

AER Regulatory Sandbox – Information session

Summary of meeting – 1 December 2021

On Wednesday 1 December, 2-4 pm (AEDT) the Australian Energy Regulator (AER) hosted an information session to provide information to stakeholders on regulatory sandboxing, outline key matters discussed in the issues paper and respond to stakeholder questions.

This summary outlines the key topics discussed at the workshop, including views expressed at the workshop, without ascribing comments to any one individual or organisation.

1 Introduction

The AER is establishing a Regulatory Sandboxing function that aims to help energy innovators and start-ups navigate complex regulatory frameworks and enable the trial of new products and services that will deliver greater choice and cheaper energy options for consumers.

On 10 November 2021, the AER released an issues paper seeking feedback on our proposed approach to delivering the regulatory Sandboxing toolkit.

On 1 December, the AER hosted an information session on regulatory sandboxing as part of the consultation process.

The workshop included presentations from AER staff and representatives from the Australian Energy Market Commission (AEMC), Victoria's Essential Services Commission (ESCV), the Australian Energy Market Operator (AEMO) and the Australian Renewable Energy Agency (ARENA).

The agenda was as follows:

1. Introduction
2. The sandboxing toolkit
3. Innovation enquiry service
4. Sandbox trials
5. Knowledge sharing
6. Next steps

A copy of the slides is available on the AER website.

2 Key issues discussed at the workshop

Regulatory sandboxing overview

Regulatory sandboxing is intended to create new ways for innovators to develop and trial new ideas to serve the energy market and support energy consumers.

Legislation to implement the energy sandbox is currently before the South Australian Parliament, and this is expected to be enacted sometime next year. The intention is to roll out all functions of the sandbox by Q2 2022.

In the meantime, the AER will launch the Innovation Enquiry Service (IES) and produce guidelines for the trial waiver function.

In 2019 the AEMC recommended the introduction of the regulatory sandboxing toolkit, through two mechanisms:

- A clearer process for innovators to approach the energy market regulatory bodies for feedback and guidance.
- A regulatory option to avoid unnecessary delays and costs for eligible trials.

To deliver the regulatory sandbox the Australian Energy Regulator (AER) has received additional Government funding to support delivery of a new website and the IES, together with additional staff.

Innovation enquiry service

The purpose of the IES is to remove barriers to market entry posed by complex and difficult-to-navigate regulation.

AER's sandbox team will be able to help innovators identify regulatory frameworks that might apply to their project, providing guidance on relevant processes and regulations.

The market maps tool will output a tailored list of the registration, authorisation and licensing requirements that might apply to proposed projects.

The regulatory sandbox website will also feature case studies examining innovative business models such as community batteries, virtual power plants, electric vehicle charging stations and microgrids.

The IES will be a 'first stop shop', drawing on the expertise of the AER's internal teams and other market and regulatory bodies, and is intended to provide informal and initial feedback to innovators, reflecting a staff-level view amongst the relevant energy market bodies.

Advice from regulators internationally shows it is difficult to provide clear guidance on timeframes regarding processing an innovator query, since it is largely determined by the complexity of the query.

Trial waivers and rule changes

A regulatory sandbox trial is intended to allow trial proponents to conduct proof of concept trials of an innovative technology or business model by temporarily waiving specific regulatory obligations that would normally apply.

Learnings from projects granted a trial waiver will help inform the design of the regulatory framework to make sure it is fit for purpose for new and emerging technologies.

A trial waiver is intended for the situation where an existing obligation is an impediment to an innovator delivering their proposed business model. Where an innovator is proposing some new behaviour or procedures as part of their business model, or where the innovator is

considering placing an obligation on other entities, a trial rule change application may be more appropriate.

The AER will endeavour to protect any trial project confidential information identified by the trial proponent.

Innovators may apply for a trial waiver without submitting an IES query.

Trial waivers have a maximum duration of five years with the possibility of an extension of up to one year.

- There is not currently a specific intended process regarding consideration of trial waiver extensions (of up to one year), but the proposed guidelines will contain all relevant information. These guidelines will be consulted on prior to the regulatory sandbox function going live in Q2 2022.

The AER is currently consulting on the regulatory sandbox function, including consideration of unintended costs of the trial on other businesses. Importantly, the AER must have regard to the innovative trial principles, including whether the trial project may impact on competition in the national electricity market, when assessing a trial waiver application.

The trial waiver function under the regulatory sandbox is not intended to be used for a waiver of an entity's ring-fencing obligations. For these situations, it is recommended that entities apply for a ring-fencing waiver under the existing ring-fencing waiver process.

A trial rule request can only lead to a trial rule being implemented. To have a permanent change to a rule(s), a full rule change request will need to be made to the AEMC.

Coordination with other market bodies and jurisdictions

Close coordination between market bodies is critical for the regulatory sandbox function to work effectively. The AER will be consulting closely with the Essential Services Commission Victoria and other state and territory-based regulators to ensure a common approach to considering the trial waiver framework. The guidelines and legislation underpinning these schemes may differ across jurisdictions.

The AER will consult with other market bodies if a proponent requests both a trial waiver and trial rule change in relation to their proposed business model.

Funding from ARENA is not a prerequisite to access the regulatory sandboxing service.

Knowledge sharing and confidentiality

Knowledge sharing is an important outcome of the regulatory sandbox. While the AER will provide regulatory support to individual innovators using the regulatory sandbox tools, the intention is to grow industry knowledge to help the energy sector and consumers.

Insights shared by innovators accessing sandboxing support will allow regulators and policymakers to gain a deeper understanding of how the regulatory framework may need to change to facilitate greater innovation.

- The AER will work closely with innovators to identify what information can and cannot be published.

The regulatory sandbox function will establish a confidentiality regime with conditions on the disclosure of information. For example, there will be a requirement for innovators to allow the AER to disclose their information to other energy market bodies (on a confidential basis) to facilitate consultation on a response to their IES query.

- Importantly, the AER and other market bodies routinely deal with confidential information in their normal operations and will have arrangements in place to protect innovators' information.

Under the current design of the regulatory sandbox function, confidential information may only be disclosed to other market bodies and the relevant state and territory regulators.

3 Next steps

We invite stakeholders, energy consumers and other interested parties to make submissions on the Regulatory Sandboxing issues paper by Friday, **28 January 2022**.

In March 2022, we will publish a preliminary positions paper on the contents we intend to include in the Trials Projects Guidelines, which will include a preliminary draft of the guidelines for consultation.

Following consultation, the IES will be launched in Q2 2022. Applications for trial waivers will open once sandboxing legislation has commenced.