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RUSSIA: LAWS AFFECTING NEW TECHNOLOGIES FOR FINANCIAL SERVICES POST COVID-19

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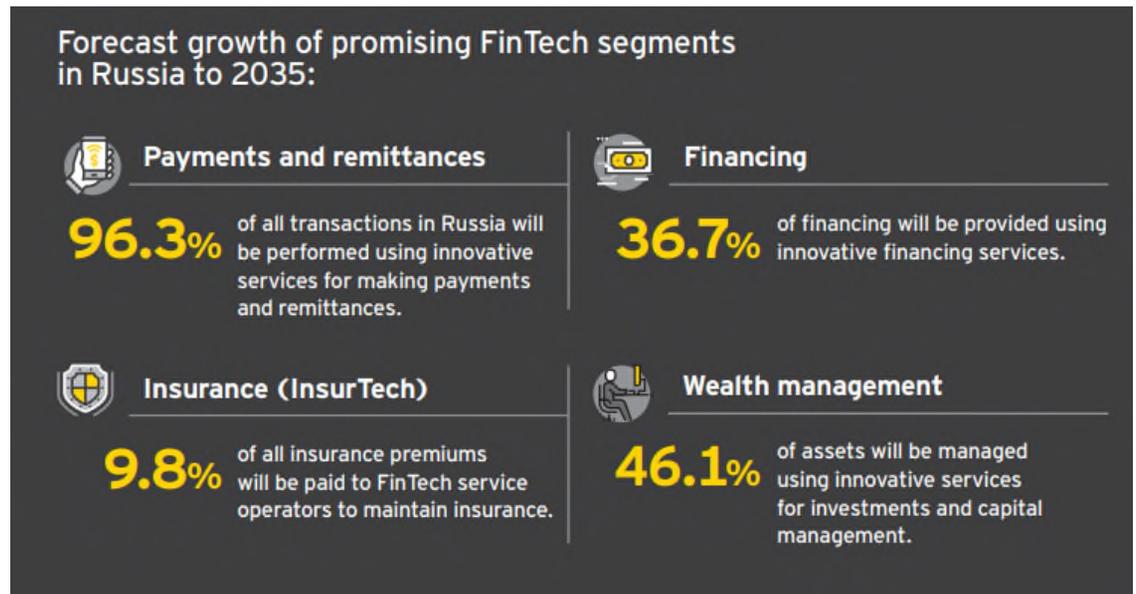
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Topics

- Traditional laws
- Specific laws
- Central Bank priorities
- Regulatory sandboxes
- Takeaways

FinTech in Russia: Stats and Forecast

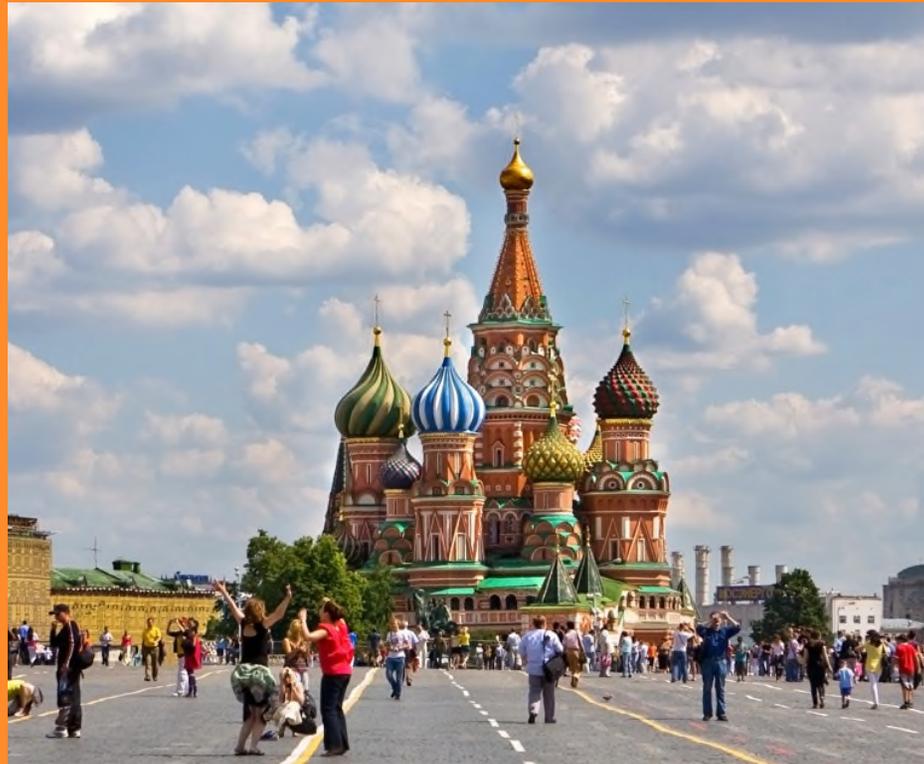
- 2019: Russia was #6 globally by app downloads volume
- 2019: Smartphones sales in Russia went up 12% (while the sales went down globally)
- COVID-19 induced a spike in new accounts opening with securities brokers



Sources: <https://www.shopolog.ru/metodichka/analytics/itogi-razvitiya-mobil-nogo-rynka-v-2019-godu/>
[http://www.tadviser.ru/index.php/Статья:Смартфоны_\(рынок_России\)](http://www.tadviser.ru/index.php/Статья:Смартфоны_(рынок_России))
https://www.vedomosti.ru/personal_finance/articles/2020/04/06/827264-rossiyane-idut
https://investinrussia.com/data/files/sectors/0_EY-focus-on-fintech-russian-market.pdf

SECTION 01

TRADITIONAL LAWS



Traditional Key Laws Governing Financial Sector

- Laws that may contain applicable regulation
 - Federal Law on Securities Market, 1996
 - Federal Law on the National Payment System, 2011
 - Federal Law on Banks and Banking Activity, 1990
 - Federal Law on Currency Regulation and Currency Control, 2003
 - Federal Law on Counteracting Legalization (Laundering) of Proceeds Derived by Illegal Means, and Financing of Terrorism, 2001
- Laws that may contain applicable rules
 - Federal Law on Information, Informational Technologies and Protection of Information, 2006
 - Federal Law on Personal Data, 2006
 - RF Law on Consumer Protection, 1992

Government Attitude Toward Digital Technologies

- 2018: Presidential Decree on digital economy; national project till 2024
- Before 2019: no special regulation of digital rights and technologies
 - historically high volume of paper-based operations and low trust of electronic sources
 - negative attitude toward cryptocurrencies: nontransparent nature of transactions and anonymous participants
 - investment platforms working in gray area
 - the Central Bank and the Ministry of Finance concern about the nontransparent nature of transactions and AML, anti-corruption, and other compliance issues
- 2019: adoption of first special laws governing digital technologies
- 2020: new laws and initiatives, including as result of COVID-19 challenges

SECTION 02

SPECIFIC LAWS ADDRESSING DIGITAL TECHNOLOGIES

Specific Laws Governing Digital Technologies

- Amendments to the Civil Code (aka Digital Rights Law), of 18 March 2019, in effect from October 2019
 - notion of “digital rights”: broad definition may cover tokens, coins, and other digital assets
 - provisions applicable to “smart” contracts
 - explicitly allows entering into agreements by “electronic and other technical” means including via exchange of data
- Federal Law on Attracting Investments with the Usage of Investment Platforms (aka Crowdfunding Law), of 2 August 2019, in effect from January 2020
 - notion of “investment platform” – information system for concluding investment contracts with the use of information technologies and technical means
 - investments including through utility digital rights
 - “Russian version” of ITOs: investments with cryptocurrencies are not allowed

ITOs General Considerations

- Through an investment platform
- Limitations on an investment platform operator
 - only a Russian entity included in the register of the Central Bank (yet to come)
 - certain ownership and activity restrictions, requirements for own capital, other
- Rules on investing and attracting investments
 - limits on amounts
 - rules on offering, investment objects
 - certain disclosure requirements
- Investment platform operator is subject to the Russian AML rules
 - KYC
 - internal controls and AML officer
 - reporting on suspicious transactions



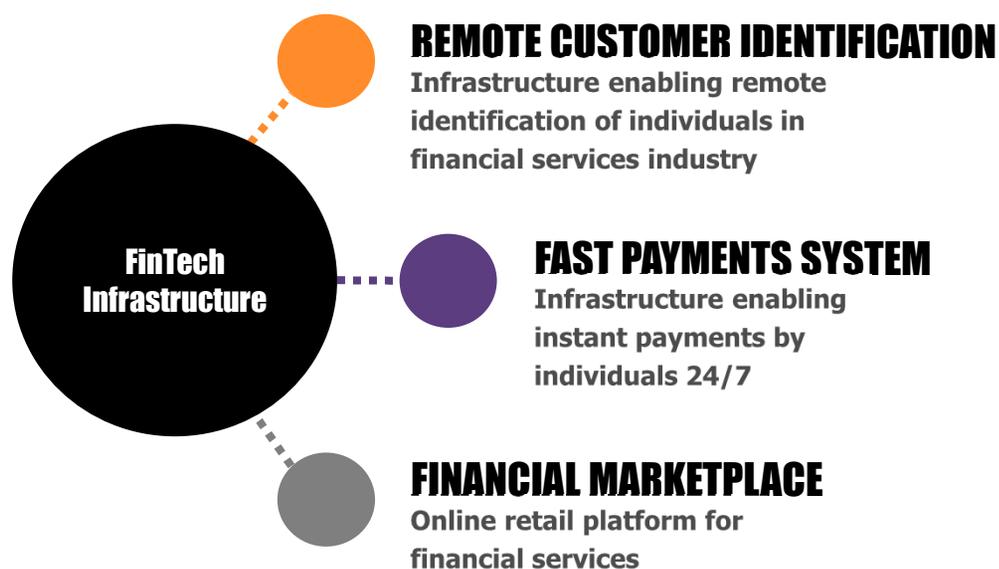
Laws to Be Adopted Digital Technologies

- Draft Law on Digital Financial Assets
 - under consideration since March 2018; reportedly, to be adopted this year
 - notion of “digital financial assets”, rules for their issuing and acquiring – similar to registered securities, yet different
 - no separate definitions for cryptocurrency and DLT
- Draft Law on Experimental Legal Regimes for Digital Innovations (aka the Regulatory Sandbox Law)
- Other “digital technology” laws and regulations to follow
 - specific regulation will be needed to cover taxation, AML, currency control, licensing of tokens, certification of security tools on blockchain platforms, as well as liability related to the turnover of digital assets and tokens

SECTION 03

**FINTECH DEVELOPMENT
CENTRAL BANK KEY
PRIORITIES**

Central Bank's Priorities



Technologies:

- big data
- artificial intelligence
- machine learning
- robotization
- block chain
- cloud technologies
- biometrics
- etc.

Source: Guidelines for Financial Technology Development for 2018-2020 (<https://www.cbr.ru/fintech/>)

General Identification Requirements

- General rules of the AML Law on identification
 - businesses engaged in money transfers (credit institutions, micro-financial institutions, securities market professionals, insurers, operators of investment platforms, payment agents, telecom providers, etc.)
- 2014: Simplified identification of an individual client (Art. 7 of the AML Law)
 - limited scope of eligible transactions and financial services contracts
 - in-person or by electronics means of communication (first steps towards remote identification)
- “Outsourced” identification
 - credit institutions → other credit institutions, banking payment agents, accredited certification centers, telecom providers (based on a contract or subject to the terms of a multilateral payment system), but only in connection with electronic payments processing without personal account opening
 - security markets professionals, insurers, operators of investment platforms → credit institution (based on a contract)
 - intra-group exchange of identification data (subject to individual’s consent and only within Russia)

Remote Identification: State Information Systems

- Unified System of Identification and Authentication (USIA, gosuslugi.ru)
 - integration and data exchange with other information systems and exchange of electronic documents generated by individuals envisaged
 - experimental phase announced to test integration with other information systems and businesses
- Unified Biometric System (Art. 14.1 of Information Law)
 - currently available only to governmental authorities and banks
 - authorized banks do initial biometric identification (face and voice) and populate the system
 - customer verifies credentials through an app and receives remote access to services offered by participating banks
 - types of banking services and transactions are limited
- Next step – National System of Data Management
 - “state data”, “individual digital profile”
 - experimental phase until 31 December 2020 (participation is limited to state authorities, certain banks and insurers; telecom companies may apply to join)
 - draft law prepared by the Government

Fast Payment Systems

- Federal Law on National Payment System regulates cash and electronic payments
- Central Bank's Fast Payments System
 - intra-banks payments and payments via QR-codes available currently
 - online invoicing and payments to participating businesses expected later in 2020
- Alternative fast payment systems in Russia
 - organized by banks
 - organized by nonbanking credit institutions
- International payment systems (Art. 19.2 of the Law on NPS)
 - accreditation by Central Bank
 - formal presence in Russia
 - partnership with a Russian operator of money transfers

Financial Marketplace: Key Regulations

- Federal Law on Securities Market
 - applies to securities and financial instruments including foreign financial instruments
 - governs service providers (brokers, exchanges, registrars, custodians, investment consultants, etc.)
 - addresses rules on qualified investors (QI) and nonqualified investors
- Key regulatory restrictions
 - ban on public placement (offering) or circulation (trading) in the Russian market of foreign financial instruments not approved by the Central Bank
 - ban on offering such instruments in any form, including by way of public marketing (advertising), to an unlimited number of persons
 - only Russian entities can be licensed service providers
 - foreign entities are restricted from operating in the Russian securities market and offering their services publicly, including via an agent, to an unlimited number of persons

Note Financial instruments not approved by the Central Bank may be only offered nonpublicly and only to QIs

CBR's Measures in Connection with COVID-19

- Central Bank's measures to support financial system in the current pandemic situation
 - individuals: banks may open accounts remotely but only for "socially critical" payments (alimony, pensions, educational allowances)
 - SME: banks may open accounts remotely if such accounts are for drawdown of credit funds to be used for payroll cost
 - banks can process house mortgages remotely
 - acquiring fees ceiling in online retails (1%)
 - in effect until 1 July 2020 / 30 September 2020
- Will it survive?

See further details at <http://cbr.ru/covid/>

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SECTION 04

REGULATORY SANDBOXES



Regulatory Sandboxes: Central Bank Pilot

- Launched by the Central Bank in 2018 for testing innovative financial technologies and services on financial market (https://www.cbr.ru/fintech/regulatory_sandbox/)
- Key target technologies include
 - Big data and machine learning
 - Artificial intelligence
 - Biometric technologies
 - Distributed ledger technology
- Limited to provide the carveouts from the Central Bank regulations only
- Approximately 20 applications received mostly from major Russian banks and fintech service providers

Regulatory Sandboxes: Project Examples

- The Central Bank reported several stablecoin projects being tested in the sandbox
- Legal basis – Digital Economy National Program adopted by the Government in 2017, Main Directions for Development of Financial Technologies for 2018-2020, adopted by the Central Bank in 2018
- Projects cannot go live pending new regulation, mostly the Digital Financial Assets Law
- Atomyze @ www.atomyze.com
 - Asset-backed token issuance platform; Norilsk Nickel as the first issuer of tokens
 - Allows for issuance and trading of tokens for real-world objects such as palladium
 - Approved by the Central Bank for rolling out when the regulation is available
- Central Bank Digital Currency (CBDC)
 - The Central Bank considers whether it is worth testing in view of regulatory and market risks
 - The Central Bank is skeptical on the future of cryptocurrencies including state-backed ones

Key Features of Draft Regulatory Sandbox Law

- A sandbox is
 - A set of carve-outs from the existing laws
 - To allow the testing of digital innovations in a particular sphere
- Digital innovations are
 - New or significantly improved products or processes (goods, services, IP, and know-how)
 - Created using technologies, the list of which to be approved by the Government and the Central Bank
- Created for a limited period up to three years at the initiative of
 - A government authority responsible for a particular sphere of regulation
 - A company willing to develop a technology

Key Features of Draft Regulatory Sandbox Law

- Concerns digital innovations in eight spheres including
 - Life sciences such as telemedicine
 - Transportation including self-driving vehicles
 - E-learning
 - Financial markets
- Current status of the draft law
 - The concept supported by the President
 - Initial drafts in April and July 2019; introduced to the State Duma in March 2020
 - State Duma adopted in the first reading on 12 May 12 2020
 - Still, question as to whether it is a law of the first priority, in the COVID-19 situation

SECTION 05

TAKEAWAYS



Presentation Takeaways

1. Detailed regulatory landscape
2. New laws emerging
3. COVID-19 boosted developments and may facilitate new laws
4. Fintech development is a priority
5. Market stability considerations

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Morgan Lewis Coronavirus/COVID-19 Resources

We have formed a multidisciplinary **Coronavirus/COVID-19 Task Force** to help guide clients through the broad scope of legal issues brought on by this public health challenge.

To help keep you on top of developments as they unfold, we also have launched a resource page on our website at

www.morganlewis.com/topics/coronavirus-covid-19

If you would like to receive a daily digest of all new updates to the page, please visit the resource page to [subscribe](#) using the purple “Stay Up to Date” button.

Biography



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Dmitry represents domestic and international companies across multiple industries, such as media, energy, retail, and financial services in mergers, acquisitions, and joint venture transactions as well as in general corporate matters and real estate transactions. On an ongoing basis, he also counsels clients on virtually all regulatory aspects of employment relations, including issues of personnel mobility, executive compensation, long-term incentive programs and a variety of personnel issues arising in M&A transactions. Dmitry is a member of the Moscow COVID-19 Task Force.

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With a focus on telecommunications, media, entertainment, and technology industries, Anastasia represents international and Russian companies in transactions relating to joint ventures, mergers and acquisitions, technology and IP licensing, distribution arrangements, as well as in general corporate and commercial matters. Anastasia also advises on various regulatory aspects of mass media and IT businesses; use and protection of intellectual property; production and distribution of motion pictures in Russia; corporate governance and compliance matters; ecommerce, advertising, and outsourcing.

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With a Ph.D. and fluency in three languages, Valentina advises Russian and international companies on mergers and acquisitions, project finance, and capital markets matters. Valentina, whose clients have included startups as well as large retail companies and banks located around the globe, advises on multijurisdictional mergers and joint ventures, private equity investments, and securities offerings. Valentina also handles corporate governance matters and due diligence.

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Vasilisa represents global and domestic strategic and financial investors across multiple industries, including financial services, mass media and telecommunications, energy, and pharmaceuticals and life sciences. Vasilisa's practice focuses on cross-border investment, joint venture, and merger and acquisition transactions. Vasilisa also counsels on corporate governance and compliance and advises on capital market transactions and related regulatory matters. She has served as lead lawyer on complex corporate projects, including acquisitions, divestitures and joint ventures, public and private equity offerings, financing, and structured settlements. Vasilisa is a member of the Moscow COVID-19 Task Force.

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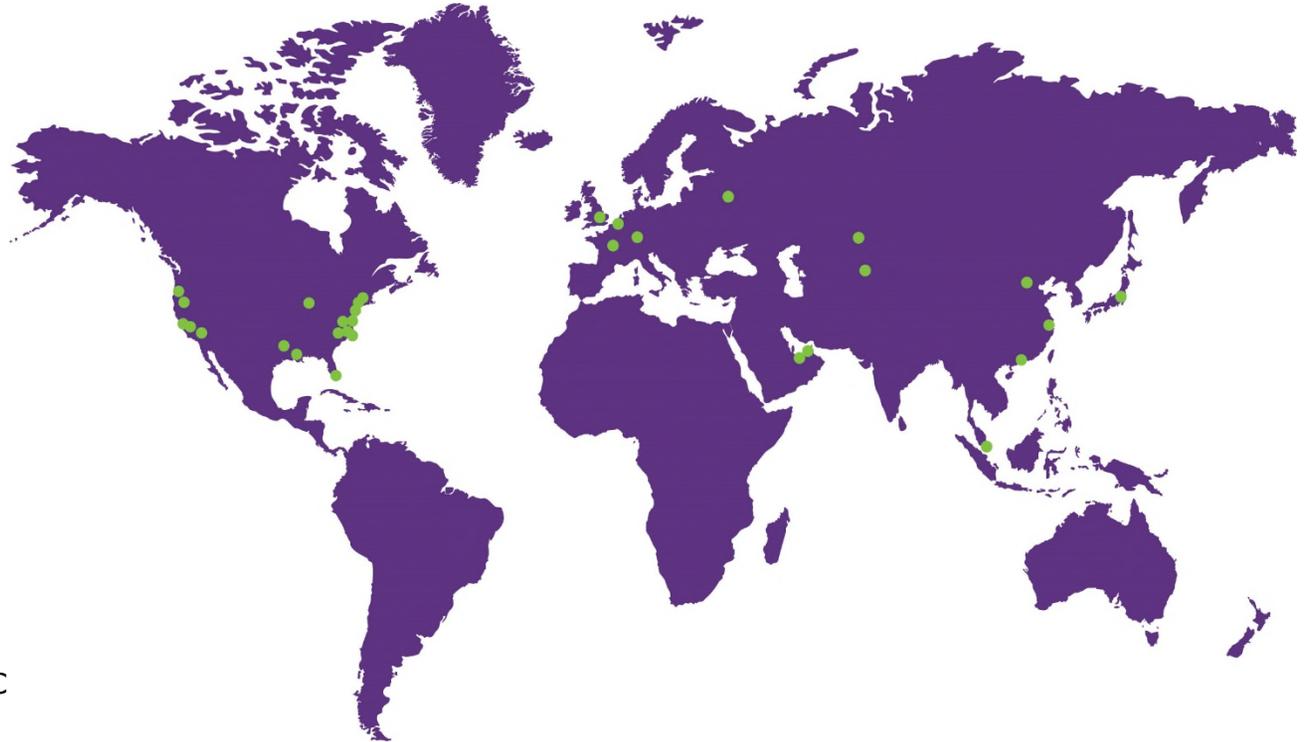
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