

FINANCIAL INNOVATIONS IN CZECHIA: CONSIDERATIONS FOR ESTABLISHMENT OF REGULATORY SANDBOX¹

PETR TOMČIAK, JAN ŠKRABKA²

Abstract: The regulatory sandbox has been established in many EU Member States as well as developed non-EU countries as a tool for fostering financial innovation. On the contrary, the Czech Republic has not yet prepared a sandbox. The article introduces the topic, discusses the sandbox in the European and international context, and briefly explains the history and current status of financial innovations in the Czech Republic. The authors also discuss the OECD report on recommendations for the design of the FinTech Sandbox. Recommendations of which they find to be unsuitable for implementation due to the fundamental flaws of the report and the omission of an analysis of the Czech legal system. Finally, the authors of this article elaborate on the various options and parameters for the Czech sandbox.

The authors recommend implementing a legal definition of a sandbox in the Czech legal system. Also, the authors call for the establishment of a sandbox that could support the development of financial innovation as Czech consumers show a particularly supportive stance towards new technologies.

Keywords: FinTech; Financial Innovation; Sandbox; Regulatory Sandbox; financial markets

DOI: 10.14712/23366478.2024.20

1. INTRODUCTION

Due to the technological progress and rapid proliferation of new technologies in many industries in the past decades, the policy debate over the development of financial markets centered around “*financial innovation*”. This term encompasses various elements that shall improve the functioning of financial markets in different ways, such as new financial products, innovative digital tools, process improvements, or emerging business models, including FinTech (FinTech means connection between Finance and Technology). The aim of financial innovation is to increase the efficiency of financial markets. The empirical evidence shows that financial innovation can be a driver of the economic growth and has a potential to increase market efficiency.³

¹ This article was written under the umbrella of the project “Regulatory Sandboxes: Mirage and Reality in Public Law”, supported by Charles University’s 4EU+ Mini-grants Programme.

² Opinions in this article are the authors’ own and cannot be attributed to any affiliation or company.

³ GOO, J. J. – HEO, J. The Impact of the Regulatory Sandbox on the Fintech Industry, with a Discussion on the Relation between Regulatory Sandboxes and Open Innovation. *Journal of Open Innovation:*

Besides, it also brings new challenges and risks to the market. Public authorities face a traditional free market vs. regulation dilemma, which materializes in the “trade-off” between encouraging innovations in order to improve efficiency and restricting new approaches for the sake of protecting market participants and market integrity.⁴

The innovation policy is usually defined by the regulatory frameworks that are adopted to create a level-playing field, particularly in regulated markets. In the context of financial innovations, the debate intensified over new approaches called “regulatory sandbox”.⁵ Sandboxes shall have a role in the adoption of new technology under supervision.⁶ In the case of regulated markets, regulatory sandboxes allow to ease legal barriers for a technological solution, while at the same time, the framework is set up to preserve market integrity, ensure the protection of market participants (consumers in particular), and maintain financial stability.⁷ In other words, regulators allow businesses to test new technologies on a small scale and under strict supervision. After the testing period, the evaluation is carried out.⁸ The regulatory sandbox is a mechanism for promoting technological innovation that has become embedded in the public policy of some countries. Given the rising popularity of sandboxes, a significant number of jurisdictions adopted some forms of regulatory sandboxes. Different approaches of lawmakers can be explored. Regulatory sandboxes can be examined from a variety of perspectives, including comparisons between jurisdictions aiming to find the best-fitting model. Although the introduction of regulatory sandboxes into jurisdictions has been mostly linked to financial innovations, particularly the promotion of FinTech, sandboxes appear to be applicable to other regulated markets, too.⁹

Since the adoption of the first sandbox into UK law in June 2016, the number of “sandboxed” jurisdictions increased. In the EU, the vast majority of Member States adopted measures defining “regulatory sandbox”. Different regulatory designs may be observed in jurisdictions. This paper aims to analyze the Czech Republic’s approach in

Technology, Market, and Complexity [online]. 2020, Vol. 6, No. 2, p. 43 [cit. 2024-02-26]. Available at: <https://doi.org/10.3390/joitmc6020043>.

⁴ BROWN, E. – PIROSKA, D. Governing Fintech and Fintech as Governance: the Regulatory Sandbox, Riskwashing, and Disruptive Social Classification. *New Political Economy*. 2021, Vol. 27, No. 1, pp. 19–32.

⁵ ALLEN, H. J. Regulatory Sandboxes. *George Washington Law Review*. 2019, Vol. 87, No. 3, pp. 579–645.

⁶ HESEKOVÁ BOJMÍROVÁ, S. FinTech and Regulatory Sandbox – new challenges for the financial market: the case of the Slovak Republic. *Juridical Tribune / Tribuna Juridica* [online]. 2022, Vol. 12, No. 3, pp. 399–411 [cit. 2024-02-26]. Available at: <http://www.tribunajuridica.eu/arhiva/An12v3/6.%20Hesekova%20Bojmirova.pdf>.

⁷ ZETZSCHE, D. A. Regulating a Revolution: from Regulatory Sandboxes to Smart Regulation. *Fordham Journal of Corporate & Financial Law* [online]. 2017, Vol. 23, No. 1, pp. 31–103 [cit. 2024-02-26]. Available at: <https://ir.lawnet.fordham.edu/jcfl/vol23/iss1/2/>.

⁸ RINGE, W. – RUOF, CH. Regulating Fintech in the EU: the Case for a Guided Sandbox. *European Journal of Risk Regulation* [online]. 2020, Vol. 11, No. 3, pp. 604–629 [cit. 2024-02-26]. Available at: <https://www.cambridge.org/core/journals/european-journal-of-risk-regulation/article/regulating-fintech-in-the-eu-the-case-for-a-guided-sandbox/3EE71CEEB3BC22E57A1BF08023073A6F>.

⁹ AHERN, D. *Regulators nurturing fintech innovation: global evolution of the regulatory sandbox as opportunity based regulation* [online]. European Banking Institute Working Paper Series, No. 60. Frankfurt: European Banking Institute, 2020 [cit. 2024-02-26]. Available at: https://www.academia.edu/42204715/Regulators_Nurturing_FinTech_Innovation_Global_Evolution_of_the_Regulatory_Sandbox_as_Opportunity_based_Regulation.

the area of financial innovation and, based on the relevant solutions of other countries, propose options for sandboxing in the Czech Republic. The authors intend to draw possible policy recommendations from these observations.

2. REGULATORY SANDBOX IN THE INTERNATIONAL AND EUROPEAN CONTEXT

Regulatory sandboxes have different forms in different jurisdictions. Definitions of sandboxes vary, but they mostly reflect universality. The International Monetary Fund (IMF) understands the sandbox as follows: “*controlled environment for firms to test their innovative propositions on real consumers*”.¹⁰

The very first sandbox adopted by the Financial Conduct Authority (FCA) in the UK was based on the idea of a financial market regulator allowing the testing of new technology solutions under supervision. The European Commission (EC) has included sandboxes in its policy tools inventory titled as a “*Better Regulation Toolbox*” while defining a regulatory sandbox as “*a scheme that enables firms to test innovations in a controlled real-world environment, under a specific plan developed and monitored by a competent authority*”.¹¹ Inspired by the original definition of the European Commission, the Council of the EU, in its Council Conclusions, states the following with regard to the regulatory sandboxes: “*Council perceived the regulatory sandbox as concrete framework which, by providing a structured context for experimentation, enable where appropriate in a real-world environment the testing of innovative technologies, products, services or approaches – at the moment especially in the context of digitalisation – for a limited time and in a limited part of a sector or area under regulatory supervision ensuring that appropriate safeguards are in place.*”¹²

For the financial markets, where the sandbox was first ever applied, a definition developed by the European Supervisory Authorities (ESAs)¹³ was established at the EU level: “*scheme set up by a competent authority that provides regulated and unregulated entities with the opportunity to test, pursuant to a testing plan agreed and monitored by a dedicated function of the relevant authority, innovative products or services, business models, or delivery mechanisms, related to the carrying out of financial services*”.¹⁴

In the EU, policies across Member States are coordinated by the European Forum for Innovation Facilitators (EFIF), serving as a platform for supervisory authorities. The

¹⁰ BAINS, P. – WU, C. *Institutional Arrangements for Fintech Regulation: Supervisory Monitoring*. Fintech Notes, No. 2023/004. International Monetary Fund, 2023.

¹¹ Better regulation toolbox. In: *European Commission: Better regulation: guidelines and toolbox* [online]. 20. 7. 2023 [cit. 2024-02-26]. Available at: https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation/better-regulation-guidelines-and-toolbox_en.

¹² Council of the European Union. Conclusions 13026/20 on Regulatory sandboxes and experimentation clauses as tools for an innovation-friendly, future-proof and resilient regulatory framework that masters disruptive challenges in the digital age, from 16 November 2020 [online]. 2020 [cit. 2024-02-26]. Available at: <https://data.consilium.europa.eu/doc/document/ST-13026-2020-INIT/en/pdf>.

¹³ European Supervisory Authorities: European Banking Authority (EBA), European Securities and Markets Authority (ESMA) and European Insurance and Occupational Pensions Authority (EIOPA)

¹⁴ ESAs Joint Report. FinTech: Regulatory sandboxes and innovation hubs. 7 January 2019.

platform aims to exchange regular insights gathered from their engagement with market participants. The EFIF promotes innovation hubs and regulatory sandboxes in Member States. Competent authorities share expertise aiming to establish common perspectives on the approaches to innovative financial products, services, and new business models. Based on the reports from December 2023, 12 EU Member States have adopted regulatory sandboxes in their jurisdictions.¹⁵

Research outcomes show the positive impact of regulatory sandboxes on investment in the FinTech industry. Based on the research conducted in nine countries (the United Kingdom, Singapore, Hong Kong, Australia, India, Canada, Malaysia, The Netherlands, and Japan), the introduction of regulatory sandboxes was proven to lead to a significant increase in investment and boost to financial market dynamics. Regulatory sandboxes should promote greater investment in the FinTech industry and foster an open innovation ecosystem by encouraging capital flows into the economy. The regulatory sandbox may serve as a catalyst by contributing to the commercialization of financial innovations and by creating collaborative environments between governments and traditional and new financial market participants.¹⁶

3. FINANCIAL INNOVATIONS IN THE CZECH REPUBLIC – STATE OF ART

The Czech economy seems to have favorable conditions for financial innovation. Although being a member of EFIF, unlike other EU countries, the Czech Republic has not yet adopted sandbox legislation, which could be an obstacle to the development of financial innovation or digital innovation in particular.¹⁷

According to the World Bank (WB),¹⁸ Czech consumers show an openness to using digital services and make frequent use of online financial services, such as online payments or investing applications. Banks are highly digitized and enjoy high customer confidence. In addition, many consumers are used to making online purchases through e-commerce vendors. The Czech Republic has the 8th highest share of online purchases among EU countries.¹⁹ According to the European Innovation Scoreboard, the Czech Republic is, however, a “moderate innovator country”, being slightly below the EU average.²⁰ The Czech financial market is dominated by banks that show strong capitalization. On the other hand, the capital market is underdeveloped, which is a barrier to economic growth as it cannot fulfill its functions sufficiently. Even though financial

¹⁵ ESAs Joint Report. Update on the functioning of innovation facilitators – innovation. 11 December 2023.

¹⁶ GOO – HEO, *c. d.*

¹⁷ ESAs Joint Report. Update on the functioning of innovation facilitators – innovation hubs and regulatory sandboxes. 11 December 2023.

¹⁸ The Global Findex Database 2021: Financial Inclusion, Digital Payments, and Resilience in the Age of COVID-19. In: *World Bank* [online]. [cit. 2024-02-26]. Available at: <https://www.worldbank.org/en/publication/globalfindex>.

¹⁹ European E-Commerce Report 2022. In: *COMMERCE EUROPE* [online]. [cit. 2024-02-26]. Available at: <http://www.ecommerce-europe.eu>.

²⁰ *European Innovation Scoreboard 2022: Country Profile: Czechia* [online]. 2022 [cit. 2024-02-26]. Available at: https://ec.europa.eu/assets/rtd/eis/2022/ec_rtd_eis-country-profile-cz.pdf.

innovations seem to be dominated by banks, we may find a dynamic FinTech sector in the Czech Republic.²¹ Around 110 FinTech companies are present in different financial services following the global growth trend of strong growth performance and thus represent a promising base for financial innovations.²²

The legal framework for financial markets in the Czech Republic is predominantly influenced by EU legislation. Besides the regulations that are directly applicable, EU directives are transposed into laws adopted by the Parliament. In the context of financial innovations, Czech entities, as all EU entities, would be affected by the EU Digital Finance Package.²³ Three large pieces of EU legislation in the form of regulations consist of MiCA,²⁴ DORA,²⁵ and DLT Pilot Regime.²⁶ The last mentioned represents an EU-wide sandbox for DLT solutions. Unlike other countries, the Czech Republic has not adopted a legal basis for a national sandbox, unlike other EU Member States.²⁷

Financial markets in the Czech Republic are supervised by the Czech National Bank (CNB), which is the only supervisory authority and national competent authority for financial markets. The Ministry of Finance plays the role of regulator by preparing legislation. Both institutions cooperate while respecting their roles. The CNB gives authorization under EU financial regulation to market participants (licensing) and is entitled to impose sanctions for non-compliance.²⁸ The CNB historically maintains a technology-neutral stance that is often materialized into a rigid view on innovations. Therefore, the “*Wait and See*” approach is usually maintained by the CNB longer than the desired optimum for market dynamics.

Regarding the legal definition of a sandbox in the Czech Republic, it should be stated that no legal definition of a sandbox exists in any of the sectoral laws regulating individual regulated sectors. Nevertheless, the legal certainty connected with the legal definition could help reduce potential barriers and encourage the establishment of sandboxes in some of the regulated areas. Although the sandbox has not yet been established in any sector in the Czech Republic, there are traces of its preparation, especially in

²¹ Ministry of Finance. *National Strategy for the Development of the Capital Market in the Czech Republic for the period of 2019–2023* [online]. [cit. 2024-02-26]. Available at: <https://www.mfcr.cz/assets/en/media/201903-National-Strategy-CZ-Capital-Market.pdf>.

²² Fintechová mapa České republiky – jaro 2022: přes 100 fintechů [Fintech map of the Czech Republic – spring 2022: over 100 fintechs]. In: *FinTech Cowboys* [online]. 28. 4. 2022 [cit. 2024-02-26]. Available at: <https://fintechcowboys.cz/fintechova-mapa-ceske-republiky-jaro-2022-pres-100-fintechu/>.

²³ Digital Finance Package. In: *European Council: Digital finance* [online]. [cit. 2024-02-26]. Available at: <https://www.consilium.europa.eu/en/policies/digital-finance/>.

²⁴ Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937.

²⁵ Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011.

²⁶ Regulation (EU) 2022/858 of the European Parliament and of the Council of 30 May 2022 on a pilot regime for market infrastructures based on distributed ledger technology, and amending Regulations (EU) No 600/2014 and (EU) No 909/2014 and Directive 2014/65/EU.

²⁷ ESAs Joint Report. Update on the functioning of innovation facilitators – innovation hubs and regulatory sandboxes. 11 December 2023.

²⁸ Supporting FinTech Innovation in the Czech Republic: Regulatory Sandbox Design Considerations. In: *OECD iLibrary* [online]. 21. 6. 2023 [cit. 2024-02-26]. Available at: <https://doi.org/10.1787/081a005c-en>.

the financial sector. Considering that many of the other EU countries had already implemented regulatory sandboxes and that financial market players themselves consider sandboxes as a useful tool to foster innovation, a proposal for a Financial Innovation Hub was prepared in 2019 using a bottom-up approach. The proposal has been prepared by the fintech market players and their professional association – Czech Fintech Association. The Czech Ministry of Finance agreed to the proposal and agreed to take part in the Financial Innovation Hub.²⁹

In February 2020, the Digital Finance Outreach event was held in Prague, where the new European initiative – Fintech Action Plan³⁰ – was presented and discussed. After that, in September 2020, the Digital Finance Strategy was approved by the European Commission, which also includes the EU Digital Finance Platform initiative. The platform offers a collaborative space for innovative companies from the financial sector as well as for national regulators.³¹ Moreover, the Council of the European Union also recommended in 2020 that the Member States open regulatory sandboxes.³² Finally, in 2021, the establishment of the regulatory sandbox was included in the Czech National Recovery and Resilience Plan, according to which the sandbox is expected to be launched by the end of Q2/2024.

4. OECD POLICY RECOMMENDATION: KEY FINDINGS AND SHORTCOMINGS OF THE REPORT

Based on the Technical Support Instrument (TSI)³³ project, the OECD published a report focused on recommendations for the design of the FinTech Sandbox in the Czech Republic in 2023. The original aim of the TSI project was to provide technical assistance for the implementation of component 1.4 of the Czech National Recovery and Resilience Plan (RRP), which aims at the establishment of sandboxes in regulated sectors. However, such results may have not been obtained from the OECD report³⁴ due to the following substantial shortcomings.

The OECD heavily builds its report on the existing EU sandboxes, favoring the “EU sandbox mainstream”. The OECD report recommends applying existing

²⁹ Ministerstvo financí s Evropskou komisí podporuje finanční inovace [Ministry of Finance and the European Commission support financial innovation]. In: *Ministerstvo financí České republiky* [Ministry of Finance] [online]. 24. 2. 2020 [cit. 2024-02-26]. Available at: <https://www.mfcr.cz/cs/financni-trh/inovace-na-financnim-trhu/aktuality/2020/ministerstvo-financi-s-evropskou-komisi-37682>.

³⁰ Directorate-General for Financial Stability, Financial Services and Capital Markets Union. FinTech Action plan: for a more competitive and innovative European financial sector. In: *European Commission: Finance: Communication* [online]. 8. 3. 2018 [cit. 2024-02-26]. Available at: https://finance.ec.europa.eu/publications/fintech-action-plan-more-competitive-and-innovative-european-financial-sector_en.

³¹ Eu Digital Finance Platform. In: *European Commission* [online]. 2020 [cit. 2024-02-26]. Available at: <https://digital-finance-platform.ec.europa.eu>.

³² Conclusions 13026/20 on Regulatory sandboxes and experimentation clauses as tools for an innovation-friendly, future-proof and resilient regulatory framework that masters disruptive challenges in the digital age...

³³ TSI represents an EU programme funded by the European Commission that aims to provide tailor-made technical expertise to Member States in order to help Member States to design and implement reforms.

³⁴ Supporting FinTech Innovation in the Czech Republic...

regulatory requirements while the discretion of authorities to apply rules flexibly with regard to sandbox participants. Moreover, neither market participants in the financial market (especially the FinTech market) nor bodies responsible for the implementation of the sandbox in the Czech Republic (according to the RRP) have been directly consulted during the preparation of the OECD report. Such a desk research approach without involving or consulting relevant stakeholders cannot be suitable for a design proposition of regulatory sandbox. The sandbox should be a helpful tool for fostering innovation in hundreds of financial institutions and innovative businesses. The report claims there is no need to change the legislation without conducting any legal analysis. The report works with assumptions from other EU countries, where sandbox was launched by the project of the financial supervisor or the central bank. The OECD did not explore other options or compatibility of such a solution with the Czech legal system. The report simply leverages on the fact that the majority of EU regulatory sandboxes encompass the entire financial sector or operate collaboratively among sectoral supervisors. The OECD differentiates between standard sandboxes and data sandboxes while making a recommendation to the Czech policymakers to start with a “simple” standard sandbox while considering data-sharing when feasible.³⁵

However, the OECD report does not reflect nor analyze the applicable Czech legal framework, which is the fundamental problem of any such report. While the report mentions some Czech statutory laws (such as Act No. 370/2017 Sb., on Payments, Act No. 21/1992 Sb., on Banks, etc.), their analysis is lacking. Without further analysis, the OECD concluded that “*the proposed regulatory sandbox design could be launched within the framework of the current legislative framework*”, which is a meaningless statement unless the legal order has been analyzed. When it comes to legal considerations, the OECD simply suggests a proportional application of regulatory and supervisory requirements, as embedded in EU regulation. Such conclusions seem to be a crucial weakness of the report. In the same subparagraph, the OECD stated that: “*implications of the local legal framework of the Czech Republic (e.g., administrative law provisions and implications of public law for the implementation) are not being analyzed in this report. Such legal advice can be obtained by the Czech Authorities from competent parties should they require such an assessment*”. Thus, the OECD report must only be considered as the summary of mainstreamed EU solutions without a necessary compliance check with the Czech legal system and without analyzing or even mentioning all the European initiatives and solutions.³⁶

Given the above-described shortcomings and absence of analysis of the Czech legal order, no hard conclusions for the design of the regulatory sandbox in the Czech Republic can be drawn from the OECD report since this OECD report did not even deal with the Czech Republic and its legal system.

³⁵ Ibid.

³⁶ Ibid.

5. POLICY OPTIONS FOR CONSIDERATION

When designing the regulatory sandbox in the Czech Republic, policy-makers have a number of options to choose from in order to determine the shape of the Czech sandbox. Although various approaches can be observed in different countries, some of which appear to be currently prevalent across jurisdictions, it is inappropriate to label one approach as wrong without further analysis and context. This chapter addresses four basic layers in sandbox design: (1) the scope, (2) the sandbox operator, (3) the eligibility of participants, and (4) selected sandbox components.³⁷

5.1 SCOPE

The first policy option is the consideration of scope. As mentioned in the introduction of the paper, the origins of the sandbox lie in finance. The sandbox as a policy tool was created in the financial markets, but its lifespan is not necessarily limited to them. Efforts to promote technological innovation while providing safeguards for associated risks can be transferred to other areas of the economy. In general, we may differentiate (i) the sector-specific sandbox and (ii) the cross-sectoral sandbox. An example of a sector-specific solution is a FinTech sandbox, while a cross-sector sandbox is a digital sandbox encompassing digital solutions not only in financial markets.

5.2 SANDBOX OPERATOR

Second, the crucial role in the entire ecosystem is held by the “sandbox operator,” which can be a private entity or public authority and/or government agency that is designated to oversee and operate the regulatory sandbox. Initially, a distinction can be made between a private entity and a public entity. In the case of a public entity, three categories can be further distinguished. (1) The sandbox is operated by the regulator, i.e., the entity that creates rules for the regulated market, typically a ministry or the government. (2) The sandbox is operated by a supervisor, i.e., an entity that is empowered by law to supervise selected entities. In case of the financial market, this could be the financial markets supervisor or the central bank. (3) The sandbox may also be operated by another government entity that is neither a regulator nor a supervisor, typically a government agency. The entities listed above can also be combined with each other, such as a regulator together with a supervisor (a ministry together with a central bank), a regulator and a government agency (a ministry together with a government agency). The most common practice in advanced economies is to designate a financial market supervisor (Denmark or Canada), a central bank exercising supervisory powers (Slovakia or Singapore), or the ministry (Norway). A designation of multiple supervisory authorities can be found, for example, in the Netherlands.

³⁷ BROMBERG, L. – GODWIN, A. – RAMSAY, I. Fintech Sandboxes: Achieving a Balance Between Regulation and Innovation. *Journal of Banking and Finance Law and Practice*. 2017, Vol. 28, No. 4, pp. 314–336.

Shared competence between a supervisory authority and another state entity (government agency) can be found in Switzerland or Japan. Poland has adopted a path of a sandbox operated by the Ministry of Finance and the financial supervisory authority (the Polish Central Bank is separated from the financial market supervisor). More than two institutions are operating the Italian sandbox - together with the central bank, it is the Ministry of Finance and the supervisory authorities for securities and insurance products.³⁸

5.3 ELIGIBLE PARTICIPANTS

The third parameter is the eligibility of the subjects that can participate in the sandbox. The access can be limited to Small and Medium-sized Enterprises (SMEs), or the eligibility of participants can be based on their will to test a new technology, regardless of the size of the company. In the case of eligibility checks, either a restrictive approach or a flexible approach could be adopted. To ensure flexibility, the competent authority may be given discretionary powers in assessing eligibility. By definition, in the case of a sectoral sandbox, participants are limited only to entities from the specific sector.³⁹

5.4 COMPONENTS

The fourth parameter represents the components of the sandboxes. In other words, the design of the project itself. The components can be, in theory, broken down on a scale from minimalist version to maximalist version. The minimalist components of a regulatory sandbox would typically include meetings between participants and representatives of supervisors and regulators or public seminars and training. As a next layer, an accessible testing environment for innovations or public support of the scientific environment is often included in the regulatory sandbox. A program of public support and subsidies for private entities that are developing high-potential innovations can be seen as a maximalist version.⁴⁰

Regulatory or legislative solutions will depend on the selected policy options. The final design of the sandbox will always reflect the specificities of a given country, its approach to innovations, and the policy decisions of relevant institutions. Given that the Czech Republic is not catching up with many countries that have adopted a framework for regulators sandbox during 2016–2023, it is advisable to accelerate work on the Czech sandbox. Of the options offered, the concept of a wide scope is recommended, i.e., to include not only innovations in the financial market but also to prepare the framework for other future innovations. The designation of an entity to operate a sandbox is at the full discretion of policymakers. Among public institutions in the Czech Republic, the following should be considered: Czech National Bank, Ministry of Finance,

³⁸ Supporting FinTech Innovation in the Czech Republic...

³⁹ FinTech Action plan...

⁴⁰ Czech Fintech Association. *Sandbox v ČR: Česká fintechová asociace – presentace* [Sandbox in the Czech Republic: the Czech Fintech Association – presentation]. 2023.

or government agencies such as CzechInvest (Business and Investment Development Agency). On the issue of eligibility, one can agree with the OECD recommendation and favor the flexible approach, not excluding possible innovators. In terms of the components, policy makers may choose between a wide range of options, such as regular consultations between market players and regulators, involvement of relevant academic institutions, cooperation with the scientific community, creation of technical solutions for the testing environment, etc.⁴¹

6. CONCLUSION

This paper has delved into financial innovations and the regulatory sandbox, focusing on the policy debate over the establishment of the sandbox in the Czech Republic. Financial innovation, such as new financial products, digital tools, process optimization, and emerging business models, particularly in FinTech, has been a driver for market efficiency. With regard to risks accompanied by financial innovations, the regulatory sandbox was designed as a tool to allow and promote the emergence of innovations while ensuring safeguards for market participants and market integrity. The empirical evidence shows a positive effect of financial innovations on economic growth. Regulatory sandboxes have been adopted into national laws by various countries since 2016.

This paper scrutinizes the absence of sandbox legislation in the Czech Republic, despite favorable conditions for financial innovation, and contemplates potential policy options. The paper showed that prerequisites for the Czech Republic in the area of online banking and digital innovations seem to be rather favorable, but there exist numerous options that need to be carefully considered while preparing a sandbox in the Czech Republic. Such analysis should have been included in the OECD report titled “*Supporting FinTech Innovation in the Czech Republic: Regulatory Sandbox Design Considerations*”⁴² which, besides other serious shortcomings, does not analyze the relevant Czech laws. Therefore, the results and recommendations of the OECD report has limited relevance.

Considering the dynamics of the Czech financial landscape, this paper brings recommendations based on policy options. Authors are advocating for a broad scope that transcends FinTech to encompass various sectors, the choice of a sandbox operator, eligibility criteria for sandbox participants, and components that must align with the specificities of the Czech Republic and rely on policymakers’ decisions. The authors suggest adopting a legal definition of a regulatory sandbox in the Czech Republic. If one fact is to be derived from the paper, then the Czech Republic should adopt

⁴¹ Country Report-Czechia Accompanying the document Recommendation for a COUNCIL RECOMMENDATION on the 2022 National Reform Programme of Czechia and delivering a Council opinion on the 2022 Convergence Programme of Czechia. In: *EUR-Lex: Access to European Union law* [online]. 23. 5. 2022 [cit. 2024-02-26]. Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52022SC0605>.

⁴² Supporting FinTech Innovation in the Czech Republic...

a regulator sandbox to catch up with its counterparts that have already embraced regulatory sandboxes.

Mgr. Ing. Petr Tomčíak
Masaryk Institute of Advanced Studies, Czech Technical University in Prague
petr.tomciak@cvut.cz
ORCID: 0000-0002-8808-6018

Mgr. Jan Škrabka, M.Sc., M.A., M.Sc.
Masaryk Institute of Advanced Studies, Czech Technical University in Prague
jan.skrabka@cvut.cz
ORCID: 0000-0003-4871-7257