



**ECSRC REGULATORY SANDBOX RULES & GUIDANCE**

**FEBRUARY 2023**

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# **EASTERN CARIBBEAN SECURITIES REGULATORY COMMISSION REGULATORY SANDBOX**

## **1.0 INTRODUCTION**

The ECSRC is committed to encouraging and facilitating financial innovation where it is likely to be beneficial to investors and the market. To keep up with the increasing developments in financial technology and to achieve the mission of the Commission in facilitating market development, the ECSRC strives to provide the right parity between financial stability, innovation, and consumer protection. Market development requires financial inclusion. To achieve higher financial inclusion, financial innovations are needed but those innovations usually mean that the sophisticated new forms of financial products or services do not fit in neatly with the current regulatory framework. The importance of innovation for financial inclusion is well established as is investor and consumer trust and confidence. In that regard, the ECSRC believes that regulatory sandboxes can facilitate the advancement of the Eastern Caribbean Currency Union (ECCU) and the Eastern Caribbean Securities Market (ECSM).

The Regulatory Sandbox refers to the live testing of new or innovative financial products or services by private firms in a controlled environment under the supervision of the ECSRC and without necessarily first obtaining a licence from the ECSRC. This will allow the ECSRC to facilitate an enabling environment for financial innovation within the ECSM. The Regulatory Sandbox permits for the careful monitoring, analysing, and containing of the potential risks to consumers and the financial system, ensuring that there are little to no adverse impacts. The ECSRC believes that the Regulatory Sandbox will prove to be a valuable tool which signals the ECSRC's openness to innovation and provides a learning opportunity for both the ECSRC and participant firms.

## **2.0 SANDBOX OBJECTIVES**

The direct objective of the ECSRC Regulatory Sandbox is to promote and facilitate financial innovation within the ECSM and in so doing:

- a) Enable firms with innovative financial products or services, FinTech, that relate to securities, to test those products, services, technologies, and business models in real-world implementation.

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- b) Encourage the creation and adoption of innovative FinTech in the ECSM.
- c) Risk mitigation by establishing a controlled environment for firms and ensuring consumers are duly protected from the risks of the innovative product or service being tested. ensuring firms safeguard consumers by reducing risk.
- d) Identify and address regulatory barriers to financial innovation such as costly compliance, regulatory uncertainty.
- e) Help the ECSRC to learn about market developments and obtain knowledge on the new regulatory needs required to adequately regulate and supervise the innovative developments in the financial market.
- f) Help reduce the time and cost of getting innovative financial products and services to market.
- g) Enhance financial inclusion and access to finance for investors
- h) Understand the financial innovations and how to best regulate them using evidence, knowledge and information gathered from the sandbox testing.

### **3.0 GENERAL PRINCIPLES**

#### **Scope of the Regulatory Sandbox**

- a) The ECSRC pledges to treat all firms fairly and transparently. The ECSRC Regulatory Sandbox is open to both regulated and unregulated firms aiming to provide financial services, products, or new technologies within the ECCU and the ECSM.
- b) The Regulatory Sandbox is also open to firms with innovative technological solutions that may not require authorisation in of themselves but provide support to regulated financial services or firms seeking to support a regulated activity.
- c) The ECSRC Regulatory Sandbox should be flexible but limited to testing new solutions or innovative financial products, services, technologies, and business models.

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- d) The ECSRC Regulatory Sandbox will be open to local, regional, and international firms that intend to offer FinTech services within the ECCU and ECSM.
  
- e) Firms still need to apply for authorisation where relevant within the ECSRC Regulatory Sandbox before being able to test new financial innovations relevant to securities.

### **Governance**

- f) The Governance of the ECSRC Regulatory Sandbox will be by the ECSRC Sandbox Committee of at least three persons.
  - i. The ECSRC Sandbox Committee will consist of staff appointed to the ECSRC Secretariat and must include staff with appropriate senior decision-making ability.
  - ii. The ECSRC Sandbox Committee will be led by a chair nominated by the Secretary of the ECSRC. The Chair of the ECSRC Sandbox Committee is ultimately responsible and accountable for all decisions made in relation to the ECSRC Regulatory Sandbox.
  - iii. The Sandbox Committee will be responsible for establishing the Administrative Review Team, the Selection Committee and the Sandbox Supervisory Team.
  
- g) The ECSRC Sandbox Committee is decision making body and is ultimately responsible for the ECSRC Regulatory Sandbox. The Administrative Review Team is responsible for conducting various administrative functions in the operations of the ECSRC Regulatory Sandbox.
  
- h) The Selection Committee is responsible for providing recommendations on eligibility and testing plans for the firms applying to participate in the ECSRC Regulatory Sandbox.
  - i. The Selection Committee should be comprised with individuals of the appropriate knowledge and skills of both the innovations that are being proposed, and to

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ensure representation from an appropriate range of technical functions of the ECSRC such as but not limited to: Policy, Legal, Licensing, Compliance.

- ii. The Selection Committee will make recommendations to the ECSRC Sandbox Committee to make the final decisions in terms of the selection of firms to participate in the Regulatory Sandbox.
  
- i) The Sandbox Supervisory Team is responsible for supervising the Regulatory Sandbox testing period and the firms participating in the Regulatory Sandbox.
  - i. The Supervisory Team will provide regulatory, compliance and legal advice and guidance to the applicants during all the stages of participation in the Regulatory Sandbox.
  - ii. The Sandbox Supervisory Team will make recommendations where necessary to the ECSRC Sandbox Committee on matters relating to the testing period and firms participating within the Regulatory Sandbox.
  - iii. The Sandbox Supervisory Team will advise on the exit of firms and make recommendations to the ECSRC Sandbox Committee post exit.

### **Number of Applicants/Participants**

- j) The ECSRC Regulatory Sandbox will be a thematic sandbox with a case-by-case model with the ECSRC determining how many applicants can be supported simultaneously according to the ECSRC resources, ensuring adequate guidance and oversight can be provided.
  - i. The number of applicants and participants of the ECSRC Regulatory Sandbox will always be guided by the ECSRC's capacity to support such firms. If there are more than the maximum number of firms that meet the eligibility criteria in any given application cycle of the ECSRC Regulatory Sandbox, the Selection Committee will select firms that best meet the eligibility criteria.

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- ii. The Selection Committee will create a ‘waiting list’ for eligible firms that were not accepted into participation of the ECSRC Regulatory Sandbox during the relevant application period.
- iii. The Selection Committee will provide reasons to the eligible firms placed on the on the ‘waiting list’.
- iv. Eligible firms on the ‘waiting list’ will be eligible to participate in the ECSRC Regulatory Sandbox once the capacity of the ECSRC is available to provide such necessary support and acceptance and admittance are granted.

### **Relaxing Legal and Regulatory Requirements**

- k) The ECSRC Regulatory Sandbox is not intended to circumvent current legal and regulatory requirements.
- l) The ECSRC should as reasonably as possible operate flexibly in its approach, tailoring as far as possible the regulatory obligations to the risks of the sandbox testing.
  - i. The ECSRC may consider relaxing, if warranted, some of the regulatory requirements for applicants for the duration of time the applicant is in the Regulatory Sandbox.
  - ii. Related laws and regulations on customer protection, personal data confidentiality and protection, Know Your Customer (KYC)/Anti-Money Laundering (AML)/Combating Financing of Terrorism (CFT) and statutory restrictions will still apply and remain mandatory.

### **Customer safeguards**

- m) Firms must have appropriate risk management controls, sufficient resources, and the capacity to mitigate risks.
- n) The ECSRC Regulatory Sandbox must have customer protection measures to protect customers who participate within the sandbox testing. As such, applicants must have

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sufficient safeguards in place to protect consumers and provide the necessary resources to mitigate potential risks and losses.

- i. The Regulatory Sandbox does not absolve the applicant firm of any liability towards the consumers.
  
- o) The ECSRC determines the safeguard proposals of each firm's activity on a case-by-case basis. Consumer protection remains paramount and a key principle of the ECSRC.

### **Scope of Advice and Guidance**

- p) The ECSRC via the Supervisory Team will provide advice and guidance to firms during all stages of the participation in the Regulatory Sandbox and on all matters, queries and questions related to the ECSRC Regulatory Sandbox.
- q) The ECSRC will build on relationships with relevant organizations, regulators and stakeholders to provide advice and guidance on matters not within the remit of the ECSRC's functions and mandate.
- r) Ultimately, the responsibility of compliance remains with the firms and not the ECSRC.

### **Financial Stability**

- s) The ECSRC Regulatory Sandbox should not cause risk to the financial system or the overall stability of the ECSM. The Regulatory Sandbox must provide appropriate safeguards to contain the consequences of failure and protect the overall safety and soundness of the financial system and the ECSM.

## **4.0 ELIGIBILITY**

Eligibility defines who can participate in the ECSRC Regulatory Sandbox. Applicants (unlicensed or unregulated and licensed or regulated) may enter the Regulatory Sandbox once

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the FinTech solution or financial innovation is not expressly excluded and meets the following key general criteria:

### **Criteria 1 – Genuine Innovation or New/Emerging Technology**

- New or emerging technology or uses existing technology in an innovative way.

### **Criteria 2 – Supporting Financial Inclusion**

- The proposal and application must illustrate it seeks to provide a product, service or solution that have the potential to improve one of the following aspects: accessibility, efficiency, security, and quality of the financial system and the ECSM in supporting financial inclusion in the ECCU.

### **Criteria 3 – Genuine Need for the use of the ECSRC Regulatory Sandbox**

- There is a genuine need for the sandbox testing due to an absence of governing laws and regulations or there is uncertainty as to the appropriate regulatory regime for the product or service — it is not easy to fit within the existing regulatory framework.
- The applicant proposes a specific area of regulated uncertainty within a regulated activity that the business model or proposal presents and the ECSRC Regulatory Sandbox can provide an environment to gain clarity to the firm and the ECSRC.

### **Criteria 4 – Provides Consumer or Market Benefit**

- Addresses a problem or brings additional benefits to the consumers, participants, and investors of the ECSM.

### **Criteria 5 – Ready for Testing**

- The applicant must demonstrate a readiness to test the innovation with a realistic and well-developed business plan; objectives, testing scenarios, risk mitigation capacity, expected outcomes/Key Performance Indicators (KPIs). The applicant must also show the necessary resources (human and financial) to participate in the Regulatory Sandbox.

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- Firms must accurately provide information in the application for the ECSRC to assess its readiness.

### **5.0 ECSRC REGULATORY SANDBOX**

#### **Application Proposal**

- Applicants' Proposal

Applicants submit a testing proposal to the ECSRC setting out how the service, product or model meets the eligibility criteria using a form provided by the ECSRC. The applications will be screened for completeness and to ensure that all supporting documentation needed is submitted. This will be conducted by the Administrative Review Team.

#### **Evaluation**

- ECSRC Assessment

The Administrative Review Team conducts an initial review screening of the application proposal against the eligibility criteria.

The application is accepted and progressed to the Selection Committee if the eligibility criteria are met. During this assessment or evaluation by the Selection Committee, this will include liaising with the applicant to understand the activity being proposed and the aims, any licensing or legal implications and to obtain any relevant requested information.

The applicant firm is allowed to adjust and refine its applications after discussions with the ECSRC to clarify any areas of uncertainty.

The Selection Committee shall ensure full understanding of the objectives and principles of the Regulatory Sandbox. At the end of this evaluation stage, the Selection Committee makes recommendations to the ECSRC Sandbox Committee which makes the final decision on eligibility and acceptance.

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The applicant shall be formally notified in writing of the outcome of the application proposal.

Where the application is denied, the reasons for the rejection must be communicated to the applicant by the ECSRC.

The applicant may re-apply for the ECSRC Regulatory Sandbox when it is ready to meet objectives and principles of the sandbox.

### **Test Design**

#### ■ Setting Boundaries

Upon acceptance of an application proposal, The Selection Committee shall engage with the applicant to establish the best sandbox approach by developing the testing parameters, measures for outcomes, reporting requirements and safeguards.

The Regulatory Sandbox must define the period in which it will operate.

Other conditions setting boundaries shall be identified to protect the interest of consumers.

This stage will include decision on the start and end date of the applicant's participation in the Regulatory Sandbox, the target customers of the applicant, the limit on clients/customers involved, the type of activity that is permitted, thresholds, number or volume of transactions, consumer protection safeguards, identification of risks etc.

It is vital that the ECSRC is adequately resourced to effectively support each applicant.

The testing plan must be comprehensive and clear. Key information required in the testing plan include:

- I. Objectives of the test and intended outcomes

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- II. Measures of success/Key Performance Indicators - how will the firm show that the test has been successful?
- III. Exit plans if the testing must be stopped by either the firm's choice or at ECSRC's direction.
- IV. Identifiable key test milestones and timelines
- V. Any relevant exit criteria that need to be satisfied at the conclusion of a test to allow a firm to operate in the broader market.
- VI. Reporting obligations during the testing period.

### **Key Outputs:**

1. A testing plan agreed with the applicant to cover the bespoke Regulatory Sandbox testing boundaries appropriate for the applicant and testing; and
2. The issuance of a licence/legal waiver or other regulatory tool to enable the firm to test.

### **Testing and Monitoring**

- The Live Environment

Once the ECSRC has granted approval the firm starts testing and engages in the sandbox experimentation.

The testing period shall provide great flexibility in minimum duration but shall be up to a maximum of 12 months with the possibility of an extension if the ECSRC considers there to be legitimate justification.

There is no provision to apply to pause testing.

The applicant must exit the Regulatory Sandbox once the time for testing is finished or under other stipulated conditions.

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The firm shall notify its customers that the financial service or product is operating in a sandbox and disclose the associated risks. Customer acknowledgment of the risk and the understanding of said risk is required. There must be full transparency to the consumer about potential risks and available compensation for losses.

ECSRC will provide information to the public in relation to all approved Sandbox applications on the ECSRC website by the publication of the names of the Regulatory Sandbox firms. Only the names of firms in the position to start testing in the Regulatory Sandbox will be published. This is to ensure transparency.

### **Exit**

As part of the test design process the ECSRC and the applicant shall agree on the conditions for the firm to successfully exit the Regulatory Sandbox following its test.

The following general provisions also apply:

The testing can be discontinued where the ECSRC is not satisfied that the sandbox is operating in a manner that meets its purpose, upon a breach of any condition imposed for the duration of the sandbox or where there has been an identifiable risk that warrants the cessation of the experiment.

The firm may withdraw from the sandbox at its own discretion after fully ensuring any existing obligations to its customers of the product or service under experimentation is fulfilled or addressed. 1 month notice is required for voluntary discontinuation.

#### **■ Success or Failure**

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Once the testing is completed the firm must submit a final report within two months after the end of the testing period to the ECSRC for review. This report must contain the outcomes of the sandbox testing. The final report must cover the following points:

- Operational Metrics – log of operational incidents and steps taken to address them.
- Business Metrics – such as revenue and expense information (Financial Report).
- Technical Metrics – log of technical incidents and steps taken to address them.
- General Information – about client or customer demographic (Age, gender etc.).
- Customer Satisfaction Report & Metrics – number and nature of complaints received and handled.
- Identifiable issues or risks that were resolved during the testing period.
- Whether there are any new regulatory issues that were identified during testing, or any regulatory requirements identified as barriers to viability.
- Whether the product, service or business model falls within the scope of existing laws and regulation.
- Details on any audits conducted (if any).
- Key findings and results.
- Whether pre-defined KPIs were met or not.
- General results and next steps.

The information included in the exit report shall be reviewed by the ECSRC for the purpose of evaluating the operation and effectiveness of the ECSRC Regulatory Sandbox.

The firm must decide, if successful, whether it will seek to bring the product or service to the market fully. If the test has failed the applicant can re-apply or if the innovation is deemed unfit for the market the ECSRC shall issue a cease-and-desist order.

The ECSRC should consider any additional requirements the firm needs to satisfy for it to operate and act ‘unrestricted’ and fully in the market.

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Successful Exit Options:

1. Licensing
2. Formal Approval to operate
3. Regulatory Change

## **6.0 ECSRC REGULATORY SANDBOX GENERAL TESTING PARAMETERS**

The ECSRC shall engage with the applicant to establish the best sandbox approach by developing the testing parameters, measures for outcomes, reporting requirements and safeguards. The following are general guidelines to the Regulatory Sandbox testing parameters.

In general terms, the ECSRC shall publish general testing parameters to enable potential applicant/participant firms to have clear information about the ECSRC expectations before deciding to apply to the ECSRC Regulatory Sandbox.

### **Testing duration**

The ECSRC Regulatory Sandbox is intended for a limited duration. Testing should be long enough to enable pertinent information to be obtained about the product or service being offered and its benefits and risks if any.

- ▶ The Applicant may choose to discontinue the Sandbox trial during the Regulatory Sandbox testing period after giving a one-month notice to the ECSRC and fulfilling its all standing obligations.
- ▶ The suggested testing period should be of no more than 12 months with no minimum testing period.

### **Customer Numbers and Selection**

The ECSRC Regulatory Sandbox is intended for small scale testing and will set a strict limit on the size of the test.

- ▶ Customer testing should nevertheless be large enough to enable statistically relevant data to be obtained whilst mitigating the risks to customers and the financial system.

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- ▶ Applicant firms must source the relevant customers themselves for testing in the Regulatory Sandbox.
- ▶ The type or profile of customers/clients should be appropriate for the type of service, product or business proposed to be tested within the Sandbox. The requirement for customer understanding of the risk is mandatory.

### **Customer Protection and Safeguards**

The Regulatory Sandbox must ensure that applicants have appropriate customer safeguards in place and will agree on customer safeguards and protection with the ECSRC on a case-by-case basis according to the nature of the proposed project and the nature of the customer (individual customer, retail, or corporate customer).

- ▶ Generally, customers/clients should not bear the risks of the Regulatory Sandbox testing.
- ▶ All risks to the participating customer/client must be fully communicated. Applicant firms must obtain confirmation from said customer/clients that they fully understand and accept the risks.
- ▶ Customer data used for the Regulatory Sandbox testing is highly confidential and must not be used for any other purpose during or after the testing period.

### **Transaction Limits**

ECSRC and the applicant firm must agree on the limits of the transactions (volume and value) conducted during the testing period.

- ▶ Applicants shall provide the application proposal with a suggested limited transaction component.
- ▶ Those agreed limits must not be exceeded during the testing period unless agreed with and approved by the ECSRC after proper justification.

### **Reporting Requirements**

Regulatory Sandbox participants shall submit progress reports to the ECSRC upon an agreed schedule (weekly, monthly, or quarterly). These reports shall be signed by senior management and include the relevant information agreed upon with the ECSRC. This may include:

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- ▶ Progress and key milestones achieved relative to the pre-defined KPIs.
- ▶ Updated risk register including possible risks and the treatment of or solutions to those emerging risks.
- ▶ Detailed log of operational or technical incidents – (if any) and steps to address the same.
- ▶ Details on any audits conducted and where applicable submission of signed audited reports.
- ▶ Customer satisfaction report, including complaints and how the complaints were handled.

Note that the ECSRC may request more information as and when it is required, and the participant shall comply with any request for more information.

### **Modifications to Test Design and Parameters**

In the event of a firm requesting that certain elements of the testing design or parameters be modified during the testing, the ECSRC Regulatory Sandbox shall consider such requests for modifications and determine the denial or approval based on the justifications put forward by the participant.

At the end of testing and for the exit strategy, the participant firm must submit a detailed final report within two months of the end of the testing period. The report should mainly contain information listed as required under section **5.0 ECSRC REGULATORY SANDBOX – Exit**.

## **7.0 DISCLOSURE**

### **Participating Firms**

The participating firm in the ECSRC Regulatory Sandbox may publicise the involvement in the Regulatory Sandbox provided it obtains approval from the ECSRC on such intent.

Any publication of the firm's involvement in the Regulatory Sandbox must only be granted after the firm has been granted approval to participate in the Regulatory Sandbox and the testing plan has been agreed.

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Any publication by participant firms must not contain any statements that can be reasonably taken to mean that the ECSRC has endorsed the firm's business, product or service.

**Disclosure by ECSRC**

Subject to any agreed specific information that may require approval by the relevant individual, organisation, or firm – the ECSRC reserves the right to publish any information relevant to the Regulatory Sandbox on its website or to share information through knowledge transfer and collaboration with other international regulatory agencies.

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