

WEST VIRGINIA CODE: §31A-8G-3

§31A-8G-3. Regulatory Sandbox Program; administration; application requirements; fee; rulemaking.

(a) There is created in the Division of Financial Institutions the Regulatory Sandbox Program.

(b) In administering the regulatory sandbox program, the Division of Financial Institutions:

- (1) Shall consult with the West Virginia Development Office relating to the economic development opportunities relating to the potential regulatory sandbox participant and may consult with any applicable agency which otherwise may have jurisdiction or authority relating to any activity proposed for the regulatory sandbox program for which the applicant is seeking to proceed without authorization or license;
- (2) Shall have the authority to promulgate rules in accordance with §31A-2-4 and §29A-3-1 *et seq.* of this code for the purposes of administering the regulatory sandbox program;
- (3) Shall establish a program permitting an individual or an entity to obtain limited access to the market in the state to test an innovative product or service without obtaining a license or other authorization that might otherwise be required;
- (4) May enter into cooperative, coordinating, or information-sharing agreements with or follow the best practices of the federal Consumer Financial Protection Bureau or other states that are administering similar programs as well as other state and federal agencies to carry out the mandates of this article; and
- (5) May enter into agreements with state, federal or foreign regulatory agencies to allow persons who make an innovative financial product or service available in West Virginia through the regulatory sandbox program to make their products or services available in other jurisdictions and to allow persons operating in similar regulatory sandboxes in other jurisdictions to make innovative financial products and services available in West Virginia under the standards of this article.

(c) An applicant for the regulatory sandbox program shall provide to the Division of Financial Institutions an application in a form prescribed by the Division of Financial Institutions that:

- (1) Demonstrates that the applicant is subject to the jurisdiction of the state;
- (2) Demonstrates that the applicant has established a physical location in the state; where all required records, documents, and data relating to any approved testing can be made available for examination and review by the Division of Financial Institutions and any other applicable agency with jurisdiction;

(3) Demonstrates that the applicant has attempted in good faith to establish a partnership with a bank operating within the State of West Virginia or another financial institution licensed by the State of West Virginia to implement the applicant's proposed test of an innovative product or service within the regulatory sandbox program: *Provided*, That the applicant may not be excluded from participation in the regulatory sandbox program solely based on the applicant's ability to establish a partnership with a bank operating within the State of West Virginia or another financial institution licensed by the State of West Virginia;

(4) Contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the Division of Financial Institutions;

(5) Discloses any and all criminal convictions of the applicant or other participating personnel, if any, and submits to a criminal background investigation, including requiring fingerprints for submission to the Federal Bureau of Investigation or any governmental agency or entity authorized to receive such information for a state, national or international criminal history check;

(6) Demonstrates that the applicant has the necessary personnel, financial and technical expertise, access to capital, and a developed plan to test, monitor, and assess the innovative product or service;

(7) Contains a description of the innovative product or service to be tested, including statements regarding all of the following:

(A) How the innovative product or service is subject to licensing or other authorization requirements outside of the regulatory sandbox program;

(B) How the innovative product or service would benefit consumers;

(C) How the innovative product or service is different from other products or services available in the state;

(D) What risks may confront consumers that use or purchase the innovative product or service;

(E) What measures will be put into place to limit potential risks and harm to consumers and to resolve complaints during the regulatory sandbox testing period;

(F) How participating in the regulatory sandbox program would enable a successful test of the innovative product or service;

(G) A description of the proposed testing plan, including estimated time periods for beginning the test, ending the test, and obtaining necessary licensure or authorizations after the testing is complete;

(H) A description of how the applicant will perform ongoing duties after the test; and

(I) How the applicant will end the test and protect consumers if the test fails;

(8) Sets forth whether the applicant has been provided any license or authorization by any state or federal agency; whether any state or federal agency has previously investigated, sanctioned, or pursued legal action against the applicant; and whether the applicant has had licensure or authorization denied or withdrawn by any state or federal agency;

(9) Demonstrates registration with the West Virginia Secretary of State;

(10) Demonstrates that the applicant has an exit plan to limit consumer harm at the conclusion of the regulatory sandbox testing period, including a plan to notify consumers and advise them of next steps; and

(11) Provides any other information as required by the Division of Financial Institutions.

(d) The Division of Financial Institutions may collect an application fee of not more than \$1,500 from an applicant.

(e) An applicant shall file a separate application for each innovative product or service that the applicant wants to test.

(f) After an application is filed, the Division of Financial Institutions may seek additional information from the applicant as it deems necessary.

(g) Subject to subsection (h) of this section, not later than 90 days after the day on which a complete application is received by the Division of Financial Institutions, the division shall inform the applicant as to whether the application is approved for entry into the regulatory sandbox program.

(h) The Division of Financial Institutions and an applicant may mutually agree to extend the 90-day time period described in subsection (g) of this section in order for the Division to determine whether an application is approved for entry into the regulatory sandbox program.

(i)(1) In reviewing an application under this section, the Division of Financial Institutions may consult with, and seek the approval of, any applicable agency before admitting an applicant into the regulatory sandbox program.

(2) The consultation with an applicable agency may include but is not limited to seeking information about whether:

(A) The applicant could obtain a license or other authorization from the applicable agency after exiting the regulatory sandbox program; and

(B) Certain licensure or other regulations should not be waived even if the applicant is accepted into the regulatory sandbox program.

(j) In reviewing an application under this section, the Division of Financial Institutions shall consider whether a competitor to the applicant is or has been a regulatory sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a regulatory sandbox participant.

(k) If the Division of Financial Institutions approves admitting an applicant into the regulatory sandbox program, an applicant may become a regulatory sandbox participant.

(I)(1) The Division of Financial Institutions may deny any application submitted under this section, for any reason, at the division's discretion.

(2) If the Division of Financial Institutions denies an application submitted under this section, the division shall provide to the applicant a written description of the reasons for the denial as a regulatory sandbox participant.