

SESSION 4

ELIGIBILITY REQUIREMENTS AND APPLICATION PROCESS

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OUTLINE

1. Eligible applicants
2. Eligible products/services
3. Selection process

ELIGIBLE APPLICANTS

- Incumbents or startups (or both)?
 - Sierra Leone imposes different requirements
 - A ‘FinTech’ - a firm that “must be a registered business in Sierra Leone with at least 10% ownership by a citizen of Sierra Leone”
 - An ‘incumbent’ - a licensed institution

ELIGIBLE APPLICANTS

- Licensed or unlicensed firms (or both)?
 - **Unauthorised** firms - can test their model before authorisation
 - It is a particular challenge for start-ups to obtain authorisation - need either to partner with an authorised firm, or become authorised themselves
 - **Authorised** firms - can obtain clarity before testing new products

ELIGIBLE APPLICANTS

- What resources must applicants possess?
 - To conduct the test
 - To comply with reporting requirements
 - To mitigate the risks
 - To cover any losses to consumers/third parties generally

ELIGIBLE APPLICANTS

- Are applicants trustworthy?
- Have applicants thought their application through?
 - This is often reflected in other criteria focusing on the product/service itself (eg innovation test that requires evidence from comparative research with other solutions)

ELIGIBLE PRODUCTS/SERVICES

- Is the activity within the **mandate** of the regulator/scope of the sandbox?
- Is it **real** innovation?
 - FCA: “Is your innovation **new** or a **significantly different offering** in the marketplace?”
 - MAS: “...**new or emerging technology**, or uses **existing technology** in an **innovative way**?”
 - BNM: “the product, service or solution is **genuinely innovative**”
 - ASIC: None

ELIGIBLE PRODUCTS/SERVICES

- Is it **useful** innovation?
 - Innovation should not be for the sake of innovation - should solve a problem or yield benefit for end-users (especially consumers)
- Will the innovation contribute to the **local economy**?
 - BNM: product or service must have “clear potential to
 - i. improve accessibility, efficiency, security and quality in the provision of financial services;
 - ii. enhance the efficiency and effectiveness of Malaysian financial institutions’ management of risks; or
 - iii. address gaps in or open up new opportunities for financing or investments in the Malaysian economy”

ELIGIBLE PRODUCTS/SERVICES

- Is there a **need** for a sandbox? (Not a universal requirement - eg found in FCA)
 - **Yes:** it is too costly/time consuming to get a license to run a short test
 - **Yes:** there is no easy way to fit the innovation into the existing regulatory framework
 - **No:** Live testing with actual consumers can be substituted for off-market modelling
 - **No:** A firm may have sufficient resources to do the testing itself (eg a bank)
 - **No:** Another form of assistance can resolve the issue (eg FCA's Innovation Hub and its advisors can clarify the rules)

ELIGIBLE PRODUCTS/SERVICES

- Is it **ready** to be tested?
 - Can be abstractly worded
 - Can require readiness for real-life implementation
 - Are the objectives of the testing clearly defined?
 - Has the applicant done its due diligence, identified risks, proposed safeguards?
 - If not, it is best addressed by informal advice etc
 - Does it have an exit plan?

ELIGIBLE PRODUCTS/SERVICES

- Technology can be untested - but may still require certain preparation
- Does it meet special sandbox criteria?
- Can similar products/services be tested simultaneously?

ELIGIBILITY REQUIREMENTS: MAS

- The proposed financial service includes **new** or emerging technology, or uses existing technology in an innovative way
- The proposed financial service **addresses a problem**, or brings **benefits to consumers** or the industry
- The applicant has the intention and ability to **deploy** the proposed financial service **in Singapore** on a broader scale after exiting the sandbox
- Readiness for testing

ELIGIBILITY REQUIREMENTS: ASIC

- A different logic, compare:
 - FCA: General eligibility requirements => tailored restrictions
 - ASIC: Eligibility requirements + built-in restrictions
- Only two types of eligible services:
 - Providing **advice**
 - **Dealing** in or **distributing** financial products
- Built-in restrictions

SELECTION PROCESS: TIMING

- Cohort system
 - UK
 - Abu Dhabi
- Rolling application basis
 - Most sandboxes
- Mixed: cohort + rolling basis
 - Sierra Leone
- Automatic admission (Australia)

CASE STUDY: FCA COHORT SYSTEM

- First cohort
 - 69 applications received by the applications deadline (8 July 2016)
 - 24 applications accepted, 18 firms tested
- Second cohort
 - 77 applications received by the applications deadline (19 January 2017)
 - 31 applications accepted, 24 firms tested
- Third cohort
 - 61 applications received
 - 18 firms accepted
- Fourth cohort
 - 69 applications received
 - 29 firms accepted
- Fifth cohort - applications closed 30 November 2018

SELECTION PROCESS: MAS

- Application stage
- Evaluation stage
 - “[I]t is impractical to commit on a fixed evaluation period as the time taken to fully evaluate a sandbox application will involve several considerations, including the complexity of the proposed financial service and the regulatory support required.”
- Experimentation stage

SELECTION PROCESS: MAS

- NEW consultation on ‘Sandbox Express’
- Fast-track application process - MAS to complete assessment of each application within 21 days
 - Cf ‘standard’ sandbox approach
 - More complex applications will go through the ‘standard’ sandbox
- Eligibility requirements reduced to:
 - ‘Fit and proper’ test for stakeholders
 - Technological innovativeness of the proposed service/product

SELECTION PROCESS: BNM

- “For a rejected application, a **cooling off period of six (6) months** shall be observed before the applicant is allowed to resubmit the application.”

SELECTION PROCESS: ARIZONA

- “A. The attorney general **must consult** with an applicable agency before admitting a person into the regulatory sandbox. This consultation may include seeking information about:
 - 1. Whether the applicable agency previously has either:
 - (a) Issued a license or other authorization to the applicant.
 - (b) Investigated, sanctioned or pursued legal action against the applicant.
 - 2. Whether the applicant could obtain a license or other authorization from an applicable agency after exiting the regulatory sandbox.
- B. Notwithstanding subsection A of this section, the attorney general has **sole authority** to make the final decision whether to admit a person into the regulatory sandbox.”
- "Applicable agency" means a department or agency of this state established by law to regulate certain types of business activity in this state and persons engaged in such business, including the issuance of licenses or other types of authorization, that the attorney general determines **would regulate a sandbox participant if the person was not a regulatory sandbox participant.**

INFORMATION REQUESTED FROM APPLICANTS

- Innovation assessment
- Commercial feasibility
- Team background
- Evidence of due diligence efforts
- Details of existing/planned collaboration with financial institutions/other stakeholders
- A detailed test plan

TEST PLAN - CASE STUDY (KENYA)

“An Applicant shall submit to the Authority a test plan with information on:

- (a) Key test objectives...;
- (b) Testing metrics and/or performance indicators;
- (c) Testing methodologies;
- (d) Scope and testing parameters...;
- (e) Proposed testing period;
- (f) Relevant reports... and feedback mechanisms; and
- (g) Safeguards and remediation measures.”

INFORMATION REQUESTED FROM APPLICANTS: BNM CASE STUDY

“An applicant must submit to the Bank -

- (a) an **application letter** signed by the Chief Executive Officer (CEO) of the applicant or officer duly authorised by the CEO;
- (b) the **application form**, in the format set out in Appendix I; and
- (c) **supporting documents** to substantiate the information provided in the application form.”

“The applicant must also include the **key outcomes** that the **testing is intended to achieve** and the appropriate indicators to measure such outcomes”

INFORMATION REQUESTED FROM APPLICANTS: KENYA CASE STUDY

“An Applicant shall submit to the Authority the following documents -

- (a) Completed **application form** as set out in Annex A;
- (b) Certified copies of all **registration documents**;
- (c) Certified **list of directors and shareholders**, if applicable
- (d) **CVs** for all founders and key management personnel;
- (e) Outline of **business model** for the product, solution or service...”

“The Applicant shall also submit a **projected plan** and **clear strategy for exiting** the Regulatory Sandbox ”

APPLICATION/ADMISSION COSTS

- Free for all applicants
- Free only for applicants selected in a competition
- One-off application fee
- Fees charged periodically
- One-off fee and periodic charges

APPLICATION REVIEW: TIME LIMITS

- Generally indicative (not fixed)
- MAS:
 - Standard sandbox:
 - 21 working days for preliminary assessment
 - No limit for final assessment
 - Sandbox express: 21 days
- Bahrain: 15 days
- BNM: 15 working days
- Kenya: 14 working days for CMA to “communicate to the applicant... on the next course of action”
- Arizona: 90 days

SELECTION PROCESS: ADDITIONAL CONSIDERATIONS

- A mix of positive and negative criteria (eg FCA)
- Single point of entry
- Pre-application consultation

SELECTION PROCESS: ADDITIONAL CONSIDERATIONS

- Accessibility of application forms
- Providing a sample application

SELECTION PROCESS: CHALLENGES

- Unclear guidelines may create the impression of arbitrariness/favouritism
- Resources (time/staff) required to examine applications
- Scope of sandboxes with automatic entry (eg Australia) can be too narrow and unattractive for prospective applicants

SELECTION PROCESS: CHALLENGES

- How to balance transparency and confidentiality
 - Selection criteria must be transparent
 - BUT the specific nature of innovation and test data need to be protected
- Regulator may not be in a position to review the application within the stated time
 - Time limits set by regulators are often indicative (not fixed and final)
 - Some regulators do not set any time limits in the first place

THANK YOU