



THE COMMISSION PUSHES FOR A NEW SAFE HARBOUR DEAL WITHIN 3 MONTHS

The European Commission wants to have a new data sharing arrangement with the US within the next three months.

“I believe Europe and the United States have all tools at hand to achieve this in three months,” Commission Vice President Andrus Ansip said ON 6TH NOVEMBER, emphasising that “it needs a bulletproof solution.”

Commission officials have rushed to step up negotiations with their US counterparts over a new deal to replace the Safe Harbour agreement, which the European Court of Justice knocked down on 6 October. Safe Harbour allowed the over 4,000 companies that signed onto it to transfer data legally from the EU to the US.

EU Justice Minister Vera Jourova is meeting with US officials over a new agreement during a trip to Washington MID-NOVEMBER AND SHE would also meet with US Senators who will vote on the Judicial Redress Act that could give EU citizens' the same legal rights as Americans if their data is mishandled. After the ECJ verdict, the Commission scrambled to assure European businesses that they could still transfer data to the US using other legal means, like standard contractual clauses or binding corporate rules. Members of the 'Article 29' working party, the commission of national data protection authorities from EU member states, vowed at a plenary meeting last month to review those tools. The national authorities are meeting again in January.

[The Commission published a set of guidelines on those measures](#) on November 6th, which Ansip heralded as “providing clarity to our companies” on how to continue transferring data to the US. **Existing alternatives to Safe Harbour are still valid, according to the Commission. As a last resort, companies could transfer personal data to the US if they have a person's clear consent about the data transfer.**

The ECJ verdict gave national data protection supervisors new authority to decide on privacy cases. The Commission is pushing for the national regulators to agree on how they'll deal with data transfers, but its powers to influence the independent privacy officials are limited.

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Data protection authorities from Germany's Länder announced they would no longer allow data to be transferred to the US under standard contractual clauses or binding corporate rules. Many companies that bemoaned damage to business after the ECJ verdict said a new blanket agreement to replace Safe Harbour is the only way to restore the scale of data transfers that were allowed under the deal. The other tools, companies argue, are more complicated, expensive and would result in companies sealing several piecemeal agreements for their data transfers.

According to THE guidelines, the Commission will start periodic reviews of the agreements it still has in place with 11 other countries—including Canada, Switzerland and Israel—that call their privacy laws up to EU standards. A change to those agreements could affect whether data can legally be transferred from the EU to those countries as well. Commission officials argue that companies started investing in data storage centres in the EU even before the ECJ verdict. Following the German data protection authorities' statement last week, business groups fired back at Hamburg's privacy supervisor for suggesting companies consider storing Europeans' data within the EU.

EU POISED TO DELAY LANDMARK FINANCIAL MARKETS REFORMS

The European Union's major reform of financial market rules faces a delay of a year to January 2018 to give the financial services industry more time to prepare, according to some European Commission officials. The principles of the so-called MiFID II legislation, aimed at changing the way financial markets operate, were agreed at the global level during the 2007-09 financial crisis.

The United States has already introduced extensive changes to market regulations under its Dodd-Frank Wall Street Reform and Consumer Protection Act and a delay in the European legislation would raise the prospect of distorting competition in some major cross-border markets.

Europe's new Markets in Financial Instruments Directive II, which all banks, brokers and asset managers must comply with, also contains measures that are important to laying the groundwork for the EU's capital markets union (CMU) project aimed at making it easier for European companies to raise funds in the capital markets instead of relying on bank lending. But it seems from the European Commission's preliminary technical view that a delay of maybe one year is needed, if we want to have a smooth and effective implementation.

The claim for a delay has been backed up by ESMA and the Investment Association, a UK trade body for asset given the complexity for regulators, banks and brokers to adapt IT systems to the new rules in time for the 2017 start date. The new rules call for far more reporting of transactions to regulators.

ESMA delivered over 900 pages of detailed rules to the European Commission in September in what the watchdog

"I am more than just surprised that at this stage we are having this kind of discussion with the Commission and ESMA," said Markus Ferber, the German centre-right lawmaker who steered MiFID through the European Parliament., and Anneliese Dodds, a British centre-left member said financial lobbyists will scent a chance to re-open hard-won compromises. The financial industry will be happy with a delay, added Philippe Lamberts, a Belgian Green Party member. "I am not from the financial industry, I am a legislator and I am not amused at all," Lamberts

said. EU lawmakers, ESMA and the European Commission will hold further meetings to discuss a delay. Backing from EU states would also be needed but Britain, France and Germany have already called for changes.

ELECTRONIC PAYMENT SERVICES (PSD2): COUNCIL ADOPTS UPDATED RULES

The PSD2 directive aimed at further developing an EU-wide market for electronic payments was adopted by the Council on 16 November 2015. The directive incorporates and repeals directive 2007/64/EC, which provided the legal basis for the creation of an EU-wide single market for payment services.

The revised directive adapts the rules to cater for emerging and innovative payment services, including internet and mobile payments. It sets out to ensure a more secure environment for payments, in particular for those using remote channels.

Since adoption of the original payment services directive in 2007, methods for the initiation of payments in the field of e-commerce have evolved. They usually form a software "bridge" between the website of the merchant and the online banking platform of the payer's bank in order to initiate internet payments on the basis of a credit transfer. **These services are now covered by the directive.** They enable the payment initiation service provider (who never holds the user's funds) to give an assurance to the payee that the funds necessary for a specific payment transaction are available on the customer's account and that the payment has been initiated.

A regulatory regime to cover the activities of account information services is also established. These services provide the payment service user, for example, with aggregated online information on payment accounts held with other payment service providers. This enables the payment service user to have an overview of his/her financial situation at any given moment, within a secure environment.

At the same time, the directive promotes stronger security measures for internet payments and for the use of services provided by new market players. It will ensure strong customer authentication to identify the client for each transaction. The new and strengthened supervisory regime will further increase the security level and consumer protection in this field.

Member states will have two years to transpose the directive into their national laws and regulations. Click [here](#) to see the text of the adopted directive.

SHADOW BANKING: COUNCIL ADOPTS TRANSPARENCY RULES ON SECURITIES FINANCING TRANSACTIONS

A regulation that will improve the transparency of securities lending and repurchase transactions was adopted by the Council on 16 November 2015. **The regulation is intended to counter the risk of trading activities developing outside the regulated banking system, or otherwise without proper oversight.**

By **introducing binding and reporting requirements**, it sets out to discourage banks and other financial intermediaries from shifting transactions to the less-regulated shadow banking sector. It will ensure that information on securities financing transactions is efficiently reported to trade repositories and investors in collective investment undertakings. Securities financing transactions, often carried out in the shadow banking sector, are transactions that use assets belonging to the counterparty to generate financing. They usually involve the lending or borrowing of securities or commodities, repurchase (repo) or reverse repurchase transactions, or buy-back/sell-back transactions.

A proposal was presented by the Commission in January 2014, together with a draft regulation on structural reform of the EU banking sector. Both set out to enhance financial stability. Negotiations on the bank structures proposal will start once the Parliament has agreed its negotiating stance.

The regulation on securities financing transactions will **improve transparency** in three main areas:

- monitoring of the build-up of systemic risks in the financial system related to securities financing transactions;
- the disclosure of information on securities financing transactions to investors whose assets are employed in the transactions;
- Reuse by banks or brokers for their own purposes of collateral provided by their clients.

The [regulation](#) will enter into force on the 20th day following its publication in the EU Official Journal.

CONSULTATIONS

Consultation title	Subject	Deadline	Web site
Public consultation on the regulatory environment for platforms, online intermediaries, data and cloud computing and the collaborative economy.	input for the analysis of the role of online spaces where providers and users of content, goods and services can meet (such as internet search engines, social media, knowledge and video-sharing websites, news aggregators, app stores and payment systems).	17/12/2015	https://ec.europa.eu/digital-agenda/en/news/public-consultation-regulatory-environment-platforms-online-intermediaries-data-and-cloud
Call for evidence: EU regulatory framework for financial services:	<p>The Commission is looking for empirical evidence and concrete feedback on:</p> <ul style="list-style-type: none">• Rules affecting the ability of the economy to finance itself and growth;• Unnecessary regulatory burdens;• Interactions, inconsistencies and gaps; <p>Rules giving rise to unintended consequences.</p>	06/01/2015	http://ec.europa.eu/finance/consultations/2015/financial-regulatory-framework-review/index_en.htm

FEBIS REGULATORY COMMITTEE

The regulatory committee held 2 calls in November, one concentrating on the data protection and public sector information issues and the other on Capital Markets Union, rating and scoring and access to finance. To smooth organisation, it has been decided to create 2 working sub-committees, one on rating and scoring and one on SME access to finance, with a limited number of committed members in each working group to concentrate on technical aspects and preparation of FEBIS materials. Other working groups will also be further created depending on the issues faced and the committee will also share issues updates on a regular basis.

THE MEMBER STATES CORNER

This item intends to put in the spotlight some trends/initiatives happening on the regulatory or market front at national level, so that FEBIS members know better what happens in the other EU countries. Each month a particular item from an EU Member State will be picked up and presented, but we need your input to make it lively and accurate, so please send your national info to [Stephanie](#) so it can be put up in next FEBIS newsletters!



Experian , Creditsafe and Equifax to become UK government designated credit reference agencies (CRA)

The UK Government has designated Creditsafe, Experian and Equifax to receive credit information data on businesses (SMEs) from banks. The new appointment, announced in the [UK treasury Autumn Statement](#), means the government plans to designate Experian, Equifax and CreditSafe under the Small and Medium Sized Business (Credit Information) Regulations 2015. These credit reference agencies will receive SME credit data from designated banks and will be required to give finance providers equal access to this information. It will contribute to a wider initiative introduced by the Small Business Act 2015 to increase financing opportunities for smaller businesses. UK Government is setting the stage for facilitating access to finance for SMEs through improved information, engaging in a major structural reform that will promote competition in the SME credit market and the UK decision can be regarded as a role model for other countries.

During the application process the British Business Bank which was handling the process for Government stated: "The control of credit information by existing providers is a barrier to entry in the market for lending to smaller businesses. Opening up access to credit data held by the big banks will increase the reliability of credit scores, enabling alternative finance providers to make better-informed decisions about finance provision to smaller businesses."

In a regulatory environment across the EU where the availability of data is under threat we see this as a very positive move in the right direction. We hope this approach will be replicated within other countries, where it can help increase the availability of finance to SMEs whilst recognising the import role our industry can play in enabling positive data sharing.

For more information : [UK treasury Autumn Statement](#), p. 125

FEBIS– Federation of Business Information Services

Benefiting from the opening of markets within Europe and overseas, world-wide business has experienced substantial growth. As business grows so does the demand for business information, in particular, intelligence for cross-border business activities.

In 1973, leading European credit information agencies joined forces to form the Federation of Business Information Services FEBIS (initially known as FECRO), with its registered office in Frankfurt. Today, FEBIS has developed into a sizable organization comprising more than 60 full Members from all over the world involved in providing Business Information and Debt Collection services of National and International importance.

Supported by a combined workforce of more than 20,000 staff, FEBIS Members generate over 180 million Business Information and Consumer reports annually for over 500,000 organizations, providing these clients with invaluable business support. Aggregate sales turnover of FEBIS Members is in excess of €2.5 Billion.

As the industry association, FEBIS strives to look after common interests of its members. While monitoring new legislation like data protection laws and insolvency laws, FEBIS also oversees and the application of public sources and information.