



The Legal 500 Country Comparative Guides

Indonesia: Fintech

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

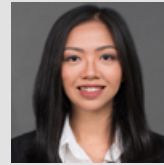
For a full list of jurisdictional Q&As visit [here](#)

Contributing Firm



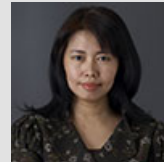
ABNR Counsellors at Law

Authors



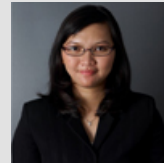
Elsie Hakim
Partner
[The Legal 500](#)

ehakim@abnrlaw.com



Chandrawati Dewi
Partner
[The Legal 500](#)

cdewi@abnrlaw.com



Monic Nisa Devina
Partner
[The Legal 500](#)

mdevina@abnrlaw.com



Dwi Meitiara P. Bakrie
Associate

dbakrie@abnrlaw.com

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

In Indonesia, two main bodies supervise payment systems and the financial sector. Payment systems are supervised by Indonesia's central bank (Bank Indonesia, 'BI'), which plays a role as the country's payment systems regulator and oversees all monetary and financial stability matters. The Financial Services Authority ('OJK') supervises and regulates banking activities, capital markets, and financial services in insurance, pension funds, financial institutions, and other financial services in Indonesia.

BI mandates the regulatory landscape for payments. The relevant payments law depends on the various payment methods available, which include the following:

- card-based payments instruments (credit cards, debit cards): BI Regulation (PBI) No. 11/11/PBI/2009 on the Organization of Card-Based Payment Instruments Activities, as amended by PBI No. 14/2/PBI/2012,
- payments using electronic means, e.g., for electronic money (e-money): PBI No. 20/6/PBI/2018 on E-Money, and PBI No. 18/40/PBI/2016 on Payment Transaction Processing Operations ('PBI 18'). As its name suggests, PBI 18 also specifies other businesses of payment systems services providers, such as e-wallets, payment gateways, and fund transfers, among others. Fund (money) transfers business is mainly governed under a dedicated regulation, i.e., PBI No. 14/23/PBI/2012 on Fund Transfer.

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

Yes, non-bank financial institutions (NBFIs) in the form of legal entities (limited liability companies, 'PTs') may carry out payment services, with conditions varying according to the type (card-based- or e-money-related services, e-wallets, payment gateways, and fund transfer providers). To perform these services, NBFIs need to secure a business license with BI and satisfy certain specific conditions ranging from adherence to the minimum capital requirements and foreign ownership restrictions, where applicable.

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

While the traditional payment method, i.e., cash, is still the prime choice, transactions using debit and credit cards, bank transfers and, especially e-money and e-wallets as payment instruments, have skyrocketed with the government encouraging cashless means of payment, particularly amid the Covid-19 public health emergency.

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?

Open banking in Indonesia has yet to be implemented, although the notion is included in BI's

new strategic framework, the 2025 Indonesia Payment Systems Blueprint ('BI Blueprint'), which was issued last year. The BI Blueprint specifies five initiatives for the next five years to create a more effective and streamlined system for payments, which comprise: (i) open banking, (ii) retail payment systems (and a Quick Response Code Indonesia Standard (QRIS) code system), (iii) market infrastructure, (iv) data and (v) regulatory licensing and supervision. These initiatives are to be implemented by five different working units under BI.

Specifically for open banking, BI is to prioritize standardization and implementation of the open Application Programming Interface (API) to enable the interlinking of banks and fintech players in tackling risks from shadow banking. Furthermore, in implementing open banking, customer data will be the main concern, and BI aims to address customer data protection (including customer consent and dispute resolution), risk management, and technical aspects. As of the time of writing, BI is still collecting input from market players in developing system-wide open banking and formulating the relevant regulations.

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

At present, there are no regulations on data privacy that apply to all sectors, although specifically for electronic systems, data protection is governed under the Electronic Information and Transactions (EIT) Law (Law No. 11 of 2008, as amended by Law No. 19 of 2016), and Ministry of Communications and Information Technology (MCIT) Regulation No. 20 of 2016 on Personal Data Protection in Electronic Systems, which are considered umbrella regulations for personal data. Under the EIT Law and its implementing regulation, the acquisition, collection, processing, analysis, storage, display, disclosure, transmission, dissemination, and deletion of personal data in electronic systems must be based on written and/or electronic consent from the personal data owner.

Data collection, use, and disclosure within the financial services sector mirrors in practice the EIT regime. Under the Banking Law (Law No. 7 of 1992, as amended by Law No. 10 of 1998), banks are prohibited from disclosing information on their customers to third parties, except in specific circumstances as mandated by law, i.e., for taxation purposes, debt settlements, criminal proceeding purposes, civil lawsuits between banks and customers, interbank information exchange, and inheritance. The above is further refined in OJK Regulation No. 1/POJK.07/2013 on Consumer Protection in the Financial Services Sector as amended several times, last by OJK Regulation No. 31/POJK.07/2020 on the Organization of Consumer and Public Services by OJK within the Financial Services Sector ('OJK Reg. 1').

OJK Reg. 1 provides that financial institutions (banks, business players in capital markets, insurance, pension funds, finance companies, and other financial institutions) are prohibited from providing third parties with data and/or information on their own customers except where (i) customers provide written consent to it; and/or (ii) the provision of the data and/or information is required by law.

In addition to the above, as part of its risk management, pursuant to OJK Regulation No. 1/POJK.05/2015 on Implementation of Risk Management for Non-Bank Financial Services Institutions and OJK Circular Letter No. 10/SEOJK.05/2016 on Guidance on the Implementation of Risk Management and Self-Assessment Reporting on the Implementation of Risk Management for NBFIs, the latter must manage risk, including to apply the principle of controlling and security on its assets, business and customers data.

Further, to provide better protection to consumers and the public in general, OJK recently introduced several services that may be utilized by financial services customers (or their representatives) and the public, comprising the following: (i) Information retrieval and submission services; (ii) Dispute-based complaints services; (iii) Violation-based complaints services; and (iv) an integrated consumer service system. The new integrated consumer service system is initiated to provide a platform where consumers or the public may file financial services related to OJK. Under these new services, among others, OJK provides facilitation dispute resolution where customers may file complaints with OJK, and OJK may facilitate the settling of the dispute, provided that such complaints meet certain criteria.

Specific for payment systems, under PBI No. 16/1/PBI/2014 on Consumer Protection in Payment System Services, payment systems services providers (players in card-based payments, e-money, fund transfer, and other payment systems-related services providers) must keep the confidentiality of consumer data or information by establishing policies on the protection of customer data or information. Moreover, payment systems services providers are prohibited from disclosing customer data or information to other parties, except if they have obtained prior written approval from the consumer or disclosure is required by the prevailing laws and regulations.

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, to support the country's fintech ecosystem, BI and OJK create regulatory sandboxes to serve as a testing mechanism to assess the reliability of fintech business models, financial instruments, and governance. In Indonesia, fintech is separated by two regimes: (i) under BI, for fintech-related payment systems, and (ii) under OJK, for fintech-related lending and all other aspects of fintech (digital financial innovation).

OJK also launched an innovation hub through its OJK Infinity (Innovation Centre for Digital Financial Technology), aiming to encourage more innovation within the financial sector while facilitating engagement with the regulator. Through its platform, the Electronic Gateway for Digital Finance Information Systems (Gesit), OJK facilitates fintech industry stakeholders to make a reservation for a consultation with OJK Infinity and to access the recent developments of fintech in Indonesia.

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

The regulatory framework would remain a challenge to fintech players; with a rapidly expanding fintech sector and a complex market, the regulations, and policies often have not caught up with growing fintech trends and the technological changes. Only in recent years has the fintech sector been regulated. Hence, BI and OJK have taken a more industrial and collaborative approach, and fintech players are encouraged to be more proactive in building relations with the regulators to help develop the country's digital economy and finance ecosystem.

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

At the time of writing, there were no specific tax incentives for fintech players.

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

Overall, the recent trend would be the 'new economy' that comprises tech, consumer services, and healthcare; agrotech also has been showing a rising trend. Based on our observation, fintech lending still attracted the most funding, with recent deals including Akseleran, which closed US\$8.55M in Serie A funding, and AwanTunai raised US\$20M (via a debt facility). Other fields worth mentioning would be payments, with e-money leading the sector.

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

Indonesia remains an untapped market opportunity to investors; there is room to grow, with regulators still pushing regulatory sandboxes in an effort to achieve a balance between innovation and regulation. Going forward, we can expect the convergence of fintech developments, and it will continue to revolutionize the provision of banking and financial services in the country.

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?

There is no quota in the fintech sector for foreign individuals working in Indonesia. The general rule is that foreign individuals are welcome to work in Indonesia in fintech areas.

The employment of expatriates for work in Indonesia falls under the category of employment for a fixed term. The rationale behind this is that a foreign workers must obtain a valid permit to work in Indonesia and the permit is only issued with maximum validity of 12 months, extendable. Foreign investment fintech companies are allowed to employ expatriates, subject to the prevailing laws and regulations on recruitment of foreign workers. An employer must hire at least 1 Indonesian employee for every expatriate employed, to act as the expatriate's counterpart. Furthermore, the employer must obtain an expatriate manpower utilisation plan as the master document to obtain an individual work permit (in the form of a notification) for every expatriate employed. The expatriate must then obtain a limited-stay visa and permit to stay in Indonesia lawfully. Expatriate workers are entitled to the same protection under the relevant Indonesian labour laws and regulations as Indonesian employees.

With the Covid-19 situation, it is worth mentioning that the Directorate General of Immigration ('DGI') is currently not accepting new visit visa applications (including new work permit applications), unless the applicant can show a recommendation from the Indonesian Coordinating Investment Board ('BKPM'). The recommendation may be used as a basis to: (a) process a visit visa application (for foreign visitors) or (b) work and stay permits (for foreign employees/directors). Note that, as of the time of writing, DGI's system is still unable to process Visit Visas applications that benefit from a BKPM recommendation (a new policy tailored to the Covid-19 pandemic).

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?

Please refer to number 11.

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

While Indonesian IP laws do not have specific provisions for fintech, IP rights may be protected by way of various methods, i.e., patents, trademarks, trade secrecy, industrial design and copyright (software protection). The registration of patents, marks, industrial design and the recordation of copyright is applied for at the Directorate General of Intellectual Property ('DGIP') of the Ministry of Law and Human Rights.

Patents

Patent protection in Indonesia is regulated by Law No. 13 of 2016 on Patents, for which Fintech players may opt for patent protection, in which a patent is an exclusive right granted to an inventor for its invention in the field of technology for a certain period to implement the invention itself or provide approval to other parties to implement it. Here, the term 'invention' should refer to the inventor's idea that is poured into a specific problem-solving activity in technology in the form of a product or process, or improvement and development

of a product or process. Patent, however, will be granted solely to inventions that are notably (i) new, (ii) contain inventive steps; and (iii) can be applied to industry.

Inventions do not include (a) aesthetic creations; (b) schemes; (c) rules and methods for carrying out activities that involve mental activity, games and business; (d) rules and methods that contain only computer programs; (e) presentation of information; and (f) discovery in the form of new uses for existing or known products; or a new form of an existing compound that does not result in a significant increase in efficacy and there is a known difference in the related chemical structure of the compound.

Marks

Mark protection is governed under Law No. 20 of 2016 on Mark and Geographical Indication. For the purpose of obtaining an exclusive right to a Mark, a Fintech company may register its Marks with the DGIP. According to the Mark Law, a Mark is a sign that can be presented graphically in the form of picture, logo, name, word, letter, number, colour composition, in two-dimensional form, sound, holograms, or a combination of two or more of such elements to distinguish the goods or services produced by a person or legal entity in the trading of goods or services.

The exclusive right of a Mark is obtained upon the registration of the Mark applied for. However, the Mark is protected upon the submission of a Mark application. That is to say that any subsequent similar Mark application submitted by another party will be rejected by the DGIP since the Mark registration adopts a first-to-file approach.

Upon obtaining the exclusive right to a Mark from the government of Indonesia for a period of time, a Mark owner will be entitled (i) to use their own Mark; (ii) to give consent to another party to use the Mark; and (iii) to forbid other parties from using the Mark.

Trade Secrets

A Trade Secret according to Law No. 30 of 2000 on Trade Secrets is information that is not known to the public in the technology and/or business sector, that has economic value because it is useful in business activities, and is kept confidential by the owner of the Trade Secret. Protection of Trade Secret covers production, processing, or selling methods, or other information in the field of technology and/or business.

A Trade Secret is the only IP regime that is offered unlimited time protection for as long as the secrecy is maintained. There is no requirement for registration or recordation to obtain a Trade Secret right. If a trade secret is revealed to the public, the Trade Secret right disappears.

In Fintech practice, many valued aspects are protected by owners since these can bring profit to the company such as business methods, ideas, lists of clients with their details, etc. Prior to giving secret information to a prospective client, contractor, or investor, a Fintech company can ask them to enter into Non-Disclosure Agreement. For employees, a Fintech company should add confidentiality and intellectual property clauses in the employee agreement.

Industrial Design

Since the appearance of goods greatly influences the sale value of a product as well as their serviceability, it is also good to know that any equipment used in the practice of Fintech can add value to the company. Some examples used that can be protected as Industrial Property are designs on electronic cards, computer or machine interfaces. Industrial Designs may also contribute to the distinctiveness of a brand.

Industrial Design in Indonesia is regulated by the Law No. 31 of 2000 on Industrial Design. Under this Law, Industrial design is a creation for the shape, configuration or composition of lines or colours, or a combination of lines or colours in three- or two-dimensional forms, which create an aesthetic impression, can be realized in three- or two-dimensional patterns and can be used when manufacturing a product, goods, an industrial commodity, or handicraft items.

Copyright

For copyright recordation, software, as IP, is protected under Law no. 28 of 2014 on Copyright. Software is a set of instructions expressed as language, code, schema, or any form intended for a computer to perform certain functions or achieve particular results. A fintech creator may opt for copyright recordation to gain exclusive rights over its creation such as mobile banking applications, application programming interface structures etc. While copyright recordation is not mandatory to obtain a copyright, it is recommended as recordation serves as a means to facilitate verification in any dispute between the creator and any party who challenges its provenance. Copyright for a computer program is valid for 50 years from its announcement. An announcement is made in writing or through a broadcast or exhibition via any device, electronic or non-electronic, or in such a way that the creation can be read, heard or seen by others.

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

In Indonesia, cryptocurrencies are classified as commodities. The government allows the trading of crypto asset commodities; therefore, it is subject to oversight under the authority of BAPPEBTI (a government agency under the Ministry of Trade that regulates futures trading). BAPPEBTI has issued several regulations that concern the futures trading of crypto

assets. Crypto-assets cover cryptocurrencies, securities tokens, and various other virtual commodities. The key players involved in the physical crypto-asset futures market are Bappebti, Crypto-asset Exchanges, Crypto-asset Clearing Agencies, Crypto-asset Merchants, and Crypto Asset Depository Agencies.

BI strictly prohibits the use of virtual currencies (including cryptocurrencies) by all payment system operators in Indonesia. Cryptocurrencies are not recognized as a legitimate payment instrument in Indonesia.

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

Initial coin offerings in Indonesia remain unregulated under Indonesian laws and we do not foresee it will change anytime soon, especially if BI continues to maintain its stance to prohibit the use of virtual currencies as legitimate means of payment in Indonesia.

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

In February 2020, Indonesia's Customs and Excise Department (within the Ministry of Finance), announced that Indonesia aimed to leverage blockchain technology in the logistics sector, via a blockchain-based global trade platform, 'TradeLens' (developed by Maersk and powered by IBM's Cloud and Blockchain). The platform provides container tracking and information sharing among platform members (importers, exporters, logistics operators) and the government authorities. By using this platform, the government intends to minimize shipping costs and reduce disorganized traditional paper-based practices in the logistics industry to enable a seamless and efficient supply chain in the long run.

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?

Indonesian banks are reported to have been experimenting with artificial intelligence (AI); nonetheless, they are still in the early phases of its implementation. Banks are looking to set up AI technologies and complex data analytics to facilitate paperless and signatureless transactions for their customers. AI is also used in fintech solutions such as robo-advisory services, AI-driven credit scoring, and regtech.

From a regulatory perspective, the use of AI is encouraged in the adoption of biometric data (fingerprints, iris scans and passport photos), which are classified as a part of personal data collected during a resident's registration process, and stipulated in Regulation of the Minister of Domestic Affairs No. 95 of 2019 on Information Systems for Residential Administration. Although at present, laws and regulations that recognize and embrace the use of AI are quite small, Indonesian laws, in general, adopt a technology-neutral approach and business players

may reap the benefits of deploying and developing AI in the Indonesian market. In fact, we view that AI implementation in Indonesia, in the long run, would not only offer new fintech solutions, but, potentially, resolutions for automation of consumer protection, market supervision, and prudential regulation.

In the financial sector alone, we have seen small steps towards AI integration, with OJK recognizing biometric technology for identification of consumer data as a means of electronic know your customer (e-KYC). While we have yet to see any specific guidelines on the use of AI in the financial sector, OJK recently published a digital finance innovation 'road map' and action plan for 2020 and 2024. OJK is planning to issue regulations that support the use of AI and machine-learning algorithms to ensure the safe development of the system and manage the risks that arise from the use of AI, such as personal data handling.

The government further has issued a national strategic framework to guide the nation in developing AI across the board between 2020 and 2045. With the national AI strategy, Indonesia is set to focus its AI projects in various sectors, including education and research, healthcare, e-commerce, smart cities plans, and public services. The new national strategy demonstrates the government's agenda to embrace AI technology and reform the country as an innovation-based country.

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?

To date, insurtech is regarded as a fintech cluster and is classified as a Digital Financial Innovation (DFI) under the supervision of OJK. Based on our observation, at the time of writing, only 2 insurtech businesses were recorded with OJK. Despite this, however, we have seen some players that have been operating but not recorded with OJK: note that for DFIs, recordation or registration with OJK is voluntary and is not licensing per se. One of these players includes PasarPolis, which recently raised Series B investment amounting to US\$54 million from various investors, including Xiaomi.

In terms of regulation, insurtech is yet to benefit from a comprehensive regulatory regime, and likewise, the market is yet to bloom. The regulators are still encouraging the use of digital channels in the insurance sector. Insurtech businesses operate as limited liability companies (PTs).

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

Digital payments (e-money and payment gateways in particular) and peer-to-peer (p2p) lending have emerged as the two most significantly growing sectors and dominate the fintech ecosystem in Indonesia, whereas fintech market aggregators also have become a popular trend in fintech clusters recently.

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

While fintech continues to grow in the Indonesian market, incumbent financial institutions (conventional banks, in particular) are developing digital financial technology to catch up with fintech players and aim to improve efficiency and better customer experience. These range from digital channel products (internet banking, mobile banking, e-money, and e-wallets), AI chatbots and digital assistants, and big data analytics for fraud detection.

The rise of digital banking in response to the growing customer demand in the country is also partially due to the regulatory framework that actually promotes this transformation, in this case, OJK Regulation No. 12/POJK.03/2018 on the Organization of Digital Banking Services by Commercial Banks ('OJK Reg 12').

OJK Reg 12 accommodates the needs of integrated various IT-based banking services. OJK Reg 12 sets out various provisions that address the implementation of electronic banking services and digital banking services by commercial banks, in which banks that intend to issue either electronic or digital products must secure approval from OJK. The regulation further highlights the importance of product innovation, cooperation with partners, customer protection, and risk management for banks running its IT-based banking services. OJK Reg 12 also plays its part in stimulating the rise of recent trends in digital banks in Indonesia, which should not be confused with the concept of 'virtual banks' in many jurisdictions. (We discuss this further as item 22 below.)

The market further shifted to a more collaborative approach between banks and fintechs. There are numerous instances of banks opening up their APIs that allow their systems to be integrated with fintechs and facilitate financial transactions. Likewise, other financial institutions, in this case, multi-finance companies, also are encouraged - even prescribed by regulation (OJK Regulation No. 35/POJK.05/2018 on the Implementation of Multi-Finance Business) - to cooperate with registered or licensed fintech lending companies for channelling or joint-financing services.

On the other hand, p2p lending players in Indonesia, as required by OJK Regulation No. 77/POJK.01/2016 on Information Technology (IT)-Based Money Lending Services, must activate an escrow or virtual account at Indonesian banks to support their business. The escrow account is used by the borrower to pay off the loan, which will be linked to the virtual account of the specific lender.

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

Incumbent financial institutions in Indonesia actively operate their own fintech development or in-house team. For example, PT Bank BTPN Tbk, which is among the pioneers in digital banking, introduced its platform under the brandname Jenius, an application that allows

customers to experience all banking services (such as account opening, card activation, paying bills, etc.). Another notable bank innovation programme is by PT Bank Sahabat Sampoerna, which established an internet-based loan facility (www.PDaja.com) that offers functions similar to p2p lending platforms.

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

There are many examples of fintech disruption in Indonesia, but the most potent example is the rise in digital payments and p2p lending, especially for digital payments, where the incumbent players also took part in transforming the country from traditional payment systems towards a less-cash and more-digital economy. The online lending market (currently, solely p2p lending) has also risen as the new financing alternative for retail customers over the incumbent financial services and is challenging traditional funding models, in particular, impacting the micro-lending sector.

The digital bank boom in recent years in the country also demonstrates that disruptive technologies have emerged as an opportunity for incumbent banks. As of now, 'digital banks' in Indonesia are operated by conventional banks, rather than by 'virtual banks' as have emerged in other jurisdictions where the operation is 100% online without any physical branch offices. The rise of digital banks in Indonesia shows that the incumbent banks support digital adaption of the current business model. Although the number of digital-banking is small today, it is expected that it will likely grow in the near future.

Further, it is also interesting to see whether the market may move to a newer, fully digital-banking model, like the digital or virtual banks adopted in other jurisdictions. At the time of writing, however, a regulatory framework has still to emerge, and the market remains untouched.