

# Regulatory sandbox consultation document

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## Abbreviations

AML	Anti-Money Laundering.
API	Application Programming Interface. API is a set of protocols and tools for creating software applications. The API determines how software components interact with each other.
DLT	Distributed Ledger Technology. This term is used to describe a technology that allows records to be shared on a computer network. One type of DLT is blockchain.
EBA	European Banking Authority
ECB	European Central Bank
EIOPA	European Insurance and Occupational Pensions Authority
ESAs	European Supervisory Authorities (EBA, EIOPA, ESMA)
ESMA	European Securities and Markets Authority
FCA	Financial Conduct Authority
FinTech	Financial Technologies. A new technology-based approach to finance that can lead to a new business model, process or product, with a significant impact on financial markets, institutions and the provision of financial services.
KYC	Know Your Customer. Process of identity verification of clients.
NBS	National Bank of Slovakia
RegTech	Regulatory technology. It means the use of information technology in order to strengthen the regulatory process.
Sandbox	Test environment created to test new technologies and innovations.

# Purpose of the public consultation and conditions of participation

The purpose of this consultation is to obtain stakeholders' views on the implementation of the financial innovation testing framework called the "regulatory sandbox" and its alternatives in Slovakia, including the identification of interest in such a framework amongst financial institutions and innovative companies, and the most suitable setup and form for the regulatory sandbox or an alternative arrangement.

Questions for the public consultation are included in each section of the document. We will be grateful if your answers to the questions are clear, comprehensible and supported by relevant arguments. It will also assist us if your answer includes examples and links to the sources of more detailed information.

Please, fill in your answers in the [interactive form](#) with the identification of you and / or your company. Please do not forget to indicate your consent for the processing of personal data.

The National Bank of Slovakia, in cooperation with the Centre for Financial Innovations of the Ministry of Finance of the Slovak Republic, is endeavouring - also by way of this consultation - during the period of the spread of the COVID-19 virus - to come up with solutions to contribute to a quick restart and sustainable growth of the economy.

Thank you in advance for your time and feedback in the form of opinions and ideas.

# 1 Origin, purpose, risks and types of sandboxes

## 1.1 What a regulatory sandbox is

The concept of the sandbox originated in the information technology sector. It is a test environment, separate from the main production environment, in which programmers can create and test software. Software development using a sandbox makes it possible to test new software solutions. Sandboxes gradually began to find uses outside the information technology sector and found application in the field of finance.

According to the [ESAs report](#) from 2019, “a regulatory sandbox is an environment that allows innovative financial products, financial services or business models to be tested in accordance with a testing plan approved by the supervisory authority. The regulatory sandbox may also allow the use of the statutory discretionary powers of the supervisory authority, in accordance with national and European law. However, the application of regulatory requirements cannot be waived within the regulatory sandbox.”

It is clear, from the definition of a regulatory sandbox above, that participants in a regulatory sandbox have to comply with all legislation applicable to their activities.

The regulatory sandbox is a space for the testing of innovative products, services and business models that is conducted strictly in compliance with established rules. These rules are known to the participants in the regulatory sandbox in advance and the definite participation in the regulatory sandbox requires awareness of these rules. The objective of these rules is to ensure proper examination of the solutions tested and to maintain consumer and financial market protection.

## 1.2 What a regulatory sandbox is not

The regulatory sandbox is not a space without rules. Although the supervisory authority may temporarily modify or lift some regulatory requirements for the company in the regulatory sandbox, it may do so only within the limits permitted by the applicable legislation. Companies in the regulatory sandbox must comply with all applicable rules, some of which may be even stricter, given the need for consumer protection and financial stability when testing unproven technical solutions. Overall, participation in the regulatory sandbox requires increased efforts from companies and an intensive dialogue with the supervisory authority to test and implement the existing regulation.

The regulatory sandbox is *not an accelerator*. According to the definition of the Slovak Business Agency, an accelerator is a “several-month program (usually

*lasting up to 3 months) providing startups with financing, space and mentors who, in the beginning, help the company to scale its business and place the product on the market. The result of the program are startups that have a tested product or service with real experience from the market and are ready for further investment.”*

The regulatory sandbox also *does not replace assistance available commercially*. If applicants need help in understanding or an explanation of the regulatory system, legislation or legal rules, they can contact economic or legal advisors or consultants, who are ready and authorized for this form of assistance. At the same time, the supervisory authority is not, as a rule, authorized by law to give any interpretation of legislation.

Finally, the regulatory sandbox is *not an innovation hub*. On 1 April 2019, the National Bank of Slovakia launched an innovation hub, which is primarily a platform open for one-off meetings as part of a mutually beneficial discussion. It is open to interested parties with a real business plan in the field of FinTech. Thanks to this innovative platform, individual market entities can conduct a dialogue with NBS experts from various fields. Anyone that meets the selection criteria on the website can start this process by filling in the contact form on the NBS website.

### 1.3 Purpose and comparison of existing regulatory sandboxes

There are currently more than 17 regulatory sandboxes operational in the world, e.g. in [Great Britain](#) (4/2016), [Hong Kong](#) (9/2016), [Malaysia](#) (10/2016), [Singapore](#) (11/2016), [Abu Dhabi](#) (11/2016), [Australia](#) (12/2016), [Mauritius](#) (1/2017), [Netherlands](#) (1/2017), [Indonesia](#) (7/2017), [Canada](#) (2/2017), [Thailand](#) (3/2017), [Bahrain](#) (6/2017), [Switzerland](#) (8/2017), [Saudi Arabia](#) (01/2018), [Denmark](#) (02/2018), [Arizona](#) (03/2018), [Hungary](#) (12/2018) and [Lithuania](#) (10/2018).

Each implementation of the regulatory sandbox in the above-mentioned states is to some extent different, but the purposes for which they are established by each supervisory authority are common:

- support for financial innovation and FinTech companies that offer new products, services or use innovative business models;
- support for a more efficient system of financial services provision and more effective risk management of already established financial market entities;
- support for the creation of opportunities for the supervisory authority to understand new technologies and business models (interaction with the regulatory framework and the possibility to remove possible barriers);
- promoting effective competition in the interest of consumers;
- promoting broader consumer use of financial services (financial inclusion), i.e. making financial services available for financially excluded segments of the population.

By introducing a regulatory sandbox, a supervisory authority sends a positive message to the financial market that it is in favour of promoting innovation, as

well as of cooperation with innovative companies. In addition, the companies that participate in testing in the regulatory sandbox seem much more interesting for investors. Indeed, it is easier for them to obtain additional funding for their market entry and for their further growth.

Common elements of regulatory sandboxes are:

- the participation of companies in the sandbox is subject to fulfilment of certain conditions;
- proposals / projects and their risks and benefits are duly substantiated and described in detail;
- development of a testing plan;
- a limited range of activities that companies can perform under the regulatory sandbox;
- a time-limited framework for testing.

The differences between the diverse regulatory sandboxes depend on the preferences and possibilities of different supervisory authorities: The aim of the regulatory sandbox may be to support testing of only a certain technology (e.g. [LBchain sandbox](#) in Lithuania is focused on blockchain technology) compared to regulatory sandboxes that are open for established financial market entities and startups. From the point of view of time, some regulatory sandboxes are based on so-called cohorts (parallel testing by several companies during a specified period), while others allow testing on an ongoing basis. The length of the testing period in the regulatory sandbox also varies, usually from 6 months up to 2 years. Testing in the regulatory sandbox is performed either on a virtual basis (using a range of data and information) or with certain restrictions on the real market with real clients.

## Questions

*If you are aware of the conditions of operation of the regulatory sandbox in other countries, which of them do you consider to be beneficial and applicable for the conditions of the Slovak Republic? Please provide specific examples.*

*What should be the purpose of the NBS regulatory sandbox?*

*Should the aim of the NBS regulatory sandbox be testing of a specific technology or should it focus on general testing of the technologies used in the provision of financial services?*

### 1.4 Benefits and risks of a regulatory sandbox

The benefits of a regulatory sandbox overlap with its aim as described in the previous subchapter.

However, there are also risks associated with the implementation of a regulatory sandbox. We consider the most important of them to be:

*Unfulfilled expectations.* Many countries have set up an innovation hub and then a regulatory sandbox, but due to lack of interest from market several of them

have replaced the regulatory sandbox with another solution (e.g. Portugal) or they have only one entity in it (Lithuania, Latvia).

*Risk of neglected readiness.* The creation of a regulatory sandbox requires readiness on the side of the company that wants to be a part of it and on the side of the supervisory authority that will supervise the testing. Readiness means knowledge of the legal framework that applies to the company, as well as knowledge of the technologies that will be tested in the regulatory sandbox.

*Risk arising from overlapping requirements for licensed entities and entities tested in the regulatory sandbox.* One of the most serious risks is the concurrence of the existing supervisory framework, which applies to all supervised companies, and the specific reduced framework, i.e. partial framework, that applies to companies in the regulatory sandbox. The duality of legislative conditions is a special condition whose impacts need to be anticipated (e.g. damage to the client within the testing of the technology in the regulatory sandbox versus damage to the client done by the same technology outside of testing in the regulatory sandbox).

*Increased demands on human resources in the supervisory authority and increased demand for know-how.* The establishment of a regulatory sandbox will have implications for human resources at the supervisory authority in terms of both numbers and qualifications. Due to the innovativeness of the tested solutions, it may be difficult to acquire the know-how needed to keep pace with the financial market.

*Risk of interference in market competition.* The regulatory sandbox ensures the same conditions of participation, but in a way that can artificially lead to more favourable conditions for companies that participate in it compared to those that develop a similar innovation or technology without participation in the regulatory sandbox.

## Questions

*What risks would you add to the above list of risks associated with the creation and operation of a regulatory sandbox?*

*How can the risks associated with the creation and operation of a regulatory sandbox be mitigated?*

*How should such a regulatory sandbox be set up so that the benefit (fulfilment of the sandbox's purpose) outweighs the risks?*

## 1.5 Other types of sandboxes

16. In addition to the regulatory sandbox, which is the subject of this consultation document, there is also a technological and virtual sandbox. It allows testing of innovations related to data. In practice, the technological or virtual sandbox is most often used when it comes to the testing of APIs, or providing anonymized data for testing purposes within areas such as AML, KYC, Regtech. Virtual sandboxes appear mainly in the private sector, where it is necessary to test on large samples of data owned and provided by commercial

companies. Nevertheless, such a sandbox can again take various forms and can be managed by e.g. academia, the Centre for Financial Innovation, the supervisory authority or, e.g. it can be operated individually by private companies. At the same time, parallel operation of both a virtual sandbox and a regulatory sandbox is not excluded.

A sandbox need not be operated only by a supervisory authority but can also be run by a private company. As an example, we can cite a sandbox that was supposed to be operated in Poland by the global card scheme with the participation of the Polish supervisory authority. Although the British FCA does not create nor copy solutions of private sandboxes, it remains open to the cooperation with them. In this case, the FCA allows access to its systems and offers datasets for testing.

## Questions

*If the regulatory sandbox in the Slovak Republic was operated by a private company, what activities should such an operator provide and what should be the role of the NBS, or alternatively of other actors?*

*Would testing on specific data sets, within other types of sandboxes, as described in subchapter 1.5, help you in developing your financial innovation?*

If so, please also answer the following questions:

*How would you imagine such a sandbox functioning?*

*Who would manage the other type of sandbox?*

*Which data sets would you consider to be important for successful testing of a financial innovation?*

*How would this data be obtained and from which entities?*

*How would the selection of companies that would be allowed to test in this sandbox take place?*

*How should it be funded?*

## 2 Eligibility criteria for the NBS regulatory sandbox and categories of sandbox participants

### 2.1 Eligibility criteria for the NBS regulatory sandbox

When selecting companies to admit to the regulatory sandbox, criteria such as the followings are used:

*Readiness of the company or technologies for testing in the regulatory sandbox* – it is a measure of being able to undergo not only the testing, but also the ability to handle discussions, interviews and analyses from the expert point of view in the presence of the supervisory authority staff and to be able to fulfil the requirements and tasks arising in the course of testing. A company that will be part of the regulatory sandbox must be professionally prepared to formulate a draft test plan, to deal with the guidance of the supervisory authority and also to manage and to secure areas that are not within the competence of the supervisory authority (activities of economic and legal advisers). Readiness also applies to the adoption of adequate safety measures, an exit plan from the regulatory sandbox and the definition of risks and the setting of criteria for their prevention.

*Demonstration of the need for testing* – expresses the need to verify the operation of the tested technology before its launch in practice. An applicant for admission to the regulatory sandbox must state the reasons why their participation in the regulatory sandbox will contribute to setting up the tested product, service or solution correctly, safely and effectively. The test plan must include the principles and aims of the evaluation, whether successful or unsuccessful.

*Innovativeness* – this mainly means elements such as the newness of the solution on the domestic market, technologies and services that have the potential to lead to significant changes in financial services (processes, services, products).

*Application of the technology in Slovakia* – the regulatory sandbox will be focused mainly on those companies that will apply their outputs, products and services in Slovakia. This, of course, does not prevent a participant in a regulatory sandbox from operating in other countries, provided that they abide by the relevant legislation.

*Benefits for financial stability and financial consumers* – the regulatory sandbox should be primarily intended for testing such a technology, product or service, the application of which will have positive impacts on society. The technology will bring convenient, safer and more affordable products and services, which will have a positive impact on society, financial stability, financial inclusion and long-term development and competitiveness. This criterion also encompasses the setting of clear rules to protect clients during and after their participation in the regulatory sandbox.

## Questions

*Do you consider the principles mentioned above to be appropriate for specifying the criteria for entry into the regulatory sandbox? What other criteria would you add?*

## 2.2 Participants in the regulatory sandbox

The regulatory sandbox should be open to all entities that meet the entrance criteria, while an authorization granted by the NBS or other supervisory authority of a Member State (based on the single authorization principle) is not a condition for participation. In general, potential participants in a regulatory sandbox can be divided into two levels. Participation in the regulatory sandbox at level 1 should only be open to a supervised entity or an entity that will apply for authorization. Level 2 participation in the regulatory sandbox should be entities that do not perform a regulated activity. Within level 1, two groups of participants can be distinguished. Category A includes those entities that already have a license. Category B includes those entities that do not yet have the necessary license and want to enter the Slovak market, i.e. EU market through the regulatory sandbox. A more detailed description of the participants in the regulatory sandbox is contained in the following table:

**Table 1 A more detailed description of the participants in the regulatory sandbox**

Level	Participant class	Basic condition of participation
1. Supervised subject	<b>Category A</b> A financial institution that already operates on the financial market on the basis of an authorization from NBS or the supervisory authority of another Member State (on the basis of the single authorization principle) and wants to test an innovative product / service.	Within the preparatory phase (see 3.3 Sequence of steps in the regulatory sandbox) it must be clarified whether the license of the participant entitles it to offer the innovative product / service that it wants to test within the Slovak Republic. If NBS concludes that the license at its disposal does not entitle it to offer an innovative product / service in the Slovak Republic, the participant must apply for an extension of authorization i.e. a new license. The operation of any regulated activity is not possible without the authorization of NBS or another competent supervisory authority in a Member State (based on the principle of a single authorization), even within the regulatory sandbox.
	<b>Category B</b> An entity that does not perform any activity on the financial market yet for which an authorization from the NBS is required, and also wants to	Prior to testing, the entity concerned must obtain authorization from NBS. The exercise of any regulated activity is not possible without a license from NBS or another competent supervisory authority in a Member State (based on the principle of

	enter the Slovak/EU market via the regulatory sandbox.	a single authorization), even within the regulatory sandbox.
2. Unsupervised subject	An entity that provides services that are closely related to regulated activities, but do not require authorization from NBS to provide them (e.g. mobile applications for supervised entities, RegTech solutions or technological improvements in the area of "compliance" for supervised entities, etc.)	To be admitted to the regulatory sandbox, the entity must demonstrate to NBS that it has a contract with a supervised entity for which it plans to test the innovative service / solution.

The draft regulatory sandbox described in this consultation material does not currently envisage the participation of entities that today do not exercise a regulated activity under the supervision of the NBS and do not provide services that are closely related to regulated activities for supervised entities. Examples of such entities are e.g. providers of services related to cryptoassets, but the application of technology such as e.g. DLT in the framework of regulated activities for supervised entities is not excluded.

There are several arguments for and against the extension of the scope of participation in the regulatory sandbox to the entities mentioned in the previous point. Allowing these entities to participate in the regulatory sandbox would, on the one hand, give NBS the opportunity to better understand their functioning, which may be useful in the context of creating future regulation. On the other hand, it is questionable what real added value such participation in the regulatory sandbox would bring for these entities. As they are generally not subject to any sectoral regulation and their activities are not regulated activities within the scope of NBS supervision, NBS is not entitled to provide them with specific recommendations relating to their activities. In addition, the participation of these non-supervised entities in the NBS regulatory sandbox could create a misconception in the general public that they are supervised entities. Given that NBS would not be entitled to apply sanctions under Act No. 747/2004 Coll. financial market supervision and on the amendment of certain laws, as amended, and other special regulations within the competence of NBS, their participation in the regulatory sandbox would pose a reputational risk for NBS.

The relevant legislation confers much of the supervisory power over banking (especially the "significant institutions") to the ECB.<sup>1</sup> The granting of a banking license is the exclusive competence of the ECB. The participation of banks in the NBS regulatory sandbox may be affected by this fact. There may be a situation where the participation of banks in the NBS regulatory sandbox will take place in a different way than the participation of other supervised entities, which are supervised exclusively by NBS. In this context, NBS will try to find a model that would guarantee the best possible functioning of the regulatory sandbox for banks as well.

<sup>1</sup> Council regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (Official Journal of the EU L 287, 29. 10. 2013).

## Questions

*Do you consider the category of potential participants in the regulatory sandbox and the basic conditions for their participation to be appropriate and sufficient?*

*Should the regulatory sandbox also be used by unsupervised entities, such as cryptoasset service providers, beyond the framework mentioned above?*

*If so, what do you consider to be the added value of the participation of such entities and under what conditions should they be allowed to enter the regulatory sandbox? If you are interested in entering the regulatory sandbox, to what level and category of participation would you assign yourself?*

# 3 Operation of the NBS regulatory sandbox

## 3.1 Tools of the regulatory sandbox

The NBS could use the tools specified below to operate the regulatory sandbox:

*Pre-testing consultation* – NBS employees will help the participants in the regulatory sandbox to identify the legislation that applies to their innovative product / service and how they can proceed to testing while maintaining all legal rules. Such consultation would be subject to the restrictions referred to above (see [1.2 What a regulatory sandbox is not](#)).

*Ongoing consultation* – NBS employees will be in contact with the participants and will be ready to answer their questions related to the regulation on an ongoing basis as they arise during testing as well as during the exit from the regulatory sandbox. The practical implementation of an innovative product / service often brings unexpected problems to which the participant must be able to react quickly. In such a situation, the NBS is ready to actively consult with the participant in order to ensure that the solution that the participant comes up with is in accordance with legal regulations. During the ongoing consultation, the NBS must comply with the limits set out above (see [1.2 What a regulatory sandbox is not](#)).

*Active use of proportionality* – under current legislation, the NBS is not allowed to grant exemptions from compliance with legal rules to participants in a regulatory sandbox. However, the NBS will strive to approach regulatory requirements in a proportionate manner so as not to restrict new and innovative approaches while respecting the limits set by law.

*Proportional approach to sanctions for participants in the regulatory sandbox* – due to the close cooperation of the entity with NBS, the participant in the regulatory sandbox will be adequately informed about the responsibilities and duties that apply during testing. If the participant in the regulatory sandbox follows all the instructions from NBS, there should be no violation of legal rules and thus the participant should not face any sanctions from NBS. However, if

a participant in the regulatory sandbox nevertheless engages in sanctionable conduct, NBS will apply the relevant sanctions proportionately within the limits of legal regulations. For example, if the legal rules allow it, NBS may initially refrain from imposing a penalty and give the participant the opportunity to remedy the deficiency.

## Questions

*Do you consider the tools of the regulatory sandbox to be practical?*

*What other tools would you suggest?*

## 3.2 Time framework

Some regulatory sandboxes allow entry for new entrants only on a specified date, and all new entrants generally enter and exit the regulatory sandbox at the same time (variant 1). Other regulatory sandboxes allow entry at any time of the year and each participant has their own cycle (variant 2).<sup>2</sup> NBS is currently in favour of the second option, because a single-entry deadline for all participants would cause some participants to wait too long to enter the regulatory sandbox, which could unduly delay the introduction of innovative products / services. Entry according to variant 1 into the regulatory sandbox also brings the risk of inefficient depletion of NBS's capacity resources within a short period of time.

Participation in the regulatory sandbox would consist of four phases (see below [3.3 Sequence of steps in the regulatory sandbox](#)). An explicit time limit should apply only to the first phase (submission and evaluation of the application) and the third phase (testing phase). In the first phase, the NBS will decide whether to allow a potential participant to enter the regulatory sandbox within two months of submitting of a complete application. In accordance with is the practice prevalent in other regulatory sandboxes<sup>3</sup>, the testing phase should last a maximum of 6 months, with the NBS being able to extend this period by a further period of up to 6 months based on a reasoned request from the participant. The second phase (preparatory phase) and the fourth phase (exit from the regulatory sandbox) should not have a predetermined explicit time limit, given that the time intensity of these phases can be significantly different for individual participants.

## Questions

*Which of the two-time limit variants described above do you consider to be more suitable for the NBS regulatory sandbox?*

*Do you consider a testing period of a maximum of 6 months with a possible extension of up to another 6 months to be sufficient?*

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<sup>2</sup> Joint Report on Regulatory Sandboxes and Innovation Hubs. EBA, ESMA a EIOPA, page 22

<sup>3</sup> Joint Report on Regulatory Sandboxes and Innovation Hubs. EBA, ESMA a EIOPA, page 27

### 3.3 Sequence of steps in the NBS regulatory sandbox

Participation in the NBS regulatory sandbox can be divided into four phases:

*Submission and evaluation of the application.* Within this phase, the applicants submit an application to NBS and NBS will evaluate whether it will allow the applicant to enter the regulatory sandbox. It will be possible to submit an application in paper form or in electronic form. In addition to the Slovak language, the regulatory sandbox could enable an entity to submit an application and subsequently to communicate with NBS in English as well. NBS will invite the relevant applicants to a personal meeting, at which the application will be discussed in more detail. An introductory personal meeting, which in case of objective obstacles such as the COVID-19 pandemic can also take place in the form of a teleconference call, should be considered as a mandatory condition for entry into the regulatory sandbox. NBS may then invite the applicant to supplement the application. After submission of the complete application, NBS will decide within two months whether to allow the applicant to enter the regulatory sandbox. NBS will assess applications according to pre-established criteria (see [2 Criteria for entry into the NBS regulatory sandbox and the categories of its participants](#)). If there are numerous relevant applicants at the same time, NBS may, for capacity reasons, recommend an applicant to apply to the regulatory sandbox later. A more detailed description of the method of selecting candidates will be published by NBS before the introduction of the regulatory sandbox.

*Preliminary phase.* NBS will determine how the testing will occur. During the preliminary phase, the participant submits a draft testing plan as well as a proposal for testing restrictions such as the maximum number of clients, the type of clients (exclusion of retail clients), or the maximum value of the regulated activity performed. A common condition is to limit the testing only to the territory of the Slovak Republic. However, the final decision on how the testing will be carried out and what restrictions will be applied remains with NBS, which is not bound by the participant's proposal.

In the preparatory phase, NBS determines how the protection of clients will be ensured and how the participant will be obliged to inform clients that they are part of the testing i.e. whether it will need their explicit consent to include them in the testing. The basic framework of client protection will be proposed by the participant. However, the final decision on how the protection of clients will be ensured remains with NBS, which is not bound by the participant's proposal. During the preparatory phase, it will also be determined how the participant will communicate with NBS about the ongoing testing. Information can be communicated by means of regular reports, teleconferencing calls, or personal meetings at NBS premises or at the participant's premises during selected phases of testing. At this stage, it is also necessary to discuss in detail how to proceed after the end of testing and after the exit from the regulatory sandbox, either after a regular exit (after the end of the testing period) or in the event of an extraordinary exit (before the end of the testing period). All these aspects must be described in detail in the exit plan.

In the preliminary phase, it must be clarified which legislation applies to the participant and what rules are to be followed. If a participant in a regulatory

sandbox performs a regulated activity, they must have the appropriate license before testing. If the participant in the regulatory sandbox does not have the relevant license, they must obtain the permit in question during the preliminary phase or terminate their participation in the sandbox. The NBS will assist such a participant and use the individual tools available to it in the regulatory sandbox (see [3.1 Tools of the regulatory sandbox](#)) while maintaining the same conditions for all applicants for authorization.

For level 2 participants in the regulatory sandbox, which provide services that are closely related to regulated activities, but who do not need any license from NBS, the preliminary phases must include, in addition to the particulars described above, specification of the form of cooperation with a supervised entity for which the innovative service / solution will be tested. In the preliminary phase, therefore, the roles of both the supervised entity and the non-regulated entity in testing need to be clarified. If necessary, NBS has the right to sanction the supervised entity.

If all the aspects described above are not clearly addressed, the participant cannot start testing. Given the different complexity of the preliminary phase for each participant, it would not be appropriate to set up a specific deadlines and time limits for this specific phase.

*Testing phase.* During this phase, the regulatory sandbox participant provides its innovative product / service either directly to the client or to the supervised entity with which it is cooperating. The testing must be performed in accordance with the conditions specified in the preparation phase. The cooperation between the participant and NBS is intensive at this stage. The participant in the regulatory sandbox continuously informs NBS about the follow-up on testing and NBS has the right to request from the participant any additional information relevant to its participation in the regulatory sandbox. Communication with NBS proceeds according to a plan developed in the preliminary phase. Communication can take place in the form of regular meetings, written messages, teleconferencing calls, email correspondence as well as the physical presence of NBS employees on the premises of the participant in the regulatory sandbox during selected phases of testing.

The participant must follow the specified testing plan and must immediately notify the NBS in advance of any deviation from the plan, to which the NBS will actively respond. The participant in the regulatory sandbox is obliged to follow all NBS instructions during testing. Testing may be terminated earlier based on a decision of NBS or the participant. NBS has the right to request the termination of testing if the participant does not follow NBS's instructions despite a warning or if there is a risk that the clients involved in the testing would be harmed.

During the testing, the protection of clients who participate in it must be ensured. Clients must be informed in advance that they are part of the testing and must be alerted to the possible risks. If necessary, NBS may require the participant to obtain explicit consent from clients before including them in the testing. Clients must be provided with information on how to proceed if testing is terminated, either on expiry of the regular testing according to schedule or in the event of its premature termination. Clients must be informed in advance of their rights and of the procedure for claiming compensation, if necessary.

In the preliminary phase, an essential period for testing is set, which may not exceed 6 months. If necessary, the participant may request NBS to extend the deadline by up to another 6 months.

*Exit from the regulatory sandbox.* At the end of the testing, the participant submits a final report to NBS within the stated period, presenting an evaluation of the extent to which the pre-set objectives have been met and describing any shortcomings and problems encountered during the testing. NBS has the right to comment on the report in writing within a specified period.

Following the participant's exit from the regulatory sandbox, NBS will publish on its website information that the participant is no longer part of the regulatory sandbox and will enter it in the database of participants in the regulatory sandbox whose participation has been terminated. The current participants in the regulatory sandbox, as well as former participants, will always be listed on the NBS website.

At the end of the test, the participant may opt for two basic options:

- a) Continuation of the provision of the innovative product / service
- b) Termination of the provision of the innovative product / service

### **Continuing to provide an innovative product / service**

A Level 1 regulatory sandbox participant may, upon completion of testing, begin to fully provide an innovative product / service without any of the restrictions that applied to it during testing. Likewise, a Level 2 participant may provide innovative services to the supervised entity at the end of the testing, or to any other supervised entity without any of the restrictions associated with the testing.

The participant in the regulatory sandbox is obliged to notify the client that their participation in the regulatory sandbox is expiring and the provision of the innovative product / service will no longer be subject to the previously communicated restrictions. The participant in the regulatory sandbox must prove to NBS that it has informed the clients about the termination of the testing duly in advance and that it will comply with the relevant legal regulations when providing an innovative product / service after exiting the regulatory sandbox.

Thanks to testing in the regulatory sandbox on a limited group of clients, the participant will be able to identify and (also based on NBS recommendations) eliminate problems that arise from providing an innovative product / service and could, inter alia, lead to non-compliance with applicable legislation. Based on the testing, the participant will be able to set up their innovative product / service appropriately before offering it more widely to the public. In addition, thanks to several months of active cooperation with NBS, the participant will clarify how they can carry out their innovative business in accordance with legal rules. The participant in the regulatory sandbox should be legally and technically ready to provide their innovative product / service on the financial market.

## Termination of the provision of an innovative product / service

A participant in a regulatory sandbox may decide, either during or after the testing, not to provide the tested innovative product / service. The participant is obliged to give NBS adequate advance notice of such a decision. Upon termination of the provision of the innovative product / service, all the rights of the clients concerned must be preserved. The participant in the regulatory sandbox must notify them in good time that the activity is being terminated and they must ensure that clients are not harmed in this process. NBS will supervise the proper termination of activities.

## Questions

*What changes would you suggest in the described sequence of steps within the NBS regulatory sandbox? Please give reasons for your answer.*

*Should the NBS regulatory sandbox allow communication in English as well? Would you take advantage of such an opportunity?*

*Would you be interested in participating in the regulatory sandbox?*

# 4 Alternatives to the regulatory sandbox

## 4.1 FinLab

A large proportion of regulatory sandboxes within the EU operate in a similar mode to the proposed NBS regulatory sandbox. However, there are also very different alternatives within the EU. An example of an alternative to the regulatory sandbox is the Portuguese FinLab.

FinLab is the result of cooperation between three Portuguese financial market supervisors (Banco de Portugal (BdP), the Comissão do Mercado de Valores Mobiliários (CMVM) and the Autoridades de Supervisão de Seguros e Fundos de Pensões (ASF)). Any entity planning to implement an innovative product / service on the financial market in Portugal can apply to FinLab. Both supervised and unsupervised entities can apply. Entities that do not perform regulated activities or are not sure whether any regulation apply to them, can also apply to FinLab. FinLab receives new entrants twice a year. All participants therefore start and end their participation in Finlab at the same time in one joint cycle. Interested entities are invited to the so-called “pitch day” where they present their innovative product / service. Participants are selected from the candidates based on four predetermined criteria:

- a) need for help with regulation;
- b) innovativeness;
- c) progress in development;
- d) the benefits and risks for the financial sector and for consumers.

The participating supervisors then analyse the innovative products / services of the FinLab participants. The participant may be asked to provide additional information that is necessary for the analysis. Within 25 working days, FinLab will send the participant a report analysing their innovative product / service from a regulatory point of view. If necessary, this period may be extended accordingly. After sending such a report, the participant and FinLab representatives will meet in person to discuss the content of the report.

There is no testing or authorization under FinLab in Portugal. The participant shall receive an analysis from the competent supervisory authorities describing how the innovative product / service can be placed on the Portuguese market in accordance with the legislation.

Among the tools designed for the Slovak regulatory sandbox (see [3.1 Tools of the regulatory sandbox](#)), the Portuguese FinLab uses only consultations. For entities that do not need to test an innovative product / service in cooperation with the competent supervisory authority and only need to clarify which legislation applies to their activities, such an alternative mode of sandbox is more appropriate than a traditional regulatory sandbox.

## 4.2 Cooperation between NBS and a private accelerator

Many entities wishing to bring an innovative product / service to the financial market need assistance not only with consultation on the relevant regulatory framework, but also with other aspects necessary for development, such as providing suitable premises for employees, technical assistance in product development, access to financing, marketing, bookkeeping, recruitment of new employees and much more. For these purposes, there are business accelerators (see [1.2 What a regulatory sandbox is not](#)) that help innovative start-ups to succeed in various ways.

The NBS could establish informal ad hoc cooperation with one or more private accelerators. The NBS employees could participate, if relevant, at lectures organized by the accelerator, where they would explain the various licenses, the conditions for obtaining them as well as the obligations of the supervised entities within a part of the program. Should the accelerator participant also have more specific questions related to its business, NBS employees could, observing the limits set out above (see [1.2 What a regulatory sandbox is not](#)), provide participants with individual consultation on financial market regulation, obviously in compliance with the principle of non-discrimination.

## Questions

*Do you consider any of the described alternatives to be more beneficial than the NBS regulatory sandbox? Please justify or provide information on another alternative to the regulatory sandbox that you consider to be the best.*

*If the regulatory sandbox or an alternative to the regulatory sandbox were not established, how could NBS help the development of the innovation ecosystem in the Slovak Republic?*

*What aspects of financial market regulation or NBS's supervisory remit constitute the biggest barriers to the implementation of innovations?*

*Do you have a comment or idea regarding financial innovations that you would like to share in this consultation?*

## 5 Follow-up to the public consultation

The results of the consultation will be published on the NBS website. If stakeholders demonstrate interest and agreement to create a certain type of regulatory sandbox or its alternative, the Ministry of Finance of the Slovak Republic, together with NBS, will prepare the relevant legislative proposals. The establishment of a regulatory sandbox or its alternative can be expected at the earliest during the year 2021.