

International Comparative Legal Guides



Fintech 2021

A practical cross-border insight into fintech law

Fifth Edition

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Pakistan

RIAA Barker Gillette



Mustafa Munir Ahmed



Saira Khalid Khan

1 The Fintech Landscape

1.1 Please describe the types of fintech businesses that are active in your jurisdiction and the state of the development of the market, including in response to the COVID-19 pandemic. Are there any notable fintech innovation trends of the past year within particular sub-sectors (e.g. payments, asset management, peer-to-peer lending or investment, insurance and blockchain applications)?

Types of Fintech Businesses Operating in Pakistan

Various local and global players have obtained the necessary licences/registrations to operate as fintech businesses in Pakistan. Such entities operate, *inter alia*, payment networks in Pakistan and have also allowed consumers to increase their interactions with cashless transfer of funds and cardless payments via e-wallets, QR payments and e-banking.

Fintech companies in Pakistan are currently providing services such as, amongst others, digital banking, payment gateways, e-wallets/digital wallets, digital lending, etc.

State of Development of the Market

The information technology (“IT”) industry has shown significant growth and prominence in Pakistan. The financial institutions have already been gearing up for technological enhancements and overhauls. Organisations in Pakistan, while struggling with their slow economic growth in the past, have embraced the technological revolution in the recent past few years. In the last decade, especially in the wake of the global COVID-19 pandemic, which has posed serious economic and social challenges for regulators, policy-makers and services providers, digital transformation has become vital – not only for payments and financial services, but also for every sector of the economy catering to the financial needs of customers. Therefore, the State Bank of Pakistan (“SBP”) has showed promise to back this market by providing regulatory recognition to fintech innovation. It is pertinent to highlight that the SBP’s oversight of payment systems in Pakistan is governed by the State Bank of Pakistan Act, 1956 and the Payment Systems and Electronic Funds Transfer Act, 2007 (the “PSEFA”).

In order to foster innovations in payments by use of technology and provide an enabling regulatory environment to non-bank entities, the SBP further strengthened the already laid building blocks for payment service providers by introducing the Regulations for Electronic Money Institutions (“EMI”) and Regulations for Electronic Fund Transfers. Since then, the SBP has received a tremendous response, as it has provided a new space for the numerous fintechs operating in Pakistan.

It may be noted that the SBP is the regulator for the banking sector in Pakistan, and provides various guidelines, regulations and codes of conduct, which impose obligations on banks and financial institutions to uphold customers’ confidentiality. The Securities and Exchange Commission of Pakistan (“SECP”) is the regulator for Non-Banking Financial Companies (“NBFCs”), brokers and insurance companies in Pakistan.

Recently, the SBP has taken significant steps that are expected to provide strategic direction and a roadmap to build more modern and robust payment systems in Pakistan. Some of the major steps taken during FY20 are as follows:

- Launch of the National Payment Systems Strategy (“NPSS”).
The SBP aims to develop the blueprint for modern and robust payment systems in the country. The objective is to seek recommendations to design a comprehensive national payment architecture in line with international standards.
- Implementation of the Micro Payment Gateway (“MPG”) (an Instant Payment Scheme).
MPG is an initiative taken by the SBP to achieve its strategic goal of developing modern and robust payment systems in the country. MPG is a state-of-the-art, interoperable and secure payment platform that enables consumers, merchants and government entities to exchange funds in a seamless, instant and cost-effective manner. It has advanced functionalities to process instant/near real-time and alias-based payments, bulk transfers and “Request to Pay”, and the capability to on-board participants, including banks, merchants, EMIs, etc. through application programming interfaces (“APIs”).

Key achievements to strengthen and promote the payment systems regulatory regime are as below:

- Improving Payment Card Acceptance in Pakistan.
- Standardisation of QRs.
- Digital Onboarding of Merchants.
- Regulatory Measures to Promote Digital Payments During the COVID-19 Pandemic:
- Waiving Charges for Online Fund Transfers.
- Measures to Enhance Cyber Resilience Amid the COVID-19 Threat.
- Clearing of Scanned Images of Cheques for Priority/Corporate Customers and Image Based Clearing (“IBC”) Functionality.
- Facilitation of EMIs, Payment System Operators and Payment Service Providers.
- Improving the Large-Value Payment and Settlement System.
- Strengthening the Legal and Oversight Framework in Line with the NPSS.

Notable Fintech Innovation

While blockchain companies have started to emerge in Pakistan and the government has acknowledged the potential of blockchain technology, currently, there is no regulatory framework in place to govern the use of such technology and related services in Pakistan. In recent news, a leading microfinance bank in Pakistan, in partnership with a Malaysian entity, has introduced Pakistan’s first blockchain-based cross-border remittance service, powered by industry-leading blockchain technology.

1.2 Are there any types of fintech business that are at present prohibited or restricted in your jurisdiction (for example cryptocurrency-based businesses)?

There is no specific regulatory framework for fintech businesses operating in Pakistan; however, certain types of businesses operating as a fintech require a licence from the relevant regulator – please refer to our response to question 3.1 below. With specific reference to cryptocurrency-based businesses, the SBP, pursuant to a Circular issued by it (BPRD Circular No. 03 of 2018), has prohibited banks and financial institutions it regulates from dealing with cryptocurrencies. However, a constitutional petition has been filed in the High Court of Sindh, seeking issuance of a direction of appropriate nature so as to nullify the Circular.

2 Funding For Fintech

2.1 Broadly, what types of funding are available for new and growing businesses in your jurisdiction (covering both equity and debt)?

While conventional methods of raising debt, i.e. banking institutions, remain the most popular, funding may be obtained from a variety of sources for new and growing businesses, including angel, seed and later rounds of equity, debt and convertible debt instrument(s). Other ways for growing businesses to raise financing are through private equity funds. Depending on the size and growth of the business, funds may also be raised pursuant to an initial public offering.

2.2 Are there any special incentive schemes for investment in tech/fintech businesses, or in small/medium-sized businesses more generally, in your jurisdiction, e.g. tax incentive schemes for enterprise investment or venture capital investment?

The SBP, whilst recognising that some international investors prefer to invest indirectly through holding companies established abroad, has recently, under its revised policy governing equity investment abroad, authorised banks to allow outward remittances for the establishment of holding companies abroad by Pakistani fintechs and start-ups for the purposes of raising capital from outside Pakistan. The SBP’s revised policy will enable Pakistani fintech and start-up companies to channel foreign direct investment into the country by establishing a holding company abroad. Pakistan’s investment regime allows full freedom to repatriate profit, dividend and capital, subject to certain compliance requirements.

Pakistan’s government incentives, subject to compliance with applicable laws, for investors in the IT industry include:

- (i) A tax holiday on profit and gains for venture capital companies and venture capital funds until 30 June 2024.

- (ii) Zero income tax on export of computer software, IT services or IT-enabled services until 30 June 2025, provided that 80% of the export proceeds are brought into Pakistan in foreign exchange remitted from outside Pakistan through normal banking channels.
- (iii) Income tax exemption for IT start-ups, registered with the Pakistan Software Export Board (“PSEB”) for three years, with no minimum or withholding tax.
- (iv) 100% equity ownership allowed for foreign investors.
- (v) 100% repatriation of capital and dividends.

2.3 In brief, what conditions need to be satisfied for a business to IPO in your jurisdiction?

IPOs are made through a prospectus issued, published and circulated with the approval of the SECP under the Securities Act, 2015. In order to undertake an IPO, a company is required to meet the eligibility criteria set out under the Public Offering Regulations, 2017 and the requirements as prescribed in the Pakistan Stock Exchange Rule Book. An issuer may make a public offer of shares using: (a) Fixed Price Method; or (b) Book Building Method.

Key Requirements

An issuer shall be required to comply with, *inter alia*, the following requirements for a public offer of securities:

- The issuer must be a public company.
- Approval from its Board of Directors relating to Public Offering.
- Demonstration of a profitable track record for at least two preceding financial years from its core business activities.
- At least 51% of the shares of the issuer have been held by the same persons for at least two preceding financial years (does not apply, *inter alia*, for new issuance of shares by the issuer, or in relation to a Green Field Project (a project that is being newly built by the issuer and has not commenced commercial production/operation)), subject to compliance requirements.
- Securities to be issued in book-entry form only.

For Companies Seeking Listing

Post Issue Paid-up Capital (PIPC)	Allocation of Capital to the General Public, Excluding Premium Amount and Pre-IPO Placement
Up to PKR 2.5 billion.	At least 10% of PIPC. Provided that the company shall be required to subsequently enhance the quantum of public shareholding to 25% within the next three years of its listing.
Above PKR 2.5 billion and up to PKR 5 billion.	At least 10% of PIPC. Provided that the company shall be required to subsequently enhance the quantum of public shareholding to 15% within the next three years of its listing.
Above PKR 5 billion and up to PKR 10 billion.	At least 10% of PIPC.
Above PKR 10 billion.	At least 5% of PIPC.

For Companies Already Listed

In case of an already listed company at the Exchange, the size of offer of capital shall not be less than PKR 100 million.

Additional Options

The issuer or the offeror, as the case may be, may allocate share capital of up to 20% of the public offer to overseas Pakistanis, provided that the amount for subscription be transferred through proper banking channels.

The issuer or the offeror, as the case may be, may allocate share capital of up to 5% of the public offer to employees of the company whose shares are offered.

2.4 Have there been any notable exits (sale of business or IPO) by the founders of fintech businesses in your jurisdiction?

Recently, Ant Financial purchased a 45% stake in Easy Paisa (Telenor Microfinance Bank).

Additionally, Chinese ecommerce giant Alibaba acquired Pakistan-based leading online retailer Daraz Group a couple of months after it announced the acquisition of its stake in Easy Paisa.

3 Fintech Regulation

3.1 Please briefly describe the regulatory framework(s) for fintech businesses operating in your jurisdiction, and the type of fintech activities that are regulated.

There is no specific regulatory framework for fintech businesses operating in Pakistan. Fintech businesses are subject to the existing framework of financial laws as applicable in Pakistan. What is important to ascertain is the type of business being undertaken by a particular entity without deference to whether such entity/business regards itself as more “tech” than “fin”. Technology services may also fall within the scope of the regulatory perimeter; therefore, whether a particular activity constitutes a regulated activity can become a complex legal question, for which we recommend obtaining specific legal advice.

Having stated the foregoing, most fintech businesses would fall under the purview of the SBP. In addition to the SBP, depending on the nature of activity sought to be regulated, the SECP and/or the Pakistan Telecommunication Authority (the “PTA”) may be relevant regulators. Please also refer to section 1 above and question 3.3 below.

Recently, the SECP approved the launch of Pakistan’s first peer-to-peer lending platform, which will improve access of small businesses to finance. Finja, a venture capital-backed fintech, secured approval under the first cohort of the SECP’s Regulatory Sandbox undertaken pursuant to the SECP Regulatory Sandbox Guidelines, 2019 (the “Sandbox Guidelines”). The SECP introduced the index halt and circuit breakers system in the market, which was beneficial for the market and investors. The SECP is focusing on simplifying the private equity and venture capital regime so that high-growth and knowledge-based start-ups can have access to long-term capital, which they require to grow and expand.

3.2 Is there any regulation in your jurisdiction specifically directed at cryptocurrencies or cryptoassets?

The SBP, pursuant to a Circular issued by it (BPRD Circular No. 03 of 2018), has prohibited banks and financial institutions it regulates from dealing with cryptocurrencies, which are an application of blockchain technology. However, a constitutional petition has

been filed in the High Court of Sindh, seeking issuance of a direction of appropriate nature so as to nullify the Circular.

3.3 Are financial regulators and policy-makers in your jurisdiction receptive to fintech innovation and technology-driven new entrants to regulated financial services markets, and if so how is this manifested? Are there any regulatory ‘sandbox’ options for fintechs in your jurisdiction?

The rapid growth of the fintech industry in Pakistan is a testament to the encouragement provided to industry participants by regulators. Some key areas of the industry include retail payments, money transfer services, marketplace lending, digital KYC, financial advisory services, wealth management, digital identification, smart contracts, etc. The Sandbox Guidelines provide for a tailored regulatory environment for conducting limited-scale, live tests of innovative products, services, processes and/or business models in a controlled environment for a limited period of time so as to assess their viability to be launched at full scale, and to determine the compatible and enabling regulatory environment that will be conducive for the innovative solutions. The objective of the Sandbox Guidelines is to purposefully meet the above.

The SECP’s Regulatory Sandbox provides companies with the ability to test new solution sets for regulations which currently do not exist; or these new ideas bring an innovative approach to the market and there exists considerable uncertainty in terms of unexpected adverse outcomes; or the existing regulatory framework does not fully address the solutions proposed to be experimented through the Regulatory Sandbox. The products and business models approved by the SECP for live testing include digital insurance, digital platform for mutual funds, robo-advisory and crowd funding. The SECP may nonetheless consider any credible cases evidencing that a proposed model is not envisioned in the existing framework. Approved applicants will be allowed to operate in a controlled environment for a period of up to six months, in accordance with the conditions and limitations imposed on applicants. At the end of the testing period, applicants shall share the overall results and statistics through the submission of a comprehensive report to the SECP, which will then determine the future course of action for these innovations. After such period, the SECP is expected to take its proposal (amendment bill) to Parliament to seek an amendment in the law for the creation of an enabling environment.

The SECP believes that testing technology-driven solutions through the Regulatory Sandbox can stimulate financial and technological innovation and broaden the range of financial products for increasing financial inclusion in the country. This initiative will also supplement the SECP’s vision of enhancing financial inclusion and promotion of fintech and insurtech sectors in its regulated domain.

3.4 What, if any, regulatory hurdles must fintech businesses (or financial services businesses offering fintech products and services) which are established outside your jurisdiction overcome in order to access new customers in your jurisdiction?

While there is no regulatory framework that applies specifically to non-Pakistan fintech companies, all such companies must comply with the general licensing and regulatory framework.

Regulatory hurdles include setting up local business operations (including incorporating a local subsidiary), satisfying applicable licensing, registration and disclosure requirements

if providing financial services, privacy and complying with the AML/CTF regime.

The undertaking of regulated business may require a presence in Pakistan, either as a locally incorporated company or a branch office, to meet the applicable licensing requirements. Foreign investors can completely own and control locally incorporated companies and therefore an investor can penetrate the Pakistani market with ease.

Access to new customers may, however, only be obtained in limited circumstances.

It is advised that specific legal advice should be obtained prior to finalising/implementing any business plans.

4 Other Regulatory Regimes / Non-Financial Regulation

4.1 Does your jurisdiction regulate the collection/use/ transmission of personal data, and if yes, what is the legal basis for such regulation and how does this apply to fintech businesses operating in your jurisdiction?

Pakistan currently does not have general personal data protection laws. However, the Ministry of Information Technology and Telecommunication (the “**MOITT**”) is in the process of seeking comments from stakeholders on a consultation draft (dated 9 April 2020) of a personal data protection bill (the “**PDP Bill**”) before it is tabled in Parliament. If enacted, the PDP Bill will require that personal data shall have to be processed in accordance with the PDP Bill and, where applicable, consent must be given by the data subject.

The Prevention of Electronic Crimes Act, 2016 (“**PECA**”) criminalises certain actions, including unauthorised access or unauthorised copying or transmission of data or an information system with the intent of injury, wrongful gain or wrongful loss, or harm to any person. The PECA also provides that obtaining, selling, possessing, transmitting or using another person’s identity information without authorisation is an offence punishable under the PECA. It is therefore important to seek express consent for such purpose, where the data subject has been informed of: (a) the nature of the information to be disclosed; (b) the recipients of the information to be disclosed; and (c) the purpose for the disclosure, so that the provisions of the PECA are not triggered.

Further, sector-specific regulators impose requirements and restrictions on their regulated entities in relation to the collection/use/transmission of personal data; however, there is no specific framework that is applicable only to fintech businesses.

Banking Sector

The centralisation of the core banking systems of banks has now made customers’ data accessible across the banks. Pursuant to BPRD Circular No. 08 of 2018, the SBP has advised all banks that this access, however, needs to be suitably managed to ensure that only authorised officials access this confidential data for specified purposes, and that all banks/financial institutions are required not to divulge any information relating to the affairs of its customers except in circumstances in which it is, in accordance with the law, practice and usage customary among bankers, necessary or appropriate for a bank to divulge such information. Accordingly, all banks/development financial institutions have been strictly advised to incorporate necessary controls, checks and balances in their policies and procedures to stop such practices and ensure meticulous compliance of the protection of customer information.

Pursuant to BPRD Circular No. 05 of 2017, the SBP published a framework titled the Enterprise Technology Governance and Risk Management Framework, for implementation by

financial institutions by 30 June 2018, which was amended by BPRD Circular No. 06 of 2019 and BPRD Circular No. 04 of 2020. The SBP framework sets out a process and requirements relating to: (i) permissible cloud outsourcing arrangements; and (ii) internal controls in cloud outsourcing arrangements. The Framework for Risk Management in Outsourcing Arrangements by Financial Institutions, notified by BPRD Circular No. 06 of 2019, provides, *inter alia*, that any outsourcing arrangement outside Pakistan, excluding group outsourcing, shall require the SBP’s prior approval. Further, the same also requires banks to seek permission from the SBP for transfer of customer data to a third party and/or outside Pakistan.

Additionally, the PSEFA, *inter alia*, provides that a financial institution is not permitted to, except as otherwise required by law, divulge any information relating to an electronic fund transfer, affairs or account of a customer, except in circumstances in which, according to the practice and usage customary among bankers, it is necessary or appropriate for a financial institution to divulge such information, or the customer has given consent in respect thereof. Additionally, no person other than an officer or agent appointed by the financial institution that maintains the account of a customer may have access through an electronic terminal to information relating to an electronic fund transfer, affairs or account of the customer. The rules governing the operation of individual accounts will be applicable to electronic fund transfers in relation to disclosure of information to third parties.

Telecommunication Sector

The PTA, established under the Pakistan Telecommunication (Re-organization) Act, 1996 (the “**Telecoms Act**”), regulates the telecommunications industry in Pakistan. The framework provided under the Telecoms Act provides that customer data shall not be shared with any third party (including an affiliate of the service provider) unless express consent has been obtained from the customer, and the customer has been made aware of the purpose of such transfer of data. Further, we understand, from our experience, that the PTA as part of licences granted to operators requires them to not transfer customer data outside of Pakistan, without the permission of the PTA.

4.2 Do your data privacy laws apply to organisations established outside of your jurisdiction? Do your data privacy laws restrict international transfers of data?

Since there are currently no general laws that regulate “data protection” in Pakistan, certain sector-specific protections are provided to customers. If and once the PDP Bill is enacted, it will require that personal data be processed in terms of the provisions thereof, and that such data is not transferred to any system located outside Pakistan or not under the direct control of the federal or provincial governments of Pakistan, unless it is ensured that the country where the data is transferred offers personal data protection at least equivalent to that under the PDP Bill.

Financial services and payment system operators are required to store customer data of domestic transactions within Pakistan only, unless specific approval from the SBP has been obtained.

4.3 Please briefly describe the sanctions that apply for failing to comply with your data privacy laws.

The SBP has the authority to suspend and/or cancel licences for non-compliance with any law, directive or guideline. The SBP also has the power to impose monetary penalties on banks/EMIs on account of procedural violations.

Additionally, the PECA criminalises unlawful or unauthorised access to information or data, as well as copying and transmitting critical infrastructure data, and cyber terrorism; however, it does not regulate data privacy in Pakistan. Penalties thereunder range from PKR 50,000 to PKR 5 million and/or imprisonment for up to seven years, depending on the type of offence.

4.4 Does your jurisdiction have cyber security laws or regulations that may apply to fintech businesses operating in your jurisdiction?

The PECA is the primary piece of legislation relating to regulation of cyber security in Pakistan, and has application irrespective of the type of business activity being undertaken.

Further, the SECP, on 17 March 2020, issued Guidelines on Cybersecurity Framework for the Insurance Sector 2020 (the “ICSG”), which aim to improve the privacy and confidentiality of information stored and handled by insurers. The ICSG came into effect from 1 July 2020. Notably, the ICSG recommends the appointment of a chief information security officer (“CISO”) for all insurers who shall, *inter alia*, be responsible for implementing the overall cyber-security framework within the organisation, conducting annual cyber risk assessments and submitting the same to the SECP. The ICSG also outlines the need to have in place adequate network and system security for the safeguarding of operating systems, software and databases against cyber risks.

Additionally, sector-specific regulators, such as the SBP and/or the PTA (as the case may be), have the ability to take action against a regulated entity if a cyber breach was caused due to the regulated entity failing to implement effective systems and controls.

4.5 Please describe any AML and other financial crime requirements that may apply to fintech businesses in your jurisdiction.

Pakistan is a Financial Action Task Force (“FATF”) associate member of the Asia/Pacific Group on Money Laundering (“APG”). Pakistan’s Financial Monitoring Unit (“FMU”) is located within the SBP. Pakistan criminalises Terrorist Financing under the Anti-Terrorism Act, 1997, and is also a party to the Vienna, Palermo and Terrorist Financing Conventions.

The primary piece of legislation in relation to AML is the Anti-Money Laundering Act, 2010 (“AML Act”), and the AML/CFT Sanctions Rules, 2020 (“Sanction Rules”) have been framed thereunder. The SBP has issued the Anti-Money Laundering, Combating the Financing of Terrorism & Countering Proliferation Financing Regulations for the SBP’s regulated entities (the “AML/CFT/CPF Regulations”). Any violation of the AML/CFT/CPF Regulations shall attract penal as well as administrative actions under the AML Act and the Sanction Rules.

A person shall be guilty of the offence of money laundering if the person: (a) acquires, converts, possesses, uses or transfers property, knowing or having reason to believe that such property is proceeds of crime; (b) conceals or disguises the true nature, origin, location, disposition, movement or ownership of property, knowing or having reason to believe that such property is proceeds of crime; (c) holds or possesses on behalf of any other person any property, knowing or having reason to believe that such property is proceeds of crime; or (d) participates in, aids, abets, facilitates or counsels the commission of the acts specified in (a), (b) and (c).

Entities operating in the regulated sector, including fintech firms, must understand the scope of the AML laws and Sanction Rules applicable to their business.

4.6 Are there any other regulatory regimes that may apply to fintech businesses operating in your jurisdiction?

Please refer to our responses above. While there is no legislation and/or framework that is aimed specifically at the fintech sector, additional relevant regulatory regimes, specific to the sector in which the particular fintech operates, may apply, including but not limited to tax, consumer protection, securities, companies, foreign exchange laws, etc.

5 Accessing Talent

5.1 In broad terms, what is the legal framework around the hiring and dismissal of staff in your jurisdiction? Are there any particularly onerous requirements or restrictions that are frequently encountered by businesses?

In Pakistan, matters concerning “welfare of labour” are handled provincially, and, as such, each province has either adopted the previous federal laws, or promulgated new laws, in relation to such matters.

Labour law in Pakistan is not consolidated into a single statute; instead, there are several laws that have been promulgated from time to time, and are commonly collectively referred to as the labour laws of Pakistan. It is noteworthy to mention that a majority of the protections that are contained in these laws apply to persons engaged as blue-collar employees in industrial establishments and labour, and do not apply to white-collar employees.

The primary piece of legislation in respect of hiring and dismissing staff depends on the nature of the relationship, i.e.: for persons employed as employees, the West Pakistan Shops and Establishment Ordinance, 1969 (as adopted and/or amended by each province) is the primary piece of legislation; and for workmen, the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (as adopted and/or amended by each province) is the primary piece of legislation.

In terms of hiring, the prescribed thresholds of minimum wage and age must be complied with. Employment actions, including the employer’s decisions in relation to hiring, firing, promotions and compensation, with the purpose or effect of discrimination on the basis of race, religion, caste, sex, residence or place of birth, may give rise to actions and/or litigation.

Except in the case of misconduct, dismissing an employee without the required notice period (or payment *in lieu* thereof, as permitted under the employment contract) may lead to the employee initiating an action for wrongful dismissal and may allow the employee to seek reinstatement with benefits from the date of dismissal and/or monetary damage. The minimum statutory period for termination of employment (except in the case of misconduct) as prescribed in the applicable law is one month’s notice or salary *in lieu* thereof.

Employers are required to seek prior permission of the Labour Court (except in the event of fire, catastrophe, stoppage of power supply, epidemic or civil commotion) in the event that the employment of more than 50% of the workmen is to be terminated, or closure of the whole of the establishment.

5.2 What, if any, mandatory employment benefits must be provided to staff?

Mandatory employment benefits vary depending on whether a person falls within the definition of “employee” or “workman”.

Broadly, employment benefits include minimum wage, payment of gratuity, bonus, contributions to state employee benefit funds, earned leave, prescribed working hours, overtime pay, maternity leave, etc.

5.3 What, if any, hurdles must businesses overcome to bring employees from outside your jurisdiction into your jurisdiction? Is there a special route for obtaining permission for individuals who wish to work for fintech businesses?

The biggest hurdle that a business must overcome is the procurement of the necessary work permits/visas, which are required to be sought from the Ministry of Interior, for bringing employees from outside Pakistan into Pakistan, assuming that they do not already hold Pakistani nationality.

Citizens of foreign countries who wish to work and live in Pakistan can apply for a work visa. The items and information (copies) that one must provide for such an application are as follows:

1. Passport.
2. Photograph.
3. SECP registration letter of the company.
4. Recommendation letter by the Board of Investment (in case of extension – mandatory).
5. Contact details of the sponsor.
6. Undertaking form with the company's letterhead (in case of CPEC-/government-approved project, a letter from the concerned department/ministry).
7. CV of the applicant.
8. Covering letter with the company's letterhead.
9. Company profile.
10. Employment agreement.
11. National Tax Number certificate of the company issued by the Federal Board of Revenue.

An entry work visa can be granted for up to three months (single entry), and an extension work visa can be granted for up to two years (multiple entries).

6 Technology

6.1 Please briefly describe how innovations and inventions are protected in your jurisdiction.

Innovations and inventions are protectable under the patent, copyright, design, layout designs of integrated circuits and trademark laws of Pakistan: the Patents Ordinance, 2000; Copyright Ordinance, 1962; Registered Design Ordinance, 2000; Registered Layout-Designs of Integrated Circuits Ordinance, 2000; and the Trademarks Ordinance, 2001.

Patents

A patent is a grant of exclusive rights for an invention to make, use and sell the invention for a limited period of 20 years. The patent prohibits others from making, using or selling the invention. Patent protection does not start until the actual grant of a patent. Layout designs of integrated circuits are also protected under the patent regime.

A patent owner has the right to decide who may or may not use the patented invention for the period in which the invention is protected. Once a patent expires, the protection ends and the invention enters the public domain; that is, the owner no longer holds the exclusive right to the invention which becomes available to commercial exploitation by others.

Copyright

Copyright is a legal instrument that provides the creator of a work of art or literature, or a work that conveys information or ideas, the right to control how the work is used. The intent of copyright is to advance the progress of knowledge by giving an author of a work an economic incentive to create new works. Copyright can subsist in the following creative works: literary works; artistic works; cinematographic works; and sound recording works.

Designs

An industrial design is the ornamental or aesthetic aspect of an article. The design may consist of three-dimensional features, such as the shape or surface of an article, or of two-dimensional features, such as patterns, lines or colour. Industrial designs are applied to a wide variety of products of industry and handicraft: from technical and medical instruments to watches, jewellery and other luxury items; from house wares and electrical appliances to vehicles and architectural structures; and from textile designs to leisure goods. An industrial design is primarily of an aesthetic or visual nature, and does not relate to the technical features of an article.

Trademarks

Products and services offered by fintech companies in Pakistan may be protected by registered and unregistered trademarks. Trademarks can be registered in Pakistan with the Intellectual Property Organization of Pakistan ("IPO").

6.2 Please briefly describe how ownership of IP operates in your jurisdiction.

The ownership of intellectual property may depend on the context in which it was created. Intellectual property created in employment would generally belong to the employer; however, it may be prudent to address such items specifically in the terms of employment with an employee.

Patents

A patent is a grant of exclusive rights for an invention to make, use and sell the invention for a limited period of 20 years. The patent grant excludes others from making, using or selling the invention. Patent protection does not start until the actual grant of a patent.

Copyright

The person who has provided the enabling environment, including employment, in the course of which the intellectual property is created in terms of computer-generated work, is generally the first owner of the copyright. If a copyright is created by an employee during the course of his employment, the copyright will generally belong to the employer.

Trademarks

Generally, the applicant for a trademark who is granted the trademark is the owner of such trademark.

6.3 In order to protect or enforce IP rights in your jurisdiction, do you need to own local/national rights or are you able to enforce other rights (for example, do any treaties or multi-jurisdictional rights apply)?

A national right obtained pursuant to registrations with the IPO is required to protect intellectual property in Pakistan.

Treaties and/or multi-jurisdictional laws do not automatically apply; however, in the event of a dispute/competing claim, such matters are given consideration.

Fintechs and other companies should take steps to ensure the protections of the intellectual property owned and/or generated by it. Matters relating to the development of intellectual property in the course of employment must be addressed in the employment agreements entered into with employees of such companies. Additionally, confidentiality obligations to obligate employees to maintain confidentiality must also be built into such employment agreements.

6.4 How do you exploit/monetise IP in your jurisdiction and are there any particular rules or restrictions regarding such exploitation/monetisation?

There are no specific rules and/or restrictions on the exploitation and/or monetisation of intellectual property in Pakistan. Intellectual property in Pakistan is generally exploited/monetised by assignment and licensing. Such assignment and licensing must be recorded in writing and must be executed in terms of the applicable contract laws of Pakistan.



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