



# THE REGULATORY SANDBOX GUIDELINES

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## A. Introduction

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1. The BVI Financial Services Commission (the “**Commission**”) recognises the importance of new technologies used to provide or support financial services business (“**FinTech**”) and the potential impact on financial services being offered in or from within the jurisdiction. Industry stakeholders, including regulators and regulated entities, are increasingly relying on FinTech to obtain economies of scale, to facilitate financial supervision and compliance, to improve the delivery of services and to manage risks.
2. In light of the above, the Commission found it necessary to establish the Financial Services (Regulatory Sandbox) Regulations, 2020 (the “**Regulations**”). The Regulations create a framework that allows the Commission to accept participants into a live and contained environment, referred to as the “Regulatory Sandbox”, to test their products or services in relation to the provision of financial services business. Persons operating within this environment (Sandbox participants) will be subjected to specified rules and appropriate regulatory oversight, which aim to reduce the risk of financial disruption and instability to the economy.
3. These guidelines are issued pursuant to Regulation 17 of the Regulations and provide explanatory information on the operation of the Regulatory Sandbox regime. They are designed to provide applicants with a comprehensive understanding and appreciation of the processes and procedures for participants in the regulatory sandbox environment. Their purpose is to facilitate a Sandbox participant’s compliance with the requirements set out in the Regulations.

## B. Objective

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4. The Commission's FinTech Sandbox (the Regulatory Sandbox) seeks to:
  - i. promote efficiencies in the BVI's financial services industry, by encouraging the development of new financial services solutions;
  - ii. attract persons in or operating from within the BVI, who are looking to leverage existing or new technology in an innovative way in order to deliver new products or services in the financial services industry or to improve business processes;
  - iii. provide regulatory clarity on whether a new financial product or service complies with legal and regulatory requirements; and
  - iv. provide the Commission with an opportunity to engage with and to understand various innovative products and services to aid in the determination of the best manner to regulate.

## C. Scope

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5. The Sandbox is open to a (i) BVI business company; (ii) a foreign company doing business in the BVI or wishing to do so; (iii) a limited partnership; (iv) a Micro Business Company; and (v) any other person that the Commission wishes to consider for participation in the Regulatory Sandbox. To be eligible, an applicant should be:
  - i. a start-up proposing a new financial services solution, that involves a FinTech business model that is not currently covered (whether explicitly or implicitly) under current Regulatory Legislation as listed in Part 1 of Schedule 2 of the Financial Services Commission Act, 2001 (the "FSC Act");
  - ii. a start-up who wishes to test an innovative technology to deliver a licensable financial service; or

- iii. a current licensee who wishes to test an innovate technology as a part of their already approved financial service offering.

**6. The Regulatory Sandbox is not open to:**

- i. entities that fall outside the risk tolerance of the Regulatory Sandbox due to nature, size and complexity; and
- ii. business proposals that are not sufficiently developed and ready to be launched.

**D. Regulatory Sandbox Life Cycle**

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7. The Regulatory Sandbox Life Cycle is comprised of five consecutive stages. The stages commence with a consideration period and concludes with the exit stage. The Regulatory Sandbox life cycle is set out in the diagram below.

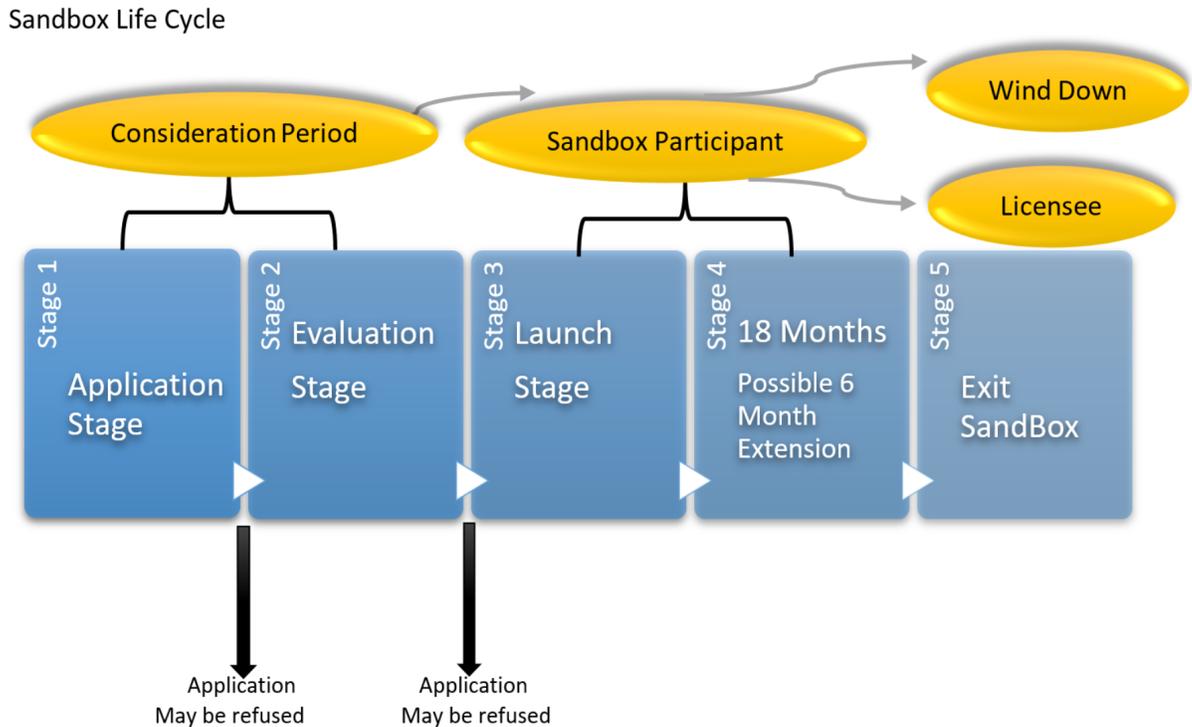


Diagram 1- Regulatory Sandbox Life Cycle

8. A summary of each stage has been provided in table 1.

<i>Stage</i>	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5
<i>Time Frame</i>	30 Days	Dependent on complexity and completeness of Application	90 Days	18 Months	N/A
<i>Summary of Stage</i>	<p>Applicants must submit completed application forms and supporting documents.</p> <p>The Commission will notify the applicant of eligibility to be a participant in the Regulatory Sandbox at the end of this stage.</p>	<p>The application, including the business model and proposal will be fully evaluated.</p> <p>Completion of assessment will depend on the nature, size and complexity of the application and business model.</p> <p>The Commission will notify its approval or refusal of the application at the end of this stage.</p>	<p>The Regulatory Sandbox participant will be allowed 90 days (from the date the Commission approved the applicant to test within the Regulatory Sandbox) to launch operations.</p> <p>If the Regulatory Sandbox participant fails to launch by the end of the 90 day period, approval to participate in the Regulatory Sandbox will be automatically withdrawn.</p>	<p>The testing period within the Regulatory Sandbox is 18 months.</p> <p>This period may only be extended in exceptional circumstances.</p>	<p>At least 60 days prior to exiting Regulatory Sandbox, the Sandbox participant may apply to become a licensee in accordance with Regulatory Legislation.</p> <p>If a Sandbox participant is not approved to continue as a licensee or chooses to not to apply for licensing, it must wind down in accordance with the Regulations if conducting a regulated activity.</p>

Table 1- Sandbox lifecycle summary

## E. Application & Evaluation

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9. Consideration of applications will be achieved in a two-step process. Stage 1 consists of an initial analysis to determine the eligibility of the applicant to participate in the Regulatory Sandbox. This will be followed by an in-depth analysis to assess the proposed business model against the Regulatory Sandbox's objectives and evaluation criteria (stage2).
10. Applications should fall within at least one of the defined testing categories outlined in Schedule 1 of these guidelines. The approved list of testing categories may be updated and amended from time to time to reflect industry needs, appetite and market evolution. Applications submitted for a testing category not outlined in Schedule 1 of these guidelines may be considered and accepted on a case by case basis, provided the applicant is able to demonstrate a need for the testing category and it is line with the risk appetite of the Regulatory Sandbox.
11. Applicants will be notified of whether the application will transition to the evaluation stage. Thereafter, applicants will be notified of approval or refusal, as appropriate, to participate in the Regulatory Sandbox.

### **Evaluation**

12. In conformity with Regulation 4 of the Regulations, the Commission will evaluate the application based on four key criteria: (i) Business Proposal and Risk; (ii) Resources; (iii) Readiness for Testing; and (iv) Exit Plans. These are described below:
  - i) **Details of the Business Proposal-** Applicants should provide a detailed business proposal which describes the product, service or solution they intend to test in the Regulatory Sandbox. Applicants should also outline how they intend to address increased scalability if the applicant were to become a licensee in accordance with Regulatory Legislation. The Business Proposal should cover in detail the following:
    - a. The benefits and functionality of the product or service. In assessing benefits, the Commission will consider whether the proposed business model could improve accessibility, efficiency, security and quality in the provision of financial services in or from within the BVI. For example, the proposal should detail how the product or service may enhance the efficiency and effectiveness

of the BVI's financial institutions' management of risks and/or address gaps in or open up new opportunities for financing or investments;

- b. Reasons why the product/service should be tested in the Regulatory Sandbox (testing objectives should be made clear);
- c. The maximum number of clients the applicant proposes to onboard while participating in the Regulatory Sandbox. This should be broken down by client type (e.g. retail, institutional etc.) This will be reviewed and agreed upon by the Commission;
- d. Financial statements (these may be unaudited where the applicant is not a licensed entity) and/or financial projections (for the duration of the Regulatory Sandbox). In the case of a startup, the Commission requires only financial projections to be submitted. Financial projections should include a description of the source of funding for the proposed business;
- e. The key performance indicators which will be used to monitor the viability of the Regulatory Sandbox testing;
- f. The technological architecture that the Sandbox participant will utilize, specifically including a detailed description of the various technological tools needed to meet business objectives;
- g. The applicant's remuneration/fee structure. This should include details of the fee structures the applicant intends to utilize (for example flat fees vs commission or incentive based) along with clear explanations of all fees which may be charged. A copy of the document which portrays this information and which will be provided to clients/ proposed clients, should be submitted to the Commission;
- h. The applicant's compliance function which conforms with section 34 of the FSC Act. This should include details of the person responsible for carrying out the compliance function (a director, senior officer, general partner or the equivalent);
- i. The anticipated potential risks that may arise from the use of the product or service while in the Regulatory Sandbox and the proposed safeguards to manage or mitigate risks. This should include an outline of all material risks that your business model could incur, including (inter alia);

- i. Money Laundering, Terrorist Financing & Proliferation Financing Risks;
    - ii. Operational Risks;
    - iii. Conduct Risks;
    - iv. Financial Crime Risks;
    - v. Legal risks; and
    - vi. Liquidity risk
  - j. A description of the applicant’s consumer redress mechanism, including whether and in what specific circumstances a financial compensation claim may be made against the Sandbox participant; and
  - k. Any support you envision would be required from the Commission during the testing period.
- ii) **Resources-** A detailed description of the resources (human, technical or financial) available to the applicant to conduct the proposed business. This should include:
- a. supporting documents which demonstrate the fitness and propriety of the applicant’s directors, partners, principals or senior officers; and
  - b. details of the anticipated resources necessary to support testing in the Regulatory Sandbox (human, technical or financial). This should include the required resources and expertise to mitigate and control potential risks and losses arising from offering the product or service.
- iii) **Readiness for testing-** the Regulatory Sandbox is not an Accelerator or an Incubator. Therefore, models proposed should be at a sufficient stage of maturity. Testing plans that are not sufficiently developed or ill-conceived will not be considered. Applicants must approach the Commission with clear objectives for their testing plan and how they intend to achieve those objectives.
- iv) **Exit Plan-** The Exit plan must consider two specific scenarios:
- a. Full Deployment- The applicant must include a detailed description of the future development and how it intends to transition its business model out of the Regulatory Sandbox. This should include details of growth targets and the anticipated resources (human, technical or financial) necessary to support the business model outside the Regulatory Sandbox environment once the sandbox testing period has ended. This includes the required resources and expertise to

mitigate and control potential risks and losses arising from offering the product, service or solution.

- b. Winding down- A clearly defined wind down strategy in the event that the business model has to be discontinued (i.e. the business model has not been approved by the Commission to transition to a licensee or the licensee opts to wind down) to ensure that any existing obligations towards customers are met.

13. In evaluating applicants’ business proposals the Commission will examine the inherent risk of the applicant’s business model. This includes consideration of the below criteria which will assist the Commission in determining whether the applicant is i) Standard; ii) Moderately Complex; or iii) Complex.

<b>Standard</b>	<b>Moderately Complex</b>	<b>Complex</b>
<p>The Applicant has</p> <ul style="list-style-type: none"> <li>✓ a physical presence in the Virgin Islands;</li> <li>✓ not commenced business;</li> <li>✓ less than 50 retail customers; and</li> <li>✓ customer assets of less than USD5 million.</li> </ul>	<p>The Applicant</p> <ul style="list-style-type: none"> <li>✓ does not have a physical presence in the Virgin Islands;</li> <li>✓ has less than 2 years of operation;</li> <li>✓ has between 50 and 100 retail customers;</li> <li>✓ no more than \$50 million in customer assets; and</li> <li>✓ Is applying a new technology to a financial services product or service already under remit of current regulatory legislation.</li> </ul>	<p>The Applicant</p> <ul style="list-style-type: none"> <li>✓ does not have a physical presence in the Virgin Islands;</li> <li>✓ has more than 100 retail customers;</li> <li>✓ has more than USD50 million in customer assets; and</li> <li>✓ Is offering a new financial service or product which requires new regulation.</li> </ul>

14. The above list is not exhaustive or definitive and will serve as the de minimus criteria for establishing whether an applicant is Standard, Moderately Complex or Complex.
15. It is important to note that eligibility does not guarantee acceptance into the Regulatory Sandbox. The Commission will analyze each application on a case by case basis.

**Sandbox Parameters/Conditions**

16. During the evaluation period, the Commission and the applicant must agree any parameters which the applicant (as a Sandbox participant) will be subject to during the testing period. Sandbox parameters are a set of prohibitions, limitations or conditions that may be applied by the Commission to the Regulatory Sandbox participant in order for the business plan to be carried out without risk of destabilizing the industry and the economy and to ensure minimal risk to clients. The Regulatory Sandbox parameters maybe proposed by the applicant as part of its application (for example the maximum number of clients targeted). In other cases, the Regulatory Sandbox parameters will be identified by the Commission.
17. The Regulatory Sandbox parameters applied will be bespoke to each Sandbox participant and will be proportionate to the nature, size and complexity of the proposed business model. Examples of parameters that may be applied include, but are not limited to

<b>Exposure Restrictions</b>	Limitations on the number of clients
	Restrictions on client type (e.g. retail, institutional, professional or otherwise)
	Restrictions on transaction size
	Prohibitions on holding client monies or assets
<b>System Audits<sup>1</sup></b>	Requirement to provide a system audit report
	Requirement to carry out system penetration simulations (vulnerability assessments).
	Product/service output testing (for e.g. outputs by Robo Advisors)
<b>Financial Requirements</b>	Unaudited Financial statements
	Capital requirements
	Ring-fencing requirements (provisions to separate assets within an entity where required).

<sup>1</sup> It should be noted that system audits are to be carried out by a suitably qualified third party, proposed by the Regulatory Sandbox applicant/participant and agreed by the Commission.

<b>AML/CFT</b>	Additional requirements related to the prevention of money laundering and the financing of terrorism
<b>Risk Management</b>	Additional requirements to ensure robust risk identification and management procedures.
<b>Client Data Maintenance</b>	Ongoing client data security
	Requirements for decommissioning sensitive client data where the Sandbox participant is required to wind up.

18. Whilst the above requirements will generally be applied at the point of evaluation, the Commission reserves the right to add (or remove) sandbox parameters throughout the testing period.

**F. Acceptance to Participate in Sandbox & Launch**

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19. Where an applicant is approved for participation in the Regulatory Sandbox, the Commission, along with notification of its approval, will provide the following Terms of Operation:

- i. The duration of the testing period (including the launch period);
- ii. Business Category;
- iii. Any agreed sandbox parameters; and
- iv. The content and frequency of reports to be submitted to the Commission.

20. Where a Sandbox participant wishes to operate outside of the scope provided in its Terms of Operation, the Commission’s prior approval must be sought.

21. Approved participants will be published on the Commission’s website shortly after approval.

**Launch**

22. Upon notification of approval, a Sandbox participant will be allowed 90 days to launch. A Sandbox participant must provide written notification to the Commission of its intention

to launch five days prior to its anticipated launch date. Immediate notification is required where failure to launch on the specified day occurs.

23. Sandbox participants will be approved to test within the Regulatory Sandbox for a period not exceeding 18 months from the launch date.

### **Extensions**

24. It is possible for a Sandbox participant to extend the testing period in the Regulatory Sandbox by a maximum of six months (i.e. from eighteen months duration in the Regulatory Sandbox to twenty four months). If an extension is required, the Sandbox participant must submit an application to the Commission for the required extension at least one month before the expiration of prescribed testing period. The reason along with supporting evidence should be submitted with the written application of extension. The Sandbox participant must describe the exceptional circumstances which prevents it from being able to complete its testing within the prescribed sandbox testing period.

### **Ongoing Obligations**

25. Once approved, the Sandbox participant must satisfy its ongoing obligations pursuant the Regulations. Approval is granted based on established parameters, including the information outlined in the business proposal. The Sandbox participant is expected to adhere to its business proposal during the testing period within the Regulatory Sandbox. If a Sandbox participant wishes to modify its business proposal, the Commission's prior approval must be sought and obtained.
26. A Sandbox participant is required to have at least 2 directors at all times in the case of a BVI Business Company, a General Partner in the case of a Limited Partnership and a Principal in the case of a Micro Business Company. In each case, the directors, partners or principal should all be natural persons.
27. Finally, every Sandbox participant is expected to adopt appropriate measures that are adequate to prevent money laundering, terrorist financing and proliferation financing. Sandbox participants are therefore subject to the BVI's AML/ CFT framework throughout its duration in the Regulatory Sandbox.

## G. Leaving the Regulatory Sandbox

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28. Exiting the Regulatory Sandbox is a key component of the sandbox lifecycle, and may occur in the following ways:

- i. The Sandbox participant has arrived at the end of its sandbox testing period;
- ii. The business model has to be discontinued whether at the initiative of the Sandbox participant or the Commission; or
- iii. The Sandbox participant has failed to launch (within the prescribed launch period).

### **End of Sandbox Duration**

29. At the end of the testing period (including any extension to the original testing period), the Sandbox participant must employ an exit strategy and exit the Regulatory Sandbox.

### *Application to transition*

30. Where a Sandbox participant deems its time in the Regulatory Sandbox successful (i.e. goals have been achieved), and that the tested business model is viable and sustainable, and where the Sandbox participant wishes to continue with the business model, the Sandbox participant should deploy its transitional exit plan. Deployment of this exit plan should include submitting an application to the Commission for a licence at least 60 days prior to the expiration of the Sandbox participant's testing period.

### *Approval to Continue*

31. Thereafter, all relevant supporting documentation, including further information requested by the Commission, must be submitted no later than 30 days prior to the expiration of the Sandbox participant's testing period. At this point, the applicant must not onboard any new customers until the licensing process is complete. Upon successful application to the Commission to continue as a licensee, the Sandbox participant may transition its business model out of the testing environment.

### *Unsuccessful Application to Continue*

32. Where a Sandbox participant is not approved by the Commission to transition to a licensee, it must immediately commence its wind down strategy. The Sandbox participant will have 30 days from the date in which testing in the Regulatory Sandbox ends, to completely

discontinue its business activities. It is possible to extend this 30 day wind down period by an additional 30 days (maximum), in exceptional circumstances. Where an extension is needed prior approval must be obtained.

33. Any Sandbox participant that is not successful in its application to transition to a licensee must immediately (in any event no later than 5 days after the Commission notifies the Sandbox participant of its decision) inform all clients of its requirement to wind down. The Sandbox participant's wind down plan should include a remediation plan which may include the execution of some of the parameters agreed at Evaluation Stage (e.g. making use of funds previously ring-fenced as a contingency). In any event, before exiting or withdrawing services the Sandbox participant must demonstrate that any existing obligation towards clients are met.

**Discontinuation of Participation in the Regulatory Sandbox at the Initiative of Sandbox Participant**

34. A Sandbox participant may, at any time, discontinue testing its business model in the Sandbox, provided it has demonstrated that any existing obligation towards the clients have been met. A Sandbox participant who is considering discontinuing its testing within the Sandbox must engage the Commission as a matter of urgency to communicate its intention. Once a final decision to discontinue testing in the Regulatory Sandbox has been made, the Sandbox participant must provide the Commission with written notice immediately (within 5 days of the decision being made). Notification must thereafter be provided to all customers within 5 days of the Sandbox participant's notification to the Commission.
35. Once the Commission has been notified of the Sandbox participant's intention to discontinue testing within the Regulatory Sandbox, and the Commission has provided written notification of its no objection to the discontinued testing, the Sandbox participant must deploy its wind down exit strategy and new clients must not be onboarded.
36. The Sandbox participant will have 30 days, from the date the Commission provided notice of no objection, to complete resolution of its business activities. It is possible to extend this 30 day wind down period by a maximum of 30 days in exceptional circumstances. Where an extension is needed, prior approval must be obtained.

**Discontinuation of Participation in the Regulatory Sandbox at the Initiative of the Commission (Revocation)**

37. Revocation of an approval to test may occur where a Sandbox participant
- i. has contravened a provision of the Regulations;
  - ii. has breached a condition attached to its approval;
  - iii. has submitted a false, misleading or inaccurate report or information to the Commission;
  - iv. concealed or failed to disclose any material fact in its application for approval or in its report to the Commission;
  - v. is undergoing or has undergone liquidation;
  - vi. has breached any data security (whether in relation to testing within the Regulatory Sandbox or otherwise);
  - vii. is carrying on business in a manner that is or may be detrimental to its clients or to the public generally; or
  - viii. is no longer considered fit and proper by the Commission.

An additional ground for revoking the approval of a Sandbox participant is where the Commission considers that it is no longer in the public interest for a particular Sandbox participant to continue to be approved.

38. Upon revocation the Sandbox participant must immediately cease onboarding any new clients. In addition, the Sandbox participant must immediately invoke its exit strategy and cease participating in and testing within the Regulatory Sandbox. It must also notify its clients of the revocation of its approval, immediately.
39. Considering the importance of an orderly exit from the Regulatory Sandbox, a Sandbox participant whose approval is revoked by the Commission must invoke its exit strategy and complete its exit from the Regulatory Sandbox within a period of 30 days from the date of revocation. However, in order not to unduly jeopardize the interests of the particular Sandbox participant's customers, the Commission may grant an extension of up to 30 days for the Sandbox participant to complete its exit from the Regulatory Sandbox and cease testing.

**The Sandbox Participant has failed to launch**

40. Where the Sandbox participant has failed to launch by the end of the allotted launch period, authorisation to participate in the Regulatory Sandbox will be automatically withdrawn.

As a reminder, the Regulatory Sandbox is not an Accelerator or an Incubator and business models proposed should be at a sufficient stage of maturity to be launched within 3 months of the applicant received the Commission's approval to test in the Regulatory Sandbox.

### **Exit Report**

41. A Sandbox participant must prepare and submit a final report (the exit report) to the Commission within 30 days after the end of the approved testing period. The final report should contain information:
  - i. relative to key outcomes, key performance indicators against the Regulatory Sandbox participant's business proposal and the successes and failures relating to the test within the Regulatory Sandbox;
  - ii. on any significant complaints by clients and how such complaints were resolved. Further, where such complaints have not been resolved, the plan put in place to resolve them should be provided; and
  - iii. on the lessons learnt from the failure if the business proposal in the Regulatory Sandbox was not successful,
  
42. The Commission reserves the right to request such additional information as it may consider necessary. In this respect, the Regulatory Sandbox participant must maintain proper and clear records during the testing period within the Regulatory Sandbox.

## Schedule 1

Proposed Niche	Description	Testing Categories
<b>FinTech Credit Services</b>	All credit activity facilitated by electronic platforms where borrowers are matched directly with lenders. Automated lending process.	<ul style="list-style-type: none"> <li>• Peer to Peer Lending</li> <li>• Online Lending using own capital</li> </ul>
<b>Payments</b>	Systems used to settle financial transactions through the transfer of monetary value	<ul style="list-style-type: none"> <li>• Cryptocurrency E-Wallets</li> <li>• Merchant Payments &amp; PoS Services</li> <li>• International Remittance</li> <li>• Mobile Payments</li> </ul>
<b>Investment Management</b>	Use of big data, AI and Machine Learning to evaluate investment opportunities.	<ul style="list-style-type: none"> <li>• Robo Advisors</li> <li>• Micro- investing platforms</li> </ul>
<b>Securities</b>	Exchanges for the trading of cryptocurrencies	<ul style="list-style-type: none"> <li>• Cryptocurrency exchange</li> </ul>
<b>InsureTech</b>	AI used to better determine risk and provide a policy more suited to the insured.	<ul style="list-style-type: none"> <li>• Insurance Aggregators</li> </ul>