

## Client Alert

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### FinTech Update: Thailand's FinTech Regulatory Sandbox

The Bank of Thailand ("**BOT**") recently<sup>1</sup> issued a consultation paper on FinTech Regulatory Sandbox Guidelines (the "**Draft Guidelines**"). The purpose of the Regulatory Sandbox is to allow business operators to test their financial products or services in a live but limited environment, without being fully subject to all requirements that are normally applicable. Through the Regulatory Sandbox, the BOT aims to facilitate new financial innovations while still ensuring consumer protection and financial system stability. We have provided a summary of the key issues under the Draft Guidelines below.

#### A. The BOT's Regulatory Sandbox

1. **Concept:** A participant under the BOT's Regulatory Sandbox can offer its FinTech products or services to consumers within the limited scope as approved by the BOT (e.g. the specific period of time, area, and types and number of consumers) under somewhat lenient rules, as specified by the BOT on a case-by-case basis.
2. **Qualified Applicants:**

Types of Applicants	Key Qualifications
<ul style="list-style-type: none"><li>• Financial institutions</li><li>• Companies within financial business group of financial institutions</li><li>• Non-financial institutions under the supervision of the BOT (e.g. business operators providing personal loans under supervision, nano-finance, etc.)</li><li>• FinTech firms</li><li>• Technology firms</li></ul>	<ul style="list-style-type: none"><li>• Incorporation in Thailand</li><li>• Having directors, executives, and employees with managerial powers with specified qualifications (good corporate governance)</li><li>• Having obtained relevant licenses if required under the applicable laws</li></ul>

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<sup>1</sup> The consultation paper was issued on 14 September 2016 and it was open for comments until 15 October 2016.

### 3. Qualified Products and Services

Types of Financial Transactions and Innovations	Key Qualifications
<ul style="list-style-type: none"> <li>• Loans (not including debt instrument issuance)</li> <li>• Payments and fund transfers</li> <li>• Other financial transactions that have similar characteristics, or innovations related to the above transaction</li> </ul>	<ul style="list-style-type: none"> <li>• The product or service must be an innovation involving a new technology not already available in Thailand</li> <li>• The product or service can solve financial services problems or must be beneficial to the consumer or financial system in Thailand</li> </ul>

### 4. Application Process

- (i) An applicant must submit a complete set of supporting documents as prescribed by the Draft Guidelines to the BOT along with the application. Some of the required information includes:
  - the scope of the test (e.g. target customers, transaction volume, and test period, which should not be longer than one year) and the expected results of the test;
  - innovation tests or research results;
  - risk assessment and management guidelines;
  - information security management systems;
  - consumer protection measures;
  - exit and transition plans, and a roadmap to a broader business scope after exit; and
  - regulatory requirements that the applicant wants to be relaxed, with supporting reasons.
- (ii) The consideration process will take **no longer than 60 days** from the date on which the BOT receives the application and a complete set of supporting documents.

### 5. Key Requirements during Participation in the Regulatory Sandbox

- Having consumer protection measures (e.g. measures regarding consumers' money and assets and consumer data, complaints, and compensations)
- Having sufficient risk management systems, including IT and cyber risk management
- Disclosing information to the customer e.g. restrictions and conditions in using the services, the fact that the service is being tested in the Regulatory Sandbox
- Having sufficient and appropriate procedures regarding anti-money laundering and counter-terrorism financing



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## 6. After the Regulatory Sandbox

- Once the test period ends, the lenient rules will no longer apply, unless an extension period is granted by the BOT.
- If the test results meet the goals, and the participant can comply with normal regulatory requirements, the applicant must apply for approval under the normal regulatory scheme to provide the services with a broader scope.
- An applicant must stop its service if the test results do not meet the goal, or the applicant does not comply with the conditions agreed to during participation in the Regulatory Sandbox.

## B. Future of the Regulatory Sandbox

The Draft Guidelines are still subject to change, as the BOT will review them taking into account the feedback from the hearing.

In addition, certain FinTech products and services are regulated by other regulators (e.g. the Securities and Exchange Commission and the Office of Insurance Commission). These regulators are also considering the Regulatory Sandbox approach under their regulatory frameworks.

For further information, please contact the team at Baker & McKenzie.