

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.



UKRAINE

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?

While several brands provide banking services in Ukraine under their own independent banners, functioning within the framework of licensed Ukrainian banks, the BaaS sector in Ukraine remains relatively underdeveloped.

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

The supervisory authority for the financial market in Ukraine is the National Bank of Ukraine (the "**NBU**").

The official webpage: <https://bank.gov.ua/en/>

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

The primary legislations governing financial services in Ukraine include:

- The Law of Ukraine "On Banks and Banking Activity" No. 2121-III dated 7 December 2000, which defines the structure of the banking system and the legal framework for the establishment, operation, reorganisation, and liquidation of banks.
- The Law of Ukraine "On Payment Services" No. 1591-IX dated 22 July 2022, regulating the execution of payment operations in Ukraine, specifying the exclusive list of payment services, their provision procedures, establishing general principles for the functioning of payment systems, overseeing the activities of payment service providers, providers of limited payment services, overseeing payment infrastructure, and related matters.
- The Law of Ukraine "On Financial Services and Financial Companies" No. 1953-IX dated 11 February 2022, establishing general principles for the functioning of the financial services market, defining the legal status of financial companies, and outlining the regulator's authority regarding state regulation and supervision of such institutions.
- The Law of Ukraine "On Capital Markets and Organised Commodity Markets" No. 3480-IV dated 23 February 2006, regulating relationships arising during the issuance, circulation, redemption of securities, execution of derivative contracts, and professional activities on capital markets and organised commodity markets.
- The Law of Ukraine "On Insurance" No. 1909-IX dated 18 November 2021, regulating relations in the insurance sector, establishing general legal principles for conducting insurance activities and intermediary services.

Additionally, the National Bank of Ukraine (NBU) issues various secondary legislation to complement the above laws.

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

The timeframes provided below represent the administrative processing times within the NBU's proceedings. However, the NBU may inform the applicant to address any deficiencies in the application and relevant documents, and the administrative processing time shall commence upon the full remediation of such deficiencies.

The estimated durations for obtaining various financial services licenses are as follows:

- **Banking License:** at least three months;
- **Payment Services License:** at least 60 business days;
- **E-Money Services License:** at least 60 business days;
- **Investment Services License:** at least three-six months.

05. Are there any specific BaaS regulations?

There are no specific BaaS regulations in Ukraine.

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

The NBU has not issued specific guidelines regarding BaaS. The provision of such services is governed by applicable Ukrainian laws corresponding to the specific banking or financial service offered through BaaS as well as by the relevant supplementary regulations established by the NBU.

07. Are financial institutions allowed to use financial agents?

Yes, but the opportunities for engaging intermediaries/agents in the provision of financial and payment services are somewhat limited.

Specifically, the issue of engaging commercial agents is more comprehensively regulated in the provision of payment services. According to the Law of Ukraine "On Payment Services," a bank, payment institution, or electronic money institution has the right to engage commercial agents to provide clients with specific financial payment services.

An agent may simultaneously act as a commercial agent for several payment service providers.

Banks, payment institutions, and electronic money institutions intending to provide financial payment services through commercial agents must notify the NBU. A commercial agent has the right to provide financial payment services on behalf of a bank, payment institution, or electronic money institution only after the details of such an agent have been entered into the Payment Infrastructure Register.

The National Bank of Ukraine has the right to establish restrictions on the list of financial payment services that may be provided by a bank, payment institution, or electronic money institution through commercial agents, as well as the specifics of providing such financial payment services by commercial agents. To date, the National Bank of Ukraine has allowed the engagement of commercial agents in the provision of the following financial payment services:

- Banks and payment institutions are authorised to engage commercial agents exclusively for cash acceptance;
- Electronic money issuers are authorised to engage commercial agents to provide electronic money issuance services and execute payment transactions with them solely for conducting transactions involving the distribution of electronic money, exchange operations with electronic money, and redemption of electronic money;

- Payment instrument issuers are authorised to engage commercial agents to provide issuance services for payment instruments solely for distributing the payment instruments they have issued.

Financial service providers also have the option to engage so-called intermediaries in their provision of services. Overall, the Law of Ukraine "On Financial Services and Financial Companies" defines intermediary services as services aimed at obtaining a financial service for a client, involving informing, consulting, offering, preparing, concluding, and executing (facilitating) agreements for the provision of financial services, receiving payments under these contracts, including conducting client identification and verification with a primary financial monitoring subject based on an agreement, as well as other services defined by special laws.

08. Are there any regulations on outsourcing?

Yes.

Payment service providers have the right to engage third parties on a contractual basis to perform certain operational services related to the provision of payment services. In the event that financial service providers involve third parties in carrying out essential operational functions, they are obliged to ensure an appropriate level of risk management and internal control, as well as the NBU's ability to monitor the provider's compliance with the requirements set forth by the law and regulatory acts of the NBU. Additionally, payment service providers have the right to engage third parties under contract to perform specific (other than operational) functions, processes, and tasks.

Meanwhile, according to the Law of Ukraine "On Financial Services and Financial Companies," a financial service provider may engage other persons (including another financial service provider) to perform specific functions and/or processes within those functions on outsourcing terms. The law primarily stipulates that financial companies have the right, in the manner prescribed by regulatory acts of the NBU, to outsource the functions of accounting, internal audit, risk management, compliance control, and/or certain tasks or processes within these functions.

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

The NBU has established a regulatory platform where participants can test their new financial products. Currently, only applicants who are registered/authorised as financial service providers/payment service providers at the time of application submission can participate in the regulatory platform.

The benefits of participating in the NBU's regulatory platform include the NBU's authority to introduce a special operating regime for platform participants, which entails: simplifying or exempting certain requirements mandated by Ukrainian legislation for conducting activities in financial service markets and payment markets regulated by the

NBU; and not applying enforcement measures or granting exemptions from liability for breaches of certain requirements established by Ukrainian legislation regarding the provision of financial services or payment services.

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

Given the absence of a comprehensive regulatory framework, interested parties should seek tailored advice from legal advisors and ultimately consult with the NBU before proceeding with the implementation of BaaS.



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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