



The State Bar of California

II.H. Sandbox Applicant
Criteria
09-17-21 CTJG Meeting
Open Session

DATE: September 7, 2021

TO: Closing the Justice Gap Working Group

FROM: Scope Subcommittee

SUBJECT: II.H. Discussion and Possible Action on a Subcommittee Recommendation
for the Sandbox Application Criteria for Applicant Background Checks

At its September 3, 2021 meeting, the Scope Subcommittee voted to approve the requirement that the applicant's authorized person¹ or persons make disclosures and submit to a background check by the regulator (6-0-0). The subcommittee now submits that recommendation for consideration by the Working Group.

Recommendation:

Recommend that any sandbox application process requirements to submit to a background check and to make disclosures will apply only to each applicant's authorized person or persons as defined in the sandbox application form.

¹ The definition of "Authorized Person" in the application form provides that:

1. The term "Authorized Person" means a person:
 - a) Possessing an economic interest in the sandbox entity equal to or more than 10 percent of all economic interests in the sandbox entity;
 - b) Possessing the legal right to exercise decision-making authority on behalf of the sandbox entity; or
 - c) Functioning as a Compliance Lawyer for the sandbox entity.
2. The term "Compliance Lawyer" means an active member of the State Bar of California in good standing who, pursuant to the rules applicable to sandbox applicants, may be responsible for ensuring compliance with all applicable laws and rules governing sandbox entities and lawyers in California. A Compliance Lawyer may be designated by the sandbox regulator as the person responsible for promptly responding to requests from the sandbox regulator to the sandbox entity for documents and other information. A Compliance Lawyer agrees to accept service of process.
3. The term "Decision-Making Authority" means the authority, by operation of law or by agreement, to directly or indirectly:
 - a) Legally bind the sandbox entity;
 - b) Control or participate in the management or affairs of the sandbox entity;
 - c) Direct or cause the direction of the management and policies of the sandbox entity;
 - d) Make day-to-day or long-term decisions on matters of management policy, and operations of the sandbox entity; or
 - e) Supervise [five or more] persons providing sandbox entity services directly to consumers.