

Legal Landscape of FinTech in Türkiye

Trends and Transformations
in 2022 & 2023

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Overview

Globally, financial technologies have experienced significant growth and attracted investments on a large scale in 2022 and 2023. The increasing demand for certain fintech sectors such as online lending, payment services, and artificial intelligence coupled with substantial investments, has caused the global fintech ecosystem to grow rapidly. This growth introduced many startups to the fintech ecosystem while traditional financial institutions have digitalized.

Fintech is the use of technology to improve the delivery of financial services. A wide range of activities, including digital payments, online lending, cryptocurrencies, and open banking can be considered fintech activities. The growth of the fintech ecosystem has been driven by several factors, including improvements in technology and tools, changes in consumer behavior, and regulatory frameworks.

Globally and in Türkiye, digital payments, mobile banking, open banking, lending, capital markets, crowdfunding, blockchain, and digital currency stand out as the most active areas in the fintech sector. In 2022, Türkiye ranked 7th in the world with 93.8 million credit card holders, 1.8 million POS devices, 52,200 ATMs and 86.7 million active retail digital banking customers, making Türkiye one of the leading countries in the banking sector.^[1] Therefore, it is observed that in Türkiye players of the fintech ecosystem are very active in areas such as prepaid cards, wallet applications, payment tracking, embedded finance, money transfers, discount and loyalty cards, POS management, pre-accounting and banking software.

Significant Legislative Changes in 2022 & 2023

Important Legislative Amendments	
Regulation on the Operating Principles of Digital Banks and Service Model Banking	<p>The Regulation on the Operating Principles of Digital Banks and Service Model Banking published in the Official Gazette dated 29 December 2021 and numbered 31704 entered into force on 1 January 2022.</p> <p>The Regulation regulated the procedures and principles regarding the activities of branchless banks that provide services only through electronic banking services distribution channels and the provision of banking services as a service model to financial technology companies and other businesses, but the effective date was set for 1 January 2022. The Regulation entered into force as of this date.</p>
Regulation on Remote Identification Methods to be Used by Financial Leasing, Factoring, Financing and Savings Financing Companies and Establishment of Contractual Relationships in Electronic Environment	<p>The Regulation on Remote Identification Methods to be Used by Financial Leasing, Factoring, Financing and Savings Financing Companies and Establishment of Contractual Relationship in Electronic Environment was published in the Official Gazette dated 11 January 2022 and numbered 31716 and entered into force one month after the publication date.</p> <p>The Regulation sets out the procedures and principles regarding the remote identification methods that can be used by financial leasing, factoring, financing, and savings financing companies to acquire new customers and the procedures and principles for the establishment of a contractual relationship over an IT or electronic communication device, whether distance or not, as a substitute for the written form or at a distance, for the services to be provided following the identification of the customer identity.</p>
Communiqué Amending the Communiqué on Mergers and Acquisitions Requiring Authorization from the Competition Board	<p>Through Turkish Competition Authority's Communiqué No. 2022/2 on Amending Communiqué No. 2010/4 Concerning the Mergers and Acquisitions Requiring the Approval of the Turkish Competition Board, transactions regarding the acquisition of technology undertakings operating in the Turkish geographical market, having R&D activities, or providing services to users in Türkiye became subject to the authorization of the Competition Board.</p> <p>The technology undertakings are defined as "undertakings operating in the fields of digital platforms, software and gaming software, financial technologies, biotechnology, pharmacology, agrochemicals, and health technologies or assets related to these undertakings".</p>

Important Legislative Amendments	
Law No. 7412 on Istanbul Financial Centre	<p>The Istanbul Finance Centre Law entered into force after being published in the Official Gazette dated 28 June 2022 and numbered 31880.</p> <p>The Law provides advantages in tax, employment, and other operational areas for financial institutions that will carry out their activities within the Istanbul Finance Centre (IFC). Benefiting from discounts, incentives and exemptions by operating in the IFC is subject to the condition of obtaining a participant certificate to be issued by the Presidential Finance Office.</p>
Guide on Associating Business Models in the Field of Payments with Payment Service Types	<p>In September 2022, the Central Bank of the Republic of Türkiye published the Guide on Associating Business Models in the Field of Payments with Payment Service Types ("Guide").</p> <p>The Guide includes explanations regarding payment services and electronic money issuance. An operating license is required from the CBRT for these activities under Law No. 6493 on Payment and Securities Settlement Systems, Payment Services, and Electronic Money Institutions and the business models in the field of payment services.</p>

Important Legislative Amendments	
<p>Regulation Amending the Regulation on Measures to Prevent Laundering Proceeds of Crime and Terrorism Financing and Financial Crimes Investigation Board General Communiqué</p>	<p>The Regulation Amending the Regulation on Measures to Prevent Laundering Proceeds of Crime and Terrorism Financing (Decision No: 6702) and the Communiqué (Sequence No: 22) Amending the Financial Crimes Investigation Board General Communiqué (Sequence No: 5) were published in the Official Gazette dated 14/01/2023 and numbered 328073 and will enter into force on 1/2/2023.</p> <p>Within the scope of the regulations, the minimum thresholds for mandatory customer identification and verification were increased.</p>
<p>Communiqué Amending the Communiqué on Information Systems of Payment and Electronic Money Institutions and Data Sharing Services of Payment Service Providers in the Field of Payment Services</p>	<p>As per the Communiqué published in the Official Gazette dated 1 December 2021 and numbered 31676, the procedures and principles regarding the management of the information systems used by payment institutions and electronic money institutions in the execution of their activities, auditing by authorized independent audit institutions, and data sharing services of payment service providers in the field of payment services were determined and institutions were given one year to comply with the provisions introduced.</p> <p>Through the Communiqué published in the Official Gazette dated 27.06.2023 and numbered 32234, the date by which institutions must complete their compliance processes has been brought forward and set as 30 September 2023.</p> <p>Most recently, with the Communiqué published in the Official Gazette dated 07.10.2023 and numbered 32332, regulations regarding the establishment of internet-based methods for identification in terms of near field communication and transactions carried out through remote communication, regulations regarding the transfer of data abroad within the scope of payment transactions, and regulations regarding compliance with the MASAK legislation and MASAK audit elements were introduced.</p>

Important Legislative Amendments

The Regulation Amending the Regulation on Payment Services and Electronic Money Issuance and Payment Service Providers

The Regulation on Payment Services and Electronic Money Issuance and Payment Service Providers published in the Official Gazette dated 1 December 2021 and numbered 31676, stipulates detailed regulations on payment services and electronic money, operating licenses, share acquisitions and transfers, shareholding structure, operating principles of organizations, branches, representatives, external service procurement and notifications, corporate governance, capital, information security, data sharing services, risk and internal control processes and remote customer acquisition and provides a transition period of one year from the effective date for compliance with all new provisions introduced by the Regulation.

Through the Regulation published in the Official Gazette dated 27.06.2023 and numbered 32234, the date by which institutions must complete their compliance processes has been brought forward and set as 30 September 2023.

Most recently, with the Regulation published in the Official Gazette dated 07.10.2023 and numbered 32332;

- the definition of the digital wallet is introduced,
- amendments are made to the documents required for operating licenses to operate in the field of payment services or to issue electronic money,
- share acquisitions and transfers between companies belonging to the same group, which do not directly or indirectly result in any change in the shareholding ratio of the ultimate shareholders of the institution, are considered as transactions that do not require the permission of the Central Bank,
- the minimum requirements for remote identification are regulated in detail.

The Regulation also introduced additional regulations regarding the account services to be offered by the payment service provider to other payment service providers and the services, additional conditions for the operating license, and the rights and obligations regarding the payment instrument.

Important Legislative Amendments	
The Regulation Amending the Regulation on Remote Identification Methods to be Used by Banks and Establishment of Contractual Relations in Electronic Environment	<p>The Regulation Amending the Regulation on Remote Identification Methods to be Used by Banks and Establishment of Contractual Relations in Electronic Environment (Regulation) is published in the Official Gazette dated 25.05.2023 and numbered 32201. The Regulation enters into force on 01.06.2023.</p> <p>The Regulation includes amendments regarding the remote identification of disabled customers, legal entities, and verification of the representation authorities. The Regulation also defines the real beneficiary and stipulates that necessary measures shall be taken to reveal the real beneficiary during the identification process of the legal entity.</p>
The Regulation on the Istanbul Finance Center	<p>Through the Resolution of the President dated 06.07.2023 and numbered 7364, The Regulation on the Istanbul Finance Center entered into force through publication in the Official Gazette dated 07.07.2023 and numbered 32241.</p> <p>The Regulation sets out the procedures and principles regarding the management and operation of the Istanbul Finance Center, the issuance of participant certificates, the functioning of the one-stop-shop and the implementation of Law No. 7412 on Istanbul Financial Centre.</p> <p>In addition, the Regulation stipulates that it is mandatory to obtain a participant certificate to operate in the IFC office area and to benefit from the provisions of Law No. 7412 on Istanbul Financial Centre and other relevant legislation.</p>

Digital Banking

A digital bank refers to a credit institution that offers its banking services through electronic banking services distribution channels instead of physical branches. Digital banks can perform all the activities that traditional credit institutions can perform, depending on whether they are deposit or participation banks. Credit customers of digital banks can only consist of financial consumers and SMEs.

The total amount of unsecured cash consumer loans, excluding credit card expenditures and cash withdrawals made with credit cards, and overdraft accounts, that digital banks can extend to a customer may not exceed four times the monthly average net income of the customer as declared and confirmed by digital banks, or 10,000 Turkish Liras if the customer's average net income cannot be determined.

As per board decisions of BRSA in 2022, 4 institutions received licenses to establish digital banks^[2]. According to the board decisions of BRSA in 2023, 2 institutions received licenses to found a digital bank^[3], and 2 institutions received licenses to operate as digital banks^{[4][5]}.



Digital Identity Onboarding

- In March 2022, Communiqué numbered III-42.1 on Digital Identity Onboarding and Signing of Agreement in Electronic Platforms by Intermediary Institutions and Portfolio Management Companies was published by the Capital Markets Association.
- The Regulation on the Prevention of Laundering Proceeds of Crime and the Financing of Terrorism was amended in April 2023. Article 6/A of the said regulation states that remote identification methods may be employed to verify the identity of the customers when establishing a continuous business relationship with individuals or legal entities registered in the trade registry. This is contingent on whether the legislation related to the principal field of activity of the obligor permits contracting with the customer through methods that allow verification of the customer's identity without physical presence.
- The Financial Crimes Investigation Board General Communiqué (No. 19) published in the Official Gazette dated 30 April 2021 and numbered 31470 and amended by the communiqué published in the Official Gazette dated 04.11.2023 and numbered 32359. The communiqué specifies that when the legislation related to their main fields of activity allows, obliged parties may use remote identification methods to verify customer identities in establishing a continuous business relationship. It further outlines that the methods developed through electronic channels should be designed to include all of the information required for face-to-face identification and to minimize risk in confirming the information. For payment and electronic money institutions, remote identification can be performed within the scope of methods and measures specified in the Communiqué on Information Systems of Payment and Electronic Money Institutions and Data Sharing Services of Payment Service Providers in the Field of Payment Services, published in the Official Gazette dated 01.12.2021 and numbered 31676.

Payment Services

As per decisions of CBRT in 2022, 18 institutions and in 2023, 7 institutions received licenses to operate as payment institutions and electronic money institutions. Conversely, the CBRT revoked the operating license of 1 institution in 2023.

The Digital Turkish Lira Cooperation Platform was established in 2021. A Central Bank Digital Currency refers to the digital representation of a nation's currency. The CBRT is advancing its digital currency initiatives as part of its broader digital transformation efforts, aiming to devise an efficient solution tailored to Türkiye's financial ecosystem.

The CBRT published the Digital Turkish Lira First Phase Evaluation Report ("Evaluation Report") on 31.12.2023, announcing the successful completion of the "Phase-1 Digital Turkish Lira System"^[6].

The Evaluation Report details the key outcomes and future directions from the CBRT's R&D activities (which include conversions between different forms of the Turkish Lira, smart payments, offline payments, and considerations around the legal and economic dimensions of implementing a digital currency) and Phase-1 conducted with the Digital Turkish Lira Cooperation Platform stakeholders, and outlines the methodologies embraced in the project. In Phase-1, the focus was on examining user experience and system performance through practical tests.

Additionally, the Evaluation Report signifies the CBRT's commitment to expanding the Digital Turkish Lira Collaboration Platform by involving new participants and conducting pilot tests of various scenarios in the forthcoming Phase-2, set to begin in 2024.

Cryptocurrencies

While there isn't a dedicated regulation for cryptocurrencies, **Turkish law doesn't explicitly forbid individuals from owning or trading them.** However, as per the Crypto Assets Regulation published in 2021,

- Crypto assets cannot be used directly or indirectly for payments.
- Services facilitating the direct or indirect use of crypto assets in payments are prohibited.
- Payment service providers are not allowed to develop business models that use crypto assets directly or indirectly in payment services or electronic money issuance, nor can they offer services related to such business models.
- Payment and electronic money institutions cannot act as an intermediary for platforms that offer trading, custody, transfer, or issuance services for crypto assets or fund transfers to be made from these platforms.



Trends in 2022 & 2023

The fintech industry is constantly evolving, with new trends emerging continuously. Below are some of the latest trends:



Digital-Only Banks: Digital banks offering customers a wide range of financial services through their mobile app, from current accounts to loans and investment services are growing.



Open Banking: Open banking enabling customers to share their financial data with third-party providers to access new and innovative financial services is on the rise.



Artificial Intelligence and Machine Learning: Artificial intelligence and machine learning are being used in fintech to improve customer experience, and enhance risk management.



Blockchain and Cryptocurrency: Blockchain technology being used in fintech to enable secure, decentralized transactions and to create new financial products is increasing.



Alternative Lending: Alternative lending platforms, such as online marketplace lenders, are using technology to offer consumers and small businesses access to finance that might otherwise be unavailable through traditional banking channels.



Card Schemes: In October 2022, the Banking Regulatory and Supervisory Authority released the Draft Regulation Amending the Regulation on Debit Cards and Credit Cards outlining a new regulatory framework for debit and credit cards, specifically targeting the operations of foreign card schemes in Türkiye and setting forth new requirements such as prohibiting the issuance of cards linked only to unlicensed foreign card schemes in Türkiye. Additionally, the amendment mandates card issuers to offer customers the choice of card scheme options, including those of licensed operators, and necessitates the inclusion of all linked card scheme brands on the card. The ultimate goal is to encourage foreign card system operators to obtain licenses in Türkiye, thereby enhancing the local card payment ecosystem. This draft has not been adopted as of this date.



Expectations for 2024

According to the State of Türkiye Tech 2023 Report (*"Türkiye Tech Report"*) published by the Presidency of the Republic of Türkiye Digital Transformation Office, Turkish startups are valued at more than €39B in 2023.^[7] In 2024, the growth of financial technologies is set to continue. Artificial intelligence usage in fintech is expected to rise, aiming to enhance customer experiences and product offerings. Neobanks, representing a branchless banking model allowing financial transactions to be made through mobile applications, have been regulated and are experiencing growth in Türkiye. In line with sustainable finance strategies, branchless banking is expected to expand further. Digital transformation will enable digital banks to reduce their expenses while broadening their range of financial services. The introduction of API banking has enabled startups to offer products through the APIs opened by banks. This trend is anticipated to grow alongside the expansion of open banking and API banking.

Sources

1. Report on the State of Turkish Fintech Ecosystem 2022, published by Republic of Türkiye Presidential Finance Office, 31 December 2022
2. BRSA decisions numbered 10165 and dated 21.04.2022, numbered 10263 and dated 07.07.2022, numbered 10282 and dated 04.08.2022, numbered 10347 and dated 28.09.2022.
3. BRSA decisions numbered 10542 and dated 23.03.2023, numbered 10639 and dated 03.08.2023.
4. BRSA decisions numbered 10543 and dated 23.03.2023, numbered 10561 and dated 30.03.2023.
5. Full decisions can be reached at BRSA's website.
6. The full text of the Evaluation Report can be reached [here](#).
7. The full text of Türkiye Tech Report can be reached at <https://Türkiyetechnohub.org/assets/report.pdf>

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