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SFC Regulatory Sandbox

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Q1 : When was the SFC Regulatory Sandbox (Sandbox) launched and why did the SFC launch the Sandbox?

A: The Sandbox was launched on 29 September 2017.

The SFC recognises that firms utilising innovative technologies and demonstrating a genuine and serious commitment to carry on regulated activities through the use of financial technology (Fintech) may increase the range and quality of products and services for investors and benefit the Hong Kong financial services industry. Accordingly, the SFC launched the Sandbox to provide a confined regulatory environment for qualified firms to operate regulated activities before Fintech is used on a fuller scale.

Q2 : Do Platform Operators need to enter the Sandbox upon being licensed?

A: The SFC expects that Platform Operators should enter the Sandbox upon being licensed.

As the technology at the core of the Relevant Activities may be novel, for the sake of market integrity and better investor protection, the reliability of the delivery of such financial services as well as the Platform Operators' internal control systems would need to be examined and monitored in a confined regulatory environment at the initial stage. The Sandbox would enable Platform Operators, through close dialogue with and supervision by the SFC under the licensing regime, to readily identify and address any risks or concerns relevant to their Relevant Activities.

The Sandbox should not be viewed as a means to circumvent the applicable legal and regulatory requirements. The SFC emphasises the paramount importance of the integrity of the market and investors' interests, and will not compromise regulatory requirements which are key to investor protection. For instance, a Platform Operator operating in the Sandbox must be fit and proper and must comply with the applicable financial resources requirements (FRR). These requirements are not onerous and, in practice, the required financial resources are necessary for operating a credible business.

The salient features of the Sandbox are as follows:

(1) Eligibility:

utilise innovative technologies and be able to demonstrate a genuine and serious commitment to carry on Relevant Activities through the use of Fintech. The establishment or activities of these qualified Platform Operators should also increase the range and quality of products and services for investors and benefit the Hong Kong financial services industry (qualified Platform Operators).

Under the SFO and/or the AMLO, no person shall carry on a business in Relevant Activities unless the person is licensed by the SFC to conduct the Relevant Activities. Accordingly, a qualified Platform Operator must be licensed and comply with the applicable requirements (including FRR).

(2) Licensing conditions:

In order to minimise risks to investors during the period when a qualified Platform Operator operates in the Sandbox, the SFC may impose licensing conditions, for example, requiring the Platform Operator to submit to periodic supervisory audits by the SFC (as discussed below).

(3) Closer monitoring and supervision by the SFC:

Qualified Platform Operators may be placed under closer monitoring and supervision by the SFC when they operate in the Sandbox. In such cases, the SFC may engage in more intensive dialogue with the Platform Operators and may highlight compliance areas where they can further improve their internal controls and risk management.

This will benefit the qualified Platform Operators and the investing public by enabling such firms to refine their business models and address any risks or concerns arising from the conduct of the Relevant Activities at the initial stage.

(4) Investor protection measures:

Qualified Platform Operators are expected to have adequate investor protection measures in place to address actual or potential risks or concerns identified when they operate in the Sandbox. For instance, qualified Platform Operators should notify their clients that they are operating in the Sandbox and provide full disclosure of the potential risks and any available compensation arrangements.

(5) Exit:

Once a qualified Platform Operator has demonstrated that its technology is reliable and fit for purpose, and its internal control procedures have adequately addressed the risks identified, the Platform Operator may apply to the SFC for removal or variation of some or all of the licensing conditions imposed, so that it may conduct Relevant Activities and be subject to supervision by the SFC on the same basis as Platform Operators which operate outside the Sandbox.

If the SFC considers that a qualified Platform Operator operating in the Sandbox is not fit and proper to remain licensed (for example, because its internal controls fail to meet the regulatory requirements), its licence may be revoked.

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