

INSURANCE ACT CAP 487

INSURANCE “REGULATORY SANDBOX” GUIDANCE NOTE, 2019

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INSURANCE ACT

(CAP 487)

“REGULATORY SANDBOX” GUIDANCE NOTE, 2019

PART I — PRELIMINARY

Short title and commencement.

1. These Guidance Notes may be cited as the Regulatory Sandbox Guidance Notes, 2019.

Interpretation.

2. (1) In these Guidance Notes unless the context otherwise requires—

“Act” means Insurance Act, *Cap* 487 Laws of Kenya.

“Authority” has the same meaning as provided for in the Act.

“Applicant” means a legal entity who intends to apply or has applied for IRA’s approval to participate in the Sandbox;

“Participant” means an Applicant that has been selected by the IRA to participate in the Sandbox;

“Sandbox” refers to the tailored regulatory environment for live testing innovative insurance products, services, and solutions subject to the requirements of these Guidance Notes.

“FinTech/InsurTech” refers to any business that aims at providing financial/insurance services by making use of software and modern technology.

Objective and Scope

3. (1) These regulation sets out the objective and principles of the Sandbox, and provide guidance to the Applicant on the application process and the information to be furnished to the Authority.

(2) These Guidance Notes will be of particular interest to firms that are looking to leverage on existing or new technology in an innovative way to provide financial products or services, or improve business processes. The target audience includes, but is not limited to, Financial Institutions, technology firms, and professional services firms partnering with or providing support to such businesses.

PART II —GENERAL REQUIREMENTS

4. The general requirements for the regulatory sandbox shall include;
 - (1) The Authority shall provide a regulatory environment that is conducive for the deployment of new and innovative financial technologies (FinTech/InsurTech) and business models in Kenya.
 - (2) The Sandbox will appropriate safeguards to contain the consequences of failure and maintain the overall safety and soundness of the financial system.
 - (3) The Sandbox shall be deployed and operated by the Applicant, with the Authority providing the appropriate regulatory support by relaxing specific legal and regulatory requirements, which the Applicant would otherwise be subject to, for the duration of the Sandbox.
 - (4) The Applicant shall be required to clearly understand the objective and principles of the Sandbox.
 - (5) The Sandbox is not intended and cannot be used as a means to circumvent the legal and regulatory requirements. In addition, the sandbox may not be suitable were the proposed financial service is similar to those that are already being offered in Kenya, unless the applicant can show that either a different technology is being applied; or the same technology is being applied differently the premium has been paid; or

PART III — ELIGIBILITY, APPLICATION AND APPROVAL PROCESS

5. (1) For an InsurTech, to be eligible to participate in the Sandbox: -
 - a) The Applicant shall be a registered business in Kenya.
 - b) The Applicant shall ensure that the objective, principles and criteria specified in this regulation are satisfied before submitting the proposal and Regulatory Sandbox Application Form to the Authority if the Applicant is a regulated institution
- (2) the application and approval process, and the estimated time frame upon receiving the proposal shall be as follows:
 - (a) At the “Application Stage”, The Authority shall review the proposal and endeavour to inform the Applicant of its potential suitability for a Sandbox within 21 working days after the Authority receives a complete and final set of information necessary for the assessment

- (b) At the “Evaluation Stage”, the time required to assess the proposal is dependent on its complexity and the specific legal and regulatory requirements involved. Due to the exploratory nature of the Sandbox approach, the Applicant is allowed to make adjustments to the proposal for resubmission after discussing with the Authority. The Applicant would be informed in writing whether to proceed with the Sandbox.
- (c) Upon approval of the proposal, the Sandbox is launched into the “In-Progress Stage”.

PART IV — EVALUATION CRITERIA

Evaluation
Criteria

6. (1) Applicants seeking the Authority’s approval to participate in the Sandbox shall be required to demonstrate the following;
 - (a) Potential to Advance Inclusive Insurance - The proposed product, service or solution is genuinely innovative with clear potential to advance the objectives of Inclusive Insurance by improving accessibility, efficiency, security and/or quality in the provision of financial services to consumers in Kenya;
 - (b) Legal Diligence - Applicant has conducted sufficient diligence to understand the potential risks and/or legal and regulatory requirements for deploying the proposed financial product, service or solution;
 - (c) Mature Development Stage - The proposed product, service or solution is sufficiently developed and mature to be offered to customers in a live setting;
 - (d) Sufficient Resources - Applicant has sufficient resources to participate in the Sandbox, including resources and expertise to effectively mitigate and control potential risks and losses arising from offering of the product, service or solution;
 - (e) Clear Business Plan and Exit Strategy - Applicant has defined a clear strategy and business plan for exiting the Sandbox, which includes scenarios for deploying the product, service or solution on a commercial scale in Kenya after successful exit from the Sandbox; and
 - (f) Fit and Proper Management and Leadership - Applicant is led and managed by persons with credibility and integrity.

PART V — RISK & MITIGATIONS

Risk &
Mitigations

7. (1) The participant shall be required to develop a framework and process of identifying and mitigating potential risks to consumers and the financial system.

- (2) The safeguards for consumers and the financial system while testing the innovation shall be agreed between the Participant and Authority on a case-by-case basis and may include, but are not limited to.
- (a) providing disclosure of the potential risks to customers participating in the Sandbox and confirmation that such customers fully understand and accept the attendant risks;
 - (b) limiting the number of customers using the tested product, service or solution provided by the Participant and/or the aggregate value or frequency of transactions;
 - (c) restricting the participation of customers to a certain segment or profile of customers;
 - (d) providing a consumer redress mechanism, including the possibility for financial compensation claimable against the sandbox participants under clearly specified circumstances; and
 - (e) committing adequate resources to undertake the testing and implement risk mitigation solutions that have been proven to be effective in containing the consequences of failure.

PART VI - REGULATORY MODIFICATIONS, TESTING REQUIREMENTS & PERIOD

8. (1) The Authority shall determine the specific regulatory requirements it is prepared to temporarily modify during a Sandbox test on a case-by-case basis, except that the following requirements which shall remain in place for all Participants: -
- (a) Applicable character and fitness (fit and proper) requirements for the Applicant, its founders and directors;
 - (b) Applicable suitability requirements pertaining to business premises; and
 - (c) Anti-Money laundering and countering the Financing of Terrorism Guidance Notes.

(2) The Authority shall evaluate any regulatory changes, waivers, license limitations, or other prospective relief that may be necessary to permit a Participant to operate in Kenya after the completion of a Sandbox test on a case-by-case basis.

(3) The testing requirements for the product, service or solution shall be determined on a case-by-case basis based on consultations between the Authority and Participants, and may include: -

- (a) testing parameters such as the scope and duration of the test, regulatory flexibilities requested and frequency of reporting;
- (b) specific measures to determine the success or failure of the test;
- (c) an exit strategy should the test fail or be discontinued; and
- (d) a transition plan for the deployment of the product, service or solution on a commercial scale in Kenya upon successful testing and exit from the Sandbox.

(4) The initial testing period will not exceed 12 months unless the product, service or solution has tested positively and it can be demonstrated that extended testing is necessary to respond to specific issues or risks identified during initial testing.

PART VII - REPORTING REQUIREMENTS

Reporting

9. (1) The Authority shall require Participants to submit interim reports on the progress of the test on a monthly basis, which shall include:

- (a) key performance indicators, key milestones and statistical information;
- (b) key issues arising as observed from fraud or operational incident reports; and
- (c) actions or steps taken to address consumer complaints, emergent risks, or other issues relevant to Authority's assessment of applicable regulatory requirements.

(2) The Participants shall ensure proper maintenance of records during the testing period to support reviews of the test by the Authority.

(3) The Authority reserves the right to request any relevant information from the Participant at any time, as well as the right to conduct onsite inspections of the Participant's operations.

(4) The Participants must submit a final report to the Authority within 30 calendar days from the expiry of the testing period. The report shall contain.

- (a) key outcome and performance indicators against agreed measures for the success or failure;
- (b) a full account of all incident reports and resolution of customer complaints; and
- (c) in the case of a failed test, lessons learned from the test.

PART VIII - EXITING FROM THE SANDBOX

Exiting the
Sandbox

10. (1) At the end of the Sandbox period, the legal and regulatory requirements relaxed by Authority shall expire, and the Participant must exit from the Sandbox.
 - (2) In the event that the Participant requires an extension of the Sandbox period, the Participant shall apply to the Authority at least 1 month before the Sandbox expiration date and provide reasons to support the application for extension.
 - (3) Upon exiting, the Participant can proceed to deploy the InsurTech solution on a broader scale, provided that: both the Authority and the Participant are satisfied that the Sandbox has achieved its intended test outcomes.
 - (4) Participants intending to carry out regulated businesses shall be assessed based on their ability to comply with applicable licensing, approval and registration criteria.
 - (5) Participants intending to carry out regulated businesses shall be assessed based on their ability to comply with applicable licensing, approval and registration criteria.
 - (6) The Authority reserves the right to prohibit deployment of any product, service or solution in the market in the event of an unsuccessful testing or if the product, service or solution has negative consequences for the public and/or financial stability.

PART IX - REVOCATION OF APPROVAL

Revocation of
Approval

11. (1) The Sandbox may be discontinued at any time before or at the end of the testing period if: -
 - (a) Either the Authority or the Participant is not satisfied that the Sandbox has achieved its intended test outcomes; a critical flaw(s) has been discovered in the InsurTech solution or the implementation process, and the Applicant acknowledges that the flaw cannot be reasonably resolved within the duration of the Sandbox;
 - (b) The Participant fails to implement any required safeguards;
 - (c) The Participant submits false, misleading or inaccurate information, or has concealed or failed to disclose material facts in the application;
 - (d) The Participant contravenes any applicable law;
 - (e) The Participant is undergoing or has gone into liquidation;

- (f) The Participant breaches data security and confidential requirements;
- (g) The Participant carries on business in a manner detrimental to customers or the public at large;
- (h) The Participant fails to effectively address any technical defects, flaws or vulnerabilities in the product, service or solution which gives rise to recurring service disruptions or fraud incidents; or
- (i) for any other reason determined by the Authority and notified to the Participant.

REGULATORY SANDBOX APPLICATION FORM

1. General Information

Applicant Name	
Full names of all owners/founders	
Business address	
Phone number	
Website URL (<i>if available; if password protected, please provide relevant access details</i>)	
Contact person: Name Title Telephone number Email address	
Is your business or any affiliated business (or their owners/founders or employees) currently registered, licensed, or supervised by Insurance Regulatory Authority? If yes, please provide proof.	
Please describe the nature and scale of your operations in Kenya.	

2. Overview

S/NO.	Description	Response

1	Provide a brief description of the FinTech/InsurTech solution contemplated in the proposal.	
2	Identify the specific legal and regulatory requirements prescribed that would need to be relaxed or modified to permit a Sandbox test of your product, service, or solution. If you think your product or business model raises new or complex regulatory concerns, please describe.	
3	Define the boundary conditions in place to ensure meaningful execution of the sandbox while sufficiently protecting the interests of consumers and maintaining the safety and soundness of the industry;	

3. Details of the Proposal

Please limit written responses to 50 words per question. Additional information may be provided as supporting documents.

Criteria	Description	Response
(a) Potential to Advance Inclusive Insurance.	Describe your innovative product, service, or solution. If you already have a business plan or project synopsis, attach it to this application form. If the product, service or solution has been launched in the marketplace (in Kenya or otherwise), please describe.	
	Explain how your product, service, or solution will advance inclusivity in insurance product and services	
	Describe the technology and/or methodology that will be used to offer your product, service, or solution. If the technology or business model has been used for any other product, service or solution in Kenya, please describe.	
(b) Legal Diligence	Explain how your product, service, or solution would benefit from participation in the Sandbox.	
	Identify any other businesses or partners that you are working with or plan to work with if you are selected to participate in the Sandbox.	
	Identify the type of customers you will target to participate in the Sandbox and how do you intend to	

	acquire these clients.	
(c) Mature Development Stage.	Describe the current stage of development of your product, service, or solution.	
	Describe the key consumer protection, financial stability and any other risks associated with your FinTech/InsurTech product, service, or solution and how you have addressed those risks.	
	Clearly describe the test scenarios and outcomes of the Sandbox and how the progress will be reported to IRA	
(d) Sufficient Resources	Please describe the financial resources, including any venture funding or potential funding, you intend to use to develop and test your FinTech/InsurTech product, service, or solution in the Sandbox.	
	Identify any other businesses or partners that you are working with or plan to work with if you are selected to participate in the Sandbox.	
(e) Clear Business Plan (Including	Describe your plan for exiting from the Sandbox. If you are successful, what is	

Communication Plan) and Exit Strategy	your plan for offering your FinTech/InsurTech product, service or solution on broader scale within Kenya? If you are unsuccessful, what is your plan for winding down the company or developing an alternative approach?	
	Quantification of the maximum loss and impact that the proposal could potentially create, including any potential knock-on effects.	
	Channels for handling customer queries, feedback or complaints.	
	Exit and transition plan for customers, in the event that the proposed financial service has to be discontinued, or can proceed to be deployed on a broader scale after exiting the sandbox.	
	Risk mitigation plan to minimize the impact of failure on customers and the broader financial ecosystem.	
	<p>Communications plan to inform customers, including;</p> <ul style="list-style-type: none"> • the duration, boundary conditions and associated risk disclosure for participating in the sandbox; • advance notification of the termination or extension of the 	

	sandbox, or when the proposed financial service can proceed to be deployed on a broader scale.	
	Monitoring plan to ensure the prompt notification of any breach, for example breach of the sandbox test scenarios, boundary conditions or safeguards, to IRA	
(f) Fit and Proper Management and Leadership	Briefly describe or attach short bios on your key personnel's technology or financial industry experience.	