

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.



ROMANIA

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?

To our knowledge, to date there is no financial institution in Romania with a license issued by the National Bank of Romania (the “NBR”) providing BaaS. Accordingly, the Romanian BaaS environment is not much developed and thus the regulator does not have extensive experience with such services.

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

The supervisory authority for the banking market and for certain other financial services (notably payment services and e-money) in Romania is the NBR.

The official webpage: <https://www.bnro.ro/Home.aspx>

The supervisory authority for certain other regulated financial services (notably - markets in financial instruments, insurance) in Romania is the Financial Supervisory Authority (the “FSA”).

The official webpage: <https://www.asfromania.ro/en/>

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

The specific piece of legislation in relation to banking services in Romania is the **Banking Law**¹.

Other notable pieces of legislation in relation to specific financial services in Romania are the:

- Non-Bank Financial Institutions Law²
- MiFID Law³
- Payment Services Law⁴
- E-money Law⁵
- Insurance Law⁶

Further to the above, there are various secondary legislation issued by the NBR and the FSA.

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

The time lengths for obtaining financial services license are as follows:

- **Banking License:** within four months
- **Payment Services License:** within three months
- **E-Money Services License:** within three months
- **Investment Services License:** within six months
- **Insurance License:** from 90 up to 120 days

05. Are there any specific BaaS regulations?

There are no specific BaaS regulations in Romania. Accordingly, Romanian law does not recognise/define BaaS as such.

1. Government Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy.
2. Law no.93/2009 regarding on non-bank financial institutions.
3. Law no. 126/2018 regarding financial instruments markets.
4. Law no. 209/2019 regarding payment services.
5. Law no. 210/2019 regarding the activity of issuing electronic money.
6. Law no 237/2015 regarding authorisation and supervision of insurance and reinsurance activities.

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

There are no specific guidelines on BaaS published by the NBR or the FSA. The provision of these services is subject to the relevant Romanian laws and regulations, depending on the banking / financial service provided through BaaS and the relevant guidelines and secondary legislation of the regulators.

07. Are financial institutions allowed to use financial agents?

The possibility to use agents/representatives depends on the relevant and applicable Romanian laws.

For example: payment institutions may use - payment agents, electronic money institutions - distributors, investment firms - tied agents.

All of the cited representatives have rights and obligations that are generally in line with the applicable EU law (PSD2, EMD, MIFID2, etc.).

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

In general, payment institutions, electronic money institutions and investment firms that are duly passported with the relevant Romanian regulator may use agents / representatives for the provision of their services in Romania, subject to certain registrations with the regulator. Furthermore, under Romanian MiFID law, any credit institution / investment firm authorised in another EU country may freely carry out investment activities, as well as ancillary services, on the territory of Romania acting through an agent, provided that these services and activities are included in its authorisation. Generally, the NBR and FSA, do not impose additional obligations on credit institutions / investment firms providing investment services in Romania under a passport.

09. Are there any regulations on outsourcing?

The provision of BaaS may be subject to outsourcing requirements, depending on the scope of services provided and the actual arrangements between a financial institution and a non-licensed entity.

Outsourcing (In Romanian, *externalizare*) is explicitly regulated under the Banking Law, Payment Services Law and the E-money Law, including under various secondary legislation issued by the NBR, all of them being generally in accordance with the EBA Guidelines on Outsourcing Arrangements⁷.

In general, outsourcing requires notification to the regulator, adequate risk management and allowing direct supervision over the externalised business.

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

Although the fintech sector in Romania is still rather undeveloped, we note the setting-up by the NBR and the FSA of the following:

- **ASF FinTech Hub**, which has created the institutional framework for dialogue with companies developing fintech, thus supporting the development of modern technologies in the financial market while maintaining the confidence and level of protection appropriate to customers. Further information may be found at: <https://asfromania.ro/en/a/852/despre-fintech-hub>.
- **FinTech Innovation Hub**, which has been established for the purpose of engaging in a dialogue with active start-ups and firms directly involved in developing innovative solutions in the area of payment and financial services. Further information may be found at: <https://www.bnr.ro/FinTech-Innovation-Hub-20332.aspx>

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

Due to the lack of development and a comprehensive regulatory environment, interested parties should seek specific advice from legal advisors and eventually the NBR and/or the FSA before proceeding with BaaS implementation.

⁷ EBA/GL/2019/02 from 25 February 2019.



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!

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