

Analysis of Fintech Market and its Regulations in Vietnam

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Introduction

Under the impact of COVID-19, the year 2021 has pushed to create momentum for the digitalization process of the whole society. The increase in distance commerce came hand in hand with an increase in cashless payments and e-finance. The pandemic thus has accelerated the process of global digital transformation, creating a premise for the substantial rise of the fintech sector.

Since 2018, the State Bank of Vietnam (SBV) has proposed policies on five fintech-related key issues to create a legal framework for fintech companies in Vietnam, which are (1) an application of Blockchain technology in the field of finance – banking in Vietnam; (2) managing Bitcoin and other crypto currencies in Vietnam; (3) research and management of mobilization and P2P lending based on high technology; (4) solutions for developing electronic customer identifiers (eKYC) in financial-banking services in Vietnam; and (5) researching open application interfaces (Open API) to apply in the field of finance – banking in Vietnam. Following up, the most interesting developments to watch out for in the next 12 months is a regulatory sandbox for fintech in seven fintech segments: payment, credit, peer-to-peer (P2P) lending, eKYC, Open API, innovative technology application solutions such as blockchain, and other services supporting banking operations (credit scoring, saving, crowdfunding, etc.).

In addition, there will be a regulation replacing the current non-cash payment regulations likely to be published in 2022. Currently, it is visible that there will be various enhancements of the legal framework on payment intermediaries service, bank, and bank accounts. On the other hand, the Ministry of Information and Communications has recently collected opinions and prepared a draft for the Law on Digital Technology Industry. Accordingly, an indicator of Government is expected to specify types of digital assets to be protected (i.e.: crypto currencies, NFTs, videos, images, social media accounts).

Fintech Business Models and Regulation in General

The SBV has revised the current legislation to set out a legal framework for specific fintech business models. The credit institutions and banks applying new technologies

during their operation are being supported the most by insurance of guidance in cashless payment, intermediary services, and the adoption of the remote verification process, namely e-KYC. In addition, the application of e-KYC is expected to be strengthened in providing for e-identification and e-authentication of Vietnamese citizens and foreigners in Vietnam based on the National Population Database, Citizen Identification Database and National Immigration Database. From another perspective, Mobile Money has the most development and spotlight since a pilot implementing Mobile Money in Vietnam has been approved by the prime minister, which left a bold step for the development of payments using telecommunication accounts in Vietnam. The SBV has approved three major Vietnam telecoms of pilot implementation of Mobile Money, namely Viettel, VNPT and Mobifone Corporation.

EKYC

The new regulation in 2019 has been adopted to amend and supplement a number of the old rules, that interpreted and guided the Law on Money Laundering Prevention and; and also providing guidelines for opening and use of checking accounts at payment service providers has provided regulation on the implementation of eKYC. The Vietnamese Government now allows banks to decide whether or not to meet with customers for the first time when performing transactions related to new technology. Banks have responded to this in very rapid terms. However, the intermediary employed to verify the client's identity shall be selected according to regulations of the Law on anti-money laundering. By now, most Vietnamese banks have effectively implemented eKYC solutions and generally received positive feedback from customers. For example, VPBank, the first bank to implement eKYC in Vietnam, has built a comprehensive biometrics technology platform, combined with artificial intelligence (AI) technology and electronic signature (eSignature), allowing a customer to open a payment account fully online within 5 minutes.

Nevertheless, in order to be able to implement eKYC effectively, one of the essential conditions is to make use of the national data system. On 8 November 2021, Deputy Minister Vu Duc Dam signed Decision No. 34/2021/QD-TTg stipulating e-identification and e-authentication based on the National Population Database, Citizen Identification Database and National Immigration Database. Accordingly, individuals may register for a unique e-identification account in the electronic identification and authentication system and declare their e-identity information. In order to activate the account, individuals must also provide their phone number or email. Based on the System, the Ministry of Public Security will provide e-identification and e-authentication services to organizations and individuals. For the e-identification service, the MPS will collect, create and assign an e-identity to an individual, and manage such e-identities. For e-authentication service, the MPS will verify and certify that an e-identity user is the e-identity holder, which helps to save time, money, and human resources to authenticate

customer information. On 20 June 2021, four commercial banks signed an agreement to exploit the citizen identification data with the Ministry of Public Security.

Mobile Money

On 9 March 2021, Prime Minister approved the two-year pilot application of Mobile Money, which allows the use of mobile phone credit to pay for small-value goods and services under Decision 316/QD-TTg. The most significant difference compared to e-wallets is that the Mobile Money service does not require a bank account to use and pay like e-wallets. In return, a maximum transaction for each Mobile Money account is VND10 million per month for all transactions – including withdrawals, transfers and payments – while the e-wallet limit is ten times higher than this number: VND100 million a month. Mobile money will only be applicable for domestic transactions and will not be available for cross-border services. To be eligible to participate in the pilot, businesses need to have (i) licences to provide intermediary e-wallet payment services, or (ii) licences to establish a public mobile terrestrial telecommunications network using radio frequencies or have subsidiaries with permission from the parent company to use telecommunications, network and data infrastructure. The first licence does not impose a limitation on capital contribution of a foreign-invested enterprise. However, to obtain the second licence, a foreign investor must enter into joint ventures with licensed telecommunication service providers in Vietnam and the capital contribution must not exceed 49% of the legal capital of the joint venture according to the WTO commitments. Thus, a foreign-invested enterprise will be eligible to perform a Mobile Money pilot in Vietnam if it only holds a maximum of 49% of the joint venture's capital with a licensed telecommunications service provider in Vietnam. Three carriers that have been licensed to pilot Mobile Money, of which two carriers have put Mobile Money service into use: VNPT and Viettel. Mobifone is also scheduled to join the non-cash payment field as soon as possible.

P2P Lending

P2P lending and blockchain activities are currently not governed by specific legislation in Vietnam. However, in practice, fintech companies operating P2P lending or blockchain platforms are still obliged to comply with general laws such as the Civil Code, the Law on Investment and the Law on Enterprise. Particularly, fintech companies usually obtain enterprise registration certificates with general business lines of support for financial services that have not yet been classified to conduct their business under the Law on Investment, and the lending interest rate in civil transactions through P2P lending shall be agreed upon by the parties. However, it must not exceed 20% per year of the loan under the Civil Code 2015. According to the new Draft Decree providing a controlled testing mechanism (sandbox) for fintech activities in the banking sector in 2020, P2P lending is part of a two-year pilot for fintech regulatory sandbox activity. For P2P lending companies operating in the market before the pilot is deployed, they must

register to operate in accordance with the regulations of the new pilot mechanism, otherwise, they will be suspended. However, due to the absence of a specific legal framework, the SBV is still confused with assessing dossiers submitted to apply for the particular business line of P2P lending, which is usually pending or refused.

Mobile Payment Solution

A mobile payment solution is a solution to support customers in card payment activities through a card acceptance device (POS) at a merchant, not an intermediary payment service. The players providing this service must have responsibilities for compliance with regulations of laws on foreign exchange management, personal data protection, privacy, security of documents, card information, card transactions and accounts of cardholders and prudential measures in the card usage.

Sandbox Mechanism

The Draft Decree providing for a controlled testing mechanism (sandbox) for fintech activities in the banking sector by the SBV has been repeatedly consulted with ministries and branches. However, the cautiousness of the parties has made the Draft Decree incomplete. Recently, the SBV issued an Implementation Plan to implement Decision No. 1813/QĐ-TTg of the prime minister on approving the Project on development of non-cash payment in Vietnam from 2021 to 2025. Accordingly, the SBV will develop and submit to the Government to promulgate Decree on a mechanism for controlled testing of financial technology activities in the banking sector.

Conclusion

Except for certain mentioned areas above, e-wallet and payment intermediaries services, the fintech legal framework in Vietnam is still in its infancy, with only directions from the prime minister giving general directions and principles, and without any clear and complex legal instruments. Besides, some fintech business models remain without legal regulations yet are on research to improve the framework. First, the change on insurtech area regulated in the draft Law on Insurance Business (amended), which encourages the application of information technology in the insurance sector. Specifically, the law will supplement a specific section regulating the application of information technology in the insurance business. This will include general principles of information technology application by insurance businesses, requirements they will have to comply with, and the provision of insurance products online. The second is the activities of P2P lending, open application program interfaces (Open API), crowdfunding, blockchain, digital banking and mobile payment solution (like Samsung Pay) are currently not governed by specific regulations in the Vietnamese legal system. However, these fintech models are still applied in practice provided they do not contravene general law (for instance, fintech companies operating P2P lending or blockchain

platforms are only obliged to obtain an enterprise registration certificate). The SBV is carrying out research to develop a legal framework to regulate these models.

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