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November 15, 2019

Chris Weiss  
Management Analyst, Director's Office  
Nevada Department of Business and Industry  
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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

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

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

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

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.



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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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