WEST VIRGINIA CODE: §31A-8G-4

§31A-8G-4. Scope; testing period; licenses; consumer protections.

(a) If the Division of Financial Institutions approves an application under §31A-8G-3 of this code, the regulatory sandbox participant has 24 months after the day on which the application was approved to test the innovative product or service described in the regulatory sandbox participant's application.

(b) An innovative product or service that is tested within the regulatory sandbox program is subject to the following:

(1) All consumers participating in the innovative product or service being tested shall be residents of the state;

(2) The Division of Financial Institutions may, on a case-by-case basis, specify the maximum number of consumers that may transact through or enter into an agreement to use the innovative product or service:

(A) For a regulatory sandbox participant testing a consumer loan, the Division of Financial Institutions may, on a case-by-case basis, specify the maximum amount of an individual loan that may be issued to an individual consumer and the maximum amount of aggregate loans that may be issued to an individual consumer; and

(B) For a regulatory sandbox participant testing an innovative product or service that would normally require a money transmission license pursuant to this code, the Division of Financial Institutions may, on a case-by-case basis, specify the maximum amount of a single transaction for an individual consumer and the maximum aggregate amount of transactions for an individual consumer.

(c) This section does not restrict a regulatory sandbox participant who holds a license or other authorization in another jurisdiction from acting in accordance with that license or other authorization.

(d) A regulatory sandbox participant is deemed to possess an appropriate license under the laws of this state for the purposes of any provision of federal law requiring state licensure or authorization.

(e) Except as otherwise provided in this chapter, including subsections (f), (g), and (h), a regulatory sandbox participant that is testing an innovative product or service is not subject to state laws that regulate financial products or services.

(f) Regulatory sandbox participants and the innovative products and services that they are testing in the regulatory sandbox program are subject to all applicable consumer protection laws, including, but not limited to those contained in chapter 46A of this code, the Collection

WV Legislature

Agency Act contained in chapter 47A of this code, and any limitations on interest rates, whether or not those interest rates would otherwise require licensure.

(g)(1) The Division of Financial Institutions may determine that additional state laws that regulate a financial product or service apply to a regulatory sandbox participant if the Division of Financial Institutions, at its sole discretion, determines that an applicant's proposed testing plan or the innovative product or service to be tested poses significant risk to consumers or to the safety and soundness of other institutions within the financial services marketplace as to warrant the imposition of other applicable state laws.

(2) The Division of Financial Institutions shall determine the applicability of certain state laws to each innovative product or service prior to approval of any application to participate in the regulatory sandbox program and shall notify the regulatory sandbox participant of the specific regulatory provisions that shall apply to the innovative product or service throughout the duration of the regulatory sandbox testing period.

(3) If at any time during the regulatory sandbox testing period, the Division of Financial Institutions determines that the imposition of certain state laws is necessary to eliminate the risk of harm to consumers or the safety and soundness of other institutions operating within the financial services marketplace, the division may require that the regulatory sandbox participant come into compliance with such state laws within a reasonable time.

(h) Notwithstanding any other provision of this chapter, a regulatory sandbox participant does not have immunity related to any criminal offense committed during the regulatory sandbox participant's participation in the regulatory sandbox program.

(i) By written notice, the Division of Financial Institutions may end a regulatory sandbox participant's participation in the regulatory sandbox program at any time and for any reason, including if the Division of Financial Institutions determines a regulatory sandbox participant is not operating in good faith to bring an innovative product or service to market.

(j) The Division of Financial Institutions shall require a regulatory sandbox participant to post a consumer protection bond as security for potential losses suffered by consumers. The bond amount shall be determined by the commissioner in an amount not less than $5,000 and shall be commensurate with the risk profile of the innovative product or service. The commissioner may require that a bond be increased or decreased at any time based on risk profile and shall provide the regulatory sandbox participant with 30 days prior written notice of such increase or decrease. The aggregate liability of the surety in no event shall exceed the principal sum of the bond. The commissioner may use bond proceeds to offset losses suffered by consumers as a result of an innovative product or service. The bond shall expire two years after the date of the conclusion of the regulatory sandbox testing period. The commissioner may accept electronic bonds from any regulatory sandbox participant.

WV Legislature