



The State Bar of California

II.A. Sandbox Regulatory
Structure
09-17-21 CTJG Meeting
Open Session

DATE: September 10, 2021

TO: Closing the Justice Gap Working Group

FROM: SAGE Subcommittee

SUBJECT: II.A. Discussion and Possible Action on a Subcommittee Recommendation for the Structure and Governance of a Sandbox Regulatory Authority

The SAGE Subcommittee recommends adoption of the resolution set forth below. It covers several key aspects of the structure of the Sandbox Regulator, as have been discussed at two prior CTJG meetings, and also at the SAGE Subcommittee's meetings.

At its August 25, 2021 meeting the SAGE Subcommittee further refined the resolution and then voted to recommend paragraphs 1, 2 and 4 to the Working Group. Further work has been done on paragraphs 3 and 5 to address issues that remained. As set forth below, those paragraphs reflect that further work, and the Chairs also believe they now reflect the majority view of the Subcommittee. We understand that some proposed alternative language on item number 3 will be forthcoming and will be circulated in advance of the meeting for the group's consideration.

One item the resolution does not address is the length of time the Sandbox should be in operation. The Subcommittee needs to discuss that issue more fully before making a recommendation to the Working Group.

At the CTJG meeting on September 17, 2021 the SAGE Subcommittee Chairs will propose that the CTJG adopt all five paragraphs of the resolution by way of a single motion, but will entertain motions on each item if necessary.

RESOLVED, that the structure of the Sandbox Regulator will have the following features:

1. The Sandbox Regulator will be established by the Legislature as a public corporation or other appropriate entity form within the judicial branch of government, serving as an arm of the California Supreme Court.
2. Reliable initial funding will be necessary to ensure adequate resources for monitoring, data collection and analysis, and consumer protection.
3. The Sandbox Regulator is subject to active supervision by the Supreme Court and must act pursuant to clearly articulated state policy. The Sandbox Regulator should make

recommendations to the Supreme Court concerning the licensing and discipline of sandbox participants. However, as with attorneys, the Court should reserve to itself the authority over licensure of sandbox participants and approval of any governing principles the Sandbox Regulator employs. The Supreme Court shall exercise that authority as it deems most efficient and appropriate. None of the foregoing is meant to alter the existing roles of the Supreme Court and legislature in regards to the practice of law in California.

4. The Sandbox Regulator should have a volunteer board with responsibility for all operations of the office, including licensing and discipline recommendations made to the Supreme Court. The Sandbox Regulator should also have a staff which handles administrative operations, makes assessments, and monitors sandbox participants under the Board's supervision.
5. The Sandbox Regulator board should consist of 7 public members with the Senate and Assembly each nominating one public member, the Governor nominating the remaining public members, and 6 members nominated by the Supreme Court. The Governor's nominees must include an economist, a technologist, and a nonlawyer provider of services to communities with significant unmet legal needs. The Supreme Court's nominees must include at least one each of individuals with experience with legal ethics, legal services for low or moderate income Californians, and regulation of legal services.