



STATE OF NEVADA  
**DEPARTMENT OF BUSINESS AND INDUSTRY**  
**OFFICE OF THE DIRECTOR**

STEVE SISOLAK  
*Governor*

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TERRY REYNOLDS  
*Director*

MARCEL SCHAERER  
*Deputy Director*

## **MINUTES**

### **WORKSHOP**

**TO SOLICIT COMMENTS ON LCB FILE NO. R089-19 AND POLICY  
AND PROCEDURE X.0.0 OF THE B&I OFFICE OF THE DIRECTOR  
(NAC 597)  
*LCB File No. R089-19***

Date: November 21, 2019

Time: 1:00 pm

Location: Las Vegas  
Nevada State Business Center  
Department of Business & Industry  
3300 W. Sahara Ave., Suite 400  
Nevada Room  
Las Vegas, NV 89102

Video Conferenced to:  
Carson City  
Nevada Division of Insurance  
1818 College Pkwy.  
First Floor Hearing Room  
Carson City, NV 89706

Present: In Las Vegas:

Terry Reynolds, Director, Dept. of Business and Industry  
Sandy O'Laughlin, Commissioner, Financial Institutions Division  
Mary M. Young, Deputy Commissioner, Financial Institutions Division  
Cathy Sheehy, Commissioner, Division of Mortgage Lending  
Zeljana Adjari, Deputy Commissioner, Division of Mortgage Lending  
Cris Carmona, Chief Investigator, Nevada Consumer Affairs Unit  
Chris Weiss, Mgmt. Analyst, Director's Office, Dept. of Business and Industry  
Beth Waite, Education and Information Officer, Division of Mortgage Lending

Teri Williams, Public Information Officer, Dept. of Business and Industry  
Susan Augienello, All Western Mortgage  
Misty Bethany, Ignite Funding  
Peter Aldous, Legal Aid Center of Southern Nevada  
Taylor Altman, Legal Aid Center of Southern Nevada  
Whitney Jones, Boyd Law School Investor Protection Clinic  
Ryan Flanagan, Boyd Law School Investor Protection Clinic  
Bill Theobold, no affiliation listed

In Carson City:

Mark Krueger, Chief Deputy Attorney General & Consumer Counsel, Nevada AGO  
Michelle Newman, Deputy Attorney General, Nevada AGO  
Ernest Figueroa, Nevada Consumer Advocate, Nevada AGO  
Doug Liveringhouse, Northern Managing Examiner, Financial Institutions Division  
Rick James Dutton, Nevada Consumer Affairs Unit  
Lynn T. McConnell, Chief Financial Officer, Custody Digital  
Matt Digesti, VP Government Affairs, Blockchains LLC  
Riley Snyder, Nevada Independent  
Tyson Falk, Policy Analyst, McDonald Carano  
Marcus Rogers, Legacy Escrow

**R089-19 and B&I Policy and Procedure X.0.0  
November 21, 2019**

*Management Analyst Chris Weiss on behalf of Director Terry Reynolds:*

**1. CALL TO ORDER**

This is the time and place set for the workshop on a proposed regulation and a policy and procedure pertaining to Chapter 597 of the Nevada Administrative Code (“NAC”) and a Regulatory Experimentation Program for Product Innovation as described by the Notice of Workshop dated October 30, 2019, and posted on October 31, 2019 and November 1, 2019. Today is Thursday, November 21, 2019. The time is 1:01 p.m. This hearing is scheduled for 1:00 p.m. and is being video conferenced between the two locations: the Nevada Department of Business and Industry, Nevada Room, 3300 W. Sahara Ave., Suite 400, Las Vegas, NV 89102; and the Nevada Division of Insurance, First Floor Hearing Room, 1818 College Parkway, Carson City, NV 89706.

Introductions:

Terry Reynolds, Director, Nevada Department of Business and Industry  
Sandy O’Laughlin, Commissioner, Financial Institutions Division  
Mary M. Young, Deputy Commissioner, Financial Institutions Division  
Cathy Sheehy, Commissioner, Division of Mortgage Lending  
Zeljana Adjari, Deputy Commissioner, Division of Mortgage Lending  
Mark Krueger, Chief Deputy Attorney General, Nevada Office of Attorney General

Ernest Figueroa, Nevada Consumer Advocate, Nevada Office of Attorney General  
Michelle Newman, Deputy Attorney General, Nevada Office of Attorney General  
Chris Weiss, Management Analyst, B&I Director's Office

#### Hearing Instructions:

If you have not already done so, please take the time to turn off all cell phones. There is a sign-in sheet at the door. If you have not already done so, please sign in. There are copies of the Notice of Workshop, proposed regulation, policy and procedure, small business impact statement, Senate Bill 161, and written comments received to date available by the sign-in sheet.

## **2. COMMENTS BY GENERAL PUBLIC**

We will receive your comments on the proposed regulation and policy and procedure. Please stand, state your name, and business affiliation. If you have written material that you would like to submit, please hand it to a Department staff member at the conclusion of your comments.

Any comments from those in Carson City?

*Lynn McConnell, Chief Financial Officer, Custody Digital Group, asked the Department to consider steps to broaden the sandbox program's features to make it more attractive both to larger institutions with diversified financial services and to the fintech providers who served them. She specifically cited the customer and transaction limits in the authorizing statute as not reflecting regard for trial of a product targeted at large institutional customers. Although the statute appeared to give the Director broad authority in these areas, she said it would help if there were some guidance or clarification for these potential applicants. She suggested defining exit procedures for the program, as well as providing mechanisms for guidance or meetings between participants and regulators. Lastly, she referenced approaches being taken by the Financial Conduct Authority in London and the new Express Sandbox Program run by the Monetary Authority in Singapore as worth following and incorporating where practical. She discussed trends in data sharing among international sandbox programs and the Global Financial Innovation Network (GFIN). A copy of her comments was submitted by email after the workshop and are included as Attachment A.*

*Mark Krueger, Chief Deputy Attorney General, asked for clarification on what kind of data Ms. McConnell envisioned being shared. Ms. McConnell described how a participant might have some aspect of their test design (for example, a survey or some other feedback loop) where data is coming back from consumers, institutional users, or small and medium enterprises, and one might want to know and share those results. She cited such things as feedback on marketing or disclosure effectiveness or similar testing data – the types of exchanges commonly encountered in sandboxes. Mr. Krueger asked whether that would involve personally identifying information (PII) and she replied no, she wasn't commenting on that one way or another. She noted if a company and customer agreed to that and the company held the data properly according to law or regulation, a sandbox regulator might want to inquire about it and could – she didn't think*

*there was anything to prevent it. However, she also didn't think sandbox companies were focused on collecting PII unless it factored into the delivery or design of their product.*

*Matthew Digesti, Vice President of Government Affairs, Blockchains LLC, said the company had submitted written comments prior to the workshop (included as Attachment B). He thanked Terry Reynolds, the Department, and representatives of the Bureau of Consumer Protection for their work on the Nevada sandbox program. He referenced the program's economic development benefits for the state and said he appreciated the efforts being made.*

Any additional comments from those in Carson City? Seeing that there are no additional comments in Carson City, any comments from the Las Vegas office?

*Peter Aldous, Staff Attorney, Legal Aid Center of Southern Nevada, said he wanted to focus on one of the important mandates from the Legislature: consumer protection. Mr. Aldous noted that Section 30 of Senate Bill 161 gave the Director power to implement protections for consumers of financial products or services under the sandbox program. He thought one of the regulations or protections that needed to be in place was the ability or authority of the Director to require posting of a bond. Mr. Aldous said that, given the nature of the businesses in focus, some were going to fail. Referring to blockchain technology, he noted one of its benefits was the inability to change data once the data was in the blockchain, but that also meant it was very hard to undue any fraud or damage done as a result of that work. He said he also worked on bankruptcy cases and saw firsthand what happened when businesses overextended themselves and failed – there were few assets left and that is where a bond would benefit consumers. Mr. Aldous noted that almost all the NRS areas covered by the Nevada sandbox program require posting of bonds (the exception being installment loans); therefore, he said that, at the discretion of the Director and in an amount that is appropriate, the posting of a bond should be a requirement of the program.*

*Taylor Altman, Staff Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada, said she represented low-income Nevada consumers who would be directly affected by the sandbox program and was requesting the implementation of an interest-rate cap in the regulation to protect consumers and uphold the Legislature's intent in enacting Senate Bill 161. She briefly described her view of the legislative intent of the program, stating that the program was not intended for use by existing businesses such as payday lenders to avoid regulations specifically implemented to protect Nevadans. She discussed the legislative history behind Senate Bill 161, noting that the original bill included reference to NRS 604A, which governs high-interest loans, in the list of statutes from which program participants could be exempted. The bill was subsequently amended to remove NRS 604A, making it clear the Legislature did not intend for high-interest lenders to participate in the program. She referenced the written comments provided by Financial Service Centers of America (FISCA) in response to the workshop posting and said the letter mischaracterized the program's purpose and legislative intent. (A copy of the FISCA letter is included as Attachment C.) She said the payday lending lobby was trying to sneak into the program and therefore it was imperative for the Director to*

*implement an interest-rate cap in the regulations to protect Nevada consumers from predatory lenders.*

*Mr. Krueger replied to Ms. Altman's comments by underscoring the commitment of the Bureau of Consumer Protection when it came to protecting Nevada consumers. He also noted its recommendation to the Director that neither the regulation, nor the sandbox program, be used as a mechanism to thwart or avoid licensing under the specific areas of NRS cited (check cashing, payday lending, and title lending).*

*Terry Reynolds, Director, Nevada Department of Business and Industry, seconded Mr. Krueger's comments and affirmed that was how the Department felt about the issue raised by Ms. Altman.*

Any additional comments from those here in Las Vegas? Seeing that there are no additional comments at this time, we will move to Items 3 and 4 on the agenda. We will take these jointly, but in order, then discuss written comments received and hear any comments from the audience.

### **3. PRESENTATION AND DISCUSSION OF PROPOSED REGULATION** **LCB FILE NO. R089-19**

#### **General Overview of Regulation**

Section 1 creates NAC Chapter 597 by adding to it the provisions set forth in the rest of the regulation.

Sections 2 through 5 pertain to definitions. Section 2 states that words and terms used in the regulation have the meanings ascribed to them in Senate Bill 161 and Sections 3 through 5 of the regulation. Section 3 defines the phrase "change request." Section 4 defines the word "document." Section 5 defines the word "program" and phrase "Nevada sandbox program."

Section 6 provides that any authority, duty or responsibility of the Director under the Regulatory Experimentation Program for Product Innovation can be exercised or performed by any employee of the Department, if designated for such by the Director. It also states that any authority, duty or responsibility of the Department under the program can be exercised or performed by the Director.

Section 7 clarifies certain requirements for program participants, including their place of business, their need for basic business licenses, their need to get approval before engaging in a product or service test at a location where other business is being conducted, and their need to get approval before moving their place of business.

Section 8 clarifies certain minimum consents required by an applicant before the Director will consider a product or service for acceptance into the program. These include consent to the applicability of Nevada law and courts over all matters associated with the program and test; consent to the review or investigation of an applicant's credit history, criminal history and

background; and agreement to comply with all program requirements and regulations, including any requirements imposed by the Director as a condition of a product or service test approval.

Section 9 describes the Director's options for responding to consumer complaints under the program, up to and including termination of a participant's participation. It also requires the Department to submit copies of every consumer complaint received under the program to the Bureau of Consumer Protection, Nevada Office of Attorney General.

Section 10 establishes the Director's requirement for periodic or regular reporting by program participants and provides the Director with general authority to set the frequency and content of reports on a case-by-case basis.

Section 11 extends the retention period for record-keeping by program participants from two to six years. It provides guidance on what types of consumer information must be kept as part of those records and gives the Director authority to increase the retention period.

Section 12 requires participants to allow the Office of Attorney General to examine records and documents for up to six years after the end of a test.

Section 13 allows the Director to deviate from, or impose additional or more restrictive, program provisions at any time and for any reason.

#### **4. PRESENTATION AND DISCUSSION OF PROPOSED POLICY AND PROCEDURE** **Policy and Procedure X.0.0, B&I Office of the Director**

##### **General Overview of Policy and Procedure**

The proposed policy and procedure is comprised of seven major sections.

Section I outlines the purpose of the document, which is to establish guidelines for the Regulatory Experimentation Program for Product Innovation for use by Department employees as well as program applicants and participants.

Section II outlines the policy of the Department when it comes to this program, which is to conduct the program in a manner consistent with the direction and intent of the Nevada Legislature as expressed in Senate Bill 161.

Section III describes the scope of the policy, which applies to all Department employees working on behalf of the program and all program applicants and participants.

Section IV defines the general responsibility of employees and program applicants and participants when it comes to the program. That responsibility is to comply with the guidelines contained in the policy and procedure and, when uncertain, to seek guidance from the Director or Office of the Director.

Section V outlines specific procedures for six administrative areas of the program: program application, change requests, consumer disclosures, consumer complaints, status reports, and notices to the Director. I will go into these in a moment.

Section VI describes the Director's ability to deviate from the policy for any good cause, or to modify applicability of the policy or procedures to a particular product, service, applicant or participant if, in the Director's opinion, attendant circumstances warrant such modification.

Section VII describes how the policy and procedure will be communicated to relevant Department employees, program applicants, and the Office of Attorney General.

Turning back to Section V, the following administrative procedures are covered by the section:

Subsection A – Program Application. This section describes the minimum requirements that must be met before the Director will begin to consider a product or service for possible acceptance into the sandbox program.

Subsection B – Change Requests. This section describes the minimum requirements that must be met for any change request made by a participant in the program. It also outlines specific requirements for change requests related to a request for relief, a request for extension, and a request to co-locate business activity or move the place of business.

Subsection C – Consumer Disclosures. This section describes the requirements for consumer disclosures by participants in the program.

Subsection D – Consumer Complaints. This section describes the authority of the Director in administering consumer complaints. It requires participants to respond to the Director within 10 days of being informed of a complaint and sets requirements for that response.

Subsection E – Status Reports. This section requires participants to submit regular reports to the Director. It defines basic reporting requirements for program participants, including frequency and content, unless otherwise required by the Director.

Subsection F – Notices to the Director. This section requires participants to notify the Director within 24 hours of any failure of the product or service test, any discovery of a computer breach, or any change in company ownership or key management personnel and sets basic requirements for each type of notice.

## **DISCUSSION AND CONSIDERATION OF WRITTEN COMMENTS**

### **WRITTEN COMMENTS RECEIVED**

- a. On October 31 and November 1, 2019, the Department sent the proposed regulation and policy and procedure via e-mail to all licensees of the Financial Institutions Division (a total of 236 persons, of which 11 proved undeliverable) and Mortgage Lending Division (a total of 7,738

email addresses, of which 236 proved undeliverable) to solicit comment from small businesses concerning the impact that the regulation would have on their business. In addition, the Notice of Workshop, proposed regulation, policy and procedure, small business impact statement, and Senate Bill 161 were posted on the Department's website; the State's official website; at the B&I Director's Office in Las Vegas and Carson City; and at the Financial Institutions Division, Mortgage Lending Division and Nevada State Business Center in Las Vegas.

- b. The Legislative Counsel Bureau submitted questions and comments on November 4, 2019, primarily concerning the application fee amount to incorporate into the regulation, the role of applicable regulators in handling consumer complaints under the program, the frequency and timeline of participant reports under the program, the general authority of the Director to make program changes, and two definitions ("change request" and "Nevada Sandbox Program").
- c. The Department received written comments from two parties as follows:
  - i. Financial Service Centers of America (FISCA) submitted a comment letter dated November 11, 2019, primarily concerning keeping the proposed program as free of regulatory conditions or requirements as possible to encourage testing of products that target unbanked or underbanked populations; increasing the size of the available testing pool (customer base) to assure adequate scale for test analysis and capital investment; increasing the length of time permitted to tests to assure adequate data analysis and product or service development; and reducing the proposed six-year record retention schedule to the two-year minimum timeframe described in SB 161.
  - ii. Blockchains LLC submitted a comment letter dated November 15, 2019, primarily concerning documentation of all application requirements in the proposed regulation; ensuring the application process is reasonable in scope to limit costs to startups or small businesses; clarifying the respective delegation authorities of the Director as described in SB 161 and Section 6 of the proposed regulation; revising the relocation approval mechanism described in the proposed regulation to a 60-day notification of the Director and affected customers, along with a determination by the Director of no harm from the relocation; and incorporating language to allow for agreements between the Director and applicants to protect an applicant's confidential or trade secret information from public disclosure.

## **DISCUSSION AND CONSIDERATION OF AUDIENCE COMMENTS**

If anyone wishes to offer comments on any of the preceding items (the proposed regulation, draft policy and procedure, or written comments received) for the Director's discussion and consideration at this time, now is the time to do so.

Any comments from those in Carson City?

*Lynn McConnell, Chief Financial Officer, Custody Digital Group, had a question concerning Section F(1)(a) on page 21 of the workshop posting; specifically, the need to notify the Director in the event of a failure of the product or service test during the period of testing. She wanted to know what “failure” meant and was it determined by the participant, Department, etc.*

*Mark Krueger, Chief Deputy Attorney General, replied that it would depend because the Department did not know what product or services would be offered or what they would look like. He said this was a principal reason for the Director to have discretion in these matters, in order to make and adjust those determinations as the products or services entered the program and evolved in the marketplace.*

Any additional comments from those in Carson City? Seeing that there are no additional comments in Carson City, any comments from Las Vegas?

*Taylor Altman, Staff Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada, said they had suggestions regarding Section 8 of the regulation and the application process. She recommended adding additional application requirements as follows:*

- *Disclosure of whether the applicant had conducted a similar test in another sandbox jurisdiction*
- *Including a copy of any approved or denied application from another sandbox jurisdiction*
- *Including a statement outlining any complaints tied to a sandbox effort elsewhere*
- *Including a statement concerning whether such a sandbox test elsewhere was a success, failure or remains ongoing*
- *Including a statement of any regulatory actions pending against (or resolved by) the applicant elsewhere*

*She recommended posting sandbox applications online for public comment prior to the Director making his decision. She suggested allowing comments to be submitted for 45 days, then letting the applicant respond to any comments within 15 days.*

*Mark Krueger, Chief Deputy Attorney General, suggested it would be more appropriate to locate Ms. Altman’s comments in the policy rather than in the regulation (should the Director decide to pursue any of them) because the Department did not know what types of products or services might be proposed.*

*Ms. Altman offered three additional comments for use in either the regulation or policy and procedure. First, she recommended requiring participants to maintain the information they receive from customers in a secure manner. Second, she said participants should be required to give notice to consumers of any unauthorized acquisition of the data or a breach of the security system. Lastly, she thought “contact information” should be defined in Section 11 as mailing address, phone number and email.*

*Mark Krueger said that NRS Chapter 603A provided the protections Ms. Altman was referencing and these protections would still apply in the sandbox regulation. As for the need to specifically define “contact information,” Mark deferred to the Director on that determination.*

Any additional comments from Las Vegas? Seeing that there are no additional comments at this time, we will move to Item 5 on the agenda.

#### **5. PUBLIC COMMENT**

Now we will open to public comment once more. Would anyone like to make an additional comment? Any comments from those in Carson City? Any comments from Las Vegas? Seeing that there are no additional comments, we will move to Item 6.

#### **6. CLOSE WORKSHOP (ADJOURNMENT)**

The workshop for LCB File No. R089-19 pertaining to Chapter 597 of the Nevada Administrative Code and a B&I Office of the Director policy and procedure to administer a Regulatory Experimentation Program for Product Innovation is hereby closed and adjourned. Thank you.

The time of adjournment was approximately 1:36 p.m.

#### **Attachments:**

- A – Custody Digital, Lynn McConnell, 11-21-2019 written comments
- B – Blockchains LLC, 11-15-2019 written comments
- C – Financial Service Centers of America, 11-11-2019 written comments

**Chris Weiss**

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**From:** lynn mcconnell <lynn.mcconnell@custodydigital.com>  
**Sent:** Thursday, November 21, 2019 5:24 PM  
**To:** Chris Weiss  
**Cc:** lynn mcconnell; Matthew Digesti  
**Subject:** Summary of comments at public workshop LCB file no. R089-19 NV Regulatory Sandbox

Dear Chris,

Here is a summary of my remarks to be included with the public comments made today at the public workshop meeting held regarding the Nevada Regulatory Sandbox legislation at the Nevada Department of Insurance in Carson City, NV. We appreciate the opportunity to participate in the proceedings and to contribute our views on behalf of our organization.

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\*\*\*\*\*

As a representative of a company considering Nevada as a possible location for a digital financial product or service, I am pleased to see the state Department of Business and Industry promoting programs for innovation including technology, financial services and digital services. The Regulatory Sandbox proposal is a positive step in the process of developing more business for the state and we are pleased to see this progress.

One comment about the structure of the policies and procedures. The primary emphasis is on consumer protection features in both the participant reporting and the complaints management process. This is of course quite an appropriate objective. However perhaps one or two additional points that could take into account the perspective of institutional business would broaden the program features and encourage a larger number of participants to apply.

Similarly the Senate Bill 161 in sections 16 (3) and 17 (2) subsections a and b provide for specific transaction limits for each customer and maximum transaction limits for the products approved for the program. These limits do not reflect consideration for a trial of a product targeted for one or more types of institutional customers. While I realize that section 19 of the Bill grants the Director substantial powers of discretion to modify these limits and other provisions of the program, my request is that further provisions be outlined so that businesses dealing with financial products designed for larger institutions and more diversified financial customer segments can also actively consider participation in the program as the digital assets and services economy expands.

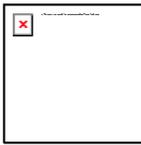
You may also wish to consider any sandbox exit procedures to be drafted as well. This might also provide for the department announcements of successful tests and company program exits for firms that has used the program to build their customer base. They can also reap the benefits of the regulatory guidance received through the program. I did not see any reference to the provision of regulatory guidance in the procedures nor any reference to interim conferences or meetings with program administrators.

Last I wish to call your attention to the successful sandbox programs run by the Financial Conduct Authority in London and the new Express Sandbox program of the Monetary Authority of Singapore. There is a movement among international regulators to share sandbox results and information for the benefit of participating companies who can test products in multiple markets and speed their path to market with data shared among interested regulatory agencies.

This arrangement is called GFIN and is set up via MOUs between regulatory agencies. This type of data sharing might be a possible item to consider as your sandbox program grows.

**Attachment A**

I close my remarks by expressing positive support for your overall initiative and look forward to seeing the first successful sandbox exits in 2020 and beyond.



Lynn McConnell / CFO  
Custody Digital Group

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November 15, 2019

Chris Weiss  
Management Analyst, Director's Office  
Nevada Department of Business and Industry  
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Las Vegas, Nevada 89102  
(702) 486-5320 or [cweiss@business.nv.gov](mailto:cweiss@business.nv.gov)

Signed copy via electronic mail to Chris Weiss at [cweiss@business.nv.gov](mailto:cweiss@business.nv.gov)

Dear Mr. Weiss,

The written comments following this letter are submitted in response to your "Notice of Workshop To Solicit Comments on Proposed Regulations and Policy and Procedure Pertaining to Chapter 597 of the Nevada Administrative Code (LCB File No. R089-19) Regulatory Experimentation Program for Product Innovation."

We appreciate your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Digesti".

Matthew Digesti  
Vice President of Government Affairs and Strategic Initiatives  
Blockchains, LLC

**Attachment B**



Blockchains, LLC (“Blockchains”) is pleased to respond to the Proposed Regulation of the Director of the Department of Business and Industry, LCB File No. R089-191, which relate to S.B. 161 (2019) (the “Proposed Regulations”). Blockchains is developing a first-of-its-kind platform on the public Ethereum blockchain powered by built-in solutions for private key management, world-class digital asset storage, self-sovereign digital identity, and reputation. We have no current plans to apply for admission to the Regulatory Experimentation Program for Product Innovation (the “Regulatory Sandbox”). As an early-stage blockchain software development company, we are committed to supporting the growth of Nevada’s technology ecosystem because we believe that will benefit both Nevada businesses and residents. As such, we support the Regulatory Sandbox as a critical economic development and consumer protection tool.

We have reviewed the Proposed Regulations and commend the Director of the Nevada Department of Business and Industry (the “Director”) and the Consumer Advocate of the Bureau of Consumer Protection if the Office of the Nevada Attorney General (the “Consumer Advocate”) for their efforts. We support the Proposed Regulations and offer the following comments and suggested clarifications.

1. Section 12 of Senate Bill No. 161 sets forth information that must be included in each Regulatory Sandbox application. If there is a possibility that the Director could require any additional information in the application or impose any additional obligations on a prospective participant, we believe the potential additional information and obligations should be set out in the Proposed Regulations. A detailed and transparent application process codified in the Nevada Administrative Code (the “NAC”) is the best approach to ensuring the application process is consistent throughout the life of the Regulatory Sandbox and ensuring that each applicant knows exactly what may be required during the application process. We also encourage the Director to

**Attachment B (continued)**



ensure that the application process is reasonable in scope, including taking into consideration whether the costs and expenses associated with the application are prohibitive for startups or small businesses that may wish to apply. If the application process is cost prohibitive, then the legislative intent behind Senate Bill No. 161 will be frustrated and the number of applicants will be limited unnecessarily.

2. Section 11 of Senate Bill No. 161 states that “[i]n consultation with each applicable regulator, the Director shall establish and administer the [Regulatory Sandbox] to enable a person to obtain limited access to markets in this State to test a financial product or service . . . .” The “applicable regulator” is defined in Section 3 of the Bill as “the Commissioner of Mortgage Lending, the Division of Mortgage Lending of the Department of Business and Industry, the Commissioner of Financial Institutions or the Division of Financial Institutions of the Department of Business and Industry, as applicable, responsible for regulating a financial product or service.” Section 6 of the Proposed Regulations expands upon Section 11 of the Bill by stating, “[a]ny authority granted to the Director and any duty or responsibility assigned to the Director by any provision of this chapter or Senate Bill No. 161 . . . may be exercised or performed by any employee of the Department who is designated by the Director for that purpose.” This could be interpreted as permitting the Director to task a Financial Institutions Division employee with regulating a mortgage lending Regulatory Sandbox participant. However, if Section 6 of the Proposed Regulations is read in conjunction with Section 3 and Section 11 of the Bill, then Department of Business and Industry employees that may exercise or perform any duty or responsibility assigned to the Director should be limited to applicable regulators, which term is defined in Section 3 of the Bill as “the Commissioner of Mortgage Lending, the Division of Mortgage Lending of the Department of Business and Industry, the Commissioner of Financial

**Attachment B (continued)**



Institutions or the Division of Financial Institutions of the Department of Business and Industry, as applicable, responsible for regulating a financial product or service.”

3. Section 7(4) of the Proposed Regulations states that “[a] participant shall not move the place of business without first obtaining the written approval of the Director.” Startups and small businesses need flexibility when it comes to their operations, especially a large operational expense like leasing office space. Thus, this constraint may prove to be too burdensome for a Regulatory Sandbox participant and may discourage some potential applicants from applying. We propose to modify this constraint so that the Regulatory Sandbox participant may move physical locations within Nevada so long as (a) the Director and all existing customers are notified in writing of the new location and the date on which the move is planned to occur no later than sixty (60) days prior to the relocation and (b) the Director determines that no customer will be harmed by the relocation. We believe this adequately balances the need for business flexibility with the need for the Director to protect the interests of the consumers.

4. The purpose of the Regulatory Sandbox is to test, on a limited basis, innovative products and services in certain regulated industries detailed in Senate Bill No. 161. As such, some applicants may need to protect certain innovative products and services that contain commercially sensitive and valuable intellectual property from public disclosure. To encourage such businesses to participate in the Regulatory Sandbox, we believe that the Director and the applicant should have the ability to enter into an agreement wherein confidential and/or trade secret information is indeed protected from public disclosure. Neither the Bill nor the Proposed Regulations discusses this important topic or sets forth enabling language to ensure that applicants may request this type of agreement. We encourage the Director to consider amending the Proposed

**Attachment B (continued)**



Regulations to expressly address this critical component along with the rules by which such an agreement may be drafted, negotiated, and executed.

Blockchains would again like to thank the Director and the Consumer Advocate for their diligent work in drafting these Proposed Regulations and the substantial investment of time and resources to move Senate Bill No. 161 from legislation to reality. We believe this is a critical economic development tool from which every business and resident in Nevada can potentially benefit as we continue the important task of diversifying the economy in our great state.

**Attachment B (continued)**



FINANCIAL SERVICE CENTERS OF AMERICA, INC.  
A NATIONAL TRADE ASSOCIATION

November 11, 2019

**Via Email**

Director Michael Brown  
Nevada Department of Business and Industry  
1830 College Parkway  
Suite 100  
Carson City, NV 89706

Re: LCB File No. R089-19I

Dear Director Brown:

As requested, this letter is meant to serve as a comment on the initial draft proposed regulations of your Department for the Regulatory Experimentation Program for Product Innovation (more commonly referred to as the “Nevada Sandbox Law”), LCB File No. R089-19. FiSCA is based in Washington, DC and is the oldest and largest national trade association representing the Financial Service Center (FSC) industry. FiSCA members offer a wide array of necessary financial products and services to tens of millions of Americans each year in accordance with state and federal law. Additional information about FiSCA is available at [www.fisca.org](http://www.fisca.org).

We applaud Nevada state officials’ bi-partisan dedication to implementation of the Sandbox Law. This law makes Nevada to one of the first states in the country to establish a regulatory Sandbox in order to test new concepts in the rapidly evolving consumer finance marketplace and better serve Nevadans’ financial needs. The law will also spur economic development in the State. From our association’s vantage point we are in a unique position to work with our members and, in turn, federal officials at the Consumer Finance Protection Bureau (CFPB), and state officials in other states such as Arizona, which passed the first Sandbox bill last year. Additionally, FiSCA works closely with our chief outside counsel, Hudson Cook, and our members have worked with Ballard Spahr on Sandbox issues the past two years—both firms are leaders in consumer finance law in the U.S.

Here are four specific areas where we would like to focus as it relates to the Nevada Sandbox:

- It is critical that, to the extent possible, a true regulatory free zone is created and bracketed during the testing period for an innovator applicant. (In practice, where we have seen other states misstep in this regard is that the truest intent of the Sandbox is to hold state licensing and rate cap laws harmless during the testing period according

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**Attachment C**

to legal and practical interpretations to date. One-third of Americans are classified as “Unbanked” or “Underbanked” and that percentage is higher in the State of Nevada. Thus, it’s important to test a range of products which might serve populations who otherwise lack access to traditional credit products, such as credit cards or home equity lines of credit.)

- The size of the testing pool is of paramount importance when establishing a regulatory regime around the Sandbox. An adequate test population allows for the proper analysis of data and the construction of the best and most innovative new products; additionally, it provides much needed certainty for public and private investors (capital) in the applicant companies. (The current parameters for the Nevada Sandbox - 5,000 up to 7,500 with a special waiver - is more than 10 times smaller than the comparable Arizona Sandbox law. To the extent possible, FiSCA would strongly urge the Department and relevant officials to consider an expanded scope in the 17,500 to 20,000 consumer range – again, perhaps utilizing the existing waiver concept in the statute.)
- Likewise, the length of the testing period is of paramount importance when establishing a regulatory regime around the Sandbox. An adequate testing period also allows for the proper analysis of data and the construction of the best and most innovative new products; and, it provides much needed certainty for public and private investors (capital) in the applicant companies.
- The original law, SB 161, appears to have established a two (2) year window whereby applicant companies would keep all records on file following the cessation of the testing program. The proposed draft regulation would establish a period three times longer (6 years). FiSCA believes a timeline following the original statute makes the most sense from a practical standpoint, especially for nascent companies who will evolve rapidly and change shape. Six years is a lifetime in the rapidly evolving “fintech” marketplace.

Thank you for your consideration of our comments. Should you have any questions, please do not hesitate to reach out to me at, 202-327-9708, or at [edalessio@fisca.org](mailto:edalessio@fisca.org). Again, we commend Nevada’s state officials for taking a forward-looking approach to consumer finance and technology.

Very truly yours,



Edward P. D’Alessio  
Executive Director

cc: Senator Kieckhefer  
Senator Spearman  
Chris Weiss, Management Analyst, Nevada Department of Business and Industry

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**Attachment C (continued)**