

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