



The Legal 500 & The In-House Lawyer  
Comparative Legal Guide

France: Fintech

This country-specific Q&A provides an overview to  
Fintech law in **France**.

It will cover open banking, regulation of  
data, cryptocurrencies, blockchain, AI and insurtech.

This Q&A is part of the global guide to Fintech. For a  
full list of jurisdictional Q&As  
visit [http://www.inhouselawyer.co.uk/index.php/  
practice-areas/fintech/](http://www.inhouselawyer.co.uk/index.php/practice-areas/fintech/)

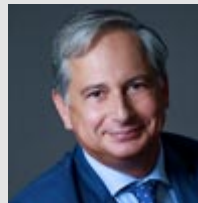


**Country Author: Kramer Levin  
Naftalis & Frankel LLP**

The Legal 500



**Hubert de Vauplane**



**Gilles Saint Marc**



**Wilfried Robin**

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

Overall, the main source of law in France is in the French Monetary and Financial Code.

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

Generally speaking, in France, payment services can be provided by non-banks. According to the article L521-1 of the French Monetary and Financial Code, "Payment service providers are payment institutions, electronic money institutions, credit institutions and account information service providers."

- Payment institutions: designates the legal entity authorized by the ACPR, which is authorized to provide payment services but is not a credit institution. They are also not authorized to manage securities or asset transactions or to offer passbook, term account or securities account accounts ;

- Electronic money institutions are legal persons, licenced by the ACPR as electronic money institution other than credit institutions and other than the persons referred to in Article L. 525-2, who issue and manage the electronic money as defined in French Article L. 315-1 of the French Monetary and Financial Code ;

- Credit institutions are undertakings, licenced by the ACPR, whose business consists, on their own account and as a usual profession, in receiving repayable public funds referred to in Article L. 312-2 and in granting credits referred to in Article L. 313-1 of the French Monetary and Financial Code ;

- Account information service providers (see below) ;

For instance, Directive 2007/64 / EC on payment services (DSP 1), Directive (EU) 2015/2366 of 25 November 2015 (DSP 2) allowed the creation of two new payment services:

- The payment initiation service consisting in initiating a payment order at the request of a user from a payment account held with another PSP;

- The account information service providing consolidated information about one or more payment accounts held by the user with one or more other PSPs.

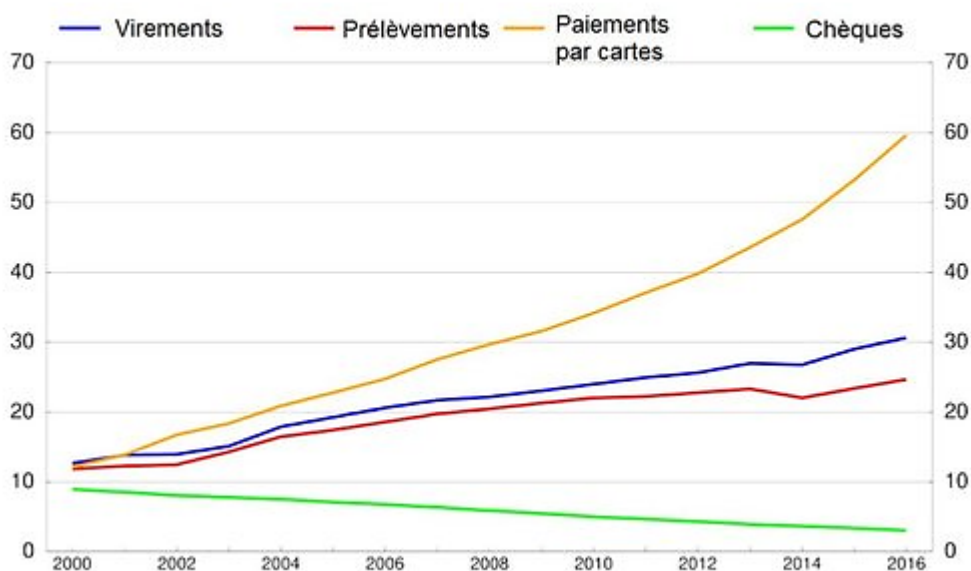
These new services may be provided by all PSPs, but also by new players whose activity will be dedicated to the provision of these activities, payment initiation service providers (PSIP) and account information service providers (PSIC). These do not hold funds on behalf of users, they

will be subject to an accreditation procedure and reduced prudential requirements.

The creation of these new services has led the European legislator to create a right for users to access payment accounts maintained by PSP account managers when these accounts are accessible electronically. This right of access concerns PSIPs and PSICs, but also PSPs issuing payment instruments linked to a card. The distribution of responsibilities between PSPs in the event of unauthorized payment transactions or non-execution, poor execution or late execution of payment transactions is of course adjusted to take account of this right of access, even if the PSP account manager remains the entry point for the user in case of problems.

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

According to the French Banking Federation survey, in France, bank cards dominate the payments landscape (MasterCard and Visa are the most represented). The orange line corresponds of payments by bank cards.



**Source: Data from BCE**

[https://www.banque-france.fr/sites/default/files/media/2017/04/05/bilan-cartographie-des-moyens-de-paiement-2016-donnees\\_2015.pdf](https://www.banque-france.fr/sites/default/files/media/2017/04/05/bilan-cartographie-des-moyens-de-paiement-2016-donnees_2015.pdf)

**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 legislative framework of open banking has recently been changed. Indeed, Articles 66 and 67 of the DIRECTIVE (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, (DSP2) introduced, on the one hand, a right of access to the payment account for payment initiation service providers and, on the other hand, a right of access to the data of the payment account information service providers. DSP 2 thus constitutes the legal basis for this trend towards the opening up of information systems, in particular by allowing market access for payment service providers to new providers.

As a result, it gives account information service providers, a legal basis for bank account aggregation services, since from now on the user has the right to allow access to their payment accounts to a third party.

On the other hand, it enables payment initiation service providers to create a bridge between a merchant's website and the payer's account manager's payment service provider's online banking platform to initiate internet payments on the basis of a transfer.

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

Overall, these matters are governed by the Regulation (UE) 2016/679 dated 27 April 2016 (General data protection regulation). The aim is to harmonize the different European legal frameworks for the protection of personal data, so that there is only one framework that applies to all the Member States of the Union European. The French "*Commission Nationale de l'Informatique et des Libertés*" (CNIL) is competent regarding data privacy issues and the protection of personal data, regardless of who is dealing with it (administration, company, association, etc). The CNIL is informed of data processing methods used by controlled entities and shall grant an authorisation for these methods. The CNIL also disseminates information to

cus-tomers and has the power to lead investigations and issue sanctions. It is notably competent for biometric data, which is considered as personal data under French law.

The current regulation aims to strengthen the right of users and thus to promote trust. Fintech benefit from this regulation which imposes on them obligations but which increases the confidence of the French in the services proposed by the Fintech. Generally, this regulation sets up a number of protections. For example, companies must first obtain the written and explicit consent of the user before any processing of personal data.

She also gives a "right to be forgotten" to obtain the withdrawal or deletion of personal data in case of invasion of privacy, the right to the portability of data, to be able to pass from a social network to the other, from one Internet service provider to another or from one streaming site to another without losing its information, the right to be informed in case of data piracy.

## **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?**

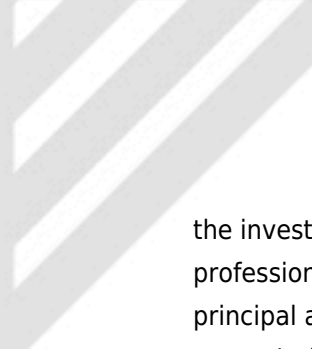
For a long time, the traditional finance industry was protected by the regulations in place (ie the banking monopoly, investment services regulations, etc). However, today, those regulations constitute a burden for traditional finance institutions since they prevent them from quickly adapting their business model to technological innovations (capital requirements, compliance, etc). Moreover, those regulations are evolving in order to promote and support FinTech activities. French authorities have indeed shown they consider FinTechs to be an important alternative way to provide new sources of financing. François Villeroy de Galhau, Governor of the French central bank and chairman of the French banking regulator, recently said that "the digital revolution is creating challenges but also incredible opportunities that are just waiting to be seized, whether by FinTechs themselves, by the entire financial system – banks and insurers – or by the French and European economy as a whole." Many regulations implemented in the last few years demonstrate French regulators' commitment to quickly establish appropriate regulations that foster the development of FinTech companies while ensuring investors' protection.

Indeed, France adopted a specific regulatory framework for crowdfunding activities in 2014. The main objective was to ensure investors' protection and information, while allowing crowdfunding activities to develop. A central provision of this framework established a new exemption from

public offering requirements (prospectus requirements, etc). Indeed, before the introduction of this regulatory framework, crowdfunding transactions offering over EUR100,000 in equity or bonds were subject to the public offering regulations.

In 2014, a provision was included to ensure that crowdfunding transactions under EUR1 million were exempt from the public offering requirements. This maximum amount has since been raised to EUR2.5 million. The 2014 reform included a new exemption from the banking monopoly (ie the rule prohibiting entities other than licensed banks from granting interest-bearing loans) for crowd lending activities, allowing individuals to grant loans through crowdfunding platforms. However, this exemption from the banking monopoly is limited to individuals (ie not businesses) acting outside of their professional activities. Moreover, loans are limited to EUR2,000 by lender and by project (EUR5,000 if the loan is without interests), the loan maturity has to be less than seven years, and the borrower cannot borrow more than EUR1 million per project. Crowdfunding internet platforms have to register with the French securities regulator either as crowdfunding intermediaries (for donations and crowd lending platforms) or as crowdfunding investment advisers (for investment-based crowdfunding). They are not required to register with the French securities regulator if they already benefit from a licence as financial services providers (prestataires de service d'investissement). Crowdfunding intermediaries and crowdfunding investment advisers have to comply with specific regulatory requirements, including rules of good conduct, professional integrity and the abilities of their managers, professional insurance requirement, etc. Moreover, the regulatory framework details information that crowdfunding intermediaries are required to disseminate to their members in order for them to be able to make informed investment decisions, and information they are required to request from their members to verify their identity.

Furthermore, prior to the entry into force of the abovementioned ordinance dated 1 October 2016, no specific regulation governs the issuance of promissory notes through crowdfunding platforms. Small and medium-sized enterprises (SMEs) used crowdfunding to fund projects by issuing promissory notes without being subject to any specific regulatory requirement. The ordinance amends the general regime of promissory notes (as these amendments are described above) and establishes a new crowdfunding regime for them. Promissory notes issued via a crowdfunding platform are referred to as minibons. Those minibons, since they are not financial instruments, are not subject to the prospectus requirements. They are also not subject to the French banking monopoly: the ordinance specifies that issuers of promissory notes are not violating the monopoly regarding reception of deposit funds from the public, and there is an exemption from the loan granting monopoly for individual investors subscribing to minibons outside of their professional activity and for legal entities which do not do so as a principal activity. Those minibons can be issued in a series (which is not the case for other promissory notes since the 2016 reform) by French corporate companies whose share capital is fully released. They are materialised by a registration certificate including specific mentions given to



the investor. They bear a fixed interest rate, which is limited by the usury rate for the professionals' overdrafts and is amortised at least quarterly in a constant total amount of principal and interest (so that bullet payments at maturity are prohibited). The maximum amount of minibons' issuance for a single issuer over a rolling 12-month period is EUR2.5 million. Minibons are necessarily issued via internet platforms of a crowdfunding investment adviser or investment services providers. Rules of conducts for the intermediation of shares and bonds also apply in respect of minibons. These platforms may provide for subscription notices and hold a minibons' register. Transfer of minibons can be done either by an assignment notified to the issuer, or by a distributed ledger technology referred to as blockchain, pursuant to procedures to be set out in a future decree.

Unlike the Financial Conduct Authority which has implemented the "sandbox" concept in the United Kingdom, consisting of a consisting of an experimental phase with lighter regulation for Fintech businesses, Fintech businesses in France do not benefit from preferential regulations. The French regulator's approach consists of personalised assistance to Fintechs by providing comprehensive support concerning regulatory requirements, although the French government is holding consultations to consider whether to enact less stringent rules specifically applicable to Fintechs companies.

At the European level, it is required to define an overall strategy for EU innovation in financial services. This strategy must cover all the issues raised by Fintech: from data protection to the fight against money laundering; from IT security to consumer protection; from financial stability to the social challenges of banking inclusion; from financial literacy to changes in jobs in the financial sector. It is a project currently being conducted by the European Commission.

Indeed European Commission is working an Action Plan on how to harness the opportunities presented by Fintech's services. European commission wants to build a Capital Markets Union and a true single market for consumer financial services.

The Commission aims to make EU rules more future-oriented and aligned with the rapid advance of technological development. Action Plan sets out 19\* steps to support the uptake of new technologies, increase cybersecurity and the integrity of the financial system. At the end, the Commission will present a blueprint with best practices on regulatory sandboxes, based on guidance from European Supervisory Authorities.

Proof of government support, the report mentioned that "The Olympic Games of 2024 offer the opportunity to go further: it is proposed, to reach a wide audience, that part of the ticketing of these games is digitized through tokens issued on a Blockchain."

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

There are no imminent risks to the growth of the Fintech market in France to our knowledge.

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

There are no tax incentives (other than tax incentives for start-ups like the "*Jeunes Entreprises Innovantes*" tax system or the "*Research or innovation tax credits*" etc.) to encourage Fintech in France to our knowledge.

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

The French Fintech industry consists of 750 FinTechs reported to be particularly competitive in four areas: payments and electronic currencies (24 payment institutions registered with the French banking regulator); robo-advisers; crowdfunding (170 platforms ); and online bank services. They offer innovative solutions regarding new methods of payment; dematerialisation of currency; disaggregation; cashless transactions; interconnection; connection between buyer and seller; trading robots; alternative loan platforms; savings management; process outsourcing; automated investors; and fund-raising.



## LANDSCAPE FINTECH FRANCE

|                                      | < 3 ans  | 3-5 ans  | > 5 ans                             |
|--------------------------------------|--|--|-------------------------------------|
| Alternative funding                  | Pretto hubokee StudyLEK Kestrel Edukys Aypomag Avansoo TUNI in Capital NovaLend BELONGSQUARE F FundFunding | LeLend PRESTIJI aprepup Investup lendix Fundamo BFiner BlueBees SPEAR microDAN                                   | BlueBees SPEAR microDAN             |
| Payment, Loyalty, Transfer, Fx       | SUMILLY PAYGREEN PAYLIFE mooncard Pledg ICARE youfil   | care labs PAYWEAK MAGNOLIA HiPay P4 easyconnect  | TagPay PayPlay HEBI dejamobile      |
| Personal & Business Cash Management  | analyse TACO Tax SMI FostockME   | Wynd spendesk POM LAFINBOX   | Live Supervisor OXENY fizeo Bankin' |
| Neobank & Bank as a service          | Shine xqonto Dito* Mergo Bank manageo  | pumpkin teogon MORNING Particeep MONEXOR IBanFirst   | Lydia NIKEL anytime                 |
| Insurtech                            | Wecover ADDONacs BURK Silverstark Sheriff PROXIS OTHERWISE OPUS M MESHWORK Loker Tesco Garantime CHOV alan | PackDrive insPeer ZenUS Share WeProof VALCO shift technology Minalia ALTAIRALTA WIZZO Testamento papernest FIDIA | qualycloud MEXICOMOR mediso H&D     |
| Regtech & Risk Management            | Invatobor Juriboard profilo  | Younisn STAR ISC Alghametry mediane  | Logimot AMBER CO Fortis legalbox    |
| Wealth Management & Investment tools | PRIBEE SHIK smartbees O nalo   | REVOLVENT VALOH SHANTIERI YOMONI   | FinKX Alphability abeeb MASUCCESSOU |
| Service to finance                   | MoodSights LISTO   | camija ALGON wiztopic payfit OPENSENSE   | SCALED RISK quiten pohol enyx       |
| Blockchain                           | ULTH postme id Gpaygate IZNES  | DOMRAIDER STRATUMN   | Ledger                              |

Source: Groupe la Française: Landscape 2018 Fintech analyses

The transactional value of FinTechs in France was USD72 billion in 2016 and is expected to be around USD145 billion in 2021. Investments in FinTechs jumped from EUR57 million to EUR172 million (a 300% increase) between 2014 and 2016 and are still increasing. Investments in FinTechs jumped again to reach EUR 318 million (184% increase) in 2017. In 2017, French FinTechs made many successful fund-raising: Tinubu Square raised EUR53 million.

### Evolution of fundraising in France



**Source:**

[https://business.lesechos.fr/directions-financieres/financement-et-operations/credits/0301425031860-fintech-envol-des-levees-de-fonds-319432.php#formulaire\\_enrichi::bouton\\_google\\_inscription\\_article](https://business.lesechos.fr/directions-financieres/financement-et-operations/credits/0301425031860-fintech-envol-des-levees-de-fonds-319432.php#formulaire_enrichi::bouton_google_inscription_article)

According to the French national bank , France is the EU Member State with the greatest use of online banking services, the second biggest crowdfunding market (after the UK) and one of the most dynamic markets in Europe for payment innovations.

According to a Deloitte survey , the products and services offered by leading French Fintech companies are still underused by French consumers. France’s adoption rate (ie the percentage of customers using at least one non-traditional firm for financial services) is only 36%, compared to 85% in China, 80% in India, 50% in the UK and 45% in the US. Account aggregation (used by 9% of French consumers), financial planning (6%) and participatory financing (6%) are the most used Fintech innovations in France. This is largely due to the fact that Fintech services and products are still relatively unknown to the public: while 38% of French consumers were familiar with crowdfunding services, only 28% had ever heard about account aggregation and financial planning. According to this survey, once consumers know about those services and products, they show a high level of interest, which leads us to believe that the Fintech market has strong development potential. The number of potential users for Fintechs in France was estimated to be around 80 million in 2017 and is expected to grow to 95 million before 2020. This represents a very important investment horizon.

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

As mentioned above, French FinTech firms raised significant funding in 2016. SME loan crowdfunding platform Lendix raised €12 million, KissKissBankBank €5.3 million, Ulule €5 million, Tiller €4 million and Wynd €30 million. Compte Nickel has developed a bankless, no-overdraft account that takes five minutes to open at a newsagents; the startup, valued at €200 million, was acquired by BNP Paribas in 2017.

Furthermore, more than 380 projects presented by start-ups, SMEs and large undertakings have already received the “excellence label” delivered by Finance Innovation. Finance Innovation supports and advises more than 1,000 businesses.

According to a study conducted by EY, more than €2 billion have been raised in venture capital by startups in France in 2016. This enthusiasm of start-ups can partly be explained by French regulations. [See point 6. above]

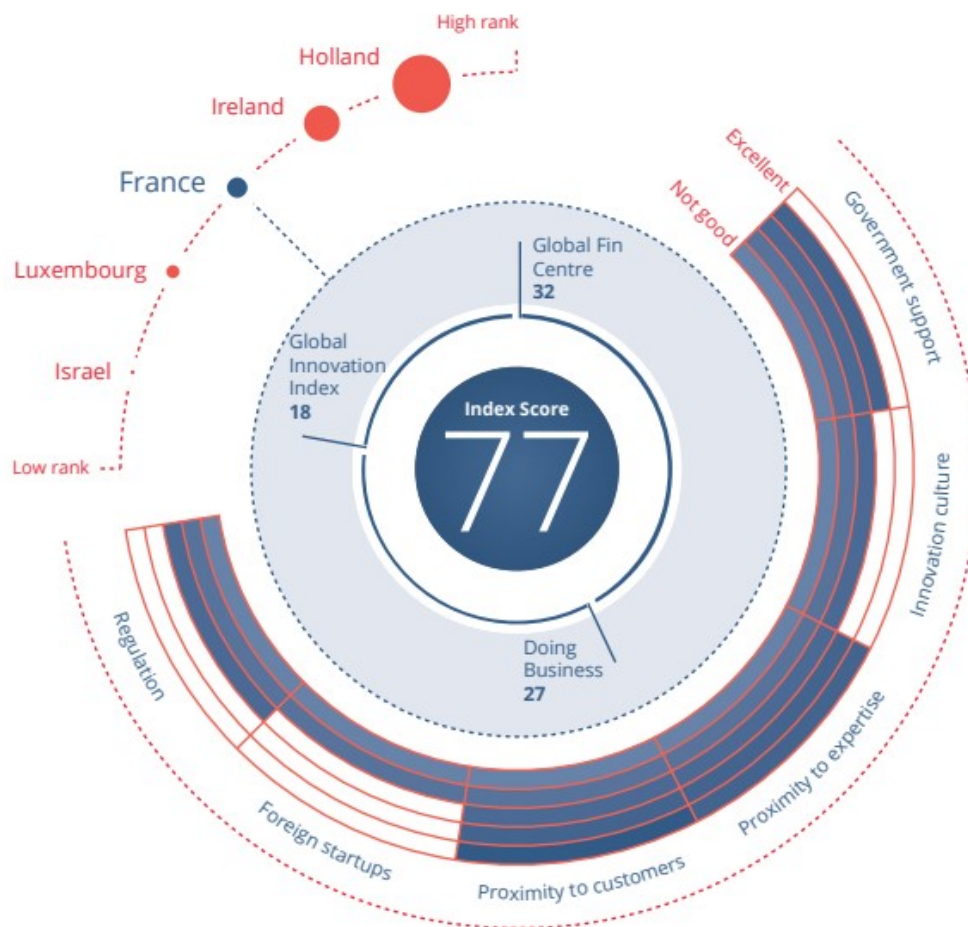
France offering incentives in an effort to attract Fintech startups. Indeed, France is a country where there are more than 80 business incubator (private and public) and “accelerators” (business development program that supports founders and helps them turn their ideas into successful businesses). Among the most recognized, we can quote KAMET by AXA, 50 PARTNERS by le Loft, TRUFFLE FINTECH INCUBATOR by TRUFFLE CAPITAL, FINTECH & CORPORATE L’ATELIER by BNP PARIBAS etc.

We can still quote “Station F”, the Xavier Niel’s incubator with 34,000 m2 facility and the world’s largest start-up incubator. Created by the “Hauts-de-Seine prefecture”, in partnership with Paris & Co and several large companies (Société Générale, NewAlpha AM, Crédit), “Swave” is the last one. In conclusion, France joins the rank of the countries where there are the most incubators.

It should be added that the French policy seduces Fintech. More precisely, Fintech are charmed by Emmanuel Macron. The nascent industry, ranging from mobile payment apps to “cryptocurrencies” like bitcoin, is seen by governments and business alike as crucial to the future of financial services and of vital importance, therefore, to economic growth.

As previously announced, France has “comprehensive regulations” with respect to Fintech, with clearly defined rules for companies looking to scale up. Fintech can rely on a strong

governmental and ministerial support. Moreover, Paris is home to a high concentration of financial institutions and asset managers. There is strong infrastructure established in payments, insurance and telecoms with large pools of talent available.



**Source: Deloitte report: Connecting Global Fintech: Interim Hub Review 2017**

This study confirms the government support and revealed France is one of the countries with the highest score on this issue. The same study revealed also a good grade in the category named "Proximity to customers". According to the definition mentioned in the study, France has a potential of customers at the better level. The study mentioned above (question 2) shows that

the lack of notoriety of Fintech is the reason of the low utilisation. Investors must be aware of this and must overcome this obstacle from the beginning.

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?**

There are no immigration rules (different from those for all foreign workers) which would help or hinder access to talent for through fintech in France to our knowledge.

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?**

There are no immigration rules (different from those for all foreign workers) which would help or hinder access to talent for through fintech in France to our knowledge.

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

The French Institut National de la Propriété Industrielle (INPI) acts in favour of economic development through its actions to promote innovation, including registration and issuance of industrial property titles, receipt and processing of applications for geographical indications, etc.

First of all, Fintech are protected by Trade Secret Regime. Indeed, trade secrets apply to any legal person whenever it is carrying on its activity, in whole or in part, in a competitive environment. It may be the same as a private company or an association or a public institution (Conseil n° 20065044 of 21 December 2006, Conseil n° 20092103 of 2 July 2009).

It has three dimensions (for a reminder see Conseil n° 20045291 of 6 January 2005):

- The secrecy of processes: protects information that can disclose a company's know-how, in particular manufacturing techniques and research, as well as all the information on technical and human resources mobilised.
- The secrecy of economic and financial information: covers information relating to the economic situation of a company, its financial condition and the level of credit, which shall include all information likely to reveal the level of activity.
- The secrecy of financial strategies: refers to the strategic decisions of a company and its positioning in its competitive environment: prices and discounts; list of suppliers; export development policy; level of improvement of the medical service rendered by a pharmaceutical laboratory; reasons for the withdrawal of the bid from the company to a tender; and dates of opening stalls of second-hand dealers.

In another hand, Fintech are protected by law through patents, copyrights and trade mark registrations, which allows creators to derive recognition or financial benefit from their inventions or creations. Reference should therefore be made to the following answers.

- Patent

Depending on the specific activity carried out by FinTechs, and generally speaking, in the sense of industrial property the patent protects technical inventions, ie products or processes that bring new technical solutions to a given technical problem. To be patentable an invention must be new, involve an inventive step and be susceptible of industrial application.

To be new, the invention must not be known to the public (previous patent applications, newspaper articles, marketed prototypes) without limitation of duration or place. To be inventive, the invention must not be evident from the state of the art for a person skilled in this art. An obvious improvement or modification of what is known is therefore not patentable. The inventive step in France is left to the judges' discretion and is in any case a complex criterion to be assessed. In order to be industrially applicable, the invention must be technically feasible and have a technical function that meets a technical problem. An abstract idea or concept is therefore not patentable.

- Copyright

Depending on the specific activity carried out by FinTechs, and in order to be protected by copyright, the work must result from creative activity, be formatted and be original.

Copyright protection does not require any formality to be carried out as it is automatically triggered by the creation of work meeting the three abovementioned requirements. The work is protected as of the day of its creation. However, the work bearing the mark of its author will need to be able to provide proof of the date on which the work was created in the event of a dispute.

In the case where several authors are at the origin of the work, the French Industrial Property Code, in its Article L.113-2, distinguishes three types of work:

- Collaborative: creation to which several natural persons have concurred (L.113-2 al.1). It is necessary and sufficient that the authors have contributed, ie realised a single work together and at the same time. The contribution of each individual cannot be individualised. The work of collaboration is managed under the undivided co-ownership (L.113-3), that is to say that it requires the unanimous agreement of all co-owners (co-authors) of the work to be used.

- Composite: a new work incorporating a preexisting work without any collaboration between the two authors (L.113-2 al.2). In order to realise a composite work, the agreement of the author of the preexisting work is necessary, as for any other exploitation of this work (L.113-4).

- Collective: a work created on the initiative of a natural or legal person who publishes and disseminates it under his direction and name in which the personal contribution of the various authors participating in its elaboration is based on the whole for which it is conceived without it being possible to attribute to each of them a distinct right over the whole realised.

If a company does not use the protections offered by the French Industrial Property Code, it could act a posteriori on the ground of "parasitisme," ie the forbidden act of using someone else's notoriety or know-how.

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

Cryptocurrencies are experiencing a favourable evolution of the regulatory framework. Indeed, Ordinance No. 2017-1674 dated 8 December 2017 provides for the amendment of article L. 211-3 of the MFC in order to authorize the registration of financial securities which are not admitted to a central security deposit within the meaning of Regulation 909/2014/UE of 23 July 2014 (as transposed in article L. 420-1 of the MFC as of 3 January 2018) on distributed ledgers

(*dispositifs d'enregistrement électronique partagés*). In accordance with article L.211-17 of the MFC as of the Ordinance Date, registration of financial securities on a distributed ledger shall be considered as a book entry (*inscription en compte*) and shall act, in accordance with article L. 211-16 of the MFC as of the Ordinance Date, as a proof of ownership.

It should also be noted that similar provisions were set forth in Ordinance No. 2016-520 dated 28 April 2016, which amended article L. 223-12 of the MFC to allow for *minibons*, a kind of promissory note (*bon de caisse*) issued via a crowdfunding platform, to be transferred on a distributed ledger. However, Ordinance No. 2016-520 also amends article L. 211-1 of the MFC in order to expressly provide that minibons are not financial securities.

Furthermore, a recent report was presented by Jean Pierre Landau to Bruno Le Maire on the management of Bitcoin and other cryptocurrencies. His final recommendation is to “avoid direct regulation and experiment with a license for exchange platforms” (except about the anti-money laundering and counter-terrorist financing regime). Indeed, a direct regulation “would make it necessary to define, classify and thus rigidify essentially cryptocurrencies, and thus to take the risk of being mistaken and to direct innovation towards regulatory evasion”.

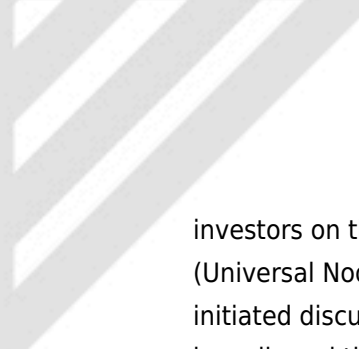
However, the recommended approach is to regulate the interfaces, essentially the exchange platforms. The report recommends, on the one hand, to define minimum principles of transparency, integrity and robustness at the global level and, on the other hand, to experiment at the national level with a specific status like a single approval regime for cryptocurrency service providers. This status would be granted for two to three years and would erase a single European statute, like “Euro Bitlicense” like New York’s and Japanese’s BitLicenses (New York granted this kind of licences to Ripple in 2015).

Another track recommended by the report is to promote a kind of right to an account for actors in crypto-finance because French entrepreneurs in the sector, who complain about refusals and difficulties to open an account, are forced to turn to foreign banks.

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

The French regulators seem to be enthusiastic toward initial coin offerings. As an example of this enthusiasm, we can evoke a discussion paper from the French Financial Markets Authority on initial coin offerings published on 26 October 2017. This document contains a warning to





investors on the risks related to initial coin offerings. However the AMF has set up UNICORN (Universal Node to ICO's Research & Network), a program in the framework of which it has initiated discussions with token issuers. Between its launch and 22 February 2018, this program has allowed the AMF to discuss with 15 token issued out of the 21 ICOs the AMF was aware of in France. 14 of the 15 project developers that met the AMF said they wished to conduct their operations and activities in France.

Furthermore, in the public consultation paper from October 2017, it stated that “the tokens issued in France of which the AMF is aware should not fall under French regulations governing the public offering of financial securities. This approach could be different in the case of ICOs giving rise to the issuing of tokens granting the same or comparable rights to those granted by financial securities (i.e. governance of financial rights).” The Public Consultation on 22 February 2018 from AMF indicates that she's explicitly favoured to the creation of an optional approval regime for ICOs rather than expanding the current law to include ICOs since they make public offerings. For instance, it announced that “The AMF Board has therefore decided to continue to work on the definition of a possible legal framework tailored to ICOs by specifying the appropriate information and guarantees that are necessary.”

The AMF seems to consider that only token that will meet the various criteria necessary for the qualification of securities to apply (for example, the qualification of a token “equity” will require the existence of governance or financial rights, and the qualification as a “debt security” will requires the token to incorporate pecuniary claims on its issuer).

Article 26 draft Law on growth and transformation of enterprises (PACTE) provides for a draft regulatory framework of initial token offerings. Bearing in mind that this draft will be discussed as of September 2018 in both the National Assembly and the Senate and may therefore be amended or rejected, this law, if enacted, would grant power to the AMF to deliver an optional visa to token offerings.

However, the explanatory statement introducing this draft law specifies that the AMF may only deliver this optional visa for tokens “which would not be governed by existing financial regulation” . As a result, the draft article L. 552-1 of the French Monetary and Financial Code states that the proposed regulatory framework would only apply to token offerings that are not already governed by other provisions of the French Monetary and Financial Code, including its Book II, Title 1 on financial instruments.

As a result, it is not possible to infer from recent regulatory developments that something that the issuer self-qualify as a “token” will never qualify as a financial security and be subject to, notably, the regulations on public offerings of financial securities. If a digital asset issued as a

token meet the criteria to qualify as a financial security under French law, these regulations, amongst others, will most certainly apply.

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

There are no live blockchain projects in France to our knowledge.

**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?**

Artificial intelligence is more and more used in the Fintech in France. Different services provided by Fintech are concerned by this trend. For instance, the French AI Fintech “DreamQuark” is known for its innovation in the field of AI and particularly deep learning (Deep Learning) applied to financial services. DreamQuark is a platform which allows financial institutions to create all kinds of applications, based on AI, such as customer segmentation, product targeting, underwriting, credit granting, asset management, compliance, anti-money laundering, fraud, collection, satisfaction and customer retention.

As proof of the importance given to this issue by French regulator, the Governor of the Bank of France, François Villeroy de Galhau, announced the creation of a working group with the AMF assessing the effects of the AI on the financial professions. The institution will also publish a study on digital transformation in banking and insurance. We can also mention several Banks and insurance regulators and observers such as the Financial Stability Board or the Bank's Business Observatory, which analyse the potential consequences of AI on their sector.

A recent report on the artificial intelligence of the mathematician and MP Cédric Villani was made public Wednesday, March 28, 2018. As a result, it recommends to free oneself from a legal and fiscal framework too restrictive, which discourages the research, thus braking the competitiveness of France. This report is in accordance with a previous report made by “France Intelligence Artificially” and the French Government who also ordered to build a favourable legal framework.

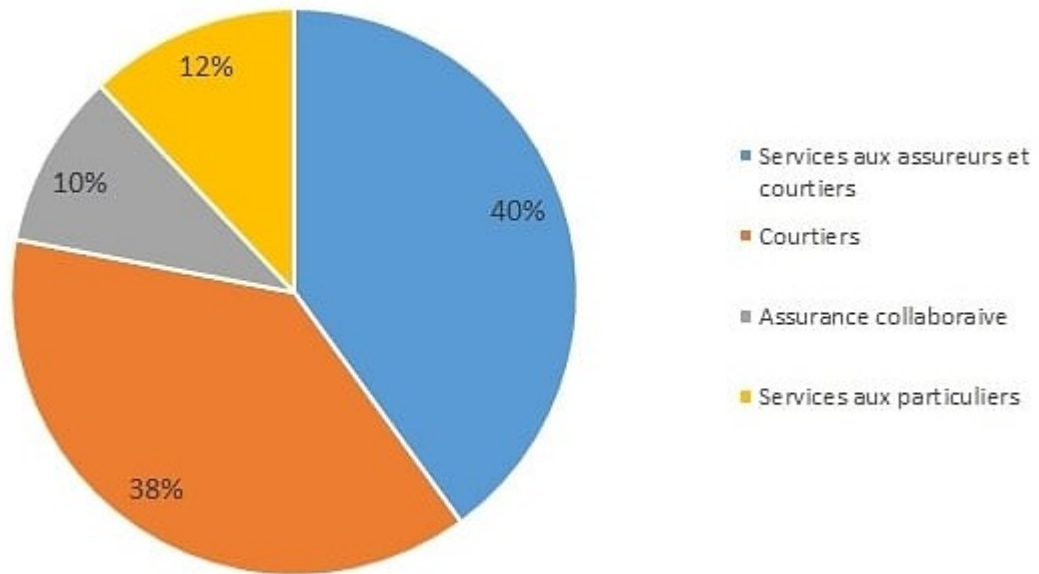
18. **Insurtech is generally thought to be developing but some way behind other areas of fintech such as payments. Is there much insurtech business in your jurisdiction and if so what form does it generally take?**

As mentioned hereof, Insurtech are not inefficiently represented in the French Fintech landscape:



Insurtech in France are divided into four categories of services:

- 40% belong to the services to insurers and brokers: they are technology providers for insurers. For instance, Shift Technology offers a platform that allows insurers to detect fraudulent returns;
- 38% belong to the insurance broker: they offer digital insurance solutions for individuals or professionals (often more flexible and less expensive) but do not cover the risk;
- 12% offer services to individuals and businesses: these are solutions inventories of goods to better make his statements to his insurance, or application for making state of affairs;
- 10% offer collective insurance services: this makes it possible to cover a community of insureds who have similar needs.



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

[Answer in question 3.4 above]

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

The relationship between traditional finance and FinTechs seems to be moving from confrontation to co-operation. The competitiveness clustering “France Innovation,” in a 2016 white paper, emphasised on the complementarity between banks and FinTechs and on the necessary co-evolution of those two industries. On one hand, banks are experiencing a strong dematerialisation trend (only 17% of their clients visit their local bank more than once a month, as opposed to 62% five years ago) and thus have a strong incentive to support technological innovation by FinTechs in order to reinvent their business model and customer service. On the other hand, banks enjoy large market shares and a solid expertise that can be useful for FinTechs looking to develop their activities and to benefit from economies of scale. FinTechs, therefore, seem bound to complement and inspire traditional finance rather than replace it. A

few examples of this co-evolution trend can be observed in the French FinTechs market such as:

- Consortium Euronext, ie BNP Securities Services, Euroclear, Euronext, Société Générale and other institutions, have joined forces to develop blockchain-based post-market infrastructures for ETIs;
- In 2017, BNP Paribas acquired Nickel, a start-up developing an online bank account that can be opened in five minutes;
- In June 2017, the French bank La Banque Postale acquired the crowdfunding platform KissKissBankBank;
- Since 2014, the French bank Crédit Agricole has welcomed around 90 start-ups, including 15 FinTechs, in Paris to help them develop and to find clients and partners;
- BNP Paribas has developed the WAI (We Are Innovation) centre in Paris, which works as a business incubator for FinTechs;
- In 2012, BPCE created its own internal start-up, S-money, for payments-related innovations. It then started acquiring FinTechs;

Other incubator initiatives include the Finance Innovation cluster, which helps to facilitate innovating projects and research projects related to FinTechs. More than 380 projects presented by start-ups, SMEs and large undertakings have already received the “excellence label” delivered by Finance Innovation. Finance Innovation supports and advises more than 1,000 businesses. This cluster also aims at facilitating discussions and exchanges between stakeholders in the Fintech industry.

However most Fintechs are not looking to partner with traditional finance institutions but to bypass them in order to gain market share by offering consumers innovative services and new methods of consumption. According to a 2016 Business Insider survey, 43% of French banks see French Fintechs as a possible threat, while 24% see them as collaborators and 15% see them as possible technology acquisitions.

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

Please see above.

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

There are no strong examples of disruption through Fintech in France to our knowledge.