



## DG FISMA CONSULTATION ON NON-BINDING GUIDELINES FOR REPORTING OF NON-FINANCIAL INFORMATION BY COMPANIES

On 15 January 2016, DG FISMA of the European Commission unveiled a public consultation on non-binding guidelines for reporting of non-financial information by companies, consultation which is open until 15<sup>th</sup> April 2016. This follows the requirement of art 1 of the directive 2014/95/EU which states that new disclosure requirements apply to large public-interest entities with more than 500 employees. The consultation aims at seeking guidance on how to improve transparency on non-financial company reporting and is also asking what the scope of application should be. FEBIS will work out on a submission that stresses the importance of having homogeneous and comparable information.

## FEBIS COMMENTS ON THE ANACREDIT PROPOSAL

On 29<sup>th</sup> January, FEBIS submitted its comments paper to the public consultation open by the European Central Bank on the AnaCredit proposal. The Analytical Credit Datasets (AnaCredit) project aims at being a pan-European system for collecting, storing and sharing credit data, in order to assist the ECB in performing its functions.

FEBIS comments outlined the need to prevent asymmetry of information and to put in place a fair level playing field and avoid adding reporting burden on national banks by ensuring that private credit reporting service providers are associated to the project and that an instrument based on public funding does not replicate what already exists and is well working in the private sphere. The paper also insists on the fact that FEBIS members should be seen as potential useful partners who could feed in relevant and useful value-added information (such as information on trade credit) provided they also get access to the Anacredit information at a level of granularity that would need to be defined.

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## FEBIS REGULATORY COMMITTEE SETS UP A WORKING GROUP ON RATING AND SCORING

Because the issue of having a clear picture of rating and scoring activities and the difference between these is of importance for many FEBIS members, the FEBIS Regulatory Committee has decided to put in place a dedicated working group on the issue. The group is currently working on getting a better understanding of the different definitions and market practices around these issues and will elaborate a White Paper dedicated to internal use to get a better understanding of what is happening on the market, and what the regulatory rules and constraints are, which will be circulated to all FEBIS members for comments. Interested FEBIS members may contact Stephanie, Luis or Bernie if they want to be involved in this process.

## DATA PROTECTION: THE GDPR IS ON ITS WAY, WORK STARTING ON THE NATIONAL IMPLEMENTATION AND BEST -PRACTICE COMPLIANCE APPROACH

At the end of December 2015, the European Commission, the Council and the European Parliament found a political agreement on the text of the GDPR. Though the text formally needs to be adopted by the EP, its content won't change much and it will become directly applicable as soon as it is published in the Official Journal of the European Union. For credit reporting service providers, things have improved since the version of the first reading of the European Parliament, with some positive changes included in the further processing and legitimate interest uses.

After publication, national member states will have 2 years to get their legislation compliant with the text, and some Member States are already beginning to include some key principles of the GDPR into their national laws ( eg France). The most important thing is now to focus on compliance, because national data protection authorities are willing to work hand in hand with industry players on compliance mechanisms.

The FEBIS regulatory committee has decided to begin working on a draft FEBIS best practice approach that would be principle based, and compliant with the requirements of the GDPR on the major issues for credit reporting service providers. Input from all interested parties will be sought after a first draft is produced and when completed this would be a useful tool for all FEBIS members in their talks with their national DPAs.

## COMMISSION PUBLISHES EX-POST EVALUATION OF THE LATE PAYMENTS DIRECTIVE

The European Commission has published an extensive ex-post evaluation report on the late payments directive to assess its transposition and the remaining problems existing with late transposition. The report stresses that the directive continues to be relevant and it is generally considered efficient with significant value added for industry stakeholders. Indeed, almost 80% of companies have experienced late payments in the last three years. However, there is little evidence that the Directive has had an impact on payment behaviour and the practice of late payment to date. Furthermore, exercise of the rights conferred by the Directive is not widespread due to fear of damaging good business relationships. The executive summary stresses that ***“rather than legislation , business culture, economic conditions and power imbalances in the market are the driving factors of payment behaviour. ”***

The report gives some recommendations to the EC to act as follow-up on the directive, such as:

- bringing the issue of late payments to the forefront of the political agenda in Europe
- Facilitating an exchange of best practices among Member States
- Providing further guidance on a number of provisions of the Directive to give clarity and facilitate application and enforcement
- Put in place harmonised measurement of the incidence and length of late payments across MS to allow monitoring of progress in achieving the goals of the Directive.

The extensive report is available from the EC web site at <http://ec.europa.eu/DocsRoom/documents/14295?locale=en>

## ESMA REPORT ON THE SUPERVISION OF CREDIT RATING AGENCIES UNVEILED

The European Securities and Markets Authority (ESMA) welcomes the [European Court of Auditors' \(ECA\) Report on ESMA's role as the single supervisor of credit rating agencies \(CRAs\)](#) in the European Union (EU). ESMA took over the supervision of CRAs in July 2011, under the CRA Regulation. The Report, which covers the period from the start of ESMA's supervisory role to September 2015, finds overall that ESMA has laid down good foundations for supervising CRAs in the EU in a short period of time but there is still room for improvement.

The external evaluation will assist ESMA in improving its supervision of CRAs, and in several areas the Report has recommended enhancements that ESMA will take into consideration in reviewing and developing its practices and procedures. In particular, ESMA will improve its record-keeping of analyses and decision-making processes regarding risk identification, on-going supervision, investigations and registration of CRAs. ESMA's detailed response to the findings and recommendations can be found on pages 53 to 69 of the report. More information on ESMA's role is available on its website.

## DATA PROTECTION: AGREEMENT ON THE EU-US PRIVACY SHIELD ON TRANSATLANTIC DATA FLOWS

On February 2, the EU unveiled that they found a deal with the US on a new agreement on transatlantic data flows called the EU-US Privacy Shield (to replace the invalidated Safe Harbour). Many critics, including some influential MEPs, are questioning the real substance of the deal, and the EU Data Protection Authorities are to provide their comments on this deal very soon.

The new arrangement will provide stronger obligations on companies in the U.S. to protect the personal data of Europeans and stronger monitoring and enforcement by the U.S. Department of Commerce and Federal Trade Commission (FTC), including through increased cooperation with European Data Protection Authorities.

The new arrangement will include the following elements:

- **Strong obligations on companies handling Europeans' personal data and robust enforcement:** U.S. companies wishing to import personal data from Europe will need to commit to robust obligations on how personal data is processed and individual rights are guaranteed. The Department of Commerce will monitor that companies publish their commitments, which makes them enforceable under U.S. law by the US. Federal Trade Commission. In addition, any company handling human resources data from Europe has to commit to comply with decisions by European DPAs.
- **Clear safeguards and transparency obligations on U.S. government access:** For the first time, the US has given the EU written assurances that the access of public authorities for law enforcement and national security will be subject to clear limitations, safeguards and oversight mechanisms. These exceptions must be used only to the extent necessary and proportionate. The U.S. has ruled out indiscriminate mass surveillance on the personal data transferred to the US under the new arrangement. To regularly monitor the functioning of the arrangement there will be an annual joint review, which will also include the issue of national security access. The European Commission and the U.S. Department of Commerce will conduct the review and invite national intelligence experts from the U.S. and European Data Protection Authorities to it.
- **Effective protection of EU citizens' rights with several redress possibilities:** Any citizen who considers that their data has been misused under the new arrangement will have several redress possibilities. Companies have deadlines to reply to complaints. European DPAs can refer complaints to the Department of Commerce and the Federal Trade Commission. In addition, Alternative Dispute resolution will be free of charge. For complaints on possible access by national intelligence authorities, a new Ombudsperson will be created.

The College of EU Commissioner has given a mandate to Ansip and Commissioner Jourová to prepare a **draft "adequacy decision" in the coming weeks**, which could then be adopted by the College after obtaining the advice of the Article 29 Working Party and after consulting a committee composed of representatives of the Member States. In the meantime, the U.S. side will make the necessary preparations to put in place the new framework, monitoring mechanisms and new Ombudsman.

## CONSULTATIONS

Consultation title	Subject	Deadline	Web site
Draft ECB regulation on AnaCredit		29/01/2016	Comments to send to <a href="mailto:statistics@ecb.europa.eu">statistics@ecb.europa.eu</a> Link to text : <a href="https://www.ecb.europa.eu/stats/money/aggregates/anacredit/html/index.en.html">https://www.ecb.europa.eu/stats/money/aggregates/anacredit/html/index.en.html</a>
Green paper on retail financial services	seeks the views on how to improve choice, transparency and competition in retail financial services to the benefit of European consumers and how to facilitate true cross-border supply of these services, so that financial firms can make the most of the economies of scale in a truly integrated EU market. It is also looking at and discussing the impact of digitalization on retail financial services with a view to allow for growth of innovative solutions in this area in the EU.	18/03/2016	<a href="http://ec.europa.eu/finance/consultations/2015/retail-financial-services/index_en.htm">http://ec.europa.eu/finance/consultations/2015/retail-financial-services/index_en.htm</a>
Consultation on non-binding guidelines for reporting of non-financial information by companies	Find common guidelines for non-financial company reporting for big companies	15/04/2016	Link to text : <a href="http://ec.europa.eu/finance/consultations/2016/non-financial-reporting-guidelines/index_en.htm">http://ec.europa.eu/finance/consultations/2016/non-financial-reporting-guidelines/index_en.htm</a>

## 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.