



**MONTENEGRO**  
**CAPITAL MARKET AUTHORITY**  
**Number: 01/9-1265/2-19**  
**Podgorica, 10.09.2019**

Pursuant to Article 30, paragraph 1 of the Law on Capital Market (“Official Gazette of Montenegro”, No. 1/2018) (hereinafter referred to as: the Law) the Capital Market Authority at its 74<sup>th</sup> session held on 10 September 2019 has issued

**RULES ON REGULATORY FRAMEWORK FOR FINANCIAL INNOVATION (SANDBOX)**

**I GENERAL PROVISIONS**

**Article 1**

These Rules shall establish the procedure for submission and consideration of applications requesting access to the Capital Market Authority’s regulatory sandbox.

The provisions of these Rules shall apply to potential and existing capital market participants subject to the supervision of the Capital Market Authority (hereinafter referred to as: participants).

Capital Market Authority's regulatory sandbox serves to simplify the implementation of financial innovation in the capital market, particularly if the regulation of any activity which relies on financial innovation is insufficient or unclear.

A regulatory sandbox aims to enable the Authority to identify in advance the possible effects of financial innovation to customers and financial system, potential risks, identify possible disadvantages with respect to regulation of the capital market and to eliminate or reduce, within its competence, these regulatory disadvantages and any possible negative effects of financial innovation.

The provisions of these Rules shall not limit the right of capital market participants to initiate any activity associated with financial innovation or to start the application of financial innovation in the course of their activities without access to the Capital Market Authority's regulatory sandbox.

The terms used in the Rules:

- 1) A regulatory sandbox of the Capital Market Authority is the framework established by the Capital Market Authority which allows capital market participants to access a controlled environment, where the scope of activities is limited and where specific measures for the protection of interests of consumers and the general public apply, within a limited period of time, in order to test financial innovations under the supervision of the Capital Market Authority.
- 2) Financial innovations are financial services or products, including the issue of financial instruments, funds for providing such services and products to clients and business models which, due to new or newly-applied technologies or for any other reason, significantly alter the activities of the supervised capital market participants.

In carrying out functions under these Rules, the Capital Market Authority shall cooperate with other institutions responsible for the implementation of laws that apply to participants in the financial system in relation to the prevention of money laundering and terrorist financing, protection of personal data, protection of consumer rights, competition, taxes,.

## **II REGULATORY SANDBOX TOOLS**

### **Article 2**

The following tools shall be used in a regulatory sandbox:

- 1) Active consultation of capital market participants. During the submission and review of applications for entry into a regulatory sandbox and for the duration of activity of capital market participants in a regulatory sandbox, the Authority shall seek to cooperate with the capital market participants and to provide, on its own initiative or at the request of capital market participants, consultation within its competence.
- 2) Active application of the principle of proportionality presumes more flexible and more innovative interpretation of legal acts when interpreting and applying legal acts regulating the capital market. When interpreting and applying the provisions of legal acts regulating capital markets, the Authority shall take into consideration the essence, scope, and complexity of the specific activity which relies on financial innovation.
- 3) No punitive measures shall be implemented unless exceptionally. While a participant acts in a regulatory sandbox, the Authority shall apply the punitive measures laid down by legal acts neither to the participant nor to its managers. Punitive measures shall apply only when it is essential for supervision purposes or when the punitive measures are required and necessary in order to prevent significant damage to consumers or the general public.

### **III FINANCIAL INNOVATION ELIGIBILITY CRITERIA**

#### **Article 3**

Capital market participants may enter a regulatory sandbox if their financial innovation meets the following criteria:

- 1) Financial innovation is new in the Montenegrin market;
- 2) If implemented, financial innovation would bring more practical, safer and convenient financial services or other identifiable benefits to consumers;
- 3) Testing of financial innovation in the real business environment and the application of tools established in Article 2 of these Rules are objectively necessary and may contribute to the implementation of financial innovation;
- 4) Financial innovation is ready to be tested in the real business environment, i.e. a participant carried out an assessment of its adaptability, allocated sufficient resources, carried out a risk analysis and understands any other testing conditions which are indicated in the testing plan;
- 5) A participant, as a financial innovation holder is a legal person registered in Montenegro.

#### **IV SUBMISSION, REVIEW AND APPROVAL OF THE APPLICATION TO ENTER A REGULATORY SANDBOX**

#### **Article 4**

A participant shall have the right to access the regulatory sandbox only on the basis of the approval issued by the Capital Market Authority.

A participant shall submit an application to the Authority to access a regulatory sandbox which, among others, contains information about managers or other persons in the participant, as well as other information required for consideration of applications referred to in these Rules and adequate monitoring of the innovation.

Details with respect to the application for seeking access to a regulatory sandbox and document to be submitted in addition to the application shall be prescribed by the Capital Market Authority.

#### **Article 5**

A natural or legal person shall not act as the manager of the participant, a member of its management body, hold directly or indirectly 20% or more of the voting rights or interest in participant's capital, if the aforementioned person was, by a final court decision, sentenced for a crime that makes him/her unsuitable for the position or holding of voting rights or shares.

## **Article 6**

Taking into consideration the essence, scope, and complexity of the specific activity which relies on financial innovations, as well as the risks involved, the testing plan referred to in point 4 paragraph 1 Article 3 of these Rules shall:

- 1) describe in detail the financial innovations to be tested, measures to be taken in a regulatory sandbox, each projected cooperation with other financial system participants and the planned results,
- 2) determine the beginning and the end of the testing period and deadlines for obtaining interim results. Testing period cannot be longer than 6 months,
- 3) describe regulatory sandbox tools, which will be required for the testing of financial innovation,
- 4) describe a group of clients (consumers, legal persons, professional investors, etc.) participants state during the testing of financial innovation, methods for targeting them, methods used to inform potential customers about their involvement and testing of financial innovation and the related risks,
- 5) indicate the major risks associated with the testing of financial innovation for a market participants or its clients, methods for risk management,
- 6) describe measures to be used to limit the scope of activities during financial innovation testing (the largest possible number of clients, the maximum value of debt to a client, etc.), and any other means to protect the interests of consumers,
- 7) describe the actions to be taken after the exit from the regulatory sandbox in case of futher provision of services in accordance with the requirements of legal acts governing capital markets, i.e. the activities to be applied if, after the exit from a regulatory sandbox, provision of services is terminated.

Testing period referred to in point 2 paragraph 1, Article 6 of these Rules, may be extended with the Authority's approval to a maximum of 12 months if a participant submits reasoned arguments why the extension is needed, or until the Authority reaches a decision on issuing a license or other authorization to a participant, if a participant during his participation in a regulatory sandbox requested the Authority to issue a license or another authorization.

If the testing established in the testing plan submitted to the Authority does not meet the requirements set forth in these Rules or d satisfy the conditions for a financial innovation or protection of consumers' interests, the Authority shall propose amending the testing plan and/or including additional measures in in the testing plan to protect the interests of consumers, within the time limit set forth by the Authority.

## **Article 7**

The Authority shall issue a decision regarding the admission to a regulatory sandbox within the period of 3 months following the date of submission of the application and the

testing plan or in accordance with Article 6 paragraph 3, following the date of submission of the amended testing plan and shall inform the applicant thereof no later than 5 days following the date of its decision.

The Authority shall refuse the admission to the regulatory sandbox in the following cases:

- 1) Submitted documents are not in accordance with the requirements of these Rules, submitted information or additionally requested information by the Authority are insufficient or inaccurate;
- 2) Managers or other persons in the participant do not meet the requirements referred to in Article 5 of these Rules;
- 3) There are sufficient grounds to believe that a financial innovation to be tested does not meet the requirements referred to in Article 3 of these Rules;
- 4) A participant failed to submit the testing plan within the period prescribed in Article 8 of these Rules, or to implement the proposals submitted by the Authority in accordance with paragraph 3, Article 6 of these Rules.

#### **Article 8**

Exceptionally, a participant is entitled to submit an application to the Authority regarding the access to a regulatory sandbox in two phases.

In the first phase, a participant shall submit an application seeking access to a regulatory sandbox without a testing plan in accordance with points 1 to 3, paragraph 2, Article 7 of these rules and the Capital Market Authority shall reach the decision within the period of 2 months following the date of submission of an application.

If the decision referred to in paragraph 2 of this Article confirms that managers and other persons in the participant, as well as financial innovation, meet the requirements prescribed by these Rules, a participant shall, in the second phase and not later than 2 months, submit the testing plan to the Authority.

In accordance with Articles 6 and 7 of these Rules, the Capital Market Authority shall reach the decision regarding access to a regulatory sandbox within the period of 2 months following the date of submission of the testing plan.

#### **Article 9**

If the Authority refuses the application seeking access to a regulatory sandbox, a participant is entitled to submit a new application after 6 months following the date of adoption of the decision refusing the admission to membership.

## **V PARTICIPATION IN A REGULATORY SANDBOX**

### **Article 10**

After the admission of a participant to a regulatory sandbox:

- 1) Tools indicated in Article 2 of these Rules shall apply;
- 2) A participant must comply with legal regulations governing the financial system as well as testing conditions specified in the testing plan;
- 3) A participant shall monthly (by the seventh day of the month), submit to the Authority interim reports on testing, which contain a description of the objectives achieved, as well as other information required by the Authority;
- 4) A participant is entitled to submit to the Authority documented reasons why it is necessary to extend the testing period or change testing conditions specified in the testing plan.

The Authority shall consider the application referred to in point 4 paragraph 1 of this Article and adopt a decision to change the testing plan within the period of one month following the date of the submission of the application in accordance with Articles 6 and 7 of these Rules.

If during participation in a regulatory sandbox, a participant fails to meet the requirements stipulated by legal acts which regulate the financial market or the interests of customers are violated, the Authority shall require a participant to eliminate all identified violations or deficiencies.

If a participant fails to eliminate the identified violations or deficiencies within the period set forth by the Authority, the Authority shall withdraw the approval for access to the regulatory sandbox to a participant.

## **VI EXIT FROM THE REGULATORY SANDBOX**

### **Article 11**

Participation in a regulatory sandbox shall cease when:

- 1) a participant decides to suspend testing of financial innovation prior to deadline,
- 2) the Authority issues a decision on withdrawal of the approval to access a regulatory sandbox,
- 3) once the testing period is completed.

When the Authority issues a decision on withdrawal of the approval to access a regulatory sandbox:

- 1) tools mentioned in Article 2 shall not apply,
- 2) a participant shall submit to the Authority a final report on testing in which testing results are summarized, within the period of one month following the date of the exit from a regulatory sandbox.

## **VII FINAL PROVISIONS**

### **Article 12**

These Rules shall enter into force on the eighth day following the date of publication of the same in the “Official Gazette of Montenegro”.

**PRESIDENT OF THE  
CMA  
Zoran Đikanović PhD**