

Arizona Regulatory Sandbox Program Participants

#1, signed September 26, 2018 by Mark Brnovich

Cooperation Agreement Relating to Innovation Functions

The Financial Supervisory Commission, Taiwan and the Office of Arizona Attorney General

Announced in OAG press release October 11, 2018. See <https://www.azag.gov/press-release/arizona-accepts-first-participant-fintech-sandbox>

MOU obtained via Public Records request, October 16, 2018. On file with CEI.

From OAG press release:

“Attorney General Brnovich also announced today a new cooperation agreement has been signed with Taiwan’s financial regulator, the Financial Services Commission (“FSC”), designed to increase the reach of Arizona’s FinTech Sandbox. In September, the Attorney General’s Office finalized a Memorandum of Understanding (MOU) with the FSC to establish a cooperation structure between Arizona’s program and the FSC’s program in Taiwan. The goal is to create an information-sharing arrangement between the regulators that may result in the opportunity for businesses to develop/test eligible FinTech (financial technology) products in both markets.”

The agreement sets out the process for the OAG RSP and the Taiwan FSC to refer “innovative” financial services companies that wish to operate in the other party’s jurisdiction and to provide pre-Authorization assistance. In Arizona, that means Taiwan companies would get early assistance in applying to enter the Regulatory Sandbox Program which permits companies to do business in Arizona for a limited period of time without being licensed or supervised by the Arizona Department of Financial Institutions.

The criteria for the OAG giving support to a Taiwanese company does NOT require that the “innovative financial products or services” benefit consumers. “The Innovator Business should offer innovative financial products or services that **benefit the consumer, investor and/or industry...** (5.4.1, page 2 MOU). (Emphasis added.) Although benefiting consumers is one option, this means that Arizona has agreed to assist Taiwan-based companies to apply to enter the Arizona Regulatory Sandbox Program to test products on Arizona consumers that could only benefit the investor or the industry.

The parties agree to consider undertaking joint innovation projects on the application of key technologies, with examples given of “digital and mobile payments, blockchain and distributed ledgers, big data, API, and other areas of new technologies.” (5.7, page 3 MOU). **These examples are not all particularly new or groundbreaking technological innovations.**

The Information Sharing section of the MOU **does not require either Arizona or Taiwan to share information about consumer complaints**, any enforcement actions (such as under the Arizona Consumer Fraud Act), or any concerns they have about an “Innovator Business.” (See 5.8, page 3 MOU).

The MOU does not require the two government agencies to share supervisory related information. The MOU states: “The Parties undertake, subject to applicable domestic laws and Regulations of each Party and paragraph 6.2 of this Cooperation Agreement, to share further **non-supervisory related information on an Innovator Business** which has been referred to a Receiving Party for support by a Referring Party (including the nature of the support to the Innovator Business by the Referring Party).” (5.9 MOU, page 3.) This likely means that neither Taiwan nor Arizona are required to share information on any enforcement action, result of a regulatory examination of the business, or any corrective action taken by the licensing/supervisory authority in either country, such as the Arizona Department of Financial Institutions.

The MOU does not foster transparency. Section 6 of the MOU spells out confidentiality and permissible uses of information shared by Taiwan and the OAG. If a Public Records request is made for any information provided by a Taiwan company or the FSC that the OAG is required to disclose under terms of the Regulatory Sandbox Program law, the OAG would have to notify the Taiwanese entity prior to complying with the requirement and “should assert all appropriate legal exemptions or privileges with respect to such information as may be available.” (6.5, page 4 MOU.)

Taiwan MOU on file with Jean Ann Fox
November 12, 2018

AZ AG RSP Taiwan MOU memo