The Legal 500
Country Comparative Guides

Russia
FINTECH

Contributing firm
GRAD Legal & Financial Advisory Services

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This country-specific Q&A provides an overview of fintech laws and regulations applicable in Russia.

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1. What are the sources of payment law in your jurisdiction?

Payments law has been developed considerably the last couple of years to reflect new technologies and new AML and other challenges. The main principles are laid by the Federal Law “On Currency Regulation and Currency Control” and the Federal Law “On National Payment System” (the “NPS Law”). As of July 1st, 2021, a money transfer operator may engage third parties (suppliers of the payment application), subject to the compliance of the payment application with the information protection requirements established by the Central Bank of the Russian Federation (the “CBR”). The CBR is very active in this area. Nevertheless, it is taking a conservative approach as regards payments in crypto.

In January 2021 the long expected Federal Law No 259-FZ of 31 July 2020 “On Digital Financial Assets, Digital Currency and on Amendments to Certain Legislative Acts of the Russian Federation” (the “DFA Law”) has taken effect. No payments for goods and services to Russian persons is allowed in crypto since then.

A progressive move is the Marketplace being created by the CBR. Part of that is the Rapid Payments System (“RPS”). The CBR and National Payment Cards System (“NPCS”) have launched the RPS for transfers between business or individual accounts (also with QR codes). Several acts have been issued on the subject and the majority of banks are involved. The system is very widely used and quite efficient, also allowing to reduce costs and bank commissions.

2. Can payment services be provided by non-banks, and if so on what conditions?

Yes, various payments operators are acting on the market according to the NPS Law, subject to licensing. After the recent legal update the share of cashless payments, CBR says, has exceeded 64% yet as the result of 2020. The January 1st, 2021, status showed 210 banks as RPS system members.

Any system that wishes to operate should be CBR registered and licensed, either a Russian entity or a branch or subsidiary in Russia. Joint ventures are a solution as well. The Central Bank issues licenses depending on the specific situation. Banks are regulated under the Federal Law “On Banks and Banking Activity”. Non-bank institutions – under the NPS Law. The Register of the payment systems operators is kept and published under the NPS Law and the CBR normative acts.

According to the Bank of Russia, as of 24 September 2021, there are 339 banks and 34 non-bank financial institutions with valid licenses in Russia.

3. What are the most popular payment methods and payment instruments in your jurisdiction?

Digital Rouble project is under discussion at the moment, no clarity is there yet. Digital Currency (crypto) is not acknowledged as legal means of payment. Cash is less popular especially in the post-covid 2019 world.

Rapid payments are currently a popular method of payments. Online banking has been increasingly overtaking all spheres. Smartphone built-in apps of Russian banks are very popular and very well developed. Cyber security requirements have been a subject of high attention therefore in 2021. US payment solutions (e.g., Apple Pay) are popular, some are not operating very well because of non-compliance with local requirements. Local Yandex pay and some other providers are available. Both credit and debit cards are used as well. Local payment systems working through terminals allow to insert cash and convey operations not exceeding 15 000 RUB (about 200 USD). Anonymity in payments is almost non-existent as of 2021.

4. What is the status of open banking in your jurisdiction (i.e. access to banks’ transaction data and push-payment
functionality by third party service providers)? Is it mandated by law, if so to which entities, and what is state of implementation in practice?

The main standard-setter in the area is the CBR which actively develops and implements open banking API standards. Currently there are 6 main standards that are used to regulate financial products and services on the market. These standards have been developed together with the Russian Fintech Association (an affiliate structure set up in 2016 by the CBR).

The above standards are as follows:

- Open banking APIs. General Provisions: sets for the main principles and guidelines for the exchange of data and further implementation of more active interactions through the open banking APIs
- Open Banking APIs. Obtaining information on client accounts by a third party: contains a description of the elements that are common to all APIs for obtaining third party account information
- Open banking APIs. Initiating a client’s funds transfer by a third party in the currency of the Russian Federation: contains a description of the elements that are common to all APIs for initiating a transfer of client funds by a third party in the currency of the Russian Federation
- Security of financial (banking) operations. Applied software interfaces ensuring the security of financial services based on OpenID protocol: the standard has been developed in cooperation with the Fintech Association and OJSC Infotec. The current standard defines how to use APIs with structured data as well as token-based models to improve security of financial transaction technologies
- Open Banking APIs. Obtaining publicly known information about the banks and their products
- The latest Standard of the CBR dated 16 August 2021 STO BR FAPI.PAOK-1.0-2021. Security of financial (banking) transactions. Applied software interfaces. The Standard provided models for ensuring the security of financial services when initiated by OpenID Connect customer

In July 2021 the first practical example of cooperation on the implementation of API standards arose on the market. Partially state owned Promeysvazbank (PSB) together with Tochka (a private fintech service for small businesses) started using open banking API to exchange SME accounts related data.

5. How does the regulation of data in your jurisdiction impact on the provision of financial services to consumers and businesses?

Very intense work is conveyed by the Big Data Association uniting the biggest players, and one of the projects involving the Federal Service for Supervision of Communications, Information Technology and Mass Media of Russia (Roskomnadzor) and the major telecoms, including Yandex. Sberbank and other players target the methods of data anonymisation and turnover within the current legal frames. Otherwise, it is a highly regulated area and commercial turnover of data may be a problem. Final consent is required for data transfer, the Russian analogy of GDPR is well developed.

6. What are regulators in your jurisdiction doing to encourage innovation in the financial sector? Are there any initiatives such as sandboxes, or special regulatory conditions for fintechs?

Yes, the CBR is active in innovation support. The overall digitalisation trend was set by President Decree No 204 of 7 May 2018 “On the National Goals and Strategic Tasks of the Russian Federation Development for the Period until 2024”. The National Digital Economy Programme was adopted on 4 July 2019 and includes the current normative regulation of digital related area.

Afterward the CBR issued “The Main Directions of Financial Technology Development for the Period 2018-2020” (the Main Directions) and the road map naming the key technologies (within the NDE Programme). The Main Directions together with the NDE Programme having been partly realised. In particular, a blockchain-based platform is envisaged with the corresponding marketplace having been set up. Various projects have been launched, and several documents enacted accordingly. For example, the Presidential Decree of 10 October 2019 No 490 “On the development of artificial intelligence in the Russian Federation” was adopted — including the National Strategy for the Development of Artificial Intelligence until 2030), as well as Federal Law of 24 April 2020 N 123-FZ “On conducting an experiment to establish special regulation in order to create the necessary conditions for the development and implementation of artificial intelligence technologies in Moscow and amending Articles 6 and 10 of the Federal Law “On Personal Data”.

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Sandbox under the CBR is available for new projects, and the new Federal Law “On Experimental Legal Regimes in the sphere of Digital Innovations in Russia” has come into force for innovation projects.

New accelerators are being formed, mostly by banks and technology companies, as well as for startup support (CBR, Tinkoff, Sberbank, VTB). Western-oriented models of co-operation (e.g. Accenture, PWC) are sometimes used. Skolkovo has introduced a special regime (with tax benefits, foreign employees’ formalities release, grants) and its Technopark attracts technology project initiators.

Most new fintech technology startups tend to collaborate with banks, accelerators and some big industry leaders (Gazprom, Yandex, etc.). Examples of smaller, but no less successfully developed, startups include Ubank, Dbrain and Moe Delo.

Big companies are consumers of and investors in new technologies, although they are mostly taking over startups for integration. Big players try to create alliances and accelerators, as well as joint educational programmes. For example, the Russian Fintech Association unites major banks, telecom players, insurance companies, and payment systems. It has launched the national blockchain platform (in close collaboration with the owners of Qiwi, the leading payment system).

The main regulators involved in technology integration in fintech, regtech and suptech collaborate with local and international technology providers. PravoTech, for example, is an ecosystem for legal process automation and is used by Rostelecom, Megafon, Skolkovo, AlfaBank, Gazprombank, Sberbank, HeadHunter, etc.

Crowdfunding could be an effective tool to encourage startups to remain in Russia, wherefrom cryptocurrency-related projects mostly emigrate due to the absence of clearly structured legislation. This situation may change in 2021.

7. Do you foresee any imminent risks to the growth of the fintech market in your jurisdiction?

The banking system is highly centralised and not very efficient, especially as regards credits to SMEs. The exchange is neither an efficient tool for startups. Regulation is developing slowly and is often not sufficient to support growth in the changing environment.

Funds regulation is old fashioned and not enough developed to encourage startups support even though there are new Funds (e.g., the Skolkovo Foundation) and grants for new projects. Most private funds are set up in other jurisdictions despite the fact they have Russian roots. I.e. government support policies and SMEs regulation need enhancement.

The government is taking efforts in developing regions, but the main centers are anyway Moscow, a bit less St. Petersburg and Kazan, others have few opportunities and access to investors or financing.

8. What tax incentives exist in your jurisdiction to encourage fintech investment?

For startups and companies acting in the field of information technologies, the rate for corporate income tax can be reduced to 3% only (on the national level). If a startup or an SME, for example, sells IP rights on the basis of license agreements the rate for corporate income tax may be reduced by region authorities to 2%.

9. Which areas of fintech are attracting investment in your jurisdiction, and at what level (Series A, Series B etc)?

As far as we know, some funds invest in Series A in fintech area (e.g. Altair Capital), but most investments are directed to projects being at their early stage of development (Series B). Some of the fintech projects and startups use existing business accelerators and often such companies are set up in Skolkovo. When talking about Series B investments – it has to be mentioned that mostly it is friends and/or family type investments. The most attractive areas are the following: payment solutions, cyber security, AI (machine learning – for companies like Gazprom), as well as blockchain development for bank and corporations.

10. If a fintech entrepreneur was looking for a jurisdiction in which to begin operations, why would it choose yours?

Due to the following facts – Russia is a developing market with big potential providing new opportunities, cheap developers and good quality labour, low personal taxes and comparatively low costs of the business setup. Moscow as well is a booming centre for technology projects willing to expand.

11. Access to talent is often cited as a key
issue for fintechs – are there any immigration rules in your jurisdiction which would help or hinder that access, whether in force now or imminently? For instance, are quotas systems/immigration caps in place in your jurisdiction and how are they determined?

Immigration rules are not worse than in Europe for Russians, but they are not very simple. At present a person needs to obtain the residency permit and become a local tax resident (spending 183+ days in the territory of Russia) to convey business here in due course. To become a shareholder none of that is required. Local currency control rules apply to all Russian tax residents.

At the same time, only locally based residents may act as company directors. Certain areas (strategic state regulated areas mostly) require Russian residency same as access to most grants.

The quotas for employees are determined year by year depending on the situation. But everything is possible, local specialised lawyers are not very expensive to assist with formalities.

A new law on migration rules is being drafted and should come into force in 2024. Hence, new simplified rules for highly skilled employees will be developed.

12. If there are gaps in access to talent, are regulators looking to fill these and if so how? How much impact does the fintech industry have on influencing immigration policy in your jurisdiction?

As mentioned in paragraph 11, the new draft law on immigration is being developed, but we do not see much influence at present especially considering the political situation and pandemic.

13. What protections can a fintech use in your jurisdiction to protect its intellectual property?

Russia joined the World Intellectual Property Organisation (WIPO) as well as the World Trade Organisation (WTO) and ratified a number of treaties protecting intellectual property rights and software. On the national level the norms of the Russian Civil Code are well developed (as regards patents (inventions), utility models, industrial designs, trademarks, geographical indications, trade names, layout designs of integrated circuits, copyright and related rights, etc.).

A special judicial body – the Intellectual Property Court was established to protect intellectual property rights of different entities.

14. How are cryptocurrencies treated under the regulatory framework in your jurisdiction?

The crypto regulations are new, and are in general affected by three major acts. Federal Law No 34-FZ of 18 March 2019 “On Amendments to Parts One, Two and Article 1124 of Part Three of the Civil Code of the Russian Federation” (the “Digital Rights Law” in force as of 01 October 2019); Federal Law No 259-FZ of 02 August 2019 “On Raising Investments Using Investment Platforms and Amendments to Certain Legislative Acts of the Russian Federation” (the “Crowdfunding Law”, in force as of 1 January 2020); and the above mentioned DFA Law.

Russia is following standards of the Financial Action Task Force (FATF) so the recent changes may involve as well changes and extension of local norms. These may include amendments to local norms in part of DeFi and NFT regulation. There are risks of wrongful interpretation of NFT which can be mistakenly recognised as a digital asset, for example, or DeFi project as a virtual asset service provider (VASP).

In a main situation of legislator’s non-clarity the CBR is being highly conservative as regards crypto though it has been prohibited, the exchange and wallets opening remain in ‘grey zone’. Most of the exchanges tend to work with Russians but neither of them is registered in the territory due to legal uncertainty.

Classification of digital (virtual) assets differs from, e.g., Switzerland or FATF guidelines. Nevertheless, certain common features exist (securities laws apply to digital assets if they are securities in substance etc.).

We hope to see substantial changes especially in taxation of operations with crypto that may invigorate the market.

15. How are initial coin offerings treated in your jurisdiction? Do you foresee any change in this over the next 12-24 months?

We foresee changes and some have been introduced this year. The local DFA Law allows local ICOS – placement of digital financial assets (DFAs) on local CBR
regulated platforms. That are money claims or DFA on emission securities in general. That was an important act for the local industry digitalisation.

The Crowdfunding Law allows the issue of Utility Digital Rights being the right to claim an object transfer, or IP transfer and some other rights in digital form (that is interesting for different NFT projects). There are certain important collisions between the mentioned acts (and the general Civil Code norms) that require clarification. Foreign assets are not regulated, and their status remains in the ‘grey zone’.

16. Are you aware of any live blockchain projects (beyond proof of concept) in your jurisdiction and if so in what areas?

Please see paragraph 2, 4 and 6 hereof for more details and examples.

17. To what extent are you aware of artificial intelligence already being used in the financial sector in your jurisdiction, and do you think regulation will impede or encourage its further use?

The President of Russia approved a strategy on AI Development back in 2019 and the Russian Government afterward approved AI and robotics regulation concept for the period until 2024. The main principles of AI regulation are aimed at observance of human rights, security, and sovereignty of Russia technology related areas. Practical examples are being developed.

18. Insurtech is generally thought to be developing but some way behind other areas of fintech such as payments. Is there much insurtech business in your jurisdiction and if so what form does it generally take?

In Russia successful insurtech examples include Adaperio and MEDO. Several leading insurance companies (AlfaStrakhovanie, Ingosstrakh, Rosgosstrakh) are developing online platforms. The insurers can now offer its clients individualised prices by using neural networks. Federal Law “On Compulsory Insurance of Civil Liability of Vehicle Owners” has marked the beginning of tariff liberalisation which accelerated insuretech development as well.

The CBR has been playing a huge role in the development of the insuretech area since it became the mega regulator and covered insurance market back in 2013. Through the activities and membership of the CBR in different associations (e.g. the International Association of Insurance Supervisors) the market is being developed as well.

19. Are there any areas of fintech that are particularly strong in your jurisdiction?

Russia has a good potential, but it is too early to state that some areas of fintech are strongly developed.

20. What is the status of collaboration vs disruption in your jurisdiction as between fintechs and incumbent financial institutions?

There are good examples of collaboration (see paragraphs 2, 5 and 6 hereof), but there are also number of problems as regards the fintech regulation in the country.

21. To what extent are the banks and other incumbent financial institutions in your jurisdiction carrying out their own fintech development / innovation programmes?

Banks and non-bank financial institutions collaborate successfully. Please see paragraph 2, 5 and 6 hereof for more details.

22. Are there any strong examples of disruption through fintech in your jurisdiction?

Fintech area currently is under development in Russia (especially as regards legal regulation of the mentioned area). Nevertheless, there are quite successful examples of collaboration on the market (PSB, Tinkoff, Sber, etc.). Russia has a good potential in the sphere.
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