



FINTECH TRENDS HOW BELGIUM & JAPAN RESEMBLE & DIFFER

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Numerous articles compare different European countries or compare Europe and the US when it comes to financial regulation, the IPO market or the types of FinTech applications that are easily adopted (or not) by the public. We decided to take a look in a different direction and together with the Japanese law firm Keiwa Sogo Law Offices, Simont Braun's Digital Finance team examined the FinTech trends in both Belgium and Japan. Interesting resemblances, but also surprising differences came out from this analysis and showed that there are different means to the same end, especially when it comes to payments.

Why do this?

As independent law firms, both Simont Braun & Keiwa Sogo are constantly looking for international partners of high quality to serve their FinTech clients considering international expansion. More than just acting as legal service providers, our firms want to inform their clients about interesting foreign markets. Comparing market trends between countries is one way to achieve this goal.

At first glance, it seems that both countries are facing the rise of typical FinTech activities such as crowdfunding, robo-advisory, virtual currency & payments.

Interesting resemblances

Crowdfunding in Belgium is still regulated at national level since the EU Commission has only very recently announced its plan for European regulation. In Belgium (unlike other European countries such as France) only one type of license is available, capturing both lending- and asset-

based crowdfunding platforms. Donation & reward-based platforms are considered to be falling out of the scope of financial regulation and remain unregulated.

By contrast, in Japan, three different types of crowdfunding are subject to three different regulations / license obligations:

So-called purchase-type crowdfunding (comparable to reward-based crowdfunding in Belgium with the likes of Kickstarter & KissKissBankBank) are regulated as e-commerce businesses under acts such as the Specified Commercial Transactions Act.

Investment-type crowdfunding benefits from an eased regulation to encourage platform businesses. Different license obligations apply depending on whether the platform allows the investors to obtain shares (Type 1 Small e-Offering Business license) or fund interests (Type 2 Small e-Offering Business license).

On the other hand, loan-type crowdfunding is more heavily regulated and requires both a Lending Business license and a Type 2 Financial Instruments Business license.

Robo-advisory in Belgium is regarded as regular investment advice and/or asset management activity, and its automated aspect does not trigger any specific FinTech license obligation. Companies offering robo-advisory services, depending on whether they actually provide investment services, are mostly considered to be investment firms and require either a license as an asset and portfolio management company from the FSMA, or as a stockbroking firm from the NBB, depending on which additional investment services those companies wish to offer. In case only a technical solution is provided to already regulated service providers, no specific license is required from the technical service provider. It seems that this situation is very similar to the one in Japan. If only a robo-advisory software is offered, no specific financial license is required. If, however, investment advice or portfolio management services are provided to asset managers through a robo-advisory solution, then an Investment Advisory license or an Investment Management license respectively will be required.

Striking differences

Cryptocurrency is on the rise in all parts of the world, but the regulatory approach strongly differs from one country to another. While in Belgium regulators limit themselves to pointing out the dangers related to cryptocurrencies, without regulating any of the possible business applications, Japan, driven by the € 360 million loss as a result of the Mt Gox (intermediary and exchange platform) Bankruptcy in 2014, introduced, in April 2017, a Virtual Currency Exchange Business license for the matching of sales/purchase of virtual currency and proprietary sales/purchase thereof. These activities are

booming with already 16 start-ups registered and many more in the pipeline.



(“Suica” prepaid e-money public transportation card)

The most tangible difference between the Belgian(/European) and Japanese landscapes is without a doubt the way Belgian and Japanese consumers pay for their everyday expenses in a physical environment. Electronic payments by debit cards have become the preferred way for Belgians to purchase goods and services in real life, while both debit and credit cards are favourite for online purchases. Payment services have also been the subject of recent European legislation such as the PSD2 opening up the European Payment landscape. Japanese consumers, on the other hand, seem to have embraced **electronic money** (or e-money) typically used on prepaid cards often issued by public transportation companies, but widely accepted as a means of payment. While e-money does not seem to convince Belgian consumers and European e-money legislation is clearly on the back burner¹, Japanese consumers used e-money for payment of over € 40 billion in 2016 alone. Debit cards, on the other hand, are far less popular if compared to e-money backed solutions in Japan.

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The above shows how different regulatory and cultural environment shape the services that will answer similar societal demands.

*For more information on Digital Finance, FinTech and Financial Services in both Belgium and Japan, please contact **Simont Braun's Digital Finance Team** (digitalfinance@simontbraun.eu) in Brussels or **Kazuma Kato** (kato@tyhomu.com) of **Keiwa Sogo Law Offices** in Tokyo.*

¹ Simont Braun news of March 2018: *2nd e-Money Directive Evaluation – Too Little & Too Late ?*