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## ARIZONA REVISES ITS REGULATORY SANDBOX

On April 1st, the Arizona Governor signed a bill that revises aspects of Arizona's regulatory sandbox, which is the first operating state sandbox in the United States. See 2019 Arizona H.B. 2177. Arizona launched its sandbox in October 2018 and has three companies participating in the sandbox. This is the first time Arizona has made statutory adjustments to its sandbox since the sandbox's launch.

Generally, Arizona made four revisions to its sandbox: First, Arizona clarified what types of innovations can be tested in the sandbox by refining the definitions of the terms "innovation" and "product or service." The bill also explains that a person possessing a license or other authorization under Arizona law may apply to participate in the sandbox for a product or service outside the scope of its license or authorization.

Second, Arizona adjusted provisions related to the permissible test population for sandbox participants. The current sandbox limits the test population to 10,000 Arizona residents with one exception. The revised sandbox allows participants acting as money transmitters to test their innovations on nonresidents with a physical presence in Arizona at the time of the transaction. Participants may request an increase in the permissible test population for one year for the purposes of obtaining a license or other authorization required by law. The bill also clarifies that an agent, business partner or investor of a sandbox participant are not be considered part of the test population.

Third, Arizona will require applicants for the sandbox to state how the applicant will employ cybersecurity measures during its innovation testing to avoid breaches and protect consumer and transaction data. The sandbox application requires applicants to provide other information regarding the anticipated innovation testing, including how entering the sandbox would enable a successful test of the innovation.

Finally, the bill addresses the legal relief available to participants and the state agency responsible for enforcing laws in the sandbox. When enacted, sandbox participants were not subject to any state laws that regulated the tested innovation except as provided in the sandbox statute. As revised, sandbox participants will not be subject to Arizona laws that require a license or other authorization that may

regulate the tested innovation, except as provided in the sandbox statute. The bill also confirms that the Arizona Attorney General, who is responsible for the sandbox, will alone enforce state regulatory laws applicable to sandbox participants.

States are in the beta testing phase of regulatory sandboxes. With only one operating sandbox, it remains to be seen how many companies will take advantage of state regulatory sandboxes and what is the "best" design for such state sandboxes. Recently, Wyoming and Utah passed legislation to create state regulatory sandboxes. Aspects of the Wyoming and Utah sandboxes vary from the Arizona sandbox. In 2018, the Consumer Financial Protection Bureau ("CFPB") proposed the creation of the first federal regulatory sandbox. The CFPB has yet to finalize the sandbox details and parameters. These sandboxes could provide insight on the preferable regulatory scheme to enable innovation testing while protecting consumers during the test. □

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