

Astana International Financial Centre FinTech Regulatory Sandbox Guidance

I. General Provisions

1. Introduction

- (1) This is a guide for any businesses that are keen to implement innovative financial products, services, processes, business models and delivery mechanisms utilizing Financial Technology (**“FinTech innovation”**) but are looking for an approach to enable them to test the viability of these FinTech Innovations in a cost effective and timely manner.
- (2) In light of these considerations, the Astana Financial Services Authority (**“AFSA”**) has introduced the FinTech Regulatory Sandbox (**the “Sandbox”**) – a live and production environment in which businesses can deploy and test FinTech Innovation(s) without obtaining a licence from AFSA to carry on a financial services business (**“licence”**) in the Astana International Financial Centre (**“AIFC”**) and without immediately incurring all the normal regulatory consequences of engaging in the activity in question. However, to test FinTech Innovation(s) in the Sandbox the business requires the Sandbox Permission from AFSA.
- (3) Generally, Financial Institutions licensed to operate in AIFC are already free to launch new FinTech Innovation(s) without first seeking AFSA’s permission, as long as they have carried out their due diligence and there is no breach of legal and regulatory requirements.
- (4) In this regard, the Sandbox may be useful in circumstances where it is less clear whether a new FinTech Innovation complies with legal and regulatory requirements, which may create the undesirable outcome as some Financial Institutions or start-ups may err on the side of caution and choose not to implement promising innovations.
- (5) Therefore, AFSA believes that a regulatory environment that is conducive for innovative use of technology is a key driver in facilitating the development, testing and adoption of promising FinTech innovations.

2. Purpose of the Guidance

AIFC FinTech Regulatory Sandbox Guidance (**the “Guidance”**) sets out AFSA’s approach to the Sandbox framework. In particular, this Guidance includes the eligibility and authorisation criteria applicants must satisfy to be authorised as **the Sandbox Participants**, the authorisation process, the types of conditions, limitations or restrictions that AFSA may impose on the Sandbox Participants, as well as the information that the Sandbox Participants may be required to produce to AFSA.

3. Target Audience

- (1) The Guidance will be of particular interest to firms that are looking to apply technology in an innovative way to provide financial services that are or likely to be regulated by AFSA.
- (2) The Guidance is applicable to any company that utilises or plans to utilise FinTech in capital markets, asset management, private banking, Islamic finance, (re)insurance, green finance and other activities (i.e. peer-to-peer lending and financing, crowdfunding, payment processing) that are or likely to be regulated by AFSA.

- (3) Technology businesses and professional services firms that want to provide services to AIFC bodies and AFSA regulated firms can also apply for the Sandbox if they need clarity around applicable rules and regulations administered by AFSA (“**Rules**”) before testing.

4. Objective and Principles of the Sandbox

- (1) The Sandbox has the potential to deliver more effective competition in the interests of consumers by:
 - (a) reducing the time and, potentially, the cost of getting innovative ideas to market;
 - (b) enabling greater access to finance for innovators;
 - (c) allowing AFSA to work with innovators to ensure that appropriate consumer protection safeguards are built in to their new products and services; and
 - (d) enabling more products to be tested and, thus, potentially introduced to the market.
- (2) The Sandbox is not intended to create a risk-free FinTech environment – an acceptable degree of risk is unavoidable in all innovations and entrepreneurial endeavours. What the Sandbox aims to achieve is a controlled environment that promotes FinTech innovations, yet minimises the risks of poor client outcomes posed by these innovative solutions.
- (3) The Sandbox may not be suitable under the following circumstances:
 - (a) the proposed FinTech Innovation(s) is similar to those that are already being offered in AIFC, unless the applicant can show that either:
 - (i) a different technology is being applied; or
 - (ii) the same technology is being applied differently.
 - (b) the applicant has not demonstrated that it has done its due diligence, including testing the proposed FinTech Innovation(s) in a laboratory environment and knowing the legal and regulatory requirements for deploying the proposed Fintech Innovation(s).

5. Applicability

The Guidance applies in the jurisdiction of AIFC.

6. Date of enactment

The Guidance shall come into force on the date of its approval.

II. Sandbox Requirements

7. Features of the Sandbox

- (1) The Sandbox applicant that qualify for authorisation under this Guidance will be granted the Sandbox Permission issued by the Registrar of Companies, or the Chief Executive Officer (CEO) of AFSA, or officer duly authorised by the CEO of AFSA, in the form provided in **Schedule 1** of the Guidance that shall serve as the document authorising the Sandbox Participants to develop and test innovative financial technology Innovation(s) within the Sandbox (“**Permission**”).

- (2) Generally, all existing legislative requirements set out in Rules would not initially apply to the Sandbox Participants. On receipt of the Sandbox application, AFSA will work with the applicant and identify Rules (either entire Rule or specific provision of the Rule) that are relevant to the proposed FinTech Innovation(s), and/or issue individual guidance to a Sandbox Participant according to the specific characteristics and risks associated with the proposed FinTech Innovation(s).
- (3) AFSA may vary the applicable waivers and modifications as the Sandbox Participants progress through different stages of testing of their FinTech solution. Variations will be subject to the changing risks that the proposed FinTech Innovation(s) may pose at any point.
- (4) Upon successful experimentation and on exiting the Sandbox, the Sandbox Participants must fully comply with the relevant legal and regulatory requirements set out in Rules.
- (5) AFSA is not bound by the requirements set out in this Guidance and may waive or modify these requirements at its discretion where appropriate.
- (6) The Guidance is not an exhaustive source of AFSA's policy on the exercise of its statutory powers and discretions. In the discharge of its regulatory mandate, AFSA may impose other parameters to address any specific risks posed by activities of the applicant to carry on testing of the proposed FinTech Innovation(s) within the Sandbox.

8. Eligibility criteria

- (1) This section outlines the main evaluation criteria which will be used by AFSA to assess the application submitted by the applicant seeking AFSA's approval to participate in the Sandbox.
- (2) The application should contain the necessary supporting information (**Schedule 2**) to depict how the sandbox evaluation criteria listed below can be fulfilled:
 - (a) the proposed FinTech Innovation(s) include new or emerging technology, or uses existing technology in an innovative way with clear potential to -
 - (i) improve accessibility, efficiency, security and quality in the provision of financial services;
 - (ii) promote better risk management solutions and regulatory outcomes for the financial industry; or
 - (iii) address a problem, or bring benefits to consumers or the industry.
 - (b) the applicant has conducted an adequate and appropriate assessment to demonstrate the usefulness and functionality of the proposed FinTech Innovation(s) and identified the risks discovered from the preliminary testing and the potential risks to financial industry and consumers that may arise from the testing of the proposed FinTech Innovation(s) in the Sandbox, and propose appropriate safeguards to address the identified risks to the best of their ability at that time;
 - (c) the appropriate boundary conditions should be clearly defined, for the sandbox to be meaningfully executed while sufficiently protecting the interests of consumers and maintaining the safety and soundness of the industry;
 - (d) the applicant has the necessary resources to support testing in the Sandbox. This includes the required resources and expertise to mitigate

and control potential risks and losses arising from offering of the proposed FinTech Innovation(s);

- (e) the applicant has the intention and ability to deploy the proposed FinTech Innovation(s) in AIFC, Kazakhstan and/or the Commonwealth of Independent States (**the “CIS”**) on a broader scale after exiting the Sandbox. If there are exceptional reasons why the proposed FinTech Innovation(s) cannot be deployed in AIFC, Kazakhstan and/or the CIS, for example it is not commercially viable to deploy in AIFC, Kazakhstan and/or the CIS, the applicant should be prepared to continue contributing to AIFC, Kazakhstan and/or the CIS in other ways, such as continuing the developmental efforts of the proposed FinTech Innovation(s) in AIFC, Kazakhstan and/or the CIS;
 - (f) the applicant has performed rigorous due diligence on legal and regulatory requirements for deploying the proposed FinTech Innovation(s). If there are legal and regulatory requirements that are incompatible with the proposed FinTech Innovation(s), AFSA may consider granting relevant regulatory flexibilities for the purpose of testing a proposed FinTech Innovation that possesses strong value propositions;
 - (g) an acceptable exit and transition strategy should be clearly defined in the event that the proposed FinTech Innovation(s) have to be discontinued, or can proceed to be deployed on a broader scale after exiting the Sandbox.
- (3) Applicants for the Sandbox permissions may be required to establish a commercial presence in AIFC.

9. Application Process for Authorisation

- (1) Application process consist of two stages:
 - (a) Pre-application submission;
 - (b) Post-application submission.
- (2) In pre-application stage, applicants shall provide the following information:
 - (a) the applicants’ rationale for why their innovation(s) meet the eligibility criteria (**set out in Section 8 above**);
 - (b) the nature of support they think they need from the Sandbox;
 - (c) the target jurisdictions for their innovation(s) to be deployed after exiting the Sandbox;
 - (d) the stage of their project is at (e.g. initial idea, in development, currently piloting, *conducting due diligence, seeking partners/investors. Applicants shall explain when they think they will be ready to launch their innovation(s)*).

Pre-application will help AFSA to understand applicants’ innovation(s) and suitability for support from the Sandbox as well as applicants to understand AFSA’s approach in fostering innovation.

- (3) Prior to submitting an application, the applicant may clarify any question regarding the Sandbox by contacting AFSA at **Sandbox@aifc.kz**.
- (4) If the applicant is suitable participant for the Sandbox and meets the eligibility criteria (**set out in Section 8 above**), it can proceed to complete and submit the

Sandbox Application Form (**Schedule 2**) signed by the Chief Executive Officer (CEO) of the applicant or officer duly authorised by the CEO to AFSA by email at **Sandbox@aifc.kz**.

- (5) Once the applicant has submitted its Sandbox Application Form with a complete set of information necessary for the assessment, **within 30 working days** AFSA will review the application and inform the applicant whether the proposed FinTech Innovation(s) potentially qualifies for the Sandbox.
- (6) AFSA will work with the applicant to determine the specific regulatory requirements and conditions (including test parameters and control boundaries) to be applied to the proposed FinTech Innovation(s) in question. The applicant will then assess if it is able to meet these requirements.
- (7) If the applicant is able and willing to meet the proposed regulatory requirements and conditions, the applicant will be granted a Permission to develop and test the proposed FinTech Innovation(s) in the Sandbox within the parameters and control boundaries agreed upon with AFSA.
- (8) Depending on the financial service to be experimented, the applicant involved and the application made, AFSA will define the period in which the applicant may operate within the Sandbox (the testing period).
- (9) At the end of the testing period (or earlier if the size, scale or progress of the proposed FinTech Innovation warrants), the Sandbox Participant will exit the Sandbox and, if eligible, migrate to the full authorisation and supervisory regime set out in Rules.

10. Submission of information and reports

- (1) During the testing period in the Sandbox, AFSA may require the Sandbox Participant to submit information relating to the test.
- (2) The Sandbox Participant must ensure proper maintenance of records during the testing period to support reviews of the test by AFSA.

Interim reports

- (3) The Sandbox Participant must submit interim reports to AFSA on the progress of the test, which includes information on the following:
 - (a) key performance indicators, key milestones and statistical information;
 - (b) key issues arising as observed from fraud or operational incident reports; and
 - (c) actions or steps taken to address the key issues referred to in paragraph 10(3)(b) of the Guidance.
- (4) The frequency and specific details to be included in interim reports will be agreed between AFSA and the participant, taking into account the duration, complexity, scale and risks associated with the test.

Final report

- (5) The Sandbox Participants must submit a final report containing the following information to AFSA 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.

Confirmation of reports

- (6) The interim and final reports must be confirmed by the CEO or officer duly authorised by the CEO.
- (7) In a situation of joint testing by a FinTech participant in collaboration with another institution, the reports must be confirmed by the CEOs or officers duly authorised by the CEOs of both companies.

11. Conditions/Limitations on the Sandbox Participants

- (1) On being granted the Permission to develop and test the proposed FinTech Innovations in the Sandbox, AFSA may impose limitations or conditions on the Sandbox Participant in accordance with Rules. These may include, but are not limited to, any of the following:
 - (a) the number and type of clients with or for whom the Sandbox Participant carries on, or intends to carry on testing activities of the proposed FinTech Innovation(s) within the Sandbox;
 - (b) the type and size of client transactions that the Sandbox Participant is permitted to enter into;
 - (c) the Sandbox Participant's ability (if any) to hold or control client money and client investments;
 - (d) the requirements surrounding the Sandbox Participant's handling and protection of client information;
 - (e) the manner and type of financial promotion that the Sandbox Participant may undertake and the associated disclosures that the Sandbox Participant is required to make to clients willing to use the proposed FinTech Innovation(s) in order for clients to make an informed decision;
 - (f) the key information required to be contained in a client agreement;
 - (g) the prevention of money laundering and countering the financing of terrorism measures that the Sandbox Participant is required to implement;
 - (h) the Sandbox Participant's capital requirements (if any);
 - (i) the Sandbox Participant's financial and other reporting requirements;
 - (j) any other safeguards to protect the interests of clients or maintain the safety and soundness of the financial system as AFSA may prescribe.
- (2) AFSA may, at any time through the life-cycle of testing the proposed FinTech Innovation(s), by notice in writing to the Sandbox Participant, cancel or vary any condition or restriction imposed on the Sandbox Participant or impose such further condition or restriction as it may think fit in accordance with Rules.

12. Extending or Exiting the Sandbox

- (1) At the end of the testing period, the Permission granted to the Sandbox Participant as well as the legal and regulatory requirements relaxed by AFSA will expire, and the Sandbox Participant must exit from the Sandbox.
- (2) Upon the completion of the testing, the Sandbox Participant can choose to either:

- (a) deploy the proposed FinTech Innovation(s) on a broader scale, provided that:
 - (i) both AFSA and the Sandbox Participant are satisfied that the Sandbox has achieved its intended test outcomes; and
 - (ii) the Sandbox Participant can fully comply with the relevant legal and regulatory requirements; or
 - (b) employ an exit strategy.
- (3) The exit strategy of a Sandbox Participant may vary according to its commercial needs. For example, the Sandbox Participant may choose to cease its business at the end of the testing period, or it may transfer its proposed FinTech Innovation(s) and any clients to other authorised financial institutions.
 - (4) In the event that the Sandbox Participant requires an extension of the testing period, the Sandbox Participant should apply to AFSA at least two months before the expiration of the testing period and state the additional time required and clearly explain reasons for requiring the extension.
 - (5) AFSA will review the application and approval will be granted on a case-by-case basis. AFSA's decision on the application for extension is final.
 - (6) The Sandbox Participant may exit the Sandbox at its own by giving AFSA a two-month notice in writing of its intention to exit the Sandbox. In such cases, upon exiting the Sandbox, the Sandbox Participants must take the same actions outlined in Section 13(4) of the Guidance.
 - (7) The Sandbox Participant should ensure that any existing obligation to its customers of the proposed FinTech Innovation(s) under experimentation must be fully fulfilled or addressed before exiting the Sandbox or discontinuing the Sandbox.

13. Revocation of the Permission

- (1) AFSA reserves the right to revoke a Permission at any time before the end of the testing period if it appears to AFSA that it is desirable to do so in order to further one or more of its regulatory objectives.
- (2) Before revoking a Permission, AFSA will:
 - (a) give the Sandbox Participant 30 days' notice in writing of its intention to revoke the Permission; and
 - (b) provide an opportunity for the Sandbox Participant to respond to AFSA on the grounds for revocation.
- (3) Where any delay in revoking the Permission would be detrimental to the interests of the Sandbox Participant, its customers, the financial system or the public generally, AFSA may revoke the Permission immediately and provide the opportunity for the Sandbox Participant to respond after the effective date of revocation. If the response is accepted by AFSA, AFSA may reinstate the Permission.
- (4) Upon revocation of the Permission, the Sandbox Participant must:
 - (a) immediately implement its exit plan to cease the provision of the FinTech Innovation(s) to new and existing customers;
 - (b) provide notification to customers informing them of the cessation and their rights to redress where relevant;

- (c) comply with obligations imposed by AFSA 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 Sandbox Participant to AFSA; and
- (e) submit a report to AFSA on the actions taken under paragraphs 13(4)(a) - (d) of the Guidance within 30 days after revocation.

III. Final Provisions

14. Changes to the Guidance

The Guidance may be modified and amended from time to time by the Board of Directors of the Astana Financial Services Authority.