

# SESSION 6

## EXIT FROM A SANDBOX AND NEXT STEPS

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# OUTLINE

1. Early termination
2. Extension
3. Scheduled exit
4. Post-sandbox launch
5. Publication of outcomes

# EARLY TERMINATION

- Firm's voluntary exit
  - Can be subject to a notice period
  - Can be subject to fulfilling any outstanding obligations to customers
- Going into liquidation

# EARLY TERMINATION

- Submitting false, misleading or inaccurate information
- Non-compliance with the agreed schedule/process
- Failure to carry out the agreed **safeguards**
- Discovery of a **major flaw**
- Breach of **data security/confidentiality** requirements

# EARLY TERMINATION

- Doing business in a manner detrimental to customers or the public at large
- Breach of applicable domestic law
- For any(!) reason determined by the regulator
  - BSL: may terminate sandbox privileges “for any other reason determined by the BSL and notified to the Participant”

## **EARLY TERMINATION: ADDITIONAL CONSIDERATIONS**

- Duty to fulfil all existing obligations to clients in case of exit or early termination
- Opportunity for the firm to be heard
- Written statement giving reasons for early termination
- Appeal against early termination decision
- Regulatory sandboxes can be set up for a limited period

# EARLY TERMINATION: MAS

- A **flaw** has been discovered ... where the **risks** posed to customers or the financial system **outweigh the benefits** of the financial service under experimentation, and the sandbox entity acknowledges that the flaw **cannot be resolved** within the duration of the sandbox
- **Breaching any condition** imposed for the duration of the sandbox
- Sandbox entity's decision to exit the sandbox

# EARLY TERMINATION: NETHERLANDS

- “The supervisor will monitor the application of the regulatory sandbox and will at any time be able to **partially or wholly end**, change or constrain the sandbox, or impose additional requirements.”
- “It will do so when **circumstances** emerge or facts become known on the basis of which any tailored arrangement **would have been turned down** if these circumstances or facts had emerged or been known **before the time at which the sandbox was set up.**”



# EARLY TERMINATION: BNM

- Reasons for early termination
- Early termination generally follows a 30-day notice in writing to the participant
- Early termination can be immediate if “any delay in revoking the approval would be detrimental to the interests of the participant, their customers, the financial system or the public generally”

# EARLY TERMINATION: BNM

“Upon revocation of an approval, the participant must:

- (a) immediately **implement its exit plan** to cease the provision of the product, service or solution to new and existing customers;
- (b) provides *[sic]* **notification to customers** informing them of the cessation and their rights to redress where relevant;
- (c) complies *[sic]* with obligations imposed by the Bank to **dispose of all confidential information** including customer personal information collected over the duration of the testing;
- (d) **compensate any customers** who had suffered financial losses arising from the test in accordance with the safeguards submitted by the participant under paragraph 6.3(e) above; and
- (e) **submits** *[sic]* **a report** to the Bank on the actions taken ... within 30 days after revocation.”

# EXTENSION

- May be available prior to scheduled termination
- Issued on a case-by-case basis
- Based on request of the sandbox entity
- Can be restricted in length
- Needs to be justified

# EXTENSION: ARIZONA

- “A sandbox participant may request an extension of the regulatory sandbox testing period **for the purpose of pursuing a license or other authorization** required by law.”
- “An extension pursuant to this subsection is **not effective for more than one year** after the end of the regulatory sandbox testing period.”
- “A sandbox participant that obtains an extension ... must provide the attorney general with a **written report every three months** that provides an update on efforts to obtain a license or other authorization, including any submitted applications for licensure or other authorization, rejected applications or issued licenses or other authorization.”

# INDEFINITE EXTENSION: NETHERLANDS

- “Depending on the type of arrangement, the supervisor may find that the sandbox, including any constraints and requirements:
  - (1) Needs adapting
  - (2) Can **stay in force indefinitely**
  - (3) Should be discontinued
- “One element of the evaluation is that the responsible supervisor will assess whether the sandbox requires any changes to established policies, rules or regulations. If it does, it may be **declared generally binding or enforceable**, for instance by adapting a regulatory rule or its application.”

# SCHEDULED EXIT

- Automatic upon reaching the maximum duration
- Can be subject to fulfilling any outstanding obligations to customers
- Firm submits the final report
- Regulator reviews the report and decides whether to approve the deployment of the new solution
- Firm decides whether to launch the new solution

# FINAL REPORT: BNM CASE STUDY

“The participants must submit a final report containing the following information to the Bank within **30 calendar days** from the expiry of the testing period:

- (a) **Key outcomes, key performance indicators** against agreed measures for the success or failure of the test and **findings** of the test;
- (b) a full account of all **incident reports** and resolution of **customer complaints**; and
- (c) in the case of a failed test, **lessons learnt** from the test.”

# POST-SANDBOX LAUNCH

- Requires compliance with all applicable rules
- Can be cancelled even in case of successful exit from sandbox



# POST-SANDBOX LAUNCH: BNM CASE STUDY

- “Upon the completion of the testing, the Bank will **decide whether to allow the product, service or solution** to be introduced in the market on a wider scale.”
- “The Bank may also **prohibit** deployment of the product, service or solution in the market upon the completion of the testing due to the following reasons:
  - (a) in the event of an **unsuccessful testing** based on agreed test measures; or
  - (b) the product, service or solution has **unintended negative consequences** for the public and/or financial stability.”

# POST-SANDBOX REGULATORY ADJUSTMENTS

Regulator analyses the outcome and:

- decides whether regulation needs to be adjusted
- adjusts its own staffing/training requirements
- publishes lessons learned

# CONFIDENTIALITY: ARIZONA

- “Records that are submitted to or obtained by the attorney general in administering [sandbox provisions] are **not public records or open for inspection** by the public.”
- “Records and information that are submitted or obtained pursuant to [sandbox provisions] **may be disclosed** to any of the following:
  - 1. State and federal agencies.
  - 2. Representatives of foreign countries that have regulatory or supervisory authority over the activities of the sandbox participant.
  - 3. A federal, state or county grand jury in response to a lawful subpoena.
  - 4. The state auditor general for the purpose of conducting audits authorized by law.”
- A sandbox participant or the sandbox participant's holding company **may not disclose, use or reference in any form** comments, conclusions or results of an examination, inquiry or investigation **in any type of communication** to a customer or potential customer.

## LESSONS LEARNED VS CONFIDENTIALITY: NETHERLANDS

- “As the regulatory sandbox **applications are confidential**, the AFM and DNB will not be able to communicate about them.”
- “However, it may be **useful for the market to know** about examples of sandbox arrangements, in terms of both their actual substance and of developments in the applications process.”
- “DNB and the AFM will therefore **report regularly** on developments in the regulatory sandbox framework, and will do so **in a fully anonymised** - i.e. non-traceable - **fashion**.”

## LESSONS LEARNED VS CONFIDENTIALITY: BSL

- “All Sandbox application materials submitted to BSL are **confidential**”
- “From time to time, BSL may **report anonymized data** and insights on the Sandbox **so that other stakeholders may learn** from the BSL’s approach to emerging issues concerning the application of laws and regulations to new financial technologies and business models”
- “BSL reserves the right to **publicly identify Participants** in connection with their participation in the Sandbox”

**THANK YOU**