

Dear Shellie, Naomi, Lachlan etc

Thank you for asking me to provide feedback on Treasury's proposal for the regulatory sandbox.

I attach a spreadsheet which breaks down the various authorizations and provides comments on the implications of the limits.

As a guide:

- Green denotes that Fintech Aust recommended the product/service be included in the sandbox.
- Red denotes that Fintech Aust agreed that product/service was not suitable for inclusion in the sandbox.
- The text in each of the coloured squares indicates Treasury's current proposal.
- The comments now reflect my views on the implications of Treasury's current proposal.

It is encouraging that Treasury has taken some of Fintech Australia's recommendations on board – by including superannuation, simple MIS, non-cash payment facilities, credit issuance, credit intermediaries and international shares and crowd funding has been included.

However it is my view that the remaining limitations on the sandbox will substantially fetter its usefulness (to the point that it will only offer marginally more utility than the current sandbox) for the reasons described below:

- In relation to **excluded products**:
  - A number of the excluded retail client products are well established and safe, e.g. registered managed investment schemes, non-basic deposit products, IDPSs, life investment products. There seems no rationale for excluding these for retail clients.
  - While other excluded products have been the subject of past misselling, i.e. consumer credit insurance, small amount credit contracts, short term credit contracts and SMSF, there is nothing inherently wrong with these products if they are properly sold. There seems to be no logical reason why these have been excluded, when life insurance and add-on general insurance products that been similarly mis-sold are included. These types of products are exactly where disruption by good actors is needed.
- In relation to **excluded authorisations**:
  - For insurance products, the exclusion of 'issue as agent for a principal', will effectively exclude many innovative insurtechs and this will increasingly apply in other sectors as regulated product providers are increasingly appointing fintechs as issuing agents. Where the product provide is regulated and will be responsible for the entity issuing it on their behalf, there seems to be no unacceptable risk in allowing fintech issuing agents into the sandbox.
- In relation to **transaction limits**:
  - The transaction limit of \$10k for most products is just too low, we recommended \$25k. It also seems inconsistent that the limit for super is \$40k, but all other investments are limited to \$10k.
  - The sum insured limit for retail general insurance is unfeasible. Most home buildings insurance would need to be more than the \$85k limit, which means it is excluded. Many general insurance products have multiple coverages with different sums insured. For example home contents and travel policies provide \$20m public liability. To overcome this, the product limit for insurance should be based on gross premium, not sum insured.
  - For investment products, the \$10k limit will mean advice cannot be provided to anyone with an existing investment balance of >\$10k. Even if the limit only applied to advice on new investments, many people seek to invest >\$10k.
  - For superannuation, the \$40k limit will mean advice cannot be provided to anyone with an existing super balance of >\$40k.
- The \$5m **aggregate limit** is inadequate generally, especially for wholesale clients.
- The 24 month **time frame** is inconsistent with most of the other limits.
- In relation to the **limit of 100 retail clients**:
  - This takes no account of the fact that some businesses are high volume low value services; and

- o Expansion of the testing period to 24 months, is likely to be of little use if services can only be offered to 100 retail clients during that 2 year period.

A key issue that seems to have been overlooked is the combined effect of the limits - which will significantly decrease the utility of the sandbox. Some simple examples are:

- As set out above, the \$5m limit will have little or no utility for wholesale clients, for example, PI insurance sums insureds generally start at \$2m, so only 3 policies would be capable of being issued in a 24 month period.
- The 100 client limit will mean that medium to high volume businesses cannot test effectively, and most business will not be able to utilize the 24 month testing period.
- The 100 client limit and the \$10k investment limit mean there is an aggregate limit of \$1m (not \$5m) for non-super investments. For super the aggregate limit will be \$4m. For life insurance, the \$300k limit means there is potentially an aggregate limit of 16.6 clients.

In summary, while the expansion of the types of products which can be included in the regulatory sandbox is helpful, the limits on the number of clients that can be serviced and transaction sizes mean that the sandbox will still have quite limited usability.

In addition, as I have advocated from the time the sandbox was first proposed, to overcome the artificial fetters created by sandbox limits, ASIC needs to have ready mechanism for admitting businesses who don't automatically qualify for the sandbox. While ASIC has an individual relief power, the relief application process is often similar to the licensing application process in terms of complexity, bureaucracy and time frames. To overcome this, the legislation could give ASIC a specific discretion to waive the licensing requirements for innovative technology businesses and the Explanatory Memorandum would provide guidance on the criteria that ASIC would be expected to apply to determine whether to admit applicants to the sandbox.

I trust that you find this useful. Please telephone me if you have any questions.

I have circulated the spreadsheet and similar comments to a number in the Fintech Community, so you may find that these comments will also form the basis of more formal submissions.

Kind regards



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REGULATORY SANDBOX PROPOSAL - TREASURY  
Fintech Australia Recommendations - Coverage

		Legend													
				In		Individual Relief Required			N/a						
FINANCIAL SERVICES	Products		Individual Client Limit Aggregate limit is \$5m	Financial Product Advice	Apply for the Issue, Variation, Underwriting or Disposal of a Financial Product On behalf of another, i.e. a client	Arrange for the Issue, Variation or Disposal of a Financial Product by another	Issue, Vary, Underwrite or Dispose of a Financial Product as Agent for a Principal	Operate a Crowdfunding Service	Issue, Vary, Underwrite or Dispose of a Financial Product as Principal	Make a Market	Custodial or Depository	Operate a Registered Scheme	Traditional Trustee Service	Fintech Aust Comments	
Wholesale Clients	General Insurance		None	In	In	In	Out		Out					The aggregate product limit of \$5m will mean that few if any wholesale policies will be able to use the sandbox, due to the very high sums insured for wholesale insurance products, e.g. PI insurance (\$2m min), ISR, construction (\$ building cost), public and products liability (\$20m) etc. Treasury was advised that a limit on gross written premium would solve this problem.  The exclusion of 'issue, vary, underwrite or dispose as agent for a principal' will effectively exclude insurtech businesses who operate under a binder from the sandbox; most insurtech businesses are structured this way.	
	Life Insurance	Investment Life Insurance Products	None	Out	Out	Out	Out		Out		Out			The exclusion of 'issue, vary, underwrite or dispose as agent for a principal' will effectively exclude insurtech businesses who operate under a binder from the sandbox; most insurtech businesses are structured this way.	
	Deposit and Payment Products	Basic Deposit Products		None	In	In	In	Out		Out	Out	Out	Out	Out	
		Non-basic Deposit Products		None	In	In	In	Out		Out	Out	Out	Out	Out	
		Non-cash Payment Products		N/a				In		Out	Out	Out	Out	Out	
	Foreign Exchange Contracts		None	In	In	In	Out		Out	Out	Out	Out	Out		
	Government Debentures, Stocks or Bonds		None	In	In	In	Out		Out	Out	Out	Out	Out		
	Retirement savings accounts		None	In	In	In	Out		Out		Out		Out		
	Securities		None	In	In	In	Out	In	Out	Out	Out	Out	Out		
	Superannuation	Regulated	None						Out	Out	Out	Out	Out		
	Carbon Credits	Aust Carbon Credit Unit		None	In	In	In	Out		Out	Out	Out	Out	Out	
		Eligible International Emissions Unit		None	In	In	In	Out		Out	Out	Out	Out	Out	
	Derivatives		N/a	Out	Out	Out	Out		Out	Out	Out	Out	Out		
	Margin lending facility	Standard		N/a	Out	Out	Out	Out		Out				Out	
		Non Standard		N/a	Out	Out	Out	Out		Out				Out	
	Registered managed investment schemes	Managed investment schemes		None	In	In	In	Out		Out	Out	Out	Out	Out	
		Investor directed portfolio services		None	In	In	In	Out		Out	Out	Out	Out	Out	
		Managed discretionary account services;		None	In	In	In	Out		Out	Out	Out	Out	Out	
		Horse racing syndicate		None	In	In	In	Out		Out	Out	Out	Out	Out	
		Time sharing Scheme		None	In	In	In	Out		Out	Out	Out	Out	Out	
Unregistered Managed Investment Schemes		None	In	In	In	Out				Out		Out			
Miscellaneous Financial Facility	Miscellaneous financial investment products		None	In	In	In	Out		Out	Out	Out	Out	Out		
	Miscellaneous financial investment products - MDA services		None	In	In	In	Out		Out	Out	Out		Out		
	Miscellaneous financial risk products;		None	In	In	In	Out		Out	Out	Out	Out	Out		

REGULATORY SANDBOX PROPOSAL - TREASURY  
Fintech Australia Recommendations - Coverage

		Legend												
				In		Individual Relief Required			N/a					
FINANCIAL SERVICES	Products		Individual Client Limit Aggregate limit is \$5m	Financial Product Advice	Apply for the Issue, Variation, Underwriting or Disposal of a Financial Product On behalf of another, i.e. a client	Arrange for the Issue, Variation or Disposal of a Financial Product by another	Issue, Vary, Underwrite or Dispose of a Financial Product as Agent for a Principal	Operate a Crowdfunding Service	Issue, Vary, Underwrite or Dispose of a Financial Product as Principal	Make a Market	Custodial or Depository	Operate a Registered Scheme	Traditional Trustee Service	Fintech Aust Comments
Retail Clients	General Insurance		\$85,000	In (other than CCI)	In	In	Out							Imposing the limit on the sum insured: - Will exclude most home contents and travel insurance policies which include public liability cover of \$5-\$20m. - Will effectively exclude home buildings policies (and some sickness and accident policies) which need higher sums insured. Treasury was advised that a limit on gross written premium would solve this problem.  The exclusion of 'issue, vary, underwrite or dispose as agent for a principal' will effectively exclude insurtech businesses who operate under a binder from the sandbox; most insurtech businesses are structured this way.
	Life Insurance	Life Risk Insurance Products	\$300,000	In	In	In	Out		Out					The exclusion of 'issue, vary, underwrite or dispose as agent for a principal' will effectively exclude insurtech businesses who operate under a binder from the sandbox; most insurtech businesses are structured this way.
		Investment Life Insurance Products	N/a	Out	Out	Out	Out		Out		Out		Out	
	Deposit and Payment Products	Basic Deposit Products	\$10,000	In	In	In	Out		Out	Out	Out	Out	Out	The \$10k limit is likely to fetter effective testing of many fintech business models by excluding their target clients.
		Non-basic Deposit Products	N/a	Out	Out	Out	Out		Out	Out	Out	Out	Out	
		Non-cash Payment Products	\$10,000				In		Out	Out	Out	Out	Out	The \$10k limit is likely to fetter effective testing of many fintech business models by excluding their target clients.
	Foreign Exchange Contracts		N/a	Out	Out	Out	Out		Out	Out	Out	Out	Out	
	Government Debentures, Stocks or Bonds		\$10,000	In	In	In	Out		Out	Out	Out	Out	Out	The \$10k limit is likely to fetter effective testing of many fintech business models by excluding their target clients.
	Retirement savings accounts		N/a	Out	Out	Out	Out		Out		Out		Out	
	Securities		\$10,000	Aust and international listed	Aust and international listed	Aust and international listed	Out	In	Out	Out	Out	Out	Out	The \$10k limit is likely to fetter effective testing of many fintech business models by excluding their target clients.
	Superannuation	Existing holdings	\$40,000	In	In	In	Out		Out	Out	Out	Out	Out	The \$40k limit will prevent fintechs advising on super balances of >\$40k from utilising the sandbox. This will effectively exclude most superannuation advice, which is sorely needed). It would be more effective to apply the limit only to new super contributions.
		New contributions	\$40,000	In	In	In	Out		Out	Out	Out	Out	Out	
		SMSF establishment	N/a	Class of product only Out	Out	Out	Out		Out	Out	Out	Out	Out	There seems little reason to exclude class of product advice on SMSFs, which is relatively straightforward.
	Carbon Credits	Aust Carbon Credit Unit	N/a	Out	Out	Out	Out		Out	Out	Out	Out	Out	
		Eligible International Emissions Unit	N/a	Out	Out	Out	Out		Out	Out	Out	Out	Out	
	Derivatives		N/a	Out	Out	Out	Out		Out	Out	Out	Out	Out	
	Margin lending facility	Standard	N/a	Out	Out	Out	Out		Out				Out	
Non Standard		N/a	Out	Out	Out	Out		Out				Out		
Registered managed investment schemes	Simple managed investment schemes	\$10,000	In	In	In	Out		Out	Out	Out	Out	Out	The \$10k limit is likely to fetter effective testing of many fintech business models by excluding their target clients.	

