

KINSTELLAR

Navigating the
Regulatory Landscape:
An Overview of
Banking as a Service

This publication is a guide to the banking as a service (“BaaS”) regulations in Kinstellar’s jurisdictions, offering insights into compliance essentials, emerging trends, and how to thrive in this dynamic environment.



KAZAKHSTAN

OVERVIEW OF KEY AREAS 

Definitions

API	Application Programming Interface
EBA	European Banking Authority
EIOPA	European Insurance and Occupational Pensions Authority
EMD	Directive 2009/110/EC on the taking up, pursuit and prudential supervision of the business of electronic money institutions
FoE	Freedom of Establishment
FoS	Freedom of Service
MiFID2	Directive 2014/65/EU on markets in financial instruments
PSD2	Directive (EU) 2015/2366 on payment services in the internal market

01. What is status of the BaaS market?

The BaaS market in Kazakhstan is still in its early stages, lacking specific regulatory frameworks. As a result, regulatory oversight of BaaS services is relatively inexperienced.

02. Who is the relevant regulator of banking/financial services?

The National Bank of the Republic of Kazakhstan (“NBRK”) ensures monetary policy and the functioning of payment systems and carries out currency regulation and currency control, statistical activities, as well as state regulation, control and supervision of the financial market and financial organisations.

The link of the official webpage: <https://nationalbank.kz/en>

The Agency of the Republic of Kazakhstan for Regulation and Development of Financial Market (the “Agency”) exercises guidance, control and supervision of the financial market and financial organisations, as well as other structures within its competence, ensuring protection of consumers of financial services.

The link of the official webpage: <https://www.gov.kz/memleket/entities/ardfm?lang=en>

The official webpage: <https://www.mnb.hu/>

03. What are the main pieces of legislation in relation to banking/financial services?

The primary legislative framework governing financial services in Kazakhstan includes key laws such as the:

- Civil Code of the Republic of Kazakhstan;
- Law of the Republic of Kazakhstan dated 31 August 1995, No. 2444 “On Banks and Banking Activities in the Republic of Kazakhstan”;
- Law of the Republic of Kazakhstan dated 30 March 1995, No. 2155 “On the National Bank of the Republic of Kazakhstan”;
- Law of the Republic of Kazakhstan dated 4 July 2003, No. 474-II “On State Regulation, Control, and Supervision of the Financial Market and Financial Organisations”;
- Law of the Republic of Kazakhstan dated 26 July 2016, No. 11-VI “On payments and payment systems”.

It should be noted that this list is not comprehensive, as there are numerous other normative acts that play a role in regulating financial services in the country.

04. What is the time length for obtaining a banking/financial services license?

The time length of obtaining:

- **permission to establish a bank:** 65 business days;
- **a license for certain types of banking operations:** 30 business days. In addition, direct and indirect shareholders of a bank who hold 10% or more of shares in bank must also obtain a consent of the Agency. It takes 50 business days for the Agency to grant its consent.

Overall, it may take around one year to establish a bank in Kazakhstan in practice.

05. Are there any specific BaaS regulations?

In the regulatory landscape of Kazakhstan, currently there is no separate or customised legislation designed explicitly to govern the operations of BaaS.

06. Are there any specific guidelines on BaaS published by the regulator?

There are currently no specific guidelines on BaaS published by the NBRK or the Agency.

07. Are financial institutions allowed to use financial agents?

Banks are allowed to use agents.

08. Are there any restrictions on the use of the agents by a foreign passported financial institution?

Banking services in Kazakhstan can be rendered in Kazakhstan only by local financial institutions licenced by the Agency. Foreign financial institutions can provide banking services in Kazakhstan either through establishing a subsidiary or a branch, which must be licenced by the Agency.

09. Are there any regulations on outsourcing?

Regulations concerning outsourcing are stipulated within the Payment Law. In accordance with the Payment Law, outsourcing is the transfer by a payment service provider to third parties on the basis of a contract for the provision of payment services for the performance of information technology functions necessary to ensure the provision of payment services by a payment service provider (outsourcing agreement). The procedural framework guiding the outsourcing process is established within the internal regulations of the payment service provider and is aligned with the terms stipulated in the outsourcing agreement.

10. Are there any sandboxes/hubs organised by the regulator?

The government of Kazakhstan engages in several regulatory practices to uphold financial sector stability and foster innovation:

To promote regulatory flexibility and enhance financial service accessibility, a regulatory sandbox has been instituted. This initiative is outlined in the Decree of the President of the Republic of Kazakhstan dated 26 September 2022 No. 1021, approving the Concept for the Development of the Financial Sector of the Republic of Kazakhstan until 2030.

There is also a special regulatory regime that the Agency may grant to a particular financial institution, which may be similar to a sandbox.

Separately, there is the Astana International Financial Centre (“AIFC”)—a financial institution and a hub for finance in the region. The AIFC has separate legislation drafted in accordance with the highest international standards, a robust financial infrastructure, and an autonomous common law court system based on the norms and principles of English law.

AIFC Fintech is the first regulator in the region to introduce an international fintech regulatory sandbox, FinTech Lab—a tailored live environment where firms can offer innovative financial and RegTech services without being immediately subject to the full set of regulatory requirements.

FinTech Lab allows:

- firms licenced in foreign jurisdictions to test the regional markets with minimum resources and presence in the AIFC;
- start-up firms to provide activities regulated in the AIFC by gradually complying with regulatory requirements;
- both incumbent and start-up firms to test new products and technologies in a live environment with real clients.

11. Are there any other specifics that should be considered when providing BaaS?

In light of the insufficient development and regulatory framework, it is advisable for interested parties to seek counsel from legal advisors, the Agency and the NBRK before embarking on BaaS implementation.



If you're looking to delve deeper into how current national and EU regulations could affect your fintech business, our team at Kinstellar is here to help. With a unique blend of legal acumen and a keen eye for commercial opportunities, we're ready to assist you every step of the way!

KEY CONTACTS



Yerlan Akhmetov
Counsel

+7 727 355 0530
yerlan.akhmetov@kinstellar.com



Pavel Kornilov
Counsel

+7 727 355 0568,
pavel.kornilov@kinstellar.com