1 The Fintech Landscape

1.1 Please describe the types of fintech businesses that are active in your jurisdiction and any notable fintech innovation trends of the past year within particular sub-sectors (e.g. payments, asset management, peer-to-peer lending or investment, insurance and blockchain applications).

In Ukraine, Fintech is beginning to take off with more than 60 firms at different stages of maturity. During the financial crisis of 2008–9, the first players among the Fintech startups started to appear in Ukraine. For the most part, these early Fintech initiatives focused on the area of payments and money transfers. However, the majority of Fintechs (58%) have been launched since 2015.

According to the result of a survey among Fintech companies, the “Hot Topics” for 2018 are: digital banking; automation; biometric identification; machine learning; AI; forecasting and modelling; smart contracts; chatbots; blockchain; big data; digitisation of all registries; ICO; IT security; cybersecurity; and payment security.

Among the notable innovation trends of 2017 is the launch of the first digital bank in Ukraine – Monobank, which provides payment services, microlending and deposits for individuals via mobile application.

1.2 Are there any types of fintech business that are at present prohibited or restricted in your jurisdiction (for example cryptocurrency-based businesses)?

There are no legislative prohibitions on providing any popular Fintech activities. However, according to the law of Ukraine, activities such as the emission of payment cards, opening an account and the emission of “electronic money” can be realised by banks only.

2 Funding For Fintech

2.1 Broadly, what types of funding are available for new and growing businesses in your jurisdiction (covering both equity and debt)?

In Ukraine, the most convenient types of funding for Fintech startups are private equity investments, banks or investor loans. The stock exchange marketplace or fundraising platforms are poorly developed.

2.2 Are there any special incentive schemes for investment in tech/fintech businesses, or in small/medium-sized businesses more generally, in your jurisdiction, e.g. tax incentive schemes for enterprise investment or venture capital investment?

There are no special tax incentives for investment in tech/Fintech businesses in Ukraine. Nevertheless, Ukraine is a highly attractive location for investment due to the simplified tax regime, with a profit tax rate at an amount of 5% per year. In this instance, the entrepreneur does not pay Value Added Tax.

2.3 In brief, what conditions need to be satisfied for a business to IPO in your jurisdiction?

Currently, the law provides for the requirements for IPO as to the company’s equity amount (minimum UAH 400 million), net income from sales (minimum UAH 400 million), free float of shares (minimum 10%), number of shareholders (minimum 200), corporate governance structure, and mandatory financial audit, etc. However, please note that the given requirements are about to be changed due to ongoing legal reforms.

2.4 Have there been any notable exits (sale of business or IPO) by the founders of fintech businesses in your jurisdiction?

There have not been any recent notable exits in Ukraine.

3 Fintech Regulation

3.1 Please briefly describe the regulatory framework(s) for fintech businesses operating in your jurisdiction, and the type of fintech activities that are regulated.

The main regulatory acts to be followed in Fintech are the Civil Code of Ukraine, the Law of Ukraine “On Payment Systems and Money Transfer”; the Regulation on Electronic Money in Ukraine, approved by the National Bank of Ukraine (NBU) in Resolution No. 481 of 4 November 2010, Regulations on the Procedure for Registration of Payment Systems, participants of payment systems and operators of payment infrastructure services (NBU Resolution No. 43 of 4 February 2014). The legal and regulatory environments supporting Fintech (and other) startups are improving. The most important changes
introduced recently by the Ukrainian legislation are: authorisation to sign an invoice and/or contract with an electronic signature; the use of simplified taxation for Ukrainian IT companies; the liberalisation on repatriation of dividends (to USD 5 million per legal entity per year); active advocating for the adoption of EU directives, in particular PSD2; and the recent coming into effect of the law on electronic identification and trust services for electronic transactions in the internal market (“Electronic Trust Services Law”). Every company which is going to render financial services must receive a special licence from the National Financial Services Commission. Services operating foreign currency as well as the company doing so will be required to obtain the licence from the NBU.

Only banks can emit payment cards and “electronic money”, and open accounts. There is a proper regulation concerning electronic signatures and this can be used with financial services. The recent Electronic Trust Services Law enabled banks to delegate the approval of identity to third parties. Therefore, Mobile ID technology is to penetrate the market with significant speed. At least one of the Ukrainian mobile operators has already announced their Mobile ID service.

Furthermore, the new law on payment systems with a similar regulation to PSD2 is expected to be adopted in 2019.

3.2 Is there any regulation in your jurisdiction specifically directed at cryptocurrencies or cryptoassets?

While the use of cryptocurrencies is not prohibited, it is not regulated by any legal act. According to the mutual letter issued by the NBU and the National Financial Services Commission on 30 November 2017, cryptocurrencies cannot be considered as money, electronic money, currency or securities.

3.3 Are financial regulators and policy-makers in your jurisdiction receptive to fintech innovation and technology-driven new entrants to regulated financial services markets, and if so how is this manifested? Are there any regulatory ‘sandbox’ options for fintechs in your jurisdiction?

Fintech development was actively supported through recent initiatives undertaken by the NBU in 2017. The NBU approved the Comprehensive Program of the Ukrainian Financial Sector Development (Resolution No. 391 dated 18 June 2017) which includes initiatives such as a Cashless 2020 Strategy, a possibility to use the Bank ID system for remote identification, and new rules to facilitate the licensing of payment service providers.

The NBU announced the institution of a “regulatory sandbox” for Fintech startups. Nevertheless, this initiative has still not been implemented.

3.4 What, if any, regulatory hurdles must fintech businesses (or financial services businesses offering fintech products and services) which are established outside your jurisdiction overcome in order to access new customers in your jurisdiction?

According to Ukrainian legislation, every payment system to be used on the Ukrainian market must be placed in the State register of payment systems. Nevertheless, the rules for registration are quite flexible.

4 Other Regulatory Regimes / Non-Financial Regulation

4.1 Does your jurisdiction regulate the collection/use/transmission of personal data, and if yes, what is the legal basis for such regulation and how does this apply to fintech businesses operating in your jurisdiction?

The issues regarding personal data are regulated by the Law of Ukraine “On personal data protection”. The Law requires the database owner to obtain consent of the individual for the processing of his or her personal data, including the collection, use and distribution of such personal data. The personal data cannot be distributed without permission from the data’s owner. The authority responsible for personal data control is the Ukrainian Parliament Commissioner for Human Rights. The owner of personal data informs the Commissioner about the processing of personal data, which constitutes a special risk for the rights and freedoms of the subjects of personal data.

4.2 Do your data privacy laws apply to organisations established outside of your jurisdiction? Do your data privacy laws restrict international transfers of data?

According to the Law, the transfer of personal data to foreign subjects is carried out only if the appropriate State provides adequate protection of personal data. The Member States of the European Economic Area, as well as the States which have signed the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, are recognised to provide an adequate level of protection of personal data.

4.3 Please briefly describe the sanctions that apply for failing to comply with your data privacy laws.

Ukrainian legislation provides for administrative and criminal liability for the violation of personal data law. Not complying with the law on the protection of personal data can be considered as an administrative violation with a fine of up to UAH 17,000 (about USD 600). The illegal collecting, saving, use and spreading of personal data without the consent of the owner is a criminal offence and can entail imprisonment of up to five years.

4.4 Does your jurisdiction have cyber security laws or regulations that may apply to fintech businesses operating in your jurisdiction?


The new Law of Ukraine “On basic principles of cybersecurity” became effective in May 2018. This Law stipulates a special
regulation for telecommunication infrastructure and for points crucial to cybersecurity. This legislative act entrusts the NBU as one of the State authorities responsible for cybersecurity control. Therefore, the new regulative acts of the NBU concerning cybersecurity in the financial sphere (and Fintech) are expected.

4.5 Please describe any AML and other financial crime requirements that may apply to fintech businesses in your jurisdiction.

The relevant AML law is the Law of Ukraine on the Prevention and Counteraction to Legalisation (Laundering) of the Proceeds of Crime or Terrorist Financing. According to the Law, the AML regulators in Ukraine are: the NBU; the State Committee for the Financial Monitoring of Ukraine and National Securities; and the Stock Market Commission.

The subject of primary financial monitoring shall proceed with the classification of its clients taking into account risk criteria. Financial operations/customers are subject to financial monitoring/due diligence if the transaction amount is more than UAH 150,000 (approximately USD 5,550). Following the reforms in the currency regulation sector, the NBU announced the possible raise of the controlled transactional amount up to UAH 300,000 (approximately USD 11,000).

The requirements to verify customer identification information for individuals are: name; date of birth; personal identity document details; residential (registration) address and actual address; taxpayer identification number; and source of funds. For legal entities: full name; registration address; information about the management and controllers of the company; shareholder structure; registration number; and bank account details. Beneficial owners need to be known in all cases, but the level of requirements for identification depends on the type of transaction and risk involved.

4.6 Are there any other regulatory regimes that may apply to fintech businesses operating in your jurisdiction?

There are no other regulatory regimes in place in Ukraine.

5 Accessing Talent

5.1 In broad terms, what is the legal framework around the hiring and dismissal of staff in your jurisdiction? Are there any particularly onerous requirements or restrictions that are frequently encountered by businesses?

According to the Labour Code of Ukraine, the employment relationship in Ukraine is established by an employment agreement between an employer and an employee. The employment agreement contains the terms of employment, including the title of the position, a description of the work to be performed by the employee, an obligation for the employee to observe internal labour rules, an obligation for the employer to ensure adequate working conditions, and the salary amount for performance of employment duties.

In general, most agreements are concluded for an indefinite term. Even though the Ukrainian labour law enables an employer to conclude fixed-term employment agreements, these agreements should be concluded only with those employees whose work is, by nature, of a limited duration. It is also possible to enter into an employment agreement “until the completion of agreed-upon work”.

Concluding the agreement, the employer must enter the relevant record in the employee’s labour book. The probationary period cannot exceed one month for blue-collar workers or three months for other employees. Considering the complexity involved in dismissing employees under Ukrainian law, employers frequently use the probationary period as a legal and practical way to ascertain the suitability of a candidate for the position.

In Ukraine the employer is a tax agent, obliged to pay payroll taxes on behalf of his employee (18%).

Presuming the complexity involved in the tax regime of employment, many companies in Ukraine use the entrepreneur contracts instead of the labour agreements. In such a case, the employee acts as a private entrepreneur contracted with the company for some scope of the job. This framework also allows the use of the simplified tax regime with no VAT and with the 5% tax rate of the entrepreneur’s income.

5.2 What, if any, mandatory employment benefits must be provided to staff?

The length of a working week is restricted to 40 hours. The minimum salary for a full time employee is UAH 3,723 (approximately USD 140). An employee has a right to an annual, minimum 24 calendar days of vacation. There are no additional mandatory employment benefits provided.

5.3 What, if any, hurdles must businesses overcome to bring employees from outside your jurisdiction into your jurisdiction? Is there a special route for obtaining permission for individuals who wish to work for fintech businesses?

Non-residents have the same rights to work in Ukraine as any Ukrainian has. However, non-residents have to provide certain documentation before starting work in Ukraine. The first one is the work permit. Because Ukraine does not belong to the EU, the work permit is mandatory for both EU and non-EU citizens. After obtaining a work permit, the non-resident can apply for a residence permit, which is the second mandatory document required for employment.

6 Technology

6.1 Please briefly describe how innovations and inventions are protected in your jurisdiction.

Assuming that Fintech solutions are mainly represented by certain business algorithms, software embedding such algorithms, data compilations and respective hardware solutions, the following options for protecting innovations and inventions in Fintech are available in Ukraine:

- Computer code and data compilations (databases) are protected by copyright (i.e. as literary works). Patent protection of computer programs and algorithms as such is specifically excluded. However, in certain cases, software can be the subject matter of patent protection as part of the hardware solution. Business methods and algorithms (representing, basically, ideas) are not protectable.
- In certain cases, user interfaces and screens may also be protected by industrial design patents. Equally, industrial design protection is also available for hardware solutions (portable and wearable devices, original design of pieces of hardware, etc.).
Technical methods (processes) and respective hardware may be protected by either patents for inventions or utility models. The principal difference between the two is that the latter are issued without examination (under responsibility of the applicant) and may lack inventive step as a substantial feature, whereas patents for inventions are only granted based on full examination and should have inventive step.

Brand names, slogans, and hashtags may be protected as trademarks. Equally, trademark protection in some cases may be enjoyed by original and distinctive 3D shapes (e.g. design of wearable, handheld or portable hardware), provided that the applicant is capable of proving their distinctiveness as trademarks.

Copyright ownership in Ukraine will first be owned by the author or authors of the copyright work. Subsequently, proprietary rights in the work may be assigned by the author to a third party. Personal non-proprietary rights in works of copyright are not assignable under Ukrainian laws.

Copyright in Ukraine is protected throughout the whole life of the author and for 70 years after the death of the author.

Patent, utility model, design and trademark protection is granted on the basis of registration.

Patents for inventions are granted on the basis of full examination of the invention by the patent office, and protect invention for 20 years from the date of filing the application.

Patents for utility models and industrial designs are granted on a declarative basis (no substantive examination is conducted) and grant protection for 10 years from the date of the respective application.

In order to maintain rights in patents (inventions, utility models and industrial designs), the patent owner is to pay annuities.

Trademark protection is granted on the basis of full examination. Trademarks are protected for 10 years from the date of filing of the respective application and may be further extended for an indefinite number of subsequent 10-year periods.

The owner of any IP subject matter has the exclusive right to (1) use such object, (2) grant the right to use such object to third parties (licence), and (3) counteract illegal use or infringement of the owner’s exclusive rights.

Copyrighted matter enjoys worldwide protection. Thus, any copyright created outside of Ukraine will be equally protected in Ukraine.

Patents for inventions, utility models and industrial designs, as well as trademarks, should be registered in Ukraine under national or international (Madrid, PCT, Hague) procedure.

6.4 How do you exploit/monetise IP in your jurisdiction and are there any particular rules or restrictions regarding such exploitation/monetisation?

For the purpose of the monetisation of IP, Ukrainian businesses use licence agreements. Licence agreements are not subject to mandatory registration and they enter into force on the date of execution thereof. In the meantime, in case the Licensor or Licensee would like to avoid any risks which may arise with regard to such an agreement, and for the purposes of informing the public on such licences, the licence agreement may be recorded with the Ukrainian Patent Office.
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Sergii has more than 12 years of experience with a wide range of Ukrainian and foreign banks and other financial institutions. His experience includes legal support of banking transactions, financial restructuring, and representation of clients in commercial and corporate disputes. In the last few years, Sergii has engaged in legal support for FinTech initiatives within the leading Ukrainian banks and separate startups.

Sergii is the Head of the Financial Law Committee at the Ukrainian Attorney Association, a member of the Board of the Financial Law Committee of the Ukrainian Bar Association, the President of the Arbitration Committee on Financial Restructuring, attorney-at-law and the Head of the Attorney Office “Evris”.

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Alexander has over 15 years of practice in various aspects of intellectual property and unfair competition law.

His experience embraces a wide range of issues related to intellectual property rights, such as the drawing up and implementation of IP protection strategies for various types of businesses, structuring of transactions that involve IP assets (transfer and licensing of technology and goodwill), suppression of unfair business practices and litigation of IP-related disputes.

Alexander has advised clients representing a broad variety of business sectors, including financial institutions, media and advertising companies, manufacturers of consumer products, accommodation, leisure and entertainment facilities, life sciences, oil and gas, etc.

He is a member of the Ukrainian Bar Association, the International Intellectual Property Law Association (IIPLA), and the International Association for the Protection of Intellectual Property (AIPPI).

Evris Law Firm  
Ukraine

Evris is a Kyiv-based full-service law firm which has gathered talented and dedicated lawyers who think creatively in their systems approach to the law. The firm provides 360-degree legal advice on various matters related to corporate and M&A, banking and finance, tax, real estate, and dispute resolution.

Evris sees its mission in advocating the investment potential of Ukraine through its legal work, and demonstrating to the international community how effective business can be here when it is planned and developed with the proper legal advice.

The FinTech line of services is part of the banking and finance practice. The Evris lawyers have the legal expertise and sector insight to launch, fund and grow a FinTech business. Among others, Evris offers: legal advice on finance State regulation; negotiations with financial institutions; legal support for blockchain startups; IP protection; tax structuring; and consumer protection, etc.