

## Insurance Regulatory Sandbox

Technological innovation is fundamentally changing how the insurance industry operates. Insurers must embrace these technological changes, harness big data and develop products and services that benefit both consumers and society as a whole. Regulators have an important role to play and must encourage innovation rather than creating new and cumbersome regulations or defending outdated rules that act as barriers to innovation.

Regulators should recognize and embrace the potential for innovative products, services and technology to expand insurance markets, enhance customer satisfaction and improve risk management. Regulators need to provide the means to test and implement new and innovative technologies, products and services. Incumbent insurers have a critical role to play in this new world order and will help to drive innovation beyond just ideas to realistic application.

### Creation of Insurance Regulatory Sandboxes

Insurance commissioners should be given the flexibility to grant variances, waivers or no-action letters with respect to certain laws, rules or regulations that may block the testing or implementation of innovative new insurance technologies, products or services. This type of regulatory flexibility is a critical element of a regulatory “sandbox”. Applicants for such relief would need to demonstrate that the underlying public policy purpose of a law or regulation would be accomplished by alternative means, and commissioners would be authorized to require reasonable consumer protection measures when granting a variance, waiver or no-action letter.

While promoting such flexibility is a critical component of APCIA’s innovation strategy, sound regulation also must preserve a level playing field. APCIA supports a number of protections on this front, including required publication of some basic, non-trade secret information about any granted relief so that other participants in the market place are aware that an insurance department is willing to be flexible in a given area of regulation. Further, APCIA believes insurance sandbox legislation should prohibit variances or waivers for any law and regulation governing insurer investments and solvency, licensing and certificate of authority requirements, participation in residual markets and guaranty funds, and the application of any taxes or fees.

Ideally an insurance-specific sandbox would be created as a standalone solution, separate from other financial institutions, due to regulatory inconsistencies between insurance and, for example, banking.

### Legislative Proposals

Components of a legislative proposal to establish such a regulatory sandbox be based on the following:

#### **PURPOSE**

To provide a supervised environment where insurance firms, working in a collaborative relationship with regulators, can test innovative new products, services and technologies

## **GUIDING PRINCIPLES FOR REGULATORS**

- Promote insurance innovations that will benefit personal or business consumers
- Engage proactively with companies testing and implementing insurance innovations
- Establish appropriate consumer protections
- Preserve financial stability and oversight of the insurance industry

## **SCOPE**

New products, services, technologies and applicants that:

- Offer a good prospect of identifiable benefit to businesses or consumers
- Do not readily fit into existing regulatory framework, making it difficult or costly to get innovation to market
- Have identified any potential consumer risks and proposed mitigation steps
- Will benefit from testing in a live environment

## **ELIGIBILITY**

- Licensees and companies that have partnered with licensees
- New or innovative insurance offerings/services in the state's market place
- Multistate offerings/services should be considered for participation if:
  - Other participating states have adopted a regulatory sandbox and applicant has applied in those states
  - Participating supervisors willing to enter into collaborative supervision agreement for the testing period
- Insurance offerings intended to be deployed on a broader scale upon exit from the sandbox
- Applicants invested appropriate resources to understand & address state laws and regulations

## **CONSUMER SAFEGUARDS**

Potential consumer protection “guardrails” that may be employed by the supervisor include:

- Limits on duration of a pilot test
- Defined size range for consumer test pool
- Reasonable consumer disclosures

## **SANDBOX SUPERVISION PROCESS**

- Regularly scheduled communications between licensee and supervisor
- Progress reports and relevant data supplied to supervisor at key mileposts
- Consumer feedback and complaints shared with supervisor
- Regulator has authority to terminate sandbox participation

- Not producing and not likely to produce identifiable benefits to consumers
- Failure to maintain a culture of compliance
- Failure to fulfill the terms of insurance contracts issued under the auspices of the sandbox
- Failure to abide by terms, conditions or limitations of any variance, waiver or no-action letter

## **MAINTAIN LEVEL PLAYING FIELD**

Prohibit relief from certain essential laws and regulations, including laws governing:

- Solvency and investments
- Licensing and certificates of authority
- Participation in residual markets and guaranty funds
- Application of taxes and fees
- Any other law or regulation the regulator deems ineligible for relief

Transparency

- Publishing certain information at the time the regulator receives an application for relief and at such time as any relief is granted
- Requiring annual report from regulator to the Legislature as a vehicle for informing lawmakers as to the extent and results of using this legislative grant of authority

## **APPLICATION PROCESS**

- Confidentiality with respect to business plans and trade secrets is critical
- Detailed testing plans with defined mileposts
- Clearly defined exit and transition plans
- Assessment and reasonable mitigation of foreseeable risks

Existing law in Florida (F.S.A. § 120.542) permits the insurance commissioner to grant temporary variances or waivers of certain regulatory requirements, so no sandbox legislation was necessary there. Iowa has similar regulations (Iowa Admin. Code 191-4.24(17A)(4.24)(1) and 191-4.22(17A)), and no action letters are tools that have long been used by financial regulators, such as the U.S. Securities and Exchange Commission (SEC).

In 2019, Kentucky enacted HB 386, which establishes a regulatory sandbox for insurance. (<https://apps.legislature.ky.gov/recorddocuments/bill/19RS/hb386/bill.pdf>). This new law addresses the concerns outlined above and should be looked to as a model going forward.