



MAYER|BROWN

BANKING AS A SERVICE  
OVERVIEW



## Banking as a Service Overview

In the interest of deepening customer relationships, companies today are increasingly seeking to embed financial products within their customer experiences. To meet this demand, banks and their fintech partners have developed Banking as a Service (BaaS), which refers to the provision of banking products—such as loans, payments or deposit accounts—as a service that leverages the bank’s secure and regulated infrastructure but utilizing modern API-driven platforms. BaaS offerings are distinguished from traditional bank partner arrangements by the efforts undertaken by banks and their fintech partners to standardize product configurations, enable modularity, and allow for white- or grey-labeling of financial products. BaaS arrangements allow companies to embed and deliver banking services to their customers at their point of need. At the same time, banks benefit from access to new revenue streams and new data relating to banking customers they may not otherwise have reached.

Mayer Brown’s Fintech team is at the forefront of helping banks, fintechs and their partners navigate the challenges associated with these arrangements. We have advised clients in establishing and building out their BaaS arrangements, as well as negotiating such arrangements with their chosen BaaS partners, and we are well-positioned to counsel clients on the transactional and regulatory hurdles involved.

Important legal considerations for BaaS arrangements include, but are not limited to:

- Allocating rights and responsibilities with respect to the customer relationship, including regarding servicing, cross-marketing, customer data and rights upon termination;
- Identifying other key roles and responsibilities of each of the parties and the regulatory implications;
- Navigating third-party risk management requirements;
- Defining rights and restrictions regarding changes to the BaaS products and offerings; and
- Establishing protocols for use of trademarks and branding.

## **OUR INTEGRATED CAPABILITIES FOR SINGLE-SOURCE FINTECH ADVICE**

Our Fintech group is an integrated multi-practice team—including in the areas of financial services, technology transactions, cybersecurity and privacy, structured finance, financial institutions M&A, and intellectual property—to support clients with transactions, disputes and regulatory matters that involve the use of new technologies to deliver financial services in new ways. We deploy our understanding of the business, technology and regulation of the financial services industry to help clients build and protect digital platforms, implement digital and data-driven strategies and comply with laws. Our tech-savvy lawyers have advised clients on developing and launching innovative financial services products, including in:

Lending/Marketplace, Blockchain/Cryptocurrencies, Regtech, Wealth Tech, Payments/Billing/Money Transfer, Capital Markets Tech, Insurtech and Mortgage Tech.

## ACCOLADES

Ranked in **Chambers Fintech** in:

- FinTech: Legal (US)
- Payments & Lending (US)
- Corporate, Securities & Financing (US)
- Data Protection & Cyber Security (US)
- Crypto-Asset Disputes

Ranked in **Legal 500** in:

- Fintech – Tier 1
- Outsourcing – Tier 1
- Financial Services Regulation

Ranked in **Chambers USA** in:

- Technology – Band 1
- Outsourcing – Band 1
- Consumer Finance (Compliance) – Band 1
- Consumer Finance (Enforcement & Investigations)
- Consumer Finance (Litigation)
- Banking (Compliance)
- Banking (Enforcement & Investigations)

## SELECT EXPERIENCE

- Represented a **global financial institution** in contracting with an enterprise software company for delivery of BaaS solutions (including international payments and expense management services) to users of the enterprise software company's cloud-based platforms.
- Extensively advised **several major global financial institutions** on a broad range of regulatory, contractual, and other legal issues in connection with the development of their BaaS platforms;
- Represented a **major insurance company** in connection with the development and launch of a financial wellness platform that combines extensive open-banking features with a range of financial services offered by various third parties through BaaS and BaaS-like arrangements.
- Represent a **blockchain-enabled payments and lending fintech** in (a) negotiating a bank partnership agreement in connection with delivery of point-of-sale credit loans to consumers and (b) developing BaaS form agreements for use with counterparties seeking to deliver various deposit account, debit card, payment, and credit products to end consumers.
- Represented a **fintech company** in revising its BaaS templates to use with customers as well as reviewing its BaaS templates for use with bank partners.
- Represented a **digital finance company** in negotiating an agreement with a BaaS provider for the provision of financial services through bank partners.



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