

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.



SERBIA

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?

There is no institution in Serbia licensed for the provision of BaaS. Accordingly, the Serbian BaaS environment is undeveloped, and the regulator does not have experience with such services.

The legal framework for implementing BaaS in Serbia centres around the Law on Payment Services. This legislation categorises specific services as payment services, restricting their provision to licensed entities. The law also outlines exemptions for services that do not require a license. Ultimately, the feasibility of locally rolling out a BaaS product will depend on whether or not the cluster of services amounts to a licensable service/activity within the relevant law.

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

The National Bank of Serbia (“NBS”) supervises all banking, finance, and fintech services. The official webpage: https://nbs.rs/sr_RS/index/

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

- Law on Payment Services (“Official Gazette of the Republic of Serbia” Nos. 139/2014 and 44/2018);
- Law on Banks (“Official Gazette of the Republic of Serbia” Nos. 107/2005, 91/2010 and 14/201);
- Law on Insurance (“Official Gazette of the Republic of Serbia” Nos. 139/2014 and 44/2021);
- Law on Leasing (“Official Gazette of the Republic of Serbia” Nos. 55/2003, 61/2005, 31/2011 and 99/2011);
- Law on Factoring (“Official Gazette of the Republic of Serbia” Nos. 62/2013 and 30/2018);
- Law on Capital Market (“Official Gazette of the Republic of Serbia” No. 129/2021);
- Law on the Protection of Consumers of Financial Services (“Official Gazette of the Republic of Serbia” Nos. 36/2011 and 139/2014);

Further to the above, the NBS is the issuer of various secondary legislation.

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

The timeline to obtain a banking/financial services license varies depending on the application complexity and the regulatory approach.

- **Banking License:** minimum ten months
- **Payment Services License:** within three months
- **E-Money Services License:** within three months
- **Insurance License:** within sixty days
- **Leasing Licence:** within ninety days

05. Are there any specific BaaS regulations?

No.

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

No.

07. Are financial institutions allowed to use financial agents?

When regulating financial institutions, Serbian laws refer to entities that the NBS licenses and supervises, including banks, insurance companies, payment service institutions, electronic money institutions, and leasing companies. Under the Law on Payment Services, payment and e-money institutions may conduct business activities through designated representatives, subject to registration with the NBS's Registry of Payment Institutions.

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

Under Serbian legislation, passport implementation is currently limited and awaits full effectiveness following Serbia's accession to the European Union.

09. Are there any regulations on outsourcing?

Outsourcing (in Serbian: *poveravanje operativnih poslova drugom licu*) is subject to explicit regulations governing NBS-licensed institutions, which define outsourcing as the delegation of operational activities of licensed institutions to third-party entities, contingent upon the mandatory approval of the NBS. The determination of specific operational activities suitable for outsourcing varies among NBS-licensed institutions. However, a fundamental principle remains: the institution is responsible for operational activities delegated to third parties.

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

We are not aware of any BaaS-dedicated sandboxes/hubs organised by the regulator.

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

Given the comprehensive regulatory environment in the Serbian financial market, the typical approach involves seeking the opinion of the regulatory body before proceeding with BaaS implementation. While the NBS is not explicitly mandated by law and its opinion is not binding, this approach serves as a proactive step to gain assurance that the proposed financial product or service will align with regulatory expectations.

The regulatory consultation offers a level of assurance to stakeholders that the regulatory framework and the proposed BaaS product or service will align.



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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