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DESIGNING TRUSTWORTHY NATIONAL MODELS OF THE REGULATORY SANDBOXES IN RUSSIA AND INDIA: A VIEWPOINT

DOI: 10.30729/2541-8823-2024-9-3-129-144

Abstract. *Despite the emergence of research articles in the sphere of regulatory sandboxes, there is no research devoted to the comparison of the national models of regulatory sandboxes, issues of these models, especially in correlation to the implementation of the trustworthy approach. This paper aims to define the anomalies of the national models of the regulatory sandboxes in India and Russia, to determine the issues of these models which could be overcome by proper regulation based on a trustworthy approach. These countries were chosen because of their long-standing partnership in mutual developing economies and ICT, aspiration to develop digital technologies and similar levels of development of the digital economy and legislation on regulatory sandboxes. Comparative legal analysis of the legislation on regulatory sandboxes across the world and literature allowed the combination of general features of the sandboxes and their subsequent application in defining the peculiarities of regulatory sandboxes in India and Russia. Formal legal analysis and modelling method allowed us to form national models of the regulatory sandboxes and make some recommendations to increase societal trust in these efficient tools of smart and agile governance. The*

features of the general model of the regulatory sandboxes, applied across the world, and the peculiarities of the regulatory sandboxes in Russia and India are defined. The author proves the necessity to upgrade the national legislation on the regulatory sandboxes by setting up transparent eligibility criteria, establishing a flexible testing period and a set of measures for the protection of potential customers and counterparties. Recommendations for the improvement of national models of the regulatory sandboxes given in the article will increase the quality of the regulation and the level of social trust in regulatory sandboxes in Russia and India. The results achieved in this research article could be used in the law-making process in establishing regulatory sandboxes across the world and for further research of this promising mechanism of smart regulation.

Keywords: *regulatory sandbox, trustworthy approach, smart regulation, digital innovations, digitization, Fintech.*

Introduction

According to F. Bacon, as the births of living creatures at first are ill-shapen, so are all innovations, which are the births of time[1]. The famous philosopher was right. The emergence of digital innovations became a cornerstone of public policy. Digital technologies can make a positive impact on the global economy and ensure the sustainable development of society[2]. At the same time, incorrect policy for creation and using of technologies can lead to harm and losses.

That is why modern governments seek to develop digital innovations and minimize risks associated with them[3]. It predetermined the necessity to transform current regulation and governance. To do it correctly, cutting-edge trends in regulation must be considered[4]. The decrease of the role of regulators, caused by the spread of digital

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[1] *Bacon F.* (1625) "Of Innovations", The Essays or Counsels, Civil and Moral, of Francis Ld. Verulam Viscount St. Albans, available at: http://www.authorama.com/essays-of-francis-bacon-25.html (accessed 2020.11.08).

[2] *Esfangareh A. N., Hojeghan S. M.* (2015) "Digital economy and tourism impacts influences and challenges", International relations, No. 2, pp. 308–316; *Berdykulova G., Sailov A., Kaliazhdarova Sh., Berdykulov E.* (2014). The Emerging Digital Economy: Case of Kazakhstan. Procedia — Social and Behavioral Sciences, No. 109, pp. 1287–1291; *Braunerhjelm P.* (2008), "Entrepreneurship, knowledge and growth", Foundations and Trends in Entrepreneurship, Vol. 4, No. 5, pp. 451–533; *Carlsson B., Acs Z. J., Audretsch D. B., Braunerhjelm P.* (2009) "Knowledge creation, entrepreneurship, and economic growth: a historical review", Industrial and Corporate Change, Vol.18, No. 6, pp. 1193–1229.

[3] *Dean D., Zwillenberg P.* (2015) "The Internet Economy in the G-20. The New Digital Economy. How it will transform business", Oxford economics, No 2, pp. 7–23.

[4] *Samer H., Filippi P.* (2016) "Blockchain technology as a regulatory technology: From code is law to law is code". First Monday, Vol. 21, No 12; *Stern A.* (2018) "Innovation under Regulatory Uncertainty: Evidence from Medical Technology", Journal of Public Economics, 145, 181–200; *Visvizi A., Lytras M. D.* (2020) "Government at risk: between distributed risks and threats and effective policy-responses", Transforming Government: People, Process and Policy, Vol. 14, No. 3, pp. 333–336.

innovations, are among them. For example, the Blockchain allows for anonymity of financial transactions[1], thus reducing the impact of the state. In the opinion of experts in the field, the governance should become more "sensitive" to modern trends[2]. That is why the concepts of "smart regulation", "good governance", "agile governance" are being implemented rapidly[3].

These concepts are implemented to develop legal tools to test innovative products or services in "real-life" conditions. The regulator should decide if it is necessary to "launch" the innovation for mass production and change existing legislation, based on achieved results[4]. This "test-and-learn" approach gave rise to unorthodox tool for "testing" digital innovations in the absence of regulation — regulatory sandboxes (hereinafter — RS).

RS were first introduced in 2016 as part of a government initiative to support UK Fintech companies. British Sandbox has encouraged innovation in more than 500 companies, and in more than 40 of them, it has been further regulated[5]. The success of the UK sandbox has led to its worldwide expansion. The RS was recognized as a solution that allows the application of regulatory reliefs under current legislation to permit important experimenting for the new digital products[6].

At the same time, RS are considered as an instrument of which inappropriate use can result in money laundering[7] and "a covered effort to get around the consumers' protection laws" (Wu, 2011). The aforementioned opinions lead to the rejection of using this tool in some countries. For example, South Africa refused to use RS in 2019[8].

The reason for this is the lack of trust due to the imperfections of the regulation of such sandboxes in terms of consumers rights' protection and transparency of

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[1] *Reshef Kera D.* (2020) "Sandboxes and Testnets as "Trading Zones" for Blockchain Governance". In: Prieto J., Pinto A., Das A., Ferretti S. (Ed.s) Blockchain and Applications.

[2] *Luna-Reyes L., Juiz C., Gutierrez-Martinez I., Duhamel F. B.* (2020) "Exploring the relationships between dynamic capabilities and IT governance: Implications for local governments", Transforming Government: People, Process and Policy, Vol. 14, No. 2, pp. 149–169.

[3] *Nanda Ved P.* (2006) "The "Good Governance" Concept Revisited", The ANNALS of the American Academy of Political and Social Science, Vol. 1, No. 603, pp. 269–283.

[4] *Qi Y., Li Y.* (2019) "New Economy in China: Emerging, Operation and Regulatory Reform", China Economist, Vol. 14, No. 2, pp. 2–13.

[5] Regulatory Sandboxes and Financial Inclusion, available at: https://www.cgap.org/sites/default/files/researches/documents/Working-Paper-Regulatory-Sandboxes-Oct-2017.pdf (accessed 2023.11.08).

[6] Report on Regulatory Sandbox of the Department of the Treasury of the USA (July 31, 2018), available at: https://home.treasury.gov/news/press-releases/sm447 [https://perma.cc/95DV-H9K3 (accessed 2023.11.08).

[7] *Müller J., Kerényi A.* (2019) "The Need for Trust and Ethics in the Digital Age — Sunshine and Shadows in the FinTech World", Financial and Economic Review, Vol. 3, pp. 5–34; *Stern A.* (2018) "Innovation under Regulatory Uncertainty: Evidence from Medical Technology", Journal of Public Economics, 145, 181–200.

[8] South African Reserve Bank (SARB) *Fintech release*, available at: https://www.resbank.co.za/Lists/News%20and%20Publications/Attachments/8259/SARB%20FinTech%20release%2013%20February.pdf (accessed 2023.11.08).

sandbox participants' activity. Those imperfections exist but could be fixed by using a trustworthy approach. The mentioned approach is based on the principles of credibility from the society to the governmental decisions[1].

Attempt to design trustworthy regulation for digital technologies is another trend. As it is said, technologies are not deterministic[2]. This means that governments should firstly think about the interests of humans and society. That is why OECD approved recommendations on trustworthy AI. The EU focused on developing human-centric trustworthy AI based on the supremacy of human rights and values[3].

In the case of RS, using this approach represents the application of transparent and trustworthy protective measures, aimed at ensuring the interests of regulators, participants of the sandboxes and their counterparties and consumers as well. In other words, it is necessary to change the opinion on RS as a legal tool for money laundering and bypassing consumers' rights by promoting a trustworthy approach to them.

That is why modern states are highly needed in smart regulation for the RS, which will not make them a means of bypassing regulatory requirements, but instead an effective tool for the development of the digital economy.

This is extremely important for India and Russia. These countries were chosen for the analysis because of the following reasons. Since 2000, India and Russia have been working together under a privileged strategic partnership. This has resulted in tremendous highs for both countries: India's trade with Russia crossed $ 10.7 bn previous years, witnessing a 21.5% growth[4].

A good partnership between Russia and India enhances economic development and can boost cooperation in the sphere of security, economy, science and technologies within the bilateral agreements[5] and within the key agreements within BRICS group[6].

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[1] *Pinem A. A., Immanuella I. M., Hidayanto A. N., Phusavat K. and M.* (2018) "Trust and its impact towards continuance of use in government-to-business online service", Transforming Government: People, Process and Policy, Vol. 12 No. 3/4, pp. 265–285.

[2] UN Digital Economy report 2019, available at: https://unctad.org/webflyer/digital-economy-report-2019 (accessed 2023.11.08).

[3] OECD Recommendations for human-centered AI, available at: ht tps://www.oecd.ai/ai-principles/ (accessed 2023.11.08).

[4] *Kaura V.* (2018) "India's Changing Relationship with Russia", The RUSI Journal, Vol. 163, No. 1, pp. 48–60; *Lunev S., Shavlay E.* (2019) "Russia and India in the Indo-Pacific", Asian Politics and Policy, Vol. 1, No. 11, pp. 181–191.

[5] Declaration on the India-Russia Strategic Partnership, 2000), available at: https://indianembassy-moscow.gov.in/bilateral-relations-india-russia.php (accessed 2023.11.08).

[6] The Strategy for BRICS Economic Partnership, available at: https: //Downloads/partnershipstrategy_ eng.pdf (accessed 2023.11.08). Memorandum of Understanding on Cooperation in Science, Technology and Innovation between the Governments of the Federative Republic of Brazil, the Russian Federation, the Republic of India, the People's Republic of China and the Republic of South, available at: http:// www.brics.utoronto.ca/docs/BRICS%20STI%20MoU%20ENGLISH.pdf (accessed 2023.11.08).

Moreover, India has seen Russia as a crucial part of its strategy to balance China and USA[1]. China and USA are the world leaders in digital technologies. That is the reason for India's and Russia's development of ICT and collaboration in this field. Due to the bilateral agreements, both countries are making investments to the national economy of the partner. Moreover, Russia and India organized an intergovernmental group to develop ICT.

They are striving to build a national digital economy to solve cutting-edge problems[2]. At the same time, the level of the development of digital technologies is not high. Russia is in the 43rd place, and India holds the 48th place in this ranking[3]. According to the experts' point of view, both countries face issues in the development of digital technologies[4].

Another reason for choosing Russia and India is that both countries are now implementing RS. The legislation on RS are now being designed in these countries. At the same time, the doubts about the trustworthiness of national RS have already appeared[5].

To succeed in the field of creation efficient RS, India and Russia should implement best world practices of sandboxing regarding the peculiarities of national legal systems, avoiding failures in customers rights' protection and provision of the transparency by using a trustworthy approach.

This article aims to define the peculiarities of the national models of the regulatory sandboxes in India and Russia, to figure out the issues of these models which could be got over by proper regulation based on trustworthy approach.

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1 *Kaura V.* (2018) "India's Changing Relationship with Russia", The RUSI Journal, Vol. 163, No. 1, pp. 48–60; *Lunev S., Shavlay E.* (2019) "Russia and India in the Indo-Pacific", Asian Politics and Policy, Vol. 1, No. 11, pp. 181–191.

2 *Brigante A., Martins Ribeiro M. C., Calvacante D., Schmidt I., Braga E.* (2017) "Intellectual property and trademark legal framework in BRICS countries: a comparative study", World Patent Information, No. 49, pp. 1–12; *Morazán P., Knoke I., Knoblauch D., Schäfer T.* (2012) "The role of BRICS in the developing world", (Brussel: European Parliament's Committee on Development); *Mikheeva I., Loginova A.* (2017) "WTO accession of BRICS countries: the Chinese experience", BRICS Law Journal, Vol. 4, No. 1, pp. 84–89.

3 World Digital Competitiveness Ranking 2020, available at: https://www.imd.org/wcc/world-competitiveness-center-rankings/world-digital-competitiveness-rankings-2020/ (accessed 2023.11.08).

4 *Kurt S., Kurt U.* (2015) "Innovation and Labor Productivity in BRICS Countries: Panel Causality and Co-integration", Procedia-Social and Behavioral Sciences, No. 195, pp. 1295–1302.

5 *Poornima A.* (2020) "Regulating to Escape Regulation: The Sandbox Approach", available at: https://www.law.ox.ac.uk/business-law-blog/blog/2020/08/regulating-escape-regulation-sandbox-approach (accessed 2020.11.08).

There are many research articles and reviews dedicated to the new ways of regulation caused by digital transformation[1]. Some of the mentioned research papers considered peculiarities in the application of RS in different countries[2] or unions as EU[3] or BRICS group[4]; or, more frequently, investigated the role of the RS in separate sphere such as Fintech[5].

However, there are no research articles devoted to the analysis of current regulation on the RS in the Republic of India and Russia, key BRICS participants and long-standing partners. Previous research, dedicated to the analysis of the legislation on RS within BRICS[6] shows the necessity of in-depth comparative analysis of the national models of the RS in Russia and India, determination its peculiarities, issues and prospects of the further development.

Methods used in this research article are comparative legal analysis, formal legal analysis of the current legislation and literature in the sphere of RS and modelling method. The application of the comparative legal analytical method to the legislation and works of scholars devoted to the RS allowed researchers to combine general features of the sandboxes across the world (General Model of Regulatory Sandboxes) and then apply it to define peculiarities of the RS in India and Russia. Which gave rise to the discussion of Indian and Russian national models of RS.

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[1] *Reshef Kera D.* (2020) "Sandboxes and Testnets as "Trading Zones" for Blockchain Governance". In: Prieto J., Pinto A., Das A., Ferretti S. (Ed.s) Blockchain and Applications; *Allen H.* (2019) "Sandbox Boundaries", Vanderbilt Journal of Entertainment & Technology Law, No. 5, pp. 2–22; *Nanda Ved P.* (2006) "The "Good Governance" Concept Revisited", The ANNALS of the American Academy of Political and Social Science, Vol. 1, No. 603, pp. 269–283; *Qi Y., Li Y.* (2019) "New Economy in China: Emerging, Operation and Regulatory Reform", China Economist, Vol. 14, No. 2, pp. 2–13; *Zetzsche D., Buckley R., Barberis J., Arner D.* (2017) "Regulating a Revolution: From the Regulatory Sandboxes to the Smart Regulation", Journal of Corporate and Financial Law, Vol. 23, No 1, pp. 31–103.

[2] *Hendrik C. M., Pienaar M.* (2010) "Evolution of the South African Science. Technology and Innovation System 1994–2010: An Exploration", African Journal of Science, Technology, Innovation and Development, Vol. 2, No. 3, pp. 82–86.

[3] *Ahern D.* (2020) "Regulators nurturing Fintech innovation: global evolution of the regulatory sandbox as opportunity-based regulation", EBI Working Paper Series, No. 60, pp. 3–17.

[4] *Hendrik C. M., Pienaar M.* (2010) "Evolution of the South African Science. Technology and Innovation System 1994-2010: An Exploration", African Journal of Science, Technology, Innovation and Development, Vol. 2, No. 3, pp. 82–86; *Gromova E., Ivanc T.* (2020) "Regulatory Sandboxes (Experimental Legal Regimes for digital innovations) for BRICS", BRICS Law Journal, No. 2, pp. 10–36.

[5] *Jenik I., Lauer K.* (2017) "Regulatory Sandboxes and Financial Inclusion". Washington, D.C.: CGAP; *Fáykiss P., Papp D., Sajtos P., Tőrös A.* (2018) "Regulatory Tools to Encourage FinTech Innovations: The Innovation Hub and Regulatory Sandbox in International Practice", Financial and Economic Review, Vol. 2, No. 17, pp. 68–98; *Treleaven Ph.* (2015) "Financial Regulation of Fintech", Journal of Financial Perspectives, No. 3, pp. 2–17.

[6] *Gromova E., Ivanc T.* (2020) "Regulatory Sandboxes (Experimental Legal Regimes for digital innovations) for BRICS", BRICS Law Journal, No. 2, pp. 10–36.

Formal legal analysis and method of the modelling allowed the formation of models of RS (General Model, Russian National Model, Indian National Model) based on the trustworthy approach.

Results

Analysis of the legislation of those countries where RS are being used, allowed researchers to highlight the peculiarities of "general model" of RS. Although the allocation of a general model of RS is entirely conditional, as each of the countries carries out national legal regulation of the sandboxes, nevertheless, I note that the RS of these countries have some common features.

1. The general model of RS provides for their application in one or more sectors of the economy. As a rule, it is Fintech. This is typical for the RS in the UK[1], Singapore[2], Australia[3], and UAE[4]. RS in China and some other countries, in its turn, are created to develop Fintech, InsurTech market[5] and other markets.

2. The establishment of the RS is carried out by a specially authorized body in cooperation with potential sandbox participants. For example, the Financial Conduct Authority of the UK, Monetary Authority of Singapore. These governmental bodies and participants of the RS can determine the rules and conditions for testing digital innovations (Australia, Singapore, Malaysia). That is why the emergence of the RS across the world has led to a change in the role of the state from regulatory to advisory[6].

3. Testing parameters are most often defined on "case-by-case basis" (China, Australia, UAE, UK). This is dictated by the new role of the regulator, which seeks

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[1] Regulatory Sandbox Review, available at: https://digitalchamber.org/wp-content/uploads/2017/11/Regulatory-Sandbox-Review_Nov-21-2017_2.pdf (accessed 2023.11.08).

[2] The Monetary Authority of Singapore "Fintech Regulatory Sandbox Guidelines Singapore" available at: https://www.rajahtannasia.com/media/pdf/15_FinTech_RegulatorySandbox_Guidelines.pdf (accessed 2023.11.08).

[3] ASIC Sandbox, available at: https://download.asic.gov.au/media/5763623/comparison-asic-sandbox-enhanced-regulatory-sandbox-published-25-august-2020.pdf (accessed 2023.11.08).

[4] Regulatory Sandbox Review, available at: https://digitalchamber.org/wp-content/uploads/2017/11/Regulatory-Sandbox-Review_Nov-21-2017_2.pdf (accessed 2023.11.08).

[5] The Monetary Authority of Hong Kong *Circular on Fintech Supervisory Sandbox (FSS)* B1 /15C B9 /29C 2016, available at: https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2016/20160906e1.pdf (accessed 2020.11.08); Bank of Malaysia Regulatory Sandbox, available at: https://www.bnm.gov.my/index.php?ch=en_press&pg=en_press&ac=4273&lang=en (accessed 2020.11.08); Bank of Thailand Regulatory Sandbox, available at: https://www.bot.or.th/English/Pages/default.aspx (accessed 2020.11.08).

[6] *Ahern D.* (2020) "Regulators nurturing Fintech innovation: global evolution of the regulatory sandbox as opportunity-based regulation", EBI Working Paper Series, No. 60, pp. 3–17.

to define such conditions, interacting with potential sandbox participants and considering the specifics of each of them[1].

4. The timeframe for testing innovations is 3 to 12 months (China, Malaysia, Singapore, Thailand). Exceptions are the UAE RS and Australian Enhanced RS, where testing is up to 2 years. On the one hand, the choice of such a period is predetermined by the need to give innovators and regulators enough time to understand the viability of innovation. On the other hand, too long period of greenhouse conditions leads to the "addiction" to granted reliefs.

5. The general model of RS envisages a set of protective measures for the potential consumers and counterparties entering a legal relationship with the sandbox's participants to protect their rights in most countries using RS. Prior consent of the potential consumer is the most widespread among mentioned measures (China, UAE, UK). Liability insurance and special compensations as a measure of protection of consumers and counterparties are less common, but also applied in separate countries. For example, ASIC RS in Australia requires adequate compensation arrangements (minimum $1 million cover).

Indian Model of RS

The goal of innovation development in India is to raise GDE on R&D with a doubling of the business contribution by 2020-2022. At the same time, the barriers for digital technologies as the lack of a legal framework primarily in data protection and cyberspace requires working out a system of measures to remove them[2]. Among them — the creation of the RS.

The Draft Enabling Framework for RS was announced by the Indian Reserve Bank on April 18th in 2019. Due to this act, Indian Fintech RS is an important tool for creation flexible regulatory environment for testing products, based on digital technologies. Later in 2019, IRDAI (insurance regulator) and SEBI (capital market's regulator) launched similar RS' initiatives[3].

The goal of using the RS in India is to provide an environment to innovative startups for a limited scale testing of a new product, service or process that might engage application of some relaxations in regulatory requirements.

The conditions to apply the RS's regime are the absence of the regulation of the activity with the use of the digital innovation; necessity to ease the regulation

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[1] *Gromova E., Ivanc T.* (2020) "Regulatory Sandboxes (Experimental Legal Regimes for digital innovations) for BRICS", BRICS Law Journal, No. 2, pp. 10–36.

[2] Digital India (2020, September), available at: https://digitalindia.gov.in/ (accessed 2023.11.08).

[3] IRDAI Guidelines on Operational Issues Pertaining to the Regulatory Sandbox INT/ GDL/ RSB/ 139/08/2019, available at: https://www.irdai.gov.in/ADMINCMS/cms/frmGuidelines_Layout.aspx?page=PageNo3885 (accessed 2023.11.08); SEBI *Circular on Regulatory Sandbox* SEBI/HO/MRD/ 2019/P/64, available at: https://www.sebi.gov.in/legal/circulars/jun-2020/framework-for-regulatory-sandbox_46778.html (accessed 2023.11.08).

temporarily to force innovation; the ability of the creation to facilitate the delivery of the services in a significant way. Up to the IRDAI Guidelines, the allowance for testing "innovation in insurance" depends on the next "fit and proper" criteria: the proposal must help to increase insurance penetration or provide enhanced services; the proposal shall not be made merely for the sake of seeking a regulatory relaxation but shall be a genuine innovation[1]. Due to the SEBI Circular, the eligibility criteria are genuineness of innovation; genuine need to test; limited prior testing; direct benefits to users; no risks to the financial system; deployment post-testing[2].

The testing period in general for all sandboxes — is up to 12 weeks and corresponds to the General Model of RS. Due to the testing results, the regulator will decide if the product or service is viable and acceptable and if it is necessary to grant regulation to it.

The distinguishing feature of the Indian model of the RS is the fact that RS may consider "relaxing" measures, which could be defined case-by-case. As it is regarded in Draft Enabling Framework of RBI, there is a possibility for relaxations. According it, 4 of the IRDAI Guidelines the Authority may consider granting limited regulatory relaxation to the proposal that promotes innovation in insurance in India also on a case-by-case basis. To encourage innovation with a minimal regulatory burden, SEBI shall consider relaxations, which could be either in the form of a comprehensive exemption from certain regulatory requirements or selective exemptions on a case-by-case basis, depending on the FinTech solution to be tested. But, according to the Circular, no exemptions would be granted from the investor protection framework, Know-Your-Customer and Anti-Money Laundering rules, and confidentiality of customers' information.

This peculiarity has its own *pros* and *cons*. Thus, "flexible" provision gives the opportunity to decide if it is necessary to use the relief tools or not, it can lead to the unfair granting of benefits. That is why we propose that the ability of granting these relaxations requires additional supervising tools.

The provisions of the DEF on consumers' rights protection emphasizes that the participants of the Fintech Sandbox must perform all obligations to the customers before the testing period comes to an end. This implies that the use of the RS's regime does not involve the limitation of the liability of the sandbox participants, which is extremely important. The DEF stipulates that customers should be notified of potential risks while testing is ongoing and available compensation in this

[1] IRDAI Guidelines on Operational Issues Pertaining to the Regulatory Sandbox INT/ GDL/ RSB/ 139/08/2019, available at: https://www.irdai.gov.in/ADMINCMS/cms/frmGuidelines_Layout.aspx?page=PageNo3885 (accessed 2023.11.08).

[2] SEBI Circular on Regulatory Sandbox SEBI/HO/MRD/2019/P/64, available at: https://www.sebi.gov.in/legal/circulars/jun-2020/framework-for-regulatory-sandbox_46778.html (accessed 2023.11.08).

regard. These provisions have an important impact in case of maintaining not only governmental and businesses' interests, but the interests of the consumers[1].

Regarding the protection of customers' rights, the participant of the RS must clearly inform customers about their participation in RS and get their prior consent to participate in the proposal. At the same time, the Guidelines does not contain any other protective measures neither for customers nor for counterparties.

The provisions on transparency deserve attention. Thus, to provide the necessary transparency, expenses incurred on the proposal shall be maintained separately and shown as a line item in the annual report. Moreover, if any regulatory or supervisory action taken against the proposal by any government or other regulatory authorities the participant must immediately report to the regulator with full details including the penalty imposed if any, administrative action taken and the remedial steps taken by it to prevent such recurrence.

Summing up, the Indian national model of the RS has a lot of similarities with the general model of RS, including fields of application, specially authorized body, and testing period. Notably, the regulator's attempt to ensure the transparency deserves to be commended. At the same time, the described model has a lack of protective measures for the potential customers and counterparties, which could lead to the lack of trust from the society.

Russian Model of RS

Russia does not stand aside from world trends in regulating digital innovations. Today the country is actively establishing the RS or as they are called in Russian legislation *"experimental legal regimes for digital innovations"*.

RS in Russia were initially been used for the development of Fintech. The "Guidelines for the development of Fintech in 2018-2020"[2] were approved and the first RS for testing Fintech Innovations was created by the Bank of Russia in 2018.

Furthermore, to ensure the possibility of testing technologies not only in Fintech but other areas, Federal Law "On conducting an experiment to establish a special regulation to create the necessary conditions for the development and implementation of artificial intelligence technologies in the subject of the Russian Federation — the city of federal significance in Moscow and amending Articles 6 and 10 of the Federal Law "On Personal Data" was accepted on April 24, 2020. This Law envisages implementing experiment by establishing an experimental legal regime to create conditions for the development of AI-based technologies in Moscow.

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[1] *Gromova E., Ivanc T.* (2020) "Regulatory Sandboxes (Experimental Legal Regimes for digital innovations) for BRICS", BRICS Law Journal, No. 2, pp. 10–36.

[2] Bank of Russia "*The Main Directions of Development of the Financial Technologies for the period 2018–2020*", available at: https://www.cbr.ru/StaticHtml/File/36231/ON_FinTex_2017.pdf (accessed 2023.11.08).

Regretfully, this act consists of only 8 articles, the content of which does not allow for the identification of the features of the Russian model of RS. Most of its provisions are declarative. Thus, for example, even the objectives of the setting up the RS are defined very abstractly: improving the quality of life, increasing the efficiency of state administration, increasing the efficiency of business entities. It should be noted that even considering the extremely long five-year period for testing; it will be exceedingly difficult to assess check the effectiveness of the sandbox because of its "blurred" goals.

RS is also regulated by the Federal Law "On Experimental Legal Regimes for Digital Innovations" July 31st, 2020, No 258-FZ. Such regimes envisage the temporarily controlled introduction of experimental legal regulation for the activities carried out with the use of digital innovation.

The goals of the experimental regime for digital innovations are the formation of new types of economic activities; promotion of competition; increase in the efficiency of state administration; insurance of the development of science and social sphere; improvement of general regulation.

The Law defines the directions in respect to under which circumstances it is possible to establish: medical activity; design, production and operation of vehicles; e-learning and distance learning technologies; financial market; remote sales; architectural and construction sphere; state and municipal services.

This regime is established because of the absence of general regulation or presence in the existing general regulation of requirements, prescriptions, prohibitions, restrictions in compliance with which the introduction of digital innovation is impossible or significantly difficult. The introduction of digital innovation may lead to the formation of new types of economic activities, improvement of quality and (or) availability of goods, works, services; increase in profits from entrepreneurship.

Analysis of the two aforementioned legal acts shows that they both have serious disadvantages which could be a barrier for the development of digital technologies. These disadvantages are primarily connected with the lack of transparency rules and rules connected with the customers' protection.

First, the duration of testing raises some doubts. Due to the law, the experimental regime could be established up to 3 years. Moreover, law on conducting experiment in Moscow sets the testing period for 5 years. The possibility of applying the regime of the RS in such a long period of time when a business entity is in "greenhouse" conditions may adversely affect its activities or lead to the abuse of the rights.

Secondly, the previously referred to legal acts do not reflect the conditions of the need for prior consent of customers or counterparties to interact those concerned by an experimental legal regime. With regard to the Russian RS model, it is important to note that although the Federal Law defines protective measures in relation to interested parties, their application is left to the discretion of the participant of the

experimental legal regime. This means that the RS participant may or may not use these measures. I believe this provision should be terminated from the text of the Law and usage of protective measures must become mandatory for the RS participant.

In comparison, this condition is contained in the legislation on RS in the UK, Australia, and Singapore (Fintech RS Guidelines). Its implementation helps to minimize risks associated with testing digital innovations. These measures are necessary to ensure the protection of the interests of potential consumers. According to experts' point of view, consumers can suffer from consequences of the application of the regime of RS because products, services or processes based on the new and, in some cases, "unpredictable" digital technologies are being tested[1].

Based on the identified features of the Russian model of RS it can be concluded that the domestic legislator has chosen a different way, carrying out centralized regulation of such sandboxes, and not seeking to change its regulatory role in order to weaken the impact on the market innovation. It is possible that under the current conditions and considering the Russian legal tradition, such a way is optimal for the country. At the same time, successful implementation of RS requires the elimination of existing legislation's shortcomings in the field of protection of the rights of consumers and contractors and ensuring the transparency of the activity of RS participants.

Recommendations for the development of RS in Russia and India

The considerable potential of the RS, as well as the risks connected with their inappropriate usage, require from the Russian and Indian regulators thorough and detailed work on setting up the national models of the RS based on the principles of transparency and protection of the consumers' rights (trustworthy approach).

Russia and India should develop cooperation in the sphere of setting up and operating of the RS and set up guidelines to the national and international policy on RS.

The following are the main recommendations, based on the trustworthy approach and a balance of public and private interests of regulators, business entities, customers and counterparties:

— Regulators from both countries must develop clear and transparent criteria for admission of the potential participants to the RS. To promote the credibility from the society and potential participants of the sandbox, the aforementioned standards should be unified for all participants. Otherwise, it could lead to corruption and inequality.

— It is necessary to establish a flexible testing period, which, on the one hand, will allow to check the viability of the innovation and answer the question on whether the existing regulation needs to be changed or not. On the other hand,

[1] *Bromberg L., Godwin A., Ramsay I.* (2017) "Fintech Sandboxes: Achieving a Balance between Regulation and Innovation", Journal of Banking and Finance Law and Practice, Vol. 28, No. 4, pp. 314–336.

a period of testing should not be too long to stay out of the "greenhouse" conditions. E.g., a testing period in Russia which is 3–5 years is excessive and can lead to abuse. Nevertheless, in my opinion, this period should not be defined individually case-by-case (as done in China), because it could lead to the lack of transparency.

— We need to establish a set of measures for the protection of potential customers and counterparties as notification about the fact of the testing within the RS, necessary prior consent of mentioned entities, liability insurance and a range of compensations. The Mentioned measures should not be considered as a barrier for the development of digital innovations, but as a means to get over the criticism of RS in order to bypass supervisory requirements.

— Moreover, as it was mentioned above, India has seen Russia as a key part of its strategy to balance China. In this regard, both countries should consider the creation of the Russian-Indian RS to test digital technologies to promote innovations made in these countries that can compete with their foreign counterparts. Notably, there are currently 12 countries across the world united to test their innovations within Global RS or "Sandbox for Sandboxes"[1].

Conclusion

The willingness of the Russian Federation and the Republic of India to develop digital technologies to solve the problems of economic growth and other important problems requires improvement of the existing regulation of activities related to the application of such innovations. The implementation of such an unorthodox tool promoting the creation of competitive digital innovations as RS, requires well-considered and balanced governmental decisions. These decisions should, on the one hand, stimulate innovative development, on the other hand, refrain from putting innovation at the center of the agenda, losing public confidence in the new regulatory instruments.

Defined peculiarities of national models of RS of the Russian Federation and the Republic of India and recommendations for improvement of these models based on the trustworthy approach could be used for the creation of the international legislation on RS across the world. Also, these recommendations could be applied for the law-making in the sphere of RS in separate countries to create an effective and trustworthy national model of RS.

Moreover, results achieved in this research article could be used as a basis for further research in the sphere of RS and other tools to promote trustworthy technologies in the era of the digital transformation.

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[1] *Global Financial Innovation Network (GFIN): Consultation document*, August 2018, available at: https://www.fca.org.uk/publication/consultation/gfin-consultation-document.pdf (accessed 2023.11.08).

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Recommended citation

Gromova E. A., D. B. Ferreira. Designing trustworthy national models of the regulatory sandboxes in Russia and India: a viewpoint. Kazan University Law Review. 2024; 3 (9): 129–144. DOI: 10.30729/2541-8823-2024-9-3-129-144.