



ASIC

Australian Securities & Investments Commission

ASIC's regulatory sandbox

*A speech by John Price, Commissioner,
Australian Securities and Investments Commission*

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CHECK AGAINST DELIVERY

Hi everyone. Thanks for taking the time to come down tonight, to K&L Gates for hosting us here and to the Perth Fintech Meetup team for coordinating this event.

I am John Price, a Commissioner at ASIC. Tonight I am looking forward to explaining the regulatory sandbox framework we launched at the end of last year and showing you how it could potentially be of benefit to your business or clients.

As for the run of events, I'll start by briefly telling you a bit about ASIC and, importantly, what guides us in our regulation of fintechs. I'd also like to provide you with an update on our Innovation Hub, which has expanded since its launch and may be doing other work that is of interest to you. Then, I'll explain ASIC's regulatory sandbox framework, and how we are balancing facilitation and promoting consumer and market integrity outcomes. Finally, I'd like to talk to you about ASIC's recent work in engaging with the regtech sector, and some opportunities for firms and ASIC.

We'll allow plenty of time for your questions at the end, as we know that you are keen to understand how the framework could apply to your own work.

ASIC's regulation of fintechs

For those who aren't familiar with us, ASIC is Australia's corporate, markets and financial services regulator.

We contribute to Australia's economic reputation and wellbeing by ensuring that Australia's financial markets are fair and efficient, and are supported by confident and informed investors and consumers.

When it comes to regulating fintechs, the challenge for us is striking a balance between our commitment to encouraging innovation (and all of the opportunities created by fintech) without compromising on the proper regulation of financial products and services.

As technology changes over time, it is natural to experience disruptions that challenge the existing regulatory framework. And it is very important that ASIC does not stand in the way of technological change that may improve outcomes across the financial system. However, we also need to continue to target our strategic objectives to ensure good governance in the financial sector.

We are guided by a few principles to help us achieve that balance:

- being flexible and adaptable to the speed and nature of change
- resisting the temptation to jump before we properly understand developments
- ensuring that we respond in a technologically neutral way
- ensuring we have the skills and expertise to be an effective regulator in this space.

Innovation Hub

At the heart of ASIC's response to fintech developments is our Innovation Hub. We established the Hub in 2015, primarily to assist fintech start-ups to navigate our regulatory framework.

The Hub is partly a response to particular challenges faced by start-ups (such as lack of experience with the regulatory framework, limited resources, etc.), but it is also a way of recognising that innovative products and services often do not fit within existing rules and policy.

The Innovation Hub is consistent with the government's deregulatory agenda. Through it, ASIC is streamlining our engagement with the fintech sector and removing red tape where we can.

The Innovation Hub aims to help fintechs in a few key ways:

- providing access to our senior people to streamline processes
- offering informal guidance to help bridge any knowledge and resourcing gaps
- helping businesses better understand our framework.

Another important part of our work in this space is collaborating with other regulators to understand developments, and help entrepreneurs expand their target markets into other jurisdictions.

We have signed cooperation agreements with the Monetary Authority of Singapore (MAS), the United Kingdom's Financial Conduct Authority (FCA), the Ontario Securities Commission (OSC) and the Capital Markets Authority in Kenya (CMA).

These agreements provide for information sharing, as well as support for Australian fintech start-ups to access markets in other jurisdictions, and we hope they make international expansion as streamlined as possible for you.

In 2016, the Innovation Hub also started engaging with and providing informal assistance to regtech businesses. I will talk a bit more about regtech later.

You can learn more about the different aspects of the Hub and the services we offer though it on our [webpages](#). You can also read our latest news and sign up for updates there too.

Since its inception, the Innovation Hub has worked with 165 entities – 125 of which have received informal assistance. Since March 2015, ASIC has granted 33 new Australian financial services (AFS) licences and Australian credit licences (credit licences).

Our statistics on the licensing of fintechs also indicate that, on average, Innovation Hub engagement has led to a material reduction in the time taken to get licenced. In other words, it's worth your while using the Innovation Hub.

If you haven't already, I encourage you all to take a look at the [eligibility criteria](#) to see if your business can receive some informal assistance through the Hub. It's intended to help you consider key compliance issues as early as possible in your planning process.

I wanted to run through all that to make it clear that there are benefits and efficiencies to be obtained through the Innovation Hub, and I urge you keep the work we are doing on your radar.

ASIC's regulatory sandbox framework

One of the key topics we are all here tonight to focus on, though, is a major initiative we launched last December: ASIC's regulatory sandbox framework and, in particular, the opportunities it creates for businesses.

Stepping back, we consulted in depth with the sector in the middle of last year to understand the issues and barriers faced by new businesses seeking to enter the financial services market. Part of this process involved looking at alternative approaches of our international equivalents, as well as looking at our existing framework.

Despite there being a lot of flexibility in the existing regulatory framework, our findings were that innovative start-up businesses continue to face three interconnected issues:

- speed to market
- organisational competence – that is, the training and experience needed for a licence
- access to capital.

In putting together options to assist in mitigating the speed to market and organisation competency issues, we must ensure we are balancing additional regulatory flexibility with ASIC's overall strategic priorities.

We wanted to provide some additional flexibility and guidance to help satisfy the fundamental principles of regulation and licensing in alternative ways that help address the unique challenges that fintechs face.

So, why is ASIC proposing a licensing exemption and other measures? Before we can answer this question, we need to look what the licensing framework looks like at the moment and the existing barriers. While I won't go into great detail, I will outline that there is already significant flexibility for innovative business models in the current financial services framework, including:

- modular financial services and credit licensing frameworks – under which narrower business models may have reduced compliance obligations
- the option for businesses to operate as a representative of an existing financial services or credit licensee
- ASIC's discretion in relation to organisation competency based on submissions made under Option 5 in [Regulatory Guide 105](#) *Licensing: Organisational competence* (RG 105)
- ASIC's policy framework, which allows us to consider granting industry-wide or entity-specific waivers and issue no-action letters. Examples include existing ASIC relief for 'low-value' non-cash payment products like stored value cards and relief granted to marketplace lending providers from the withdrawal requirements.

A key step we have taken to assist fintech start-up businesses is to establish our regulatory sandbox framework, where entrepreneurs can develop and test their ideas. It is comprised of three broad options for testing new products or services:

- providing additional guidance and examples on how ASIC exercises discretion under existing policy to assess the organisational competence of a licensee applicant
- modifying ASIC's policy on a licensee's organisational competence for some limited-in-scale, heavily automated businesses
- implementing a limited industry-wide licensing exemption to allow eligible businesses to test specified services for up to 12 months – provided consumer protections are in place.

So, how can the regulatory sandbox help? The sandbox helps by improving the opportunity for fintechs in three key areas:

- speed to market – providing an environment for testing without a licence
- organisational competency – more examples and greater flexibility
- access to capital – reducing testing costs.

We are providing this sandbox for fintech businesses to test their services prior to obtaining an AFS licence or credit licence. This gives them the opportunity to prove a business model and investigate what strategy will work best for their business.

In RG 105, we describe what we look for when we assess compliance with the requirement that AFS licensees maintain competence to provide the financial services covered by their licence.

Our experience is that innovative start-up businesses frequently rely on Option 5 in RG 105 for one or more of their responsible managers. So, we have provided additional guidance including examples of how we assess whether a responsible manager has the appropriate knowledge and skills under Option 5, having considered the nature, scale and complexity of the applicant's proposed business, and the nature of a responsible manager's role.

We recognise that, where a licensee has a heavily automated business model and a small client base, responsibility for decisions about their financial services may not require significant day-to-day involvement from their responsible managers in all cases. So we proposed that a licensee may, in some circumstances, be able to meet these obligations in a different way.

A licensee with a small-scale, heavily automated business may nominate a responsible manager who will provide regular sign-off on the licensee's processes and systems, and the quality of the financial services provided. Such a responsible manager does not need to have day-to-day involvement in the business, but must be available as needed.

Regulatory sandbox exemption

Another key step ASIC has taken to assist fintech start-up businesses is the establishment of a regulatory sandbox exemption – essentially a 'lighter touch' regulatory environment. It includes a world-first class waiver that allows eligible businesses to test specified services for up to 12 months with up to 100 retail clients, provided they also meet certain consumer protection conditions and notify ASIC before they commence the business.

This is a white-list approach as there is no ASIC review of each proposed test and, by contrast, sandbox proposals in other jurisdictions have involved the regulator selecting applicants and negotiating individual testing terms.

We think that this proposal will be truly beneficial for start-up businesses with limited resources for a number of reasons:

- First, the testing phase will allow businesses to attract early investment before they need to incur compliance costs such as obtaining an AFS licence or, alternatively, it will help place them in a stronger bargaining position before they begin negotiations with an existing licensee about operating as an authorised representative.
- Second, the licensing exemption will also facilitate more rapid development and business model changes. Where testing suggests that the first business model is not viable, the business will be able to more rapidly adjust its offering without incurring substantial costs.
- Finally, a licensing exemption will remove barriers to entry into the financial services market and foster increased competition, which we think will ultimately benefit consumers and the financial services industry.

However, despite the many benefits to start-up businesses, a licensing exemption of this nature does come with risks of consumer detriment – as many of the usual consumer protections under the *Corporations Act 2001* (Corporations Act) are removed.

It is for this reason we have some limits and conditions on the regulatory sandbox exemption. These conditions are in place to ensure that the risks of poor consumer outcomes are minimised, and activities carried out under the exemption are limited to early-stage testing – that is, only for the purpose of concept validation.

It is important to remember that businesses that do not qualify for the industry-wide exemption are still able to request an individual exemption directly from ASIC. We have provided detailed guidance in [Regulatory Guide 257 *Testing fintech products and services without holding an AFS or credit licence*](#) (RG 257) on what is available and what steps they you need to take.

We encourage entities to approach us if they believe this regulatory sandbox is something they can utilise.

Engaging with the regtech sector

One sector that ASIC is monitoring the development of closely is regtech.

Regtech refers to technology solutions that assist entities with regulatory and compliance obligations. General compliance software is not new, however regtech is evolving rapidly into new spheres.

Some examples of problems that regtech firms are addressing include: identity verification; fraud prevention through transaction analysis, trade tracking and analysis; AML/KYC compliance; and monitoring company culture through people analytics.

Common features of regtech solutions are: the automation of previously manual processes, collection of standardised compliance data in real time, analysis of large datasets for compliance and risk monitoring, automatic generation of reports, and machine learning.

ASIC considers that the regtech sector has enormous potential to help organisations build a culture of compliance, identify learning opportunities and save time and money relating to regulatory matters.

Currently, our Innovation Hub is engaging with regtech in the following ways:

- hosting and attending events and meetups
- meeting with our international regulatory counterparts to discuss regtech developments and policy proposals
- liaising with and providing informal guidance to regtech businesses on their regulatory obligations.

Since mid-2016 (when we updated our Innovation Hub pages to express interest in regtech), ASIC has had over 30 meetings with regtech stakeholders and service providers.

Internationally, a number of regulators have a focus on regtech, in particular, the FCA, the OSC and the MAS. These regulators use a combination of engagement, assistance and problem solving events. Both the FCA and OSC have highlighted to ASIC the value of their problem solving events.

It should be noted that a number of regulators have not focused on regtech to date but are now starting to think about their approach. Examples include the Securities and Futures Commission of Hong Kong, the United States' Consumer Financial Protection Bureau, and the European Securities and Markets Authority.

We recently hosted our first regtech roundtable to hear a variety of views, including future opportunities, on the application of regtech in Australia. The event garnered a strong turnout with over 100 people from the sector participating in a robust discussion on the regtech landscape, while other regulators and government officials observed.

The roundtable was organised as a part of a broader strategic outreach by ASIC to the regtech sector and expanded our existing engagement with the fintech sector through our Innovation Hub.

We had two discussion sessions. The first session focused on the current regtech landscape and its development and future potential to promote good risk management and compliance outcomes. Building on this, the second session focused on the commercial, regulatory or practical barriers that may inhibit the future potential of regtech in Australia, and what options exist to respond to these barriers, including the steps that industry and ASIC can take to help promote the development and application of regtech.

The roundtable discussion will inform ASIC's regtech focus going forward. We are keen to hear from businesses that wish to share their progress in the regtech space, as well as those seeking informal assistance in developing their business.

ASIC is also developing our own in-house regtech capabilities to enhance our ability to efficiently regulate Australian financial markets. Preliminary discussions are occurring with the Australian Taxation Office, Data61, and the University of Technology Sydney's Advanced Analytics Institute to explore possible 'regtech' collaborative opportunities.

ASIC is also conducting trials of regtech technologies. Examples of this include: a cognitive tool to analyse webpages of accountants that offer self-managed superannuation funds services, machine learning applications assessing document sets to identify useful evidence, a social media monitoring tool, and markets and graph analytic tools to support identification of connections between entities.

Why is ASIC keen to develop our own in-house regtech capabilities? The reason is simple: it has potential to support us in the way we undertake our regulatory work, including engaging with industry.

We are looking to increase our engagement with firms that are developing regtech products, so we encourage regtech developers to approach us through our Innovation Hub – both existing and new entrants.

Thank you.