



WYOMING LEGISLATIVE SERVICE OFFICE

Research Memorandum

GENERAL REGULATORY SANDBOXES

May 2023

Kelly Lower, Associate Research Analyst

REGULATORY SANDBOX OVERVIEW

Regulatory sandboxes are a novel way to govern innovative companies, allowing them to test products under an alternative regulatory structure. The concept of a regulatory sandbox originated in 2014 with the United Kingdom Financial Conduct Authority (FCA), a regulatory body that regulates financial service firms and financial markets.¹ A company enters the sandbox, and the regulator maintains ongoing oversight to protect consumers. Businesses that are accepted into the program receive temporary relief from specific regulations, allowing them to test ideas and gather data on their feasibility and impact. After an agreed-upon period, a company must either meet the standard regulatory requirements, or existing regulations are updated to meet the needs of these new business models. Regulatory sandbox programs are designed to provide an avenue for businesses to test new ideas in a real-world setting without the full regulatory burden that would typically accompany such activities.²

The first successful sandbox created in the U.S. was Arizona's financial technology (fintech) sandbox, established in 2018.³ The Bureau of Consumer Financial Protection fintech sandbox established in 2016 predated Arizona's sandbox, however, this program had only one participant before it was reworked in 2019.⁴ Several more regulatory sandboxes have been created in the U.S., most of which are industry-specific sandboxes. These sandboxes include those targeting fintech innovations in Florida, Hawaii, Nevada, North Carolina, West Virginia, and Wyoming, insurance innovation sandboxes in Kentucky, North Carolina, South Dakota, and Vermont, and several unique sandboxes such as Arizona's property technology sandbox, Utah's legal sandbox, and Wyoming's medical digital innovation sandbox.⁵

¹ Regulatory Sandbox, Financial Conduct Authority, <https://www.fca.org.uk/firms/innovation/regulatory-sandbox> (Last accessed May 10, 2023).

² Everything you need to know about Regulatory Sandboxes, Spate Policy Network, <https://spn.org/articles/what-is-a-regulatory-sandbox>. (Last accessed May 10, 2023).

³ Ariz. Rev. Stat. §§ 41-5601 – 41-5612.

⁴ Bureau of Consumer Financial Protection, 12 CFR Chapter X, [Docket No. CFPB-2018-0042].

⁵ Eric Peterson, *Regulatory Sandboxes: Where Innovation Happens*, Pelican Institute for Public Policy, <https://files.pelicanpolicy.org/wp-content/uploads/2022/03/Regulatory-Sandboxes-Where-Innovation-Happens-March2022-WEB.pdf> (Last accessed May 10, 2023).

Utah's General Regulatory Sandbox

The Regulatory Sandbox Program, established in 2021,⁶ is a unique initiative of the Utah Office of Regulatory Relief (ORR), a division of the Governor's Office of Economic Opportunity that allows businesses to test innovative products, services, and business models in a controlled environment without being subject to certain regulatory requirements. The General Regulatory Advisory Committee assists the ORR in selecting applicants for admission to the sandbox.⁷ The ORR's regulatory sandbox is the country's sole example of a general regulatory sandbox, as opposed to sandboxes that are industry-specific. The program has two companies currently operating in the sandbox, with three other companies in the application process and one former participant.⁸ House Bill 243 Regulatory Sandbox Program Amendments of the Utah Legislature's 2022 General Session repealed Utah's two industry-specific sandboxes already in existence, one for fintech operated by the Department of Commerce and the other for insurance innovations operated by the Department of Insurance, and allowed these industries to participate in the general regulatory sandbox administered by the ORR.⁹

The sandbox is open to businesses of all sizes and in all industries, although it is particularly well-suited to startups and small businesses that may lack the resources to navigate complex regulatory requirements. The ORR works with businesses to identify the specific regulations that may be impeding innovation and aids in navigating the regulatory process. The program also provides a mechanism for regulatory agencies to gather data on the impact of specific regulations and to identify areas where regulatory reform may be appropriate. This allows for a more evidence-based approach to regulation that balances the need for consumer protection with the promotion of innovation and economic growth.¹⁰

During the application process, applicants are asked to provide the ORR with an overview of business operations, the product or service's current stage of development, and every government that regulates their business, insofar as the applicant is aware. Additionally, applicants must give a detailed description of their product or service and how it functions, including the innovation within the product or service, and how its nature or features make it distinct from any similar product or service in the state.¹¹ Applicants must also describe their proposed demonstration plan, including:

⁶ 2021 Ut. HB 217, 2021 Utah Laws 373.

⁷ General Regulatory Sandbox Program Advisory Committee, Governor's Office of Economic Opportunity, <https://business.utah.gov/general-regulatory-sandbox-program-advisory-committee/>, (Last accessed May 10, 2023).

⁸ Utah's Office of Regulatory Relief, <https://business.utah.gov/regulatory-relief/#applicants>, (Last accessed May 10, 2023).

⁹ 2022 Ut. HB 243, 2022 Utah Laws 332.

¹⁰ Utah's Office of Regulatory Relief, <https://business.utah.gov/regulatory-relief/#applicants>, (Last accessed May 10, 2023).

¹¹ Application Questionnaire and Demonstration Proposal, Utah Office of Regulatory Relief, <https://business.utah.gov/wp-content/uploads/Regulatory-Sandbox-Application.pdf> (Last accessed May 10, 2023).

- a) Estimated periods for beginning and ending the demonstration in the Regulatory Sandbox.
- b) Who the anticipated consumers of the offering are and how the offering will benefit them.
- c) An outline of the anticipated consumer experience.
- d) What risks might exist for consumers who use or purchase the offering.
- e) How participating in the Regulatory Sandbox would enable a successful demonstration of the offering.
- f) What [the applicant's] consumer protection plan is (i.e., How will [the applicant] monitor and assess the testing of the product or service to protect consumers from any potential harm resulting from offering the product or service in the sandbox?).
- g) [The applicant's] anticipated next steps upon completion of the demonstration in the Regulatory Sandbox (e.g., how [the applicant plans] to terminate the demonstration, plans to pursue necessary licensure or authorization, plans to request a change to the laws or regulations, etc.).¹²

The application also requires a description of how sandbox applicants will measure the success of their demonstration, whether their product or service is subject to other authorization outside the sandbox, including licensing and legal prohibition, and if the company is operating in another state's sandbox.¹³

Challenges and Successes of Sandboxes

There is a pattern of usage for regulatory sandboxes across the country that can be associated with several variables. One important variable is how wide or narrow the sandbox is, in other words, whether determining the specific rules and regulations a company needs relief from to operate is the onus of the company or the regulators. Narrow sandboxes require the company to determine these rules and regulations and submit them in their application, while wide sandboxes work more with the company and the regulatory agencies to determine which regulations restrict the operation of the company. Since wide sandboxes do not require the company's identification of specific regulations, these sandboxes do not require a thorough knowledge of regulatory requirements, allowing companies to apply to the sandbox without the added expense of identifying these rules and regulations. For this reason, narrow sandboxes may receive much less usage than wide sandboxes.¹⁴

¹² Id question 9.

¹³ Id.

¹⁴ Eric Peterson, *Regulatory Sandboxes: Where Innovation Happens*, Pelican Institute for Public Policy, <https://files.pelicanpolicy.org/wp-content/uploads/2022/03/Regulatory-Sandboxes-Where-Innovation-Happens-March2022-WEB.pdf> (Last accessed May 10, 2023).

As of March 2022, 67 companies had participated in Sandboxes across the U.S. Of these, 38 companies were in a fintech sandbox, and 29 were in Utah's legal sandbox. Additionally, of these 67 companies, only 10 participated in narrow sandboxes. Several sandboxes enacted in the U.S. have been severely underutilized, if used at all, indicating that the existence of a sandbox does not equate to its success. Possible reasons for this underutilization could be a lack of information about the sandboxes, a lack of reciprocity between state sandboxes, or an unclear or burdensome application process.¹⁵

One of the key benefits of the Regulatory Sandbox program is allowing businesses to move quickly and iterate their products or services based on real-world feedback. By testing in a controlled environment, businesses can identify and address potential issues before launching to a broader market, reducing the risk of failure and potential harm to consumers.

If you have any further questions, please do not hesitate to contact LSO Research at 777-7881.

¹⁵ Eric Peterson, *Regulatory Sandboxes: Where Innovation Happens*, Pelican Institute for Public Policy, <https://files.pelicanpolicy.org/wp-content/uploads/2022/03/Regulatory-Sandboxes-Where-Innovation-Happens-March2022-WEB.pdf> (Last accessed May 10, 2023).