateral. Among already established financial institutions, it is relatively frequent to issue bonds that, depending on the form of the company, might be offered publicly, and investors might be invited to participate in private placement programmes.

During the pandemic, governmental authorities also introduced various types of financing incentives, such as loans with interest rates near zero, venture capital instruments, guarantees that can be used as collateral, and partial compensation of labour costs.

2.2 Are there any special incentive schemes for investment in tech/fintech businesses, or in small/medium-sized businesses more generally, in your jurisdiction, e.g. tax incentive schemes for enterprise investment or venture capital investment?

During the pandemic, INVEGA, a financial entity incorporated by the State with the status of a national promotional institution, offered many incentive schemes for investment in tech/fintech businesses. INVEGA offers a wide range of financial instruments, ranging from loans, direct COVID-19 loans, guarantees, and subsidies to venture capital (accelerator funds, business angels, co-investment funds, funds, etc.) and many other instruments.

From a tax perspective, Lithuania offers several tax incentives schemes for small/medium-sized businesses and tech/fintech businesses:

- 1) Small-sized entities whose average number of employees does not exceed 10 and whose income during a tax period does not exceed EUR 300,000 are exempted from corporate income tax during the first tax period. These companies are taxed at a rate of 5% during other tax periods compared to the standard rate of 15%. To benefit from such tax incentives, shareholders of an entity should be natural persons.
- 2) Lithuania offers the possibility to reduce the taxable profit by actual costs incurred for the investments in fundamental technological renewal. Taxable profits may be reduced by up to 100%, and the costs exceeding this amount may be carried forward to reduce the amounts of taxable profits calculated for the subsequent four tax periods. Such tax relief may be used for the tax periods of 2009–2023.
- 3) Lithuania also promotes alternative financing by exempting collective investment undertakings, private equity and venture capital undertakings from corporate income tax, i.e., their income, dividends and other distributed profits are not taxed. It should also be noted that legal entities' incomes from the increase in the value of assets, dividends and additional distributed profits received from units, shares or contributions held by collective investment undertakings are also not taxed.

2.3 In brief, what conditions need to be satisfied for a business to IPO in your jurisdiction?

In Lithuania, there are two markets where securities might be listed. The Main Market is a listing platform for companies that adhere to the highest reporting standards, transparency and accountability. The First North Market is a growth platform for ambitious small and medium-sized companies that combines the benefits of being public with simplicity.

Therefore, the first step in an IPO is to decide which market to list in, which essentially depends on the scale of the business and the funding required by the company. The precise listing rules differ in respect of different markets.

If a company wants to be listed in the Main Market, it should comply with the following requirements: two to three years' operating experience; the minimum amount of issued bonds – EUR 200,000 in case the company issues shares, the minimum value of the company should be EUR 4 million and at least 25% or EUR 10 million shares should be in the hands of small investors; securities should have an approved prospectus; and information should be disclosed in two languages: the local language and English. There are also requirements for reporting, accounting and non-financial reporting.

The requirements for being listed in the First North Market are lower: there are no requirements for a minimum period of

the company's operation or its minimum market value and there is no minimum number of shares required to belong to small investors; a simplified company description can be prepared (unless the securities are offered publicly); and information should be disclosed in either the local or English language. However, there are requirements for reporting and accounting, and the company must agree with a certified adviser.

2.4 Have there been any notable exits (sale of business or IPO) by the founders of fintech businesses in your jurisdiction?

So far, there have been no IPOs of fintech companies. Still, there were notable exits such as SumUp's acquisition of Paysolut, Square's acquisition of Verse Payments Lithuania, Visa's acquisition of Earthport Payment Services, and others.

3 Fintech Regulation

3.1 Please briefly describe the regulatory framework(s) for fintech businesses operating in your jurisdiction, and the type of fintech activities that are regulated.

The regulatory environment mainly depends on the business activities of the company in question. If a fintech company intends to provide financial services, it becomes subject to the supervision of the Bank of Lithuania and obligations under separate laws setting a regulatory framework for specific financial services.

Namely, the following services are considered financial services which need authorisation (respective licence, registration or another type of authorisation) from the Bank of Lithuania to offer them to customers: receipt of deposits; consumer lending; payment and electronic money services; conclusion of transactions at one's own or a client's expense; investment services; currency exchange; provision of services related to securities issues; management of investment funds; closed-end investment companies; pension funds or investment companies with variable capital; custody, accounting and management of financial instruments; crowdfunding; and peer-to-peer lending services.

3.2 Is there any regulation in your jurisdiction specifically directed at cryptocurrencies or cryptoassets?

Crypto assets-related activity is not regulated in Lithuania. There is also no statutory obligation to obtain authorisation from the Bank of Lithuania for crypto assets-related activity. However, a status registration procedure to engage in crypto-related activities is required, which includes: (i) establishment of a local entity; (ii) notification of the Commercial Register of Legal Entities about its activities; and (iii) employment of a local money laundering reporting officer. Upon the completion of this procedure, the said legal entity will become an obliged entity that must follow local laws and report to the Financial Intelligence Unit.

It is important to note that the Law on the Prevention of Money Laundering and Terrorist Financing of the Republic of Lithuania (the AML Law) includes virtual currency exchange and e-wallet service providers in the list of undertakings that are subject to anti-money laundering requirements, such as customer identification and verification, transaction monitoring and suspending, reporting to competent authorities and provision of information with a separate request, etc. Moreover, amendments impose specific obligations on ICO offerors, such as identifying a customer in certain cases or providing information to authorised institutions.

The Bank of Lithuania stated its position on virtual currencies and ICOs. When offered coins have securities features, a prospectus, approved by the regulator, should be drawn up and subject to other requirements of the Law on Securities of the Republic of Lithuania. Moreover, depending on the nature of the offering, statutory requirements for crowdfunding, collective investment and provision of investment services, the secondary market, or the formation of a financial market participant's capital would similarly be applied to an ICO.

Nevertheless, in 2022 new regulatory opportunities are expected to be introduced, such as the Markets in Cryptoassets Regulation (MiCA).

3.3 Are financial regulators and policy-makers in your jurisdiction receptive to fintech innovation and technology-driven new entrants to regulated financial services markets, and if so how is this manifested? Are there any regulatory 'sandbox' options for fintechs in your jurisdiction?

One of the main goals of the Ministry of Finance is to develop one of the biggest fintech hubs Europe-wide in Lithuania and create an innovation-friendly microenvironment for fintech companies. This has been carried out in cooperation with the Bank of Lithuania. To foster financial innovations and increase competition in the market for financial services, a regulatory sandbox in 2018 was launched.

The sandbox allows potential and existing fintech companies to test financial innovations in a live environment under the guidance and supervision of the regulator. Participation in the sandbox has many advantages, such as continuous consultations with the regulator, access to real consumers for testing new products and services, exemptions from certain regulatory requirements during participation (i.e., no obligation to have a licence in hand) and, except when necessary, no enforcement measures under legal acts applicable either to the participant or its managers.

Fintech companies may enter the regulatory sandbox if their financial innovation meets the following criteria: (1) it is new to Lithuania's market; (2) if implemented, it would bring more convenient, safer and cheaper financial services or other identifiable benefits to consumers; (3) its testing in a live environment is objectively necessary and may contribute to the implementation of the said financial innovation; (4) the financial market participant has carried out an assessment of its adaptability, allocated sufficient resources, carried out a risk analysis; and (5) it will be further developed in Lithuania.

3.4 What, if any, regulatory hurdles must fintech businesses (or financial services businesses offering fintech products and services) which are established outside your jurisdiction overcome in order to access new customers in your jurisdiction?

Fintech companies providing regulated financial services to customers based in Lithuania and actively soliciting them are subject to Lithuania's regulatory regime. It might include the requirement to have a licence in another Member State of the European Union or even the requirement to get authorisation from the Bank of Lithuania. A licence issued in a Member State of the European Union in most cases allows the licence holder to provide services to Lithuanian customers on the basis of the freedom of services principle. In some cases, companies based outside the European Union can provide services to Lithuanian customers through the reverse solicitation principle.

4 Other Regulatory Regimes / Non-Financial Regulation

4.1 Does your jurisdiction regulate the collection/use/transmission of personal data, and if yes, what is the legal basis for such regulation and how does this apply to fintech businesses operating in your jurisdiction?

The collection/use/transmission of personal data is regulated by the European Union General Data Protection Regulation 2016/679 (GDPR) and the Law on Legal Protection of Personal Data of the Republic of Lithuania. These rules also apply to fintech companies operating in Lithuania.

The key principles that apply to the processing of personal data are: transparency (the requirement to duly inform customers and other subjects about processing of their data); lawfulness (to process personal data under legal bases established under the GDPR); purpose limitation (to process personal data for established, specific and legitimate purposes); data minimisation (to process only as much data as is necessary for established processing purposes); accuracy (to keep data up to date and ensure accuracy); storage limitation (to keep data no longer than necessary); integrity and confidentiality (to ensure security and confidentiality of data); and accountability (to be able to demonstrate compliance with data protection requirements).

4.2 Do your data privacy laws apply to organisations established outside of your jurisdiction? Do your data privacy laws restrict international transfers of data?

The GDPR is applicable if data is collected, processed, or used inside the EU, irrespective of the established location of the data controller or processor. It is also applicable if the data is processed or used outside the EU to offer services and goods to citizens within the EU or monitor their behaviour.

The Law on Legal Protection of Personal Data of the Republic of Lithuania applies only to companies that are established in Lithuania or companies that have appointed a representative in Lithuania and offer services and goods to citizens within the EU or monitor their behaviour.

The international transfer of data to jurisdictions outside the EU is permitted if the receiving jurisdiction itself applies appropriate data protection regulations. The European Commission publishes a list of the jurisdictions that have been approved for international data transfer outside the EU. Transfers of data to third countries that the European Commission has not approved must be subject to appropriate safeguards (such as standard model clauses) or derogations for specific situations outlined in the GDPR.

4.3 Please briefly describe the sanctions that apply for failing to comply with your data privacy laws.

The GDPR provides for administrative fines of up to EUR 20 million or 4% of the company's worldwide annual turnover, whichever is higher. The Law on Legal Protection of Personal Data of the Republic of Lithuania does not provide additional fines for private companies.

Furthermore, affected individuals are entitled to claim damages for both material and immaterial damages caused by the violation of data protection regulations. Liability for damages can only be avoided if the organisation committing the violation proves that it bears no responsibility for the damages claimed.

4.4 Does your jurisdiction have cyber security laws or regulations that may apply to fintech businesses operating in your jurisdiction?

The European Union harmonised regulation related to cyber security in Cyber Security Directive 2016/1148. Each Member State of the European Union had to adopt national legislation that follows or transposes the Directive into national regulation. Lithuania implemented requirements of the Directive by the Law on Cyber Security that lays down the main cyber security principles and obligations that must be followed by digital, public electronic communication and other service providers. Other cyber security requirements might be found in the GDPR or specific laws setting a regulatory framework for separate financial service providers.

Specifically, most of the fintech businesses that fall under the supervision of the Bank of Lithuania are subject to secondary legislation – e.g. Resolution No 03-174 of the Board of the Bank of Lithuania on the Approval of the Description of Requirements for Information and Communication Technology and Security Risk Management (as amended), which specifies the risk management measures that financial market participants must take.

4.5 Please describe any AML and other financial crime requirements that may apply to fintech businesses in your jurisdiction.

AML requirements are established in the AML Law, which transposes the requirements stemming from the EU AML Directives. Fintech companies providing regulated financial services and virtual currency exchange and e-wallet service providers fall into the list of obliged entities under the AML Law.

The general AML requirements include obligations to: establish an internal system of AML risk management; identify customers and beneficial owners; keep a register of monetary operations carried out by customers; perform ongoing monitoring of the business relationships with customers, including scrutiny of transactions undertaken throughout such relationships, and ensure that the transactions being conducted are consistent with the knowledge of the customer, its business and risk profile as well as the source of funds; notify the Financial Crime Investigation Service of suspicious transactions or suspicious activity of customers; and implement applicable requirements related to international financial sanctions and restrictive measures, etc.

It should be taken into account that such obligations vary depending on circumstances such as services provided or transaction volumes. Most of the fintech businesses that fall under the supervision of the Bank of Lithuania are subject to secondary legislation – e.g., Resolution No 03-17 of the Board of the Bank of Lithuania on the Approval of the Instructions for Financial Market Participants with the Aim of Prevention of Money Laundering and (or) Terrorist Financing (as amended), which details the measures that financial market participants must take to manage AML risks properly.

4.6 Are there any other regulatory regimes that may apply to fintech businesses operating in your jurisdiction?

There is no specific regulatory regime that applies to fintech companies in Lithuania. Fintech businesses that provide services to consumers may have to comply with consumer protection requirements established in national or EU laws and also must adhere to competition law rules, fair advertisement rules, etc.

5 Accessing Talent

5.1 In broad terms, what is the legal framework around the hiring and dismissal of staff in your jurisdiction? Are there any particularly onerous requirements or restrictions that are frequently encountered by businesses?

There are no onerous burdens for hiring or dismissal of staff in Lithuania. The administrative hiring formalities consist of concluding a written employment contract and providing notification to social security authorities regarding the commencement of employment relationships.

An employment contract may be concluded using a standard employment contract form and should include the following essential terms: job function; remuneration; and workplace. Parties are also entitled to agree on other employment terms and conditions that might be included in an employment contract.

Local legislation sets forth several grounds for termination of employment contracts (e.g., by mutual agreement of the parties – on the initiative of the employee with or without essential reasons, on the initiative of the employer – with or without the fault of the employee, at the employer's will, etc.).

In several statutory cases, employers are entitled to terminate employment contracts on their initiative without any fault on the part of the employees (e.g., elimination of employees' positions, non-performance of employees, etc.). The usual statutory termination notice is one month (or two weeks if employment lasted less than one year) and the severance pay is at least two monthly salaries (or half of a monthly salary if employment lasted less than one year). However, in certain cases, there may be deviations.

The employer is entitled to terminate employment contracts at will (i.e. due to other reasons than those applied in case of termination on the initiative of the employer without the employee's fault) having notified employees three business days in advance and having paid a severance pay of at least six average salaries.

5.2 What, if any, mandatory employment benefits must be provided to staff?

Employers in Lithuania are not generally required to provide any mandatory employment benefits (e.g. health and life insurance, share options, etc.) to staff.

On the other hand, employees are subject to certain statutory protections/guarantees:

- 1) **Minimum wage.** A minimum monthly or hourly wage as approved by the Lithuanian Government can be paid only for work of an unqualified nature.
- 2) **Annual leave.** The minimum yearly leave that the employer must grant and pay is 20 business days (if working five days per week) or 24 business days (if working six days per week). Some protected and sensitive categories of employees are entitled to a more extended minimum annual leave or additional annual leave days.
- 3) **Sick allowance.** The employer is obliged to pay sick allowance for the first two days of the sick leave which coincide with the employee's work schedule. Starting from the third day of sickness, the social security authorities only pay the sick allowance.

5.3 What, if any, hurdles must businesses overcome to bring employees from outside your jurisdiction into your jurisdiction? Is there a special route for obtaining permission for individuals who wish to work for fintech businesses?

There is no special route for obtaining permission for individuals who wish to work for fintech businesses. General rules are applicable.

EU citizens

Citizens of the EU are exempted from a requirement to obtain a work or similar permit to start working in Lithuania since they enjoy the right of free movement. EU citizens are only required to obtain a certificate confirming their right of temporary residence in Lithuania and declare their place of residence in Lithuania if they intend to stay (reside) in Lithuania for more than three months in a half-year period.

Non-EU citizens

As a rule, non-EU citizens who intend to work in Lithuania are required to obtain a work permit, unless they fall under statutory exceptions where such work permit is not required (e.g. highly qualified workers who apply for an EU Blue Card, workers from economically strong countries (i.e. citizens of Australia, Canada, Japan, New Zealand, South Korea, the United Kingdom and the United States of America), intra-corporate transferees, etc.).

Once a work permit is issued to non-EU citizens (or if non-EU citizens are exempted from a requirement to obtain a work permit), they must apply for either a national long-term visa (can be issued for up to one year) or a temporary residence permit (can be issued for two to three years depending on the application ground), which would allow them to reside in Lithuania.

6 Technology

6.1 Please briefly describe how innovations and inventions are protected in your jurisdiction.

Innovations and inventions can be protected either as patents, copyrights or commercial secrets (including know-how) in Lithuania.

Patent protection is granted to innovations and inventions complying with the criteria of patentability such as novelty (not known to the public), inventive step (differs from the prior art) and industrial application (can be used in some kind of industry). Under the latest practice of the European Patent Office and the State Patent Bureau of the Republic of Lithuania, some innovations and inventions pertaining to computer programs are considered patentable if they comply with patentability criteria. Patent protection is granted from the date of application for patent registration or the priority date.

Innovations and inventions may also be protected by copyright if they comply with the requirement of originality and are expressed objectively in any medium. In respect of computer programs, generally, they are copyright-protected in all cases and do not lose their copyright protection if a negative decision to obtain a patent is issued.

Protection of innovations and inventions is also possible under the laws of commercial secrets that implement Directive 2016/943. Three main features classify information as a commercial secret: it must be a secret (has not been disclosed to any third party without a confidentiality obligation); due to such secrecy, it has some commercial value to its owner; and its owner has taken reasonable efforts to keep it confidential. Illegal exploitation or disclosure of commercial secrets may result in violation of rights to commercial secrets and an act of unfair competition.

6.2 Please briefly describe how ownership of IP operates in your jurisdiction.

The objects of industrial property, such as trademarks, designs

and patents, are owned by persons who have applied for their registrations. The protection of industrial property objects is generally used from the moment of applying if such application goes through successful registration. In contrast, IP rights (copyrights) to original works are owned by persons who created such original works, and protection is applied from the creation of such original works.

Both industrial IP objects and IP rights (copyrights) to works can be transferred or licensed to third parties.

6.3 In order to protect or enforce IP rights in your jurisdiction, do you need to own local/national rights or are you able to enforce other rights (for example, do any treaties or multi-jurisdictional rights apply)?

Generally, to acquire IP protection in Lithuania, rights should be conferred in the territory of Lithuania. However, Lithuania is a member of the European Union and a participant in several international and regional treaties pertaining to IP protection. Thus, in parallel to the national regime of protection of IP rights, EU and international regimes also apply.

Lithuania is part of the European Union trademark and unitary design registration systems with respect to IP protection within the European Union. Thus, registration of these IP objects within the European Union registries automatically extends their protection to the territory of Lithuania.

Lithuania is also a participant in various international and regional treaties under which IP objects can be protected. Patents can be protected as European patents at the European Patent Office pursuant to the European Patent Convention. During registration, Lithuania must be indicated as a designation country, and then the validation of such registration should be performed within the State Patent Bureau of the Republic of Lithuania. Since Lithuania is also a member of the Patent Cooperation Treaty, an international patent application can be registered with WIPO with designation to Lithuania if the requirements of the Patent Cooperation Treaty are met.

Trademarks can be protected under the Madrid System administered by WIPO. Under the latter system, Lithuania (or the whole territory of the European Union) should be designated as a country where protection is intended to be acquired.

The most substantial treaties related to copyright protection are the Berne Convention for the Protection of Literary and Artistic Works, the WTO Agreement on Trade Related Aspects of Intellectual Property Rights and the WIPO Copyright Agreement. Under the mentioned treaties, the protection granted to original works is similar to that under Lithuanian national laws.

6.4 How do you exploit/monetise IP in your jurisdiction and are there any particular rules or restrictions regarding such exploitation/monetisation?

The main forms of exploitation and monetisation of IP rights in Lithuania are their transfer and licensing. However, moral rights to IP objects are not transferable in Lithuania. Both transfers and exclusive or non-exclusive licences of industrial IP objects can be registered with the respective registries administered by the State Patent Bureau of the Republic of Lithuania.



Ieva Dosinaite has, during her professional career, represented and advised many banking and financial institutions, insurance companies and trading companies, including EBRD, EIB, Lietuvos Energija (including green bonds issue), Maxima Grupė (including first bond issue), Vilniaus prekyba, Lithuanian Airports, Lithuanian Post, as well as Visa, PayRay, Sollo and others on complex financial transactions, regulatory matters and capital markets-related issues. She has significant experience in managing pan-Baltic legal projects and is noted for solving legal issues with international institutions.

In 2019, Ieva was highly recognised by the International Bar Association (IBA) – she was appointed officer of the Banking Law Committee and Vice Chair of the Structured Finance Subcommittee. In 2022, Ms Dosinaite was appointed to Chair of the Structured Finance Subcommittee.

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Julija Šlekonyte is a fintech expert, having more than 12 years of professional experience in the fields of licensing and regulatory compliance. Her greatest strengths are a good understanding of the fintech legal framework, technical arrangements of the most complex fintech products and the ability to find the best solution for implementing such products in the increasingly strict regulatory environment. Julija navigates clients through their journey to obtain a licence, advises on all issues arising during their regulated business activities and assists in dealing with the regulator.

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