

Ministerio de Hacienda



Chile's Fintech and Open Finance Bill

November 2, 2021

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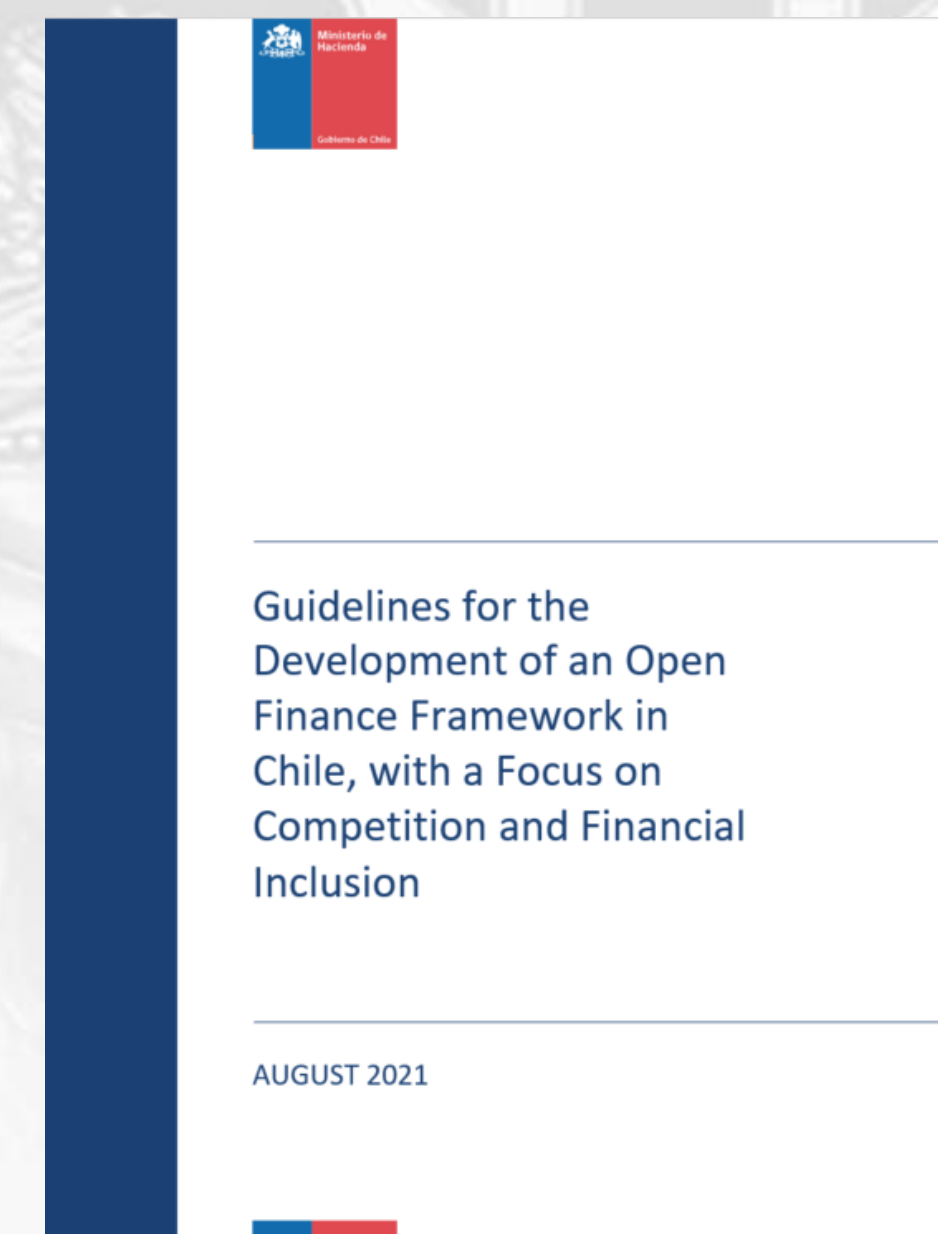
The Bill is part of a broad agenda for competition and financial inclusion

- The Bill is consistent with **other laws** that the Ministry of Finance has led in order to enhance competition, inclusion and innovation in the financial market:
 - i. Financial Portability Law (June 2020); that makes it easy for financial clients to switch between banks to find better rates and conditions.
 - ii. Market Agents Law (April 2021); that increases transparency in the financial market and competition in the credit insurance market.
 - iii. Interchange Fee Law (May 2021); that regulates the interchange fee in the card payment system.



The Bill is part of a broad agenda for competition and financial inclusion

- The Bill is also consistent with **other initiatives** that the Ministry of Finance has led:
 - iv. Finnovista survey carried out by Ministry of Finance and the IADB on Fintech ecosystem (May 2021);
 - v. National Productivity Commission report on technology adoption in the traditional financial sector (June 2021).
 - vi. Publication of a report with “Guidelines for the Development of an **Open Finance Framework** in Chile with Focus on Competition and Financial Inclusion” (August 2021*).



The Bill is the result of a collaborative and technical process of public policy design

- i. It began with public-private working groups organized by the Financial Market Commission (CMF), an independent and technical public entity, which analyzed new Fintech business models.
- ii. The CMF published a whitepaper and proposed a draft bill to the Ministry of Finance focused on the regulation of Fintechs in the securities market.
- iii. The Ministry of Finance put together an ad-hoc team to further develop the draft proposal, led by Rosario Celedón and Ana María Montoya. This team carried out new round of interviews with national and international experts, Fintech companies, the traditional financial sector, international and local regulators, among others stakeholders.
- iv. The research and data gathered from the studies and the collaboration between the public and private sectors led to the project that was presented to the Congress in September.

Introduction: some numbers on the Chilean Fintech ecosystem

- The current number of Chilean Fintech startups (214) represents an annual growth of 38% compared to the number of companies identified in the 2019 version of the same survey.
- The rate of adoption of Fintech services by consumers reached 66% in Chile, being above the average observed in a study that included 27 markets in its analysis. The largest Fintech segment in terms of number of companies is payment services.
- About 20% of Fintech companies are large (> USD \$ 4 millions revenue) and approximately 50% have expanded their business overseas.

50%
overseas



Sources:

Report “Lineamientos para un Marco de Finanzas Abiertas en Chile”. Ministry of Finance, 2021
Finnovista Survey 2021.

“Adopción tecnológica en sector financiero tradicional”. National Productivity Commission, 2021-
“Global Fintech Adoption Index”. EY, 2019

Introduction: some numbers on the Chilean Fintech ecosystem

- **Reactivation effect:** 60% of Fintech companies increased their number of clients during the pandemic. Their technological and digital nature gives them significant growth potential in the short term.
- **Vehicle for financial inclusion:** 58% of Fintech companies report having unbanked or underbanked individuals or companies among their clients.
 - 71% of Fintech companies that offer financing, also offer services to underbanked SMEs.

Introduction: some numbers on the Chilean Fintech ecosystem

- **Competition:** Almost 50% of Chilean Fintech companies declare that they compete with traditional financial institutions. Competition, in turn, increases innovation and both have a positive impact on long-term growth through higher productivity.
- **Potential:** the depth of the Chilean financial market, the entrepreneurial culture, leveraged by the Start Up Chile program, and recent success stories (“unicorns”), create the necessary conditions to become a Fintech center at the regional level.

Sources:

“Primer estudio Fintech en Chile: desafíos y oportunidades”. EY for FinteChile.
Report “Lineamientos para un Marco de Finanzas Abiertas en Chile”. Ministry of Finance, 2021
Finnovista Survey 2021.

“What determines productivity?” Journal of Economic Literature 2011. C.Syverson
“Adopción tecnológica en sector financiero tradicional”. National Productivity Commission, 2021

Fintech and Open Finance Bill

- 1. Objectives and principles.**
- 2. Regulation of Fintech services.**
- 3. Open Finance regulatory framework.**
- 4. Other Amendments** to financial sector laws in order to facilitate the growth of Fintech companies

1. Objectives and principles of the bill

- **Objective:** *"To encourage the provision of financial services through technological means"*.
- **General principles:** Inclusion; Competition and Financial Innovation. Financial customer protection, Preservation of financial integrity and stability; and Prevention of money laundering and financing of terrorism.
- **Regulatory and supervision principles for the CMF:**
 - i. Risk-based proportionality: the CMF can reduce or even exempt requirements as long as the public trust and financial stability are not compromised.
 - ii. Modularity: regulation based on activities provided and not according to the type of institution.
 - iii. Technological neutrality: regulation is not based on the basis of the use of a certain technology in particular.

2. Regulation of Fintech services

- **¿Who is regulated?**
 - i. Platforms for collective financing of loans or investment (Crowdfunding):** publish investment projects and/or financing needs in order to put companies in contact with potential investors.
 - ii. Alternative transaction systems:** which allow the listing, offering or trading of financial instruments or public offering securities on the secondary market (other than the stock market).
 - iii. Credit and investment advisory services:** evaluation or recommendation of payment or investment capacity in financial instruments or publicly offered securities.
 - iv. Intermediation or routing services for financial instrument orders:** buying or selling financial instruments for third parties, or channeling said orders to alternative transaction systems or stock or product brokers.
 - v. Financial Instruments Custody Service:** possessing financial instruments or currencies on behalf of third parties.
- **New definitions:**
 - **Financial instruments:** *“any title, contract, document or intangible, designed, used or structured with the purpose of generating monetary income, or representing an unpaid debt or a virtual financial asset... including derivative contracts, contracts for differences (CFD), invoices, among others ...”.*
 - **Virtual financial assets or crypto assets:** *“digital representation of units of value, goods or services, with the exception of money, either in national currency or foreign currency, which can be transferred, stored or exchanged digitally”.*

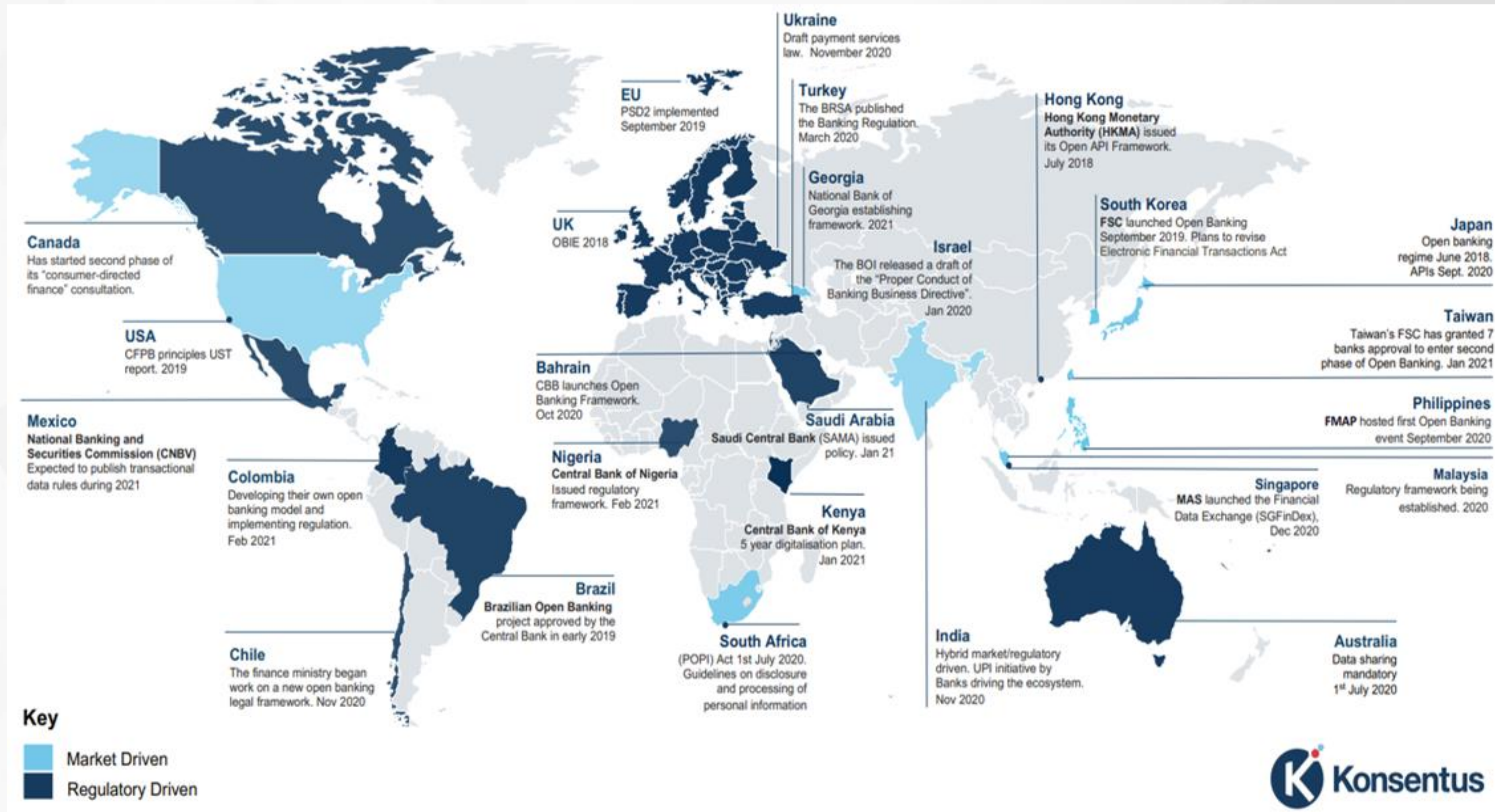
2. Regulation of Fintech services

New regulation characteristics:

- A **Registry of Financial Service Providers** is created and registration is required (30-day period for CMF to register) and authorization of operation (6-month period to accept).
- **Prevention of money laundering:** Fintech companies registered enter the regulatory perimeter of the UAF (anti money-laundering agency) and must report suspicious operations.
- The Bill specifies which traditional financial institutions can provide Fintech services in accordance with their own legal framework.
- Regulatory requirements depending on the service.

3. Open Finance regulatory framework

- With this bill, Chile joins a majority of developed countries that are moving towards Open banking / Finance systems.
- As in Europe, Canada and Australia, we opted for a mandatory System and not for a self-regulated one.



3. Open Finance regulatory framework

- Summary characteristics of the proposed Open Finance regulatory framework:
 - **Wide scope** in terms of financial institutions and types of data to enhance the benefits of the Open Finance System.
 - **Reciprocity:** those who are providers of information can also be recipients.
 - **Gratuity** for customers / Gratuity between suppliers, with possibility of adjustment for the latter:
 - CMF will be able to define requests thresholds above which providers will be able to collect reimbursements from information based service providers institutions. Proposal similar to the one adopted in Brazil.
 - Payment initiators: access to information or initiation of payments cannot give rise to additional charges to the client, as he/she is the owner of the data and because the service is already included within the commissions paid.
 - **Gradualness:** progressive implementation with a maximum term of 18 months for banks and card issuers and 36 months for the rest of the entities (from the time secondary regulation is published).

4. Amendments to financial sector laws

- i. Eliminate obstacles in order to ensure that Fintech companies will be able to carry out their activities effectively:
 - Allow financial infrastructure companies (SAGs) to provide services to third parties with prior authorization from the CMF.
 - Regulatory powers are granted to the Central Bank of Chile regarding virtual financial assets known as “stablecoins”.
 - Account providers are obliged to report the reasons associated with the denial of accounts to financial institutions supervised by the CMF, considering that access to this service is essential for the provision of financial services;
 - Enable the CMF to regulate parametric (index based) and micro insurances

- ii. Regulatory symmetry and technological neutrality:
 - Modifications are incorporated to the current financial legislation, including the Securities Market Law; Funds Law, Law of Product Exchanges, Law of Deposit of Securities and Law of Insurance, to adapt their requirements for new Fintech players.
 - The Banking and Insurance Law is adapted to allow financial service entities to provide services without the need for branches with face-to-face service to the public (which is currently a requirement under secondary regulation by the CMF for the banking and insurance industry).

4. Amendments to financial sector laws

iii. New financing alternative for SMEs:

- Mini Bonds: simplified procedure for registration of debt securities, without collection of fees, with automatic authorization by the CMF, less regulatory burden and which may be offered to retail investors. The proposal for mini bonds seeks to generate financing alternatives for medium-sized companies through capital market (amendment to the Securities Market Law).

iv. Financial customer protection :

- Obligation of financial service providers to carry out a risk profile of their clients to be considered when offering financial products and services in accordance with this profile, thereby avoiding commercial practices that promote risk taking above client expectations.

Final comments

- **Fintechs** are key actors for promoting economic recovery, deepen financial inclusion and enhance competition, innovation and productivity.
- The Ministry of Finance is working to give the Fintech industry regulatory certainty to promote growth and is also planning to implement an ambitious **Open Finance System** that would help making Chile a Fintech Hub for Latin America.
- We are proud to announce:
 1. The publication of an English version for the report “**Guidelines for the Development of an Open Finance Framework in Chile**”, which we believe will make a significant positive contribution towards international guidance for the regulation of Open Finance across the world.
 2. The presentation of a **bill that creates a consolidated debt registry** to Chilean Congress.
 - This measure is a long-standing petition of supervisors, Fintechs and other financial institutions, which seek more information on over-indebtedness, to increase competition and reward good payers.

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