

STATE OF NEW YORK

9188

IN SENATE

October 26, 2018

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the financial services law, in relation to enacting the regulatory sandbox act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "regulatory sandbox act".

3 § 2. The financial services law is amended by adding a new article 7
4 to read as follows:

ARTICLE 7

REGULATORY SANDBOX ACT

Section 701. Definitions.

8 702. Purpose.

9 703. Applications; review.

10 704. Operation.

11 705. Extension.

12 706. Rules.

13 707. Judicial review.

§ 701. Definitions. As used in this article:

15 (a) "Consumer" means a person who purchases or otherwise enters into a
16 transaction or agreement to receive an innovative financial product or
17 service tested by a person participating in the regulatory sandbox.

18 (b) "Financial product or service" means a product or service regu-
19 lated by the department or a product or service that includes elements
20 that may otherwise require a license, certification, or recognition as a
21 financial institution or enterprise regulated by the department.

22 (c) "Innovation" means, with respect to a product or service, that
23 which uses or incorporates new or emerging technology, or new uses for
24 existing technology, to address a problem, provide a benefit, or other-
25 wise offer a product, service, business model, or delivery mechanism
26 that has no comparable widespread offering in the marketplace regulated
27 by the department.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (d) "Person" means an individual, partnership, joint venture, trust,
2 estate, firm, corporation, association, or cooperative society or asso-
3 ciation.

4 (e) "Regulatory sandbox" means the program established by this article
5 that allows a person to temporarily test innovative financial products,
6 services, business models, or delivery mechanisms on a limited basis
7 without being required to first obtain a license, certification, or
8 recognition as a regulated financial institution or enterprise.

9 § 702. Purpose. The purpose of the regulatory sandbox is to enable a
10 person to obtain limited access to the New York marketplace in order to
11 temporarily test innovations through the regulatory sandbox, including
12 allowing the person to test innovations without first having to obtain
13 licensure with the department.

14 § 703. Applications; review. (a) A person may apply to the department
15 to enter the regulatory sandbox to temporarily test innovations before
16 releasing the innovation to New York consumers.

17 (b) An application to enter the regulatory sandbox shall be in a form
18 prescribed by the superintendent.

19 (c) At the time of application, an applicant shall provide the depart-
20 ment with an accurate and up-to-date email address.

21 (d) If an applicant is a corporation, the applicant must be in good
22 standing and in statutory compliance with the state or country of its
23 incorporation. If an applicant is an entity other than a corporation,
24 the applicant must be properly registered under the laws of this state
25 or another state or country. If required by the department, the appli-
26 cant must be authorized to do business in the state of New York.

27 (e) A financial institution already regulated by the department must
28 file an application to test products or services that are outside the
29 scope of its current license.

30 (f) The fee for an application to enter the regulatory sandbox shall
31 be five hundred dollars.

32 (g) The department shall approve or deny an application within ninety
33 days after the date of receipt of the application. The department and
34 the applicant may agree to extend the time beyond ninety days.

35 § 704. Operation. (a) An applicant approved for the regulatory sand-
36 box has twelve months from the date of approval to test the innovation.

37 (b) Consumers upon whom innovations are tested must be New York state
38 residents.

39 (c) No more than fifty thousand New York consumers may transact
40 through or enter into an agreement to use the innovation.

41 (d) At the end of the innovation's twelve-month test period, a person
42 testing an innovation must exit the regulatory sandbox and wind down the
43 operation of the innovation within sixty days, except as otherwise
44 provided in section seven hundred five of this article.

45 (e) Before temporarily testing an innovation, a person approved for
46 the regulatory sandbox must disclose, in a clear and conspicuous form,
47 to New York consumers:

48 (1) the name and contact information of the person providing the inno-
49 vation;

50 (2) that the innovation is authorized pursuant to the regulatory sand-
51 box and not pursuant to any license issued by the department;

52 (3) that the state of New York does not endorse or recommend the inno-
53 vation;

54 (4) that the innovation is a temporary test that may be discontinued
55 at the end of the test period, including the expected end date of the
56 test period; and

(5) the name and contact information for the department, including where a consumer may file a complaint regarding the innovation.

These disclosures must be provided to the consumers before proceeding with the transaction.

(f) A person approved for the regulatory sandbox shall maintain books, accounts, and records for the innovation.

(g) The department may inspect a person in the regulatory sandbox at any time. Unless it will interfere with the department's duties under this article, reasonable notice of the inspection shall be given to the person in the regulatory sandbox. The superintendent or appointed representative shall have full and free access to all the books, papers, and records that relate to the innovation.

(h) A person who winds down the operation of the innovation shall preserve books, accounts, and records, in any form, for the innovation for five years after the conclusion of the test period.

(i) The department may suspend any person in the regulatory sandbox for failing to comply with this article, including the failure to comply with the department's request for books, accounts, records, or other relevant material.

(j) (1) The superintendent may revoke or suspend admission to or refuse to admit a person to the regulatory sandbox if the superintendent finds that:

(A) the person has failed to pay the application fee;

(B) the person has violated a provision of this article or a rule adopted by the superintendent under the authority of this article;

(C) a fact or condition exists which, if it had existed at the time of the original application for admission to the regulatory sandbox, would have warranted the superintendent in refusing initial admission to the regulatory sandbox; or

(D) the person has made a false statement or a false representation to the superintendent in application for admission to the regulatory sandbox.

(2) When a person's admission to the regulatory sandbox is denied, suspended, or revoked, the superintendent shall serve the person with notice of his or her action, including a statement of the reasons for his or her action, personally, by electronic mail, or by regular mail. Service by mail is completed when the notice is deposited in the U.S. mail. Service to the email address of record is completed when sent.

§ 705. Extension. (a) A person in the regulatory sandbox may request a one-time extension of the regulatory sandbox test period. The request must be made no later than the end of the eleventh month of the initial twelve-month test period. The request for an extension must specify how long the requester believes will be necessary to produce a conclusive test and state specific reasons why an extension is necessary.

(b) The department may grant a one-time test period extension of up to six months. The department must grant or deny a request for a one-time test period extension before the end of the initial twelve-month test period. A denial of an extension request is within the department's sole discretion and any such denial is not appealable.

§ 706. Rules. The superintendent may adopt and enforce all reasonable rules necessary or appropriate for the administration of this article. The rulemaking shall be subject to the provisions of the state administrative procedure act.

§ 707. Judicial review. All final administrative decisions of the department under this article shall be subject to judicial review.

§ 3. This act shall take effect immediately.