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Liechtenstein FINTECH

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This country-specific Q&A provides an overview of fintech laws and regulations applicable in Liechtenstein.

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LIECHTENSTEIN FINTECH



1. What are the sources of payments law in your jurisdiction?

Given Liechtenstein's active participation in the European Economic Area (EEA), the predominant sources shaping financial market law and regulation are substantially influenced by European law. Liechtenstein as a EEA member has to implement EEA-relevant EU legislation that has been incorporated into the EEA Agreement by a corresponding decision of the EEA Joint Committee. One of these EEA-relevant legal areas are financial services as payment services.

Payment services are principally subject to the regulatory framework outlined in the Payment Services Act ("**PSA**") and the Payment Services Ordinance ("**PSO**"). These legislative enactments serve to transpose the European legal framework for payment services, with particular emphasis on Directive (EU) 2015/2366 (PSD II). Moreover, the pertinent FMA Guidelines¹ and EBA guidelines² are applicable, provided that the FMA has declared compliance with the EBA guidelines.

Further germane legal provisions encompass the Banking Act ("**BankA**") and the corresponding Ordinance ("**BankO**"), the Electronic Money Act ("**EGG**"), the Postal Act ("**PA**"), the Distance Financial Services Act ("**FernFinG**"), the Payment Accounts Act ("**ZKG**") the Due Diligence Act ("**DDA**"), as well as the General Civil Code ("**ABGB**"), and the law governing persons and companies ("**PGR**").

Footnotes:

¹ <https://www.fma-li.li/files/list/fma-wegleitung-2019-8;>
<https://www.fma-li.li/files/list/fma-wegleitung-2019-9;>
<https://www.fma-li.li/files/list/fma-wl-2020-4-begrenztes-netze;>

² EBA/GL/2017/09, as amended.

2. Can payment services be provided by non-banks, and if so, on what conditions?

Yes, payment services can be provided by non-banks in Liechtenstein. However, entities intending to offer payment services, meaning engaging in activities under Art. 2 para 2 a-h PSA or listing such activities as their purpose in the statutes, on a professional basis are subject to approval by Liechtenstein Financial Market Authority ("**FMA**"). This involves adhering to particular conditions set out in the PSA, particularly Art. 9 PSA, as well as the PSO. Foremost prerequisites pertain to the legal structure, registered office and principal management of a payment institution must be located in Liechtenstein, minimum capital requirements, criteria concerning sound and prudent management, governance arrangements, and the shareholder composition.³ The FMA is required to either grant the license or provide written reasons for refusal within three months of receiving the complete application. The FMA fees for a payment institution license amount to CHF 30,000.

Generally, licensed banks, credit institutions, electronic money institutions, as well as certain state bodies, authorities, central banks, and postal institutions are regarded as payment service providers pursuant to Art. 2(3) PSA, and these entities may also provide payment services.

Footnotes:

³ See in detail:
<https://www.fma-li.li/files/list/fma-wegleitung-2019-8.pdf>.

3. What are the most popular payment methods and payment instruments in your jurisdiction?

There are no specific and comprehensive statistics on the popularity of payment instruments in Liechtenstein. However, it can be assumed that, similar to the neighboring country Switzerland⁴, cash payments,

invoicing, and credit and debit cards remain still among the most prevalent payment methods in Liechtenstein. Additionally, the adoption of digital and contactless payments is playing a significant role in shaping the payment landscape in Liechtenstein.

It is worth mentioning that in Liechtenstein also cryptocurrencies such as Bitcoin and USDC/USDT are already widely accepted as a means of payment by enterprises and shops. Bitcoin also from a tax perspective is considered as foreign currency. Cryptocurrencies are also accepted by the Ministry of Justice to provide the initial capital contribution for the formation of legal entities. Further the Liechtenstein government is also planning to accept Bitcoin as payment for government services (e.g., taxes).

Footnotes:

⁴ See Payment Methods Survey Switzerland 2022 by Swiss National Bank (SNB): <https://www.snb.ch/en/the-snb/mandates-goals/payment-transactions/payment-methods-surveys/payment-methods-survey-2022>.

4. What is the status of open banking in your jurisdiction (i.e. access to banks' transaction data and push-payment functionality by third party service providers)? Is it mandated by law, if so, to which entities, and what is state of implementation in practice?

The introduction of PSD II and its implementation in Liechtenstein law has opened up banking services to non-bank third parties, particularly in the areas of payment initiation services and account information services. Thus, open banking is to a certain extent mandated by law.

5. How does the regulation of data in your jurisdiction impact on the provision of financial services to consumers and businesses?

Compliance with regulation of data is crucial for financial institutions in Liechtenstein to build trust, protect sensitive information, and fulfill legal obligations. In Liechtenstein, the confidentiality of bank customers' data is safeguarded by banking secrecy regulations (Art. 14, 63 and 64 BankA). Art. 63 BankA criminalizes the unauthorized disclosure of confidential information related to a customer of a Liechtenstein bank. However,

Liechtenstein banking secrecy is subject to specific limitations and exceptions, allowing disclosure without customer consent, especially in the context of criminal proceedings, compliance with regulatory authorities, combating money laundering, or fulfilling international agreements on the exchange of financial information. Additionally, financial institutions, including in particular asset management companies, trustees, managers of collective assets, and investment firms as well as payment service providers and E-money institution, are bound by law to maintain professional confidentiality and secrecy obligations, thereby protecting customer data. Also here disclosing confidential customer data to unauthorized third parties is a criminal offense. Similar to Liechtenstein banking secrecy, professional confidentiality, and secrecy obligation also subject to specific limitations and exceptions.

In addition, in Liechtenstein all companies, when handling customer data, are subject to the European Data Protection Act ("**GDPR**") and related national legislation (DSG and DSV), which covers the personal data of both physical persons and entities. Non-compliance with GDPR can result in substantial fines.

Compliance with data regulation involves costs for financial institutions, including investments in technology, staff training, and ongoing monitoring to ensure continued adherence to evolving regulatory standards. However, Liechtenstein market participants and regulators have effectively navigated these challenges thus far.

6. What are regulators in your jurisdiction doing to encourage innovation in the financial sector? Are there any initiatives such as sandboxes, or special regulatory conditions for fintechs?

Apart from the EU-DLT Sandbox Regime which will be outlined below, there is no specific regulatory sandbox. However, the FMA has a special fintech-department responsible for cryptocurrency and blockchain regulation, as well as for regulation of any future financial technologies. Additionally, a special government body responsible for facilitation of fintech and blockchain development was established – Stabsstelle für Finanzplatzinnovation und Digitalisierung (Office for financial center innovation and digitization).

Additionally, Liechtenstein has various government-led innovation formats aimed at optimizing the framework conditions for entrepreneurial activities, with a particular focus on FinTech. An example is the "Innovation-Club," which operates as a fast-track platform for generating

ideas to improve overall entrepreneurial framework conditions. This initiative encourages individuals and companies to suggest enhancements to laws, ordinances, procedures, or official practices. The key objective is to promote close collaboration between market players and authorities, fostering a dynamic and competitive environment for innovative companies. Through the "Innovation-Club," the regulatory and legal framework is continuously refined to adapt to evolving conditions, ensuring a forward-looking and robust business environment.⁵

Excursus EU-DLT Sandbox Regime:

As part of the digital finance package the EU adopted the so called DLT-Sandbox Regime with EU Regulation 2022/858 ("**DLT Regulation**") which for the first time will enable the operation of DLT-based multilateral trading facilities ("**DLT-MTF**") and settlement systems ("**DLT-SS**"). These regulations finally provide the basis to enable trading and settlement of tokens that classify as financial instruments under MIFID II (therefore, tokenised securities/security tokens) on a blockchain based trading facility. The new regime is set up only on a trial basis for six years in an environment of lower regulatory hurdles and thus aims to allow better exploitation of the development potential of DLT, while still preserving certain requirements for transparency and investor protection. On the other hand, limitations with regards to the volume of activities will apply.

The DLT Regulation will also be applicable in Liechtenstein via the EEA. Market participants may already apply to the FMA for inclusion in the sandbox regime in order to become exempt from certain regulatory hurdles.

Footnotes:

5

<https://impuls-liechtenstein.li/en/innovations-framework>.

7. Do you foresee any imminent risks to the growth of the fintech market in your jurisdiction?

Apart from the typical risks associated with emerging markets and evolving technologies, we do not anticipate any immediate threats to the growth of the fintech market in Liechtenstein, except those inherent to any new startup.

8. What tax incentives exist in your jurisdiction to encourage fintech

investment?

There are no tax incentives applying specifically to FinTech companies. However, Liechtenstein generally offers an attractive fiscal environment for companies. In Liechtenstein, the income tax rate for legal entities is 12.5% (flat tax rate). The minimum income tax is CHF 1,800.00. Furthermore, 4% of the corporate equity capital can be booked as an expense in order to reduce profits, which means that the effective tax rate is below 12.5%. In addition, it is possible to offset carry-forward losses for an indefinite period of time. Also, dividends and capital gains, derived from sales or liquidations of investments in shares or similar equity instruments, are generally not subject to taxes for legal entities, disregarding the holding amount and period. Thus, Liechtenstein tax law is very attractive for holding structures.

9. Which areas of fintech are attracting investment in your jurisdiction, and at what level (Series A, Series B etc)?

As mentioned above, Liechtenstein has been actively fostering innovation in the fintech sector, and various areas within fintech have attracted attention.

Blockchain and Crypto: Liechtenstein has been progressive in regulating blockchain and cryptocurrencies. The Liechtenstein Blockchain Act (TVTG) provides a legal framework for the token economy (see in Detail Question 14). The TVTG has been revised multiple times and has now been pre-aligned with the MiCA regulations. Companies registered under TVTG before the transition period expiration can take advantage of a simplified and accelerated procedure to obtain a MiCA Regulation license, providing them with the opportunity for EU-wide passporting once MiCA is enforced. The secure and established legal framework, coupled with the opportunity for companies to proactively prepare for MiCA in Liechtenstein, contributes to the robust and ongoing investment activity, including Series A and Series B investments, particularly in blockchain projects in Liechtenstein.

Regulatory Technology: Regulatory technology (Regtech) firms, offering solutions for compliance, risk management, and regulatory reporting, have been in the investment spotlight, including Series A and B financing rounds.

Digital Asset Banking and Payment: Fintech companies facilitating digital payments, digital banking solutions have seen considerable investment interest. In the last year a new payment services bank has been

licensed and further a new digital assets bank should be licensed shortly.

10. If a fintech entrepreneur was looking for a jurisdiction in which to begin operations, why would it choose yours?

Liechtenstein actively supports innovation, evident from various initiatives such as the Innovation Club, the SFI, and the FMA Regulatory Laboratory. The country boasts a progressive regulatory framework, particularly in areas like blockchain and cryptocurrency. The government and authorities are open to feedback and collaboration, fostering an environment where entrepreneurs can contribute to shaping the regulatory landscape. Liechtenstein's well-established financial services sector provides expertise and a supportive ecosystem for fintech ventures. The robust financial infrastructure and experienced professionals in the country can benefit fintech undertakings.

Apart from supportive ecosystem, with various initiatives, accelerators, and networks that can provide guidance and resources to fintech entrepreneurs and a clear legal framework, Liechtenstein is an EEA member and thus has EU-compliant regulation and full freedom to provide services in all EEA countries. The Customs and Currency Treaty with Switzerland further offers privileged access to the Swiss economic area.

In addition to providing an advantageous tax environment for companies (see Question 8) and ensuring a high level of political and economic stability, Liechtenstein's small size fosters flexibility and swift decision-making processes, especially in interactions with governmental agencies and the FMA.

Overall, these factors contribute to Liechtenstein's attractiveness for fintech entrepreneurs.

11. Access to talent is often cited as a key issue for fintechs - are there any immigration rules in your jurisdiction which would help or hinder that access, whether in force now or imminently? For instance, are quotas systems/immigration caps in place in your jurisdiction and how are they determined?

Liechtenstein has a strict immigration policy regarding permanent residency permits. EEA citizens have the opportunity to participate in a green card lottery twice a year for a chance to obtain permanent residency. Swiss citizens and citizens from other countries are granted

residence only to a very limited extent and under specific conditions.

Due to the small size and the stringent immigration law of Liechtenstein, a significant portion of Liechtenstein's workforce commutes from neighboring countries such as Austria, Switzerland, and Germany. Over half of all jobs in Liechtenstein are performed by people who are resident abroad. Swiss citizens require no permit for work. EU/EEA citizens must be registered by their employers with the Migration and Passport Office within ten days of starting work, and the employer receives an international commuter confirmation. Citizens of other countries (third-party states) need a yearly permit subject to conditions. In particular, it is necessary to demonstrate that no suitable employee from the EU/EEA or Switzerland could be found in the local labour market.

12. If there are gaps in access to talent, are regulators looking to fill these and, if so, how? How much impact does the fintech industry have on influencing immigration policy in your jurisdiction?

The fintech industry does not specifically influence immigration policy, but there are generally no specific immigration obstacles for EU/EEA citizens obtaining a work permit in Liechtenstein. This allows FinTech companies to access a pool of potential employees (EU/EEA/Swiss citizen). In cases where specialists are not found in Switzerland or EU/EEA countries, work permits may be granted to hire non-EU/EEA specialists.

13. What protections can a fintech use in your jurisdiction to protect its intellectual property?

Copyright and trademark as well as patent law are crucial for fintech companies in Liechtenstein to protect their intellectual property:

Copyrights: Copyrights are the rights of artists in their works. This protection applies to works in various art forms such as literature, painting, music, and more. It also extends to computer programs, considering them as works of literature and art. A prerequisite for copyright protection is always that the work is an intellectual creation with an individual character. Thus, a certain level of originality is required. Copyright protection in Liechtenstein is automatic and does not require registration. Eligible works are immediately protected from the moment of creation, and registration is not necessary. Copyright protection lasts for 70 years after the death of the creator.

Trademarks: In Liechtenstein, trademarks must be registered with the Office of Economic Affairs (Amt für Volkswirtschaft). The initial protection period is ten years, and it can be extended indefinitely in ten-year increments. At an international level, companies have two options to protect their trademark from Liechtenstein. Liechtenstein is an EEA member; thus, they can file an application with the European Union Intellectual Property Office (EUIPO) to register an EU trademark, providing protection across all 27 EU member states. Advantages include a unitary title, a single examination process, and relatively low fees. However, a significant drawback is that if the EU trademark faces rejection, cancellation, or successful contestation in one EU country, it is void in all member states, posing a considerable risk. Additionally, Liechtenstein is also a member of the Madrid Protocol. Therefore, an international registration via the World Intellectual Property Organization (WIPO) is another option, relying on an existing trademark registration in Liechtenstein.

For design protection, Liechtenstein is a member of the Hague Agreement, enabling international deposit and protection.

Patents: Patents are protective titles granted by the relevant authority for inventions. The law stipulates that patented inventions can only be exploited, including manufacturing, use, and sale of a product, with the approval of the patent holder for a maximum of twenty years within a specific geographical area. Inventions are technical solutions addressing practical problem-solving. To be patentable, inventions must be novel, non-obvious, and industrially applicable. In the field of patents, Liechtenstein and Switzerland form a unified protection area, established by the agreement on December 22, 1978, between the Principality of Liechtenstein and the Swiss Confederation concerning the protection of invention patents. This agreement was expanded by the supplementary agreement on November 2, 1994. Administrative matters are handled entirely by the Swiss Federal Institute of Intellectual Property (IGE) in Bern.

14. How are cryptocurrencies treated under the regulatory framework in your jurisdiction?

Liechtenstein law does not have any restrictions on owning and using cryptocurrencies for transactions. Also, exchange between fiat currencies and cryptocurrencies is permitted. Although cryptocurrencies do not qualify as legal tender, some cryptocurrencies such as Bitcoin and USDC/USDT are already widely accepted as a means of

payment by enterprises and shops. Bitcoin also from a tax perspective is considered as foreign currency. The Liechtenstein tax authority publishes exchange rates between several common cryptocurrencies (Bitcoin and Ethereum) and the Swiss franc for tax purposes. The Ministry of Justice also accept cryptocurrencies to provide the initial capital contribution for the formation of legal entities. Further the Liechtenstein government is also planning to accept Bitcoin as payment for government services (e.g., taxes).

However, offering commercial services related to cryptocurrencies may be subject to licensing under the Liechtenstein Blockchain Act (TVTG) or traditional financial market laws if the cryptocurrency qualifies as a financial instrument or if financial services related to cryptocurrency are provided to third parties. Notably, is that Liechtenstein has a legal framework regulating the entire life cycle of cryptoassets of all kinds through TVTG (also called Blockchain Act) and the Ordinance on the Token and Trusted Technology Service Provider Act (so called **"TVTV"** or Blockchain Ordinance). The Blockchain Act (officially known as the Law on Tokens and Trusted Technology (TT) Service Providers; so, called **"TVTG"**) provides a comprehensive and technology-neutral approach to regulating the entire token economy and therefore as well cryptocurrency. On one hand it regulates the rights and obligations of certain clearly defined service providers who perform activities on Trusted Technologies (TT) systems. They are subject to license and supervision by Liechtenstein's Financial Market Authority (**"FMA"**). On the other hand, the TVTG creates a new civil law for cryptoassets (cryptocurrency) and the legal basis for the ownership, possession, and disposition rights over cryptoassets. By also regulating the civil law aspects of cryptoassets (cryptocurrency included) in a so-called Token Container Model (TCM), Liechtenstein took a pioneering role in the EU and thus created the first comprehensive legal framework and legal certainty for the tokenisation of "real-world assets". It is well known that the Markets in Crypto Assets Regulation (**"MiCA"**) entered into force on 29 June 2023 and will become applicable after a transition period of 12 or 18 months. Given that Liechtenstein is an EEA member state the MiCA Regulation will also be applicable in Liechtenstein and will partly (in particular the civil law part will remain as on EU Level there is no regulation for this aspect) replace the provisions of the TVTG.

Furthermore, entities providing services that relate to cryptocurrencies are subject to strict KYC and AML requirements under the Due Diligence Act for effective combatting of money laundering.

15. How are initial coin offerings treated in your jurisdiction? Do you foresee any change in this over the next 12-24 months?

N/A

16. Are you aware of any live blockchain projects (beyond proof of concept) in your jurisdiction and if so in what areas?

Liechtenstein hosts numerous well-supported and promising blockchain initiatives. Here are some key highlights of blockchain projects and developments in Liechtenstein:

- In 2019, the FMA granted an e-money license, subject to specific conditions and requirements, to a company leveraging blockchain technology.
- Crypto and banks: Liechtenstein boasts several well-established traditional banks recognized for providing diverse services within the realm of blockchain and crypto assets and serving for clients involved in the blockchain area. Consequently, they are considered notably crypto-friendly. Furthermore, ongoing initiatives and diverse projects are in progress with the aim of obtaining licenses to operate as digital asset banks.
- Furthermore, there are also Fintech companies developing sophisticated blockchain infrastructure allowing financial institutions to integrate cryptocurrencies, tokens, and use of distributed ledger in a secure way in view of the custody, trade, transfer, and tokenization of digital assets.
- Blockchain Bond and Security Token Offerings (STOs): Liechtenstein witnessed the issuance of the inaugural bond on the Ethereum blockchain. It hosted one of the pioneering security token offerings (STOs) in Europe, which received regulatory approval. Since then, many more STOs have been conducted.
- Liechtenstein is also home to several charitable crypto foundations. They pursue the purpose of sustainably promoting and supporting the emerging technology sector of Blockchain Technology, the Web3 and other pioneering Technologies on the long-term.⁶
- Other blockchain projects, for instance, involve the digitization of processes and documentation in the supply chain of the commodities sector and the shipping industry. Additionally, there are several projects in the

gaming industry, particularly in the realm of “Play to Earn” games. The FinTech sector in the sustainability domain is also evolving, with projects concentrating on providing investment opportunities with a sustainable impact.

Footnotes:

⁶ See:

https://www.niedermueller.law/wp-content/uploads/2023/01/EN-Translation_Crypto-foundations-in-Liechtenstein-1.

17. To what extent are you aware of artificial intelligence already being used in the financial sector in your jurisdiction, and do you think regulation will impede or encourage its further use?

In specific domains within the financial sector, the utilization of AI has already been initiated. In light of the consistently positive disposition exhibited by the government and the FMA of Liechtenstein towards new technologies and their potential advantages for the Liechtenstein’s financial center, it is reasonable to expect that upcoming regulations will not be characterized by restrictiveness.

18. Insurtech is generally thought to be developing but some way behind other areas of fintech such as payments. Is there much insurtech business in your jurisdiction and if so what form does it generally take?

Given the global trend of technological transformation in the insurance industry, the use of insurtech in Liechtenstein has also witnessed growth in recent years.

The Insurtech Map⁷ by House of Insurtech Switzerland, F10, and Kickstart provides an overview of the Insurtech landscape in the DACH region (Germany, Austria, Switzerland, and Liechtenstein), including the Principality of Liechtenstein. According to the Insurtech Map, Liechtenstein is particularly home to Insurtech companies in the areas of asset management, product development, and marketing and distribution.

Footnotes:

⁷ <https://insurtechmap.eu/>.

19. Are there any areas of fintech that are particularly strong in your jurisdiction?

An area that is particularly strong is the connection between Blockchain and regular financial markets. In particular payment services in the area of fintech companies there is a strong business. Further Liechtenstein due to its flexible corporate law and the EEA market access offers a strong basis for all blockchain infrastructure models and all projects that combine blockchain technology and financial markets.

20. What is the status of collaboration vs disruption in your jurisdiction as between fintechs and incumbent financial institutions?

There is a noticeable upward trend in collaboration between FinTech companies and traditional financial institutions. This collaborative approach facilitates the seamless integration of innovative solutions into existing infrastructure, capitalizing on the strengths of both parties. In the specific context of Liechtenstein, FinTech firms are playing a pivotal role in advancing the infrastructure for digital assets. This includes the development of solutions for custody, trading, and tokenization of digital assets. Furthermore, certain banks are actively involved in the establishment of new digital assets banks.

In summary, the current trend of collaboration between FinTech companies and traditional financial institutions in Liechtenstein aligns with a global shift towards partnership and integration.

21. To what extent are the banks and other incumbent financial institutions in your jurisdiction carrying out their own fintech development / innovation programmes?

The majority of financial institutions in the country are actively engaged in fintech and innovation programs, each in its unique form. While a significant portion of financial institutions is proactively pursuing fintech initiatives, there are some that adopt a more cautious stance, refraining from active programs at the moment. This diversity in approaches reflects varying risk appetites or strategic considerations among different financial institutions.

22. Are there any strong examples of disruption through fintech in your jurisdiction?

Rather than disruption, Liechtenstein due to its proactive approach on regulation and integration of Fintech experienced a strong integration of modern technology in the existing financial market. Thus, there is rather strong integration than a disruption.

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