

Antonio Davola, LUISS: Regulatory Sandbox

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Within these fields, Antonio authored and co-authored publications in Italian (*Il Foro Italiano; Responsabilità Civile e Previdenza, Rivista Italiana di Medicina Legale, Danno e Responsabilità*) and foreign reviews (*Digest: National Italian American Bar Association Law Journal, Revista de Concorrência & Regulação, Idaho Law Review*), and he presented his researches in national and international Conferences (*Law and Society Conference, University of Toronto; IGLP Conference, Harvard Law School; European Society of Law and Economics Conference, Lecce*). Antonio collaborates as peer reviewer for the electronic Journal *Opinio Juris in*

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Podcast: [Regulatory Sandbox](#)

The importance and the difficulties in the interplay between regulation and technologic innovation is nowadays acknowledged amongst scholars and professionals: the emersion of new technologies calls for a reshaping of existing legal norms in different areas of law and the development of regulatory solutions shall operate fast and accurately enough not to curb innovation, in order to preserve its welfare enhancement effect for the society. Nevertheless, providing legal certainty is pivotal for these technologies to diffuse on the market, and to achieve public trust in innovation.

In recent years, innovative regulatory strategies have been explored in order to reach such a delicate balance and, in particular, the phenomenon of s.c. regulatory sandboxes received growing attention. The word "sandbox" originally refers to the small box filled with sand where children play and experiment in a controlled environment.

The concept has been growingly being used in the digital economy arena, to refer to regulatory sandboxes: testing

grounds for new business models that are not protected by current regulation, or supervised by regulatory institutions.

Despite different potential features, regulatory sandboxes have one defining characteristic: the establishment, by a financial authority, of a formal and structured mechanism to receive applications by innovators in order to test innovative products, services or business models, before they are launched commercially.

These testing grounds are especially relevant in the Fintech world, where there is a growing need to develop regulatory frameworks for emerging business models. The purpose of the sandbox is to adapt compliance with strict financial regulations in a way that doesn't smother the Fintech sector with rules, but also doesn't diminish consumer protection.

In financial markets, sandboxes are set up by a financial sector regulator to allow small scale, live-testing of financial products emitted by private firms in a controlled environment under the regulator's supervision.

In 2012 the US Consumer Financial Protection Bureau (CFPB) launched Project Catalyst, which is traditionally considered the first regulatory sandbox, and today they are widely used all across Europe. In June 2019, the Italian government approved an amendment to its financial legislation, allowing the government to introduce regulatory sandboxes for Fintech operators.

Sandboxes present both benefits and possible shortcomings.

As for its positive aspects, a regulatory sandbox entail more open and active dialogue as collaborative means of legislation. They enables the regulator to revise and shape the regulatory and supervisory framework with agility, and allows operator in a given market to provide feedback and insights before a regulation is enacted.

In this way, a regulatory sandbox brings the cost of innovation down, reduces barriers to entry, and allows regulators to collect important insights before deciding if further regulatory action is necessary

It is disputed, though, whether regulatory sandboxes do raise issues in terms of external validity: it is not clear whether players within the regulatory sandbox will behave exactly as they do when the framework is eventually approved.

They might have, as a matter of fact, incentives to conceal their commercial strategy, in order to lead the legislator to create a favourable environment for their future business strategies.

Furthermore, they might not be willing to disclose the characteristics of their business model in front of potential competitors operating within the regulatory sandbox, being more interested in protecting their intellectual property or the secrecy of their strategy rather than improving the regulatory process.

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