The Legal 500 Country Comparative Guides

Taiwan: Fintech

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

For a full list of jurisdictional Q&As visit here
1. **What are the sources of payments law in your jurisdiction?**

While banking businesses are highly regulated in Taiwan, laws and regulations enable non-banks to provide a variety of payment services. Among others, the Act Governing the Management of Electronic Payment Institutions and its enforcement rules (collectively, “E-Payment Act”), which took effect in May 2015, allows non-banks to offer the electronic payment services (as further described in 2(1) below; collectively, “E-Payment Services”) approved by the Financial Supervisory Commissions (FSC), the government agency in charge of securities and futures products. The enactment of the E-Payment Act contributes to the growth of E-Payment Services in Taiwan. Currently, there are five non-banks exclusively operating E-Payment Services. In addition, the Financial Technology Development and Innovative Experimentation Act also offers a regulatory sandbox for applicants to test Fintech in a safe environment.

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

Yes; generally speaking, payment services can be provided by the following non-banks:

(1) electronic payment institutions approved by the FSC for operating any of the following businesses: (a) provision of third-party payment and collection services for transactions for which the total amount of payments collected exceeds the threshold prescribed by the FSC (currently, NT$1 billion per day); (b) collection of stored value; (c) transfer of funds between electronic payment accounts; and (d) any other businesses approved by the FSC;

(2) any company which conducts business (a) above only; if the total amount of payments that it collects does not exceed the applicable threshold, and it is not involved in any cross-border transaction, such company is not required to obtain any special permit for acting as a payment and collection agent for online or offline transactions; and

(3) any company that issues an electronic stored value cards for making payments to various merchants and is approved by the FSC pursuant to the Act Governing the Issuance of Electronic Stored Value Cards.

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

Credit card payments remain the most popular payment method in Taiwan; however, the number of retail sellers offering, as well as consumers using, mobile payments is on the increase, and people in Taiwan (especially the younger generations) are getting used to purchasing goods and services not using cash or credit card. Some of the mobile payments use QR code system or other means to incorporate credit card functions into smartphones, while some of the mobile payments are offered based on digital wallet services offered by the electronic payment institutions licensed by the FSC. The Taiwan government authorities also provide various incentives to promote mobile payments. For instance, the Ministry of Finance
provides a tax incentive to small businesses by allowing them to continue paying 1% in business tax (compared to the regular rate of 5%) so long as they offer mobile payment options to consumers.

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 FSC and traditional banks started to embrace “open banking” in 2019. In June 2019, Wellington L. Koo, the chairman of the FSC publicly announced that “open banking” will be implemented in three phases in Taiwan without amending any existing laws and regulations, similar to the Hong Kong model. The FSC will allow banks to work with third-party service providers for sharing the API. In the first phase, banks will share the “public information” of their banking products so that consumers may easily access the product information of different banks without the need to access to the system of each bank. Consumers may check exchange rates of foreign currencies, interest rates of mortgage, terms and conditions of credit cards, etc. offered by different banks and easily compare the products offered by different banks. At the second phase, banks may share customer information with the consent of the customers. At such time, consumers can view and check their account information held by different banks via one platform without the need to access to the system of each different bank. At the third phase, banks will be able to share “transaction information” and consumers can easily conduct inter-bank transaction on one platform, such as “wire transfer” and “bill payment”. The FSC requested the Bankers Association to stipulate the self-regulation guidelines for banks to co-work with the third party service providers. Meanwhile, with the support of the FSC, Financial Information Service Co., Ltd. (“FISC”) led a group of Taiwan banks launched an open API project and a group of 15 banks will soon be launching their opening bank services by allowing customers to check the “public information”...

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

Currently, there are only two ways for banks to share customer information with third-party services providers under Taiwan law. First of all, the processing of customer information by banks is subject to the Banking Act. The Banking Act requires all banks to keep their customer information in confidence, unless otherwise specified by the law or there is any exceptional circumstance as prescribed by the FSC. Moreover, a bank is only allowed to outsource the operations in relation to customer information to a third-party service provider after it obtains the FSC’s prior approval. A bank shall not transfer customer information to any third party, unless the bank engages such third party to process customer information on its behalf and for its benefits (“Commission Model”). Otherwise, the bank would be deemed to have violated the Banking Act.

On the other hand, the current laws and regulations allow a financial holding company and its subsidiaries to share customer information for joint marketing purposes, and the FSC has
designated the FinTech industry as one of the specific industries in which a financial holding company may invest after it obtains the FSC’s approval (“Subsidiary Model”). Nonetheless, the customer information other than names and mailing addresses is only allowed to be disclosed, transferred, or jointly used after written consent from the customers has been obtained (i.e., an “opt-in” consent is required).

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?

The FSC has taken several initiatives to encourage the developments of fintechs.

The Financial Technology Development and Innovation Experiment Act (“Fintech Innovation Act”) was promulgated on January 31, 2018 and took effect on April 30, 2018. The Fintech Innovation Act aims to establish a secured environment for innovations and experiments in financial technology while protecting financial consumers (the so-called sandbox). The regulatory sandbox allows approved applicants to be exempt from certain laws and regulations during a specific period and within certain scope, and henceforth fosters flexibility for innovative experiments. According to the FSC’s public announcement of August 8, 2019, the number of innovative experiments that have passed the review and have been approved by the FSC has reached 6.

The FSC established the first fintech village in Taiwan, “FinTech Space”, jointly with Taiwan Financial Service Roundtable (“TFSR”; the private wing of the FSC), with the aim of fostering developments in the local fintech ecosystem and accelerating innovation. FinTech Space provides programs such as “co-working space”, “entrepreneurship mentoring”, “digital sandbox”, and “global cooperation”. It was reported that 37 teams have been approved to enter into the space, including 6 international start-ups. On December 7 and 8, the forum, “FinTech Taipei 2018”, was held under the instruction of the FSC, in order to demonstrate Taiwan’s potential in the area of fintech developments. Many international speakers were invited to share their insights and experiences and interact with the local players.

To further liberalize the regulations of traditional banking, the FSC granted the license for of the so-called “Internet only” banks to three consortiums, one is led by Chunghwa Telecom, another is led by Line, and the other one is led by Rakuten. The three consortiums are preparing for launching their “Internet-only” banking services currently. Meanwhile, the FSC continues its efforts to encourage the use of e-payment tools in the Taiwan market.

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

The development of the fintech market in Taiwan made progress rapidly in 2019, although the actual consumer application and implementation are not as popular as those in the other economies in Asia. The major obstacle to the development of the fintech market in Taiwan is
still the strict regulations on the financial industry. Another practical obstacle would be the user habit. Consumers in Taiwan have been used to make payment by credit cards and collect the items that they ordered on-line at “convenience stores”.

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

In general, companies and limited partnerships in Taiwan making investments may enjoy the general research and development (R&D) tax benefits, including tax credit of certain income tax liability for expenses incurred for R&D, and deduction of certain taxable income against R&D expenses. In order to encourage fintech investment, the FSC also promulgated internal guidelines with regard to the applications by the financial institutions for the aforementioned tax benefits.

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

The first fintech project entering the sandbox is a collaboration between a commercial bank and the largest mobile carrier in Taiwan, which allows the bank to levy the comprehensive and up-to-date credit record database owned by the mobile carrier and thereby simplify the account opening process. The second sandbox fintech project provides cross boarder wiring services. Other fintech investments in Taiwan also involve (i) internet banking, (ii) providing financial advice through algorithms or even AI or robots, for either discretionary or non-discretionary advice, (iii) blockchain application in various fields, such as cryptocurrency, mobile wallet or alternative payment system, and (iv) peer-to-peer lending platforms.

Many fintech investments in Taiwan are launched by existing financial institution players, such as banks or insurance companies. The development of other fintech investment projects generally reaches the stage of minimum viable products or product market fit after their Series A or Series B financing, and a few fintech companies are considered established players.

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

After the legislation of the Fintech Innovation Act in 2018, the financial regulatory agency in Taiwan, the FSC, generally holds a more open attitude than that before the legislation. Since fintech projects usually involve new and un- or under-regulated practices and constantly trigger compliance concerns of a fintech entrepreneur, the sandbox mechanism in Taiwan can significantly reduce the compliance risk for a fintech entrepreneur, thereby taking the place of an early market player.

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?

To protect domestic employment, Taiwan has developed very restrictive immigration rules. Foreigners are not permitted to work in Taiwan unless their Taiwanese employer obtains a work permit for them. The permit does not belong to the individual, but is issued to the employer for hiring a foreigner for a certain job. As a result, a foreigner with a work permit has very limited ability to change his/her employer. Moreover, in principle, foreign workers are only allowed to be employed to engage in specific types of jobs as prescribed by law, and the maximum period of work permit allowed for foreign white-collar workers is 3 years.

To eliminate hurdles that employers may face in accessing foreign talents, a new law took effect on February 8, 2018. The new law stipulates that a foreign white-collar worker who needs a longer period to seek employment in Taiwan may apply for a six-month visitor visa for multiple entry. In addition, if a foreign professional possesses special expertise that Taiwan needs in the fields of science and technology, economics, education, culture, arts, sports, etc., as announced by the central competent authorities, the maximum period of his/her work permit could be extended to 5 years.

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?**

Pursuant to the new law that took effect on February 8, 2018, the central competent authorities may announce that Taiwan is in need of special expertise in a particular area, and then prescribe the eligibility and required supporting documents for a foreign professional with such special expertise. Foreign professionals with special expertise are entitled to apply for a four-in-one Employment Golden Card, which combines work permit, resident visa, alien resident certificate (ARC), and re-entry permit. The Employment Golden Card allows foreign professionals to freely seek employment and change employer in Taiwan, and grants tax preferences to them. In order to attract financial sector professionals, the FSC has promulgated the requirements for foreign special professionals with financial expertise, including financial professionals in the fields of FinTech, e-Commerce, digital economy, technology management, green energy technologies, etc.

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

Under Taiwan law, the software developed in relation to fintech can be protected by intellectual property rights such as patent, copyright or trade secret. For patent, the subject of a patent right is ‘invention’ and an invention means the creation of technical ideas, and utilizing the laws of nature. An inventor may file an application with Taiwan’s Intellectual Property Office, and the patent right will be obtained once the application is approved. For copyrights and trade secrets, there are no such registration or filing requirements in order to
be protected by law. However, a copyright or trade secret is subject to certain features and qualifications; such as, ‘originality’ and ‘expression’ for copyright, and ‘economic valuable’ and ‘adoption of reasonable protection measures’ for trade secrets.

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

As this is a relatively niche market in Taiwan, there are no specific laws or regulations on cryptocurrencies thus far. According to the FSC’s press releases, cryptocurrencies like Bitcoin are deemed as a type of “virtual commodities” unless they have any features that render them as “securities” as defined under the Taiwan Securities and Exchange Act (“SEA”). The definition of the term “securities” is relatively broad (thereby creating a certain level of ambiguity) under Taiwan law. Specifically, “securities” referred to under Article 6 of the SEA cover government bonds, corporate stocks, corporate bonds, and other securities approved by the competent authority, as well as stock warrant certificates, certificates of entitlement to new shares, and certificates of payment or documents of title representing any of the above securities. Given the above, whether cryptocurrencies should be deemed as securities under the SEA would be decided on a case-by-case basis.

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

Thus far, there is no law or regulation specifically dealing with initial coin or token offerings (“ICO”) or other investment activities involving cryptocurrencies in Taiwan. The FSC expressed the following view on ICO through several press releases. An ICO refers to the issuance of “virtual commodities” and the sale thereof to investors to raise funds. Whether the tokens in an ICO would be deemed “securities” under the SEA would depend on the facts of each individual case. In the event that an ICO involves any offering and issuance of “securities”, it should be subject to the SEA. Meanwhile, the Central Bank of China (Taiwan) formed a taskforce to study the issues regarding whether the Taiwan government shall issue “Central Bank Digital Currency, CBDC” since May 2019.

Wellington L. Koo, the Chairman of the FSC, indicated in press interviews in October 2018 that the FSC was drafting regulations for ICO, and that the draft regulations may be published in 2019. While the regulations on ICO have not been promulgated, the FSC publicly announced the framework for the Taiwan government to regulate “STO” in June 2019 and ordered the Taipei Stock Exchange to further stipulate the relevant rules for launching “STO” in Taiwan. One important STO principle under the framework that the FSC announced is that for a “STO” with a total value of NTD30 million or more, the “STO” must be conducted via a sandbox experiment pursuant to the Fintech Innovation Act. The STO that may be exempted from the relevant filing requirements under the SEA shall be of an issuance size no more than NTD30 million.
16. Are you aware of any live blockchain projects (beyond proof of concept) in your jurisdiction and if so in what areas?

In Taiwan, in addition to the cryptocurrency and fintech sectors, blockchain technologies are currently used in the healthcare and food manufacture sectors in more developed forms beyond proof of concept.

For example, a hospital in Taiwan launched a medical record system ‘phrOS’ using smart contract and blockchain technology in 2017, which allows patients to access and manage his/her own medical records, and authorise access to other medical professionals such as local clinic doctors. Similarly, a medical record management platform ‘HealthPass’ was launched in 2018. HealthPass allows users to upload medical information directly or through third parties. This platform aims to allow more control of medical records and information by patients, thus creating a patient-centred healthcare eco-system.

Blockchain technology is also used by food companies in relation to food traceability in Taiwan. ‘OwlChain’ is a food provenance system launched in 2017. It allows food manufacturers and farmers to disclose food origin information and aims to prevent fraudulence through blockchain technology.

While the private sector continues to develop blockchain projects in 2019, the Taiwan government made the first move to embrace blockchain technology. In April 2019, the Investigation Bureau of the Ministry of Justice of Taiwan publicly announced that it will adopt blockchain technology to set up an electronic system to store the “expert examination” report produced during criminal legal proceedings. It was reported that the project will be officially launched at the end of 2019.

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?

Artificial intelligence (AI) is already being used in financial and investment services, insurance services, etc. in Taiwan. In particular, compared to expensive financial advisors, robo-advisors are expected to replace humans in some roles and offer low-cost alternatives to manage people’s money. On August 10, 2017, the FSC introduced new deregulatory measures to facilitate the development of robo-advisory services by securities investment consulting enterprises for asset management purpose (i.e., automated rebalancing transactions for the client). However, because of the current regulatory restrictions, only clients with at least NT$5,000,000 to invest would qualify for being accepted for the foregoing automated rebalancing transactions and they would also be subject to predetermined target portfolio weights. Generally speaking, it is necessary for Taiwan to loosen up the relevant laws and regulations so as to encourage further use of AI in the financial sector.
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?**

The development of insurtech in Taiwan generally started from the issuance of electronic insurance policy, of which the relevant processes shall meet the requirements and technology standards prescribed under the regulations. It has been further developed to utilize artificial intelligence technologies to facilitate underwriting process (including detecting fraud cases) and to simplify the claim approval process for certain types of simple claims, by designing different models based on historical data. Some insurers also engage financial robot services to assist in telephone customer services. Starting from 2014, the Financial Supervisory Commission started relaxing the restrictions applicable for on-line application of insurance policies by policyholders. For example, the access to on-line application no longer restricts to existing customers if other identification verification mechanism is in place; the restriction that the policyholder and the insured must be the same person has been lifted; the types of product that can be available for on-line purchase have been gradually relaxed through several phases of amendment to the applicable regulations.

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

The major market players in Taiwan have been devoting in the improvement of customer experiences by deploying big data, artificial intelligence and insurance technologies in the fintech industry. Two Taiwan insurance companies were awarded by the Asia Insurance Technology Awards as the 2018 winners of the field of ‘digital and omnichannel technologies’. For example, the industry first introduced in 2018 the ‘video-based due diligence service’ (of which the patent right application has been approved), which has the advantage of simplifying the insurance underwriting process, improving the operational efficiency and reducing waiting time. This innovation was further expanded into ‘video-based claims service’ whereby it becomes feasible for an insurer to acquire ‘proof of survival’ from the policyholder by arranging a video conference session between the policyholder and the insurer’s medical personnel on the agreed payment date using mobile device. As compared with past practice whereby the insurer is required to conduct on-site due diligence, the approval processes have been expedited through the launch of the relevant technologies and services.

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

The fintech development model in Taiwan should be deemed as “collaborative” rather than “disruptive”. The incumbent financial institutions are collaborating with fintech companies to enhance their services. According to a local survey, more than 60% of the incumbent financial institutions are willing to collaborate with fintechs to offer new types of services or to improve their current service skills. Some of the incumbents purchased services or products from fintechs and a few of them made investments in fintechs or even established their own fintech companies. Incumbents, such as banks, are working with universities and
incubators for talent mining as well. Many competitions were held to encourage
colleague/graduate school students to develop innovative business models and technologies.
There has not been any disruptive “force” or “development” in the area of fintech in Taiwan.

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

Taiwan banks and financial institutions have been embracing fintech, either through
technology or business model, and devoting many efforts and resources in adopting new
technologies, although the developments are not as apparent or prominent as in other
jurisdictions, such as China or Singapore. The main reason for this is that banks and the
other financial institutions are subject to strict regulatory scrutiny. In Taiwan, financial
institutions are required to obtain prior approvals for almost all of their business activities,
including adopting new technology or engaging services providers. Another reason may be
that the traditional financial products and services have been well developed in Taiwan and
hence, consumers do not seem to be particularly enthusiastic about using new financial
products or services. Currently, many banks already allow their customers to access their
accounts via the Internet, including offering on-line ATM service. Many financial institutions
also launched “Robo-Advisor” services. In the near future, the three winders of the “Internet-
only” banking licenses will launch their “Internet-only” banking services and re-shape the
local banking market and change the user habit, especially the young generation.

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

There has not been any strong “disruptive” force in the fintech market in Taiwan. Given that
offering of financial services is subject to strict scrutiny by the regulators of the financial
industries as well as our central bank, many fintechs have been struggling in trying to find
ways to sustain their operations. For example, before the FSC allowed e-payment services,
local players had fought really hard against the foreign exchange regulation and the
traditional banking system. Although the new e-payment law was finally promulgated, none of
the new players granted with the required licenses have reached the “critical mass” thus far.
P2P lending and crowd-funding may be two other areas where a few players have made their
presence on the market, but the scale of their operations is still small.