



Regulatory sandbox in Italy: first window period for application of FinTech projects



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As a further step in the country's digitalization process Italy provided itself with a "regulatory sandbox" - a protected environment dedicated to digital experimentation in the banking, financial and insurance sectors - pursuant to Decree 30 April 2021, no. 100¹ (the "**Decree**") issued by the Italian Ministry of Economy and Finance. The Decree sets out the rules governing the FinTech Committee² and experimentation of FinTech projects, the so called

"regulatory sandbox" of FinTech activities at the supervisory Authorities - i.e., Bank of Italy, CONSOB (the securities commission) and IVASS (the insurance supervisory authority).

What the regulatory sandbox is?

As stated by Bank of Italy, the regulatory sandbox is a controlled environment where supervised entities and FinTech operators are able to test, for a limited period of time, technologically innovative products and services in the banking, financial and insurance sectors, while

¹ The Decree 30 April 2021, no. 100, issued by the Ministry of Economy and Finance, implements the delegated act provided for under Law Decree 30 April 2019, no. 34 (the so called "Growth Decree"). The Decree entered into force on 17 July 2021.

² The Committee has a pivotal role within the regulatory sandbox and for the development of FinTech experimentation; it is established at the Minister of Economy and Finance and its main role is to monitor the development of FinTech at a national, European and international level in order to identify the objectives, define the programs and put in place the actions to foster the development of FinTech, also by promoting legislative simplifications, guidelines and best market practices, ensuring, at the same time, end users' protection and financial stability. The Committee facilitates interaction between FinTech operators as well as the flow of information between foreign competent supervisory Authorities in the context of FinTech.



benefiting from a simplified transitional regime and a close interaction with their respective supervisory Authorities (Bank of Italy, CONSOB and IVASS). The supervisory Authorities, by observing the dynamics of technological development, may identify the most appropriate and effective regulatory interventions to facilitate the development of FinTech, and limiting the spreading of potential risks.

The aim of the regulatory sandbox is thus to support the growth and evolution of the Italian market through the introduction of innovative models in the banking, financial and insurance sectors, guaranteeing, at the same time, adequate levels of protection for consumers and competition, while preserving financial stability.

Admission to the FinTech experimentation

The projects that are eligible for submission to the relevant supervisory Authority for experimentation shall relate to innovative services, products or procedures in the banking, financial or insurance sector and provide benefits to end users or contribute to market efficiency. Further, such projects must be in a sufficiently advanced phase for experimentation and economically and financially sustainable.

In particular, the experimentation may be requested for a technological innovation activity that affects the banking, financial or insurance sector and that, alternatively:

1. is subject to authorization or registration in a list or register kept by Bank of Italy, CONSOB or IVASS;
2. although in abstract it is subject to authorisation or registration in a list or register kept by at least one of Bank of Italy, CONSOB and IVASS, it falls within a case of exclusion provided by law (including, but not limited to, cases in which the activity is not carried out with regard to the public);
3. consists of a service or activity that affects regulated aspects in the banking, financial or insurance sectors to be provided in favour of a supervised or regulated entity;

4. is carried out by an entity supervised or regulated by Bank of Italy, CONSOB or IVASS, having its registered office or a branch in Italy, or by an entity having its registered office in another member State of the European Union and operating in Italy under the freedom to provide services regime.

Access to the experimentation is allowed generally to entities which are carrying out or intend to carry out FinTech activities, and is forbidden to such entities that are subject to over-indebtedness, insolvency or restructuring proceedings, or that, if so required by law, have not approved and filed with the competent Companies' Register their financial statements for the last five years (or, if established in shorter period, from their constitution).

The first time window for submission of projects

Admission to the regulatory sandbox of projects relating to innovative services, products or procedures in the banking, financial or insurance sector, embodying the above mentioned features, shall be requested by submitting an application to the competent supervisory Authority (i.e., Bank of Italy, CONSOB or IVASS).

The first time window for the submission of projects for admission to the regulatory sandbox has been set from 15 November 2021 to 15 January 2022, and, for such period, no limits have been provided on the maximum number of applications or on the subject matters of the proposed projects.

The application for admission shall contain a detailed description of the proposed project, the goals pursued, the duration and the expected added value; a preliminary feasibility report ("proof of concept"), together with a prospective assessment of the economic and financial sustainability or financial coverage of the project; an indication of the supervisory guidelines or provisions adopted by the supervisory Authorities of which a total or partial derogation is requested during the experimentation; the indication and assessment of potential risks and specific description of the appropriate measures that will be put in place to control such risks; the description of the measures taken to

safeguard end users' interests, including, among others, a correct and complete information about the experimental nature of the project and the risks involved, mechanisms for the collection of an "informed consent" to enter into a relationship with the entity admitted to the experimentation, the right to withdraw at any moment from the contract with a notice of at least fifteen days, without expenses or penalties, and mechanisms of rapid compensation in case of liability of the service provider admitted to the experimentation.

The maximum duration for each project admitted to experimentation is of 18 months, subject to possible extensions (of maximum 12 months) with the consent of the competent supervisory Authority.

Admission to the experimentation

The entities admitted to the experimentation are included in a register held by the Committee and, at the end of the testing period, shall submit to the competent supervisory Authority an economic and operational report on the experimentation.

In case of positive outcome of the experimentation and should the continuation of the activities thereunder require amendments to regulatory provisions by the competent supervisory Authorities, the latter shall commence preliminary investigations to evaluate the amendments to be provided. The Committee is informed by the competent Authority of the conclusion of the experimentation and receives a report on its outcome, which highlights, if that is the case, the amendments to the regulatory legislation in force which shall be adopted due to the technological developments.



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