

## **Rules governing the ‘Regulatory Sandbox at the Polish Financial Supervision Authority’ programme**

### **1. General provisions**

- 1.1 The Rules governing the ‘Regulatory Sandbox at the Polish Financial Supervision Authority’ programme (hereinafter: ‘Rules’) provide for the organisation of the ‘UKNF Regulatory Sandbox’ programme (hereinafter: ‘Sandbox’).
- 1.2 The ‘Sandbox’ programme is organised by the Polish Financial Supervision Authority (PL: Urząd Komisji Nadzoru Finansowego) (hereinafter: ‘UKNF’).
- 1.3 The purpose of the ‘Sandbox’ programme is to support the development of innovation in the financial market in Poland in the area of entities which implement innovative financial solutions using modern technologies (FinTech).
- 1.4 For the purposes of these Rules, Sandbox means a decentralised IT environment which is to be used to test innovative financial solutions implemented using modern technologies (FinTech) and to be made available to Testing Entities by a Sandbox Operator, and which is to run under the auspices of the UKNF.
- 1.5 For the purposes of these Rules, a Testing Entity means an entity with its registered office in the territory of the Republic of Poland which conducts supervised activities or which intends to undertake supervised activities under the provisions referred to in Article 1(2) of the *Act of 21 July 2006 on financial market supervision* (Journal of Laws [*Dziennik Ustaw*] of 2018 item 621, as amended), and which has an innovative financial solution implemented using modern technologies and tested in the Sandbox running under the auspices of the UKNF.
- 1.6 A Sandbox Operator is an entity with its registered office in the territory of the Republic of Poland which is able to provide an effective UKNF-approved test environment and to make it available to Testing Entities; such environment is necessary to test a service or business model and ensures the necessary set of training initiatives relating to the business activities conducted by Testing Entities.

### **2. Cooperation with Sandbox Operators**

- 2.1. The rules for selection of Sandbox Operators and for their cooperation with the UKNF are laid down in the Rules for selection of Sandbox Operators and for cooperation with the Polish Financial Supervision Authority under the ‘UKNF Regulatory Sandbox’ programme.
- 2.2. The list of Sandbox Operators operating under the auspices of the UKNF is available on the website managed by the UKNF.
- 2.3. A Sandbox Operator in agreement with the UKNF shall select Testing Entities which are eligible for the Sandbox.
- 2.4. A Sandbox Operator shall make available to a Testing Entity an environment which allows for testing of innovative financial solutions on the terms laid down in these Rules, in a manner which is necessary for comprehensive and transparent evaluation of a service and business model.
- 2.5. The activities undertaken by a Sandbox Operator and a Testing Entity shall be monitored and technically supported by the UKNF.

- 2.6. As part of the Sandbox, a Sandbox Operator shall provide a Testing Entity with assistance in obtaining all the necessary authorisations to conduct supervised activities by providing the necessary training and legal advice so as to ensure prompt and effective preparation of an application for licence.
- 2.7. No information communicated to the UKNF under the Sandbox programme may be publicly disclosed without the consent of the entity such information concerns. No published information may contain, in particular, information which constitutes a business secret, including detailed description of a business model, business plan or technological solution.
- 2.8. Participation in the Sandbox programme shall be free of charge. A Sandbox Operator may take up or acquire shares in Testing Entities' businesses but the number of such shares shall not result in the establishment, between the Sandbox Operator and a Testing Entity, of an affiliation or controlling relationship as described in the *Act of 15 September 2000—the Commercial Companies and Partnerships Code* (Journal of Laws of 2017 item 1577, as amended).

### 3. Selection for the Sandbox

- 3.1. The preliminary selection of Sandbox participants shall be made by the Sandbox Operator, which then shall submit information on selected Testing Entities to the UKNF for approval. Such information shall include:
  - 1) by-laws (articles of association), valid copy from the National Court Register (PL: KRS),
  - 2) a description of the business model and a description of the solution to be tested, together with an indication of the target group of clients and technology applied,
  - 3) a statement of compliance with criteria for participation in the UKNF Sandbox,
  - 4) the Testing Entity's internal rules and procedures which are necessary to conduct certain supervised activities,
  - 5) financial statements and the related opinion of a statutory auditor for the last financial year (if financial statements were made),
  - 6) preliminary plans of training initiatives and tests, with an indication of objectives and parameters, and criteria determining successful completion of training and tests,
  - 7) indication of methods to be used to protect the interests of real test clients who would participate in the tests.
- 3.2. Having received the information and documents specified in Section 3.1 of the Rules, the UKNF shall notify the Sandbox Operator, within 14 days, of approval or rejection of a candidate for a Testing Entity in the Sandbox. Within the above-mentioned time limit, the UKNF may present its comments and reservations regarding the application for participation in the Sandbox, in particular with regard to the nature, scope and volume of training and tests.
- 3.3. The UKNF shall agree with the Sandbox Operator on the scope of, and on methods of submitting, the following reports:
  - 1) reports on functional testing,
  - 2) reports on non-functional testing (including performance testing, load testing (resource use), security testing, usability testing, reliability (reproducibility, recovery), transferability (installability, configuration) testing,
  - 3) reports on regression testing,

- 4) statistics on errors, defects and failures,
- 5) reports on training/workshops (including assessment of participants),
- 6) reports on mentoring/coaching sessions,
- 7) reports on the assessment of test client satisfaction with respect to the solution tested,
- 8) complaints from test clients,
- 9) the final report upon completion of testing,
- 10) report on the functioning and adequacy of internal rules and procedures,
- 11) other relevant information.

3.4. Reports shall be submitted to the UKNF through an electronic communication channel agreed upon with the UKNF, within the time limits and to the extent as agreed.

#### **4. Data storage**

- 4.1. Sandbox Operator shall store the data obtained at the time of testing in the Sandbox for a period which is necessary to implement the objectives of the Sandbox, including the objective of submission, by a Testing Entity to the UKNF, of an application for authorisation to conducted supervised activities.
- 4.2. Sandbox Operator shall store the data of the Testing Entity which completed the tests in the Sandbox for a period of 3 years of completion of the tests.
- 4.3. If a Testing Entity obtains authorisation to conduct supervised activities, such data shall be stored by Sandbox Operator for a period of 3 years of obtaining the authorisation.

#### **5. Testing**

- 5.1. A Testing Entity may conduct tests in the Sandbox for a period between 3 and 9 months. Subject to the UKNF's approval, the said period may be extended up to a maximum of 12 months.
- 5.2. A Testing Entity shall specify both the period and the scope of tests in the Sandbox application. The application shall specify whether the entity is to test its solution using virtual funds or real funds provided to test clients by the Testing Entity.
- 5.3. At the time of testing, a Testing Entity shall not collect from test clients any funds or any other financial benefit.
- 5.4. A Testing Entity may offer the test clients a financial reward or other remuneration for their assistance in the performance of tests. Such a reward may only be paid or given upon completion of tests.
- 5.5. At the time of testing, a Testing Entity may use the substantive support provided by the UKNF and agree with the UKNF on the scope, conditions and requirements for successful completion of the tests.
- 5.6. At the time of participation in the Sandbox, a Sandbox Operator and the UKNF may request further tests and training, which have not been envisaged in the plans of tests and training initiatives.
- 5.7. A Testing Entity may, at any time, withdraw from the Sandbox, which shall be deemed as a failure to complete the tests and as a negative results of tests.
- 5.8. Both at the outset and at the time of testing, a Testing Entity may apply for authorisation to conduct certain supervised activities.

## **6. Licensing Procedure for Sandbox Participants**

- 6.1. Testing Entities participating in the Sandbox which intend to conduct supervised activities following their participation in the Sandbox may, at the time of the tests in the Sandbox, apply for authorisation to conduct supervised activities.
- 6.2. A Testing Entity may be authorised to conduct supervised activities only upon successful completion of the tests.
- 6.3. The KNF shall issue an authorisation to conduct supervised activities or enter an entity in the relevant register of supervised businesses immediately after successful completion of the tests and submission of the relevant application.
- 6.4. When assessing an application for authorisation to conduct supervised activities or for an entry in the relevant register of supervised businesses, the UKNF shall follow the principle of proportionality in public administration as the primary principle of conducting procedures with respect to Testing Entities.
- 6.5. As part of the assessment of the applications for licence submitted by Testing Entities, the UKNF shall use the checklists of documents and topics which are publicly available on the website managed by the UKNF. The information and documents contained in the checklists shall constitute an exclusive and exhaustive list of documents and information to be reviewed during the licensing procedure.

## **7. Personal data**

- 7.1. Under Article 6(1)(a) of *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)*, the controller of personal data is Komisja Nadzoru Finansowego with its registered office in Warsaw at: Plac Powstańców Warszawy 1.
- 7.2. Data Protection Officer may be contacted via e-mail (iod@knf.gov.pl) and by post. The address details are available on the UKNF website: [https://www.knf.gov.pl/o\\_nas/urząd\\_komisji/dane\\_teleadresowe](https://www.knf.gov.pl/o_nas/urząd_komisji/dane_teleadresowe).
- 7.3. Personal data such as forename and surname, institution name and e-mail address shall be processed, on the basis of a relevant consent, for the purpose of the Sandbox programme to be run by the UKNF. Providing personal data shall be voluntary but necessary for the implementation of the above-mentioned objective.
- 7.4. Personal data shall not be disclosed to other parties, including recipients in third countries or international organisations, except for public authorities for which a generally applicable provision of law constitutes the legal basis for disclosure.
- 7.5. Personal data shall be stored for a period which is necessary for the purpose of participation in the Sandbox programme, subject to the provisions on archiving which specify the mandatory storage period for documents at the UKNF.

- 7.6. A data subject shall have the right to withdraw his or her consent to the processing of personal data at any time but such withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.
- 7.7. A data subject shall have the right of access to personal data, the right to rectification, to erasure, or to restriction of processing, as well as the right to data portability.
- 7.8. No personal data shall be used in automated decision-making in individual cases, including in profiling.
- 7.9. If it is found that the processing of personal data infringes provisions of law, the data subject shall have the right to lodge a complaint to the supervisory body, i.e. the President of the Personal Data Protection Office (PL: Urząd Ochrony Danych Osobowych).

## **8. Final provisions**

- 8.1. In matters not regulated in these Rules, the provisions generally applicable in the territory of the Republic of Poland apply.
- 8.2. The UKNF reserves the right to amend these Rules at any time. A notice on an amendment to the Rules, and the amended Rules, shall be published by the UKNF on its website.
- 8.3. The electronic version of these Rules is available on the UKNF website.
- 8.4. These Rules shall apply as of 25 October 2018.