



December 2017 EU affairs newsletter

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Access to finance

Commission Impact Assessment on Building a proportionate regulatory environment to support SME listing

The European Commission just published on December 18th an Inception Impact Assessment on building a proportionate regulatory environment to support SME listing. The impact assessment will serve as a basis for the Commission to decide if a legislative instrument is needed and which policy option should be favored.

It already states that the Commission will do a public consultation on the issue, to be unveiled late December 2017 and running for ten weeks.

In its IA, the Commission alludes to the lack of investment in SMEs and also to one of the underlying factors being the lack of visibility of SMEs towards investors, as outlined in the excerpt below

*Third, there is a lack of investment in SME shares and bonds (demand-side issue). European households and institutional investors have a lot of savings that could be invested but a very low flow of investment is effectively channelled into listed SMEs. Several factors explain this situation, such as regulatory barriers to investments in SMEs, **lack of visibility of SMEs towards investors**, lack of tax incentives. This lack of demand further reduces the incentives for small companies to list their financial instruments on public markets. The lack of investment flowing to SME markets also contributes to the weakening of the ecosystems surrounding the exchanges (notably the brokerage ecosystems). If investment were unlocked, those investment services providers could become profitable again.*

FEBIS will reflect on the Impact Assessment and see if it can provide some input to the public consultation.

You can click [here](#) to see the whole Impact Assessment page and [here](#) to see the public consultation.

Commission Impact Assessment Roadmap on the review of the European Fund for Strategic Investments (EFSI)

The European Commission published on December 22 an [Impact Assessment Roadmap](#) aiming at evaluating the application of the EFSI regulation.



The objective of the EFSI is to support investments as well as to increase access to finance for entities having up to 3 000 employees with a particular focus on SMEs and small mid-cap companies². This is done through the supply of an increased risk-bearing capacity to the EIB via an EU budgetary Guarantee.

The EFSI is an initiative implemented by the EIB and the EIF, together the EIB Group.

On 14 September 2016, the Commission tabled a legislative proposal for a reinforced EFSI 2.0. It proposes, inter alia, the following changes:

- Extension of EFSI beyond the initial three-year period to the end of 2020;
- Increase the total volume of investments to be mobilised from EUR 315 bn to at least half a trillion by the end of 2020;
- Increase of the EU Guarantee from EUR 16 bn to EUR 26 bn;
- Reinforced definition of additionality;
- Enhanced transparency;
- Additional focus on projects that contribute to achieving the Union's targets set at the Paris Climate Conference (COP21);
- Enhancements to the European Investment Advisory Hub ensuring a more pro-active local support as well as focus on origination of projects in order to support a better geographical balance of EFSI projects.
- Optimisation of the EFSI Guarantee Fund provisioning rate.

The EFSI 2.0 amending regulation was adopted on 12 December 2017 and is expected to enter into force on 1 January 2018.

Data

Council adopts its common position on the free flow of data initiative.

The EU is developing new rules to **allow non-personal data to move freely and easily across country borders**. Member states' ambassadors (Permanent Representatives Committee) today agreed on a **mandate for the presidency to launch negotiations with the European Parliament** on the proposal, which aims to boost the EU data economy by removing any unjustified restrictions on the geographical location for storing or processing data. At the same time, the new law would ensure that authorities have access to data stored or processed in another member state so that they can carry out their duties.

The Council text allows member states to impose data localisation requirements only when these are justified on grounds of public security. To ensure the effective application of the principle of free movement of data, member states must notify their data localisation requirements to the Commission. The text is also designed to ensure that member states are not prevented from insourcing the provision of services involving data processing.



Member states' competent authorities will continue to have access to data even when it is stored or processed in another country. An additional cooperation mechanism will be created to make sure such access is not hampered.

If a data set contains both personal and non-personal data, the general data protection regulation will apply to the personal data part of the set, while the non-personal data will be covered by the free flow of data regulation.

The draft regulation also encourages the development of codes of conduct to make it easier for users of data processing services to switch service providers and to port their data from one service provider to another or back to their own IT systems.

Both the Council and the Parliament have to agree on the text before it can enter into force. The Parliament has not yet adopted its position. You can see the Council adopted position [here](#).

Council and Parliament agrees on money laundering file

On 20 December 2017, EU ambassadors confirmed the political agreement reached between the presidency and the European Parliament on **strengthened EU rules** to prevent money laundering and terrorist financing.

The draft directive has two main objectives:

preventing the use of the financial system for the **funding of criminal activities**;

strengthening **transparency rules** to prevent the large-scale concealment of funds.

The aim is to close down criminal finance without hindering the normal functioning of financial markets and payment systems. Amending directive 2015/849, the agreed text seeks to balance the need for increased security with the protection of fundamental rights and economic freedoms.

The proposal is part of a Commission **action plan** against terrorist financing, established in 2016 following a spate of terrorist attacks in Europe.

"Today's agreement is an important step in removing the means available to terrorists", said Toomas Tõniste, minister for finance of Estonia, which currently holds the Council presidency. "It contains new measures that will help the authorities to better track financial flows and disrupt the financing of criminal networks"

The main changes to directive 2015/849 involve:

- enhanced access to **beneficial ownership** registers, so as to improve transparency in the ownership of companies and trusts. The registers will also be interconnected to facilitate cooperation between member states. **Access to information** on beneficial ownership is foreseen as follows:
- public access to beneficial ownership information on companies;



- access on the basis of 'legitimate interest' to beneficial ownership information on trusts and similar legal arrangements;
- public access upon written request to beneficial ownership information on trusts that own a company that is not incorporated in the EU;

Member states will retain the right to provide broader access to information, in accordance with their national law.

- addressing risks linked to **prepaid cards and virtual currencies**. The threshold for identifying the holders of prepaid cards is lowered from €250 to €150, and customer verification requirements are extended. Virtual currency exchange platforms and custodian wallet providers will have to apply customer due diligence controls, ending the anonymity associated with such exchanges;
- improving cooperation between the member states' **financial intelligence units**. FIUs will have access to information in centralised bank and payment account registers, enabling them to identify account holders;
- improved checks on risky **third countries**. The Commission has established and regularly updates a harmonised list of non-EU countries with deficiencies in their anti-money laundering prevention regimes. Additional due diligence measures will be required for financial flows from these countries. The list builds on that established at international level by the Financial Action Task Force.

Parliament and Council will now be called on to adopt the proposed directive at first reading.

[Text of the final compromise on the anti-money laundering directive](#)

Data protection

G29 draft guidelines on consent and transparency

The G29 published mid-December the draft guidelines on consent and transparency, they are available for public consultation until January 23, 2018. FEBIS Regulatory committee will analyse them and provide input as we have done for all other G29 proposed guidelines.

[Guidelines on Consent under Regulation 2016/679, wp259](#) 

[Guidelines on Transparency under Regulation 2016/679, wp260](#)



FEBIS regulatory committee

FEBIS takes part in 5 party meeting with ACCIS, Eurofinas, FENCA and BIIA

Luis Carmona and Stephanie Verilhac attended on December 19th the 5 party-meeting organized in Brussels between ACCIS, Eurofinas, FENCA and FEBIS with the aim to foster cooperation among the credit chain sector. A representative from EMF also took part in the meeting via conference call dial-in.

The major aim of the meeting is to foster cooperation among the sector first through informal gathering but it would be good to have a degree of structure, so initial thoughts would be to have regular calls together and physical meetings twice a year (June /December).

The idea would be to work on a project brief on Creditworthiness assessment to exchange on the European Commission's initiative in the field of creditworthiness assessment and industry preliminary considerations and to discuss on next steps going forward. As outlined during the meeting, credit worthiness assessments layers are put forward through FSB in the Mortgage Directive (art 18 to 20 MCD). But the transposition of duties to assess credit worthiness varies a lot from MS to MS.

The project brief proposes to consider the credit worthiness assessment requirements as outlined in the Consumer Credit Directive and in the Mortgage directive and compare them with current rules or trends that may be conflicting or on the contrary may open possibilities to expand the access to information. The basis common line would be access to data.

Referring to Fintech, the idea is that how you're connecting to others and who you are connected to will determine how you behave as a borrower. Fintechs are targeting some of the consumers who don't have scores, the question is how to license Fintech "banks" (as called by EBA). ECB also contemplating the fact that Fintech banks taps into alternative providers to build the scorecards. Will EBA final guidance encompass this view?

The proposed common actions that could be developed by the 5 party group could be

Introduction of common creditworthiness assessment standards and principle for lending to consumers

Development of minimum set of data to be exchanged on cross-border assessments

With an expected timeline for second half 2018

Remarks from the French lenders (ASF) said that the proposal is looking as big data standardization project, but they themselves do not want to have all the data available in such a standardized way. The aim would rather be to have credit worthiness guidelines. For several firms, it is important to remain free to decide to give a credit or



not to the consumer, so big standardization could mean ending up with same scores and then exclude some consumers.

Eurofinas warned to restrict the scope to consumer finance and entail proportionality measures, and to associate this discussion with scoring methodologies, scoring is not well understood by customers and by authorities and at least have scoring recognized as an important element for credit assessments; they also want to avoid the Commission jumping on the discussion on behavioral data and more ensuring that at national level all lenders have access to data.

FENCA would agree that standardized dataset or providing a better level playing field would be an advantage for but the question of the timeline and links with CCD review is key.. Consumer organizations have an interest in nailing us on the road on that.

The meeting then featured a presentation from a Guest Speaker

Renatas Mazeika, Head of Unit, Consumer Policy, Directorate General for Justice and Consumers, European Commission to present the European Commission's work and objectives in the field of creditworthiness assessment of applicant borrowers

He stated that the Commission common issue and concern was about data and credit worthiness. Financial services are only one field in his unit, he is also working on digitalization of consumer policy and other sectors. He is responsible for consumer credit and management of CCD and statutory obligations.

On the Consumer Financial Services Action Plan (CFSAP), legislative proposals should be published before May 2018 but there is still unclarity for the rest of initiatives including credit worthiness assessment which could be around the last quarter of 2018

There are 2 interlink elements on credit worthiness and access to credit registers and databases because there is a lack of basic information on how does it work, what kind of system should be promoted? How much should it be standardized? Minimum level harmonization should be promoted. The level playing field and competition issues are important, data minimization is also still an important item. Open banking development also important + data standardization

He exposed some of the statements of the CFSAP

Credit worthiness assessment used as a tool to prevent overindebtedness, its but main objective is to facilitate cross-border credit and provide more information for the consumer, so it's also Important to grasp it also from risk management perspective.

Acknowledgment that data availability differs a lot fin various MS and confronted with national challenges such as GDPR implementation and interpretation + sector wants to push for more information (including positive) to be made available for credit worthiness assessments

Use of alternative data sources for credit worthiness assessments



Examining more common understanding on categories of data instead of datasets standardization which is not possible to achieve

He stressed that the Commission will do a mapping exercise on access to cross-border register and on ways on functioning (agreement). They are interested on information coming from industry on this, ACCIS has been running a cross-border data information exchange for a few years now.

He also said that the Commission will be reviving the Group on Implementation of the Consumer Credit Directive, but they are not planning to involve the Financial Services group in the process so far.

On the General Data Protection Regulation, FENCA evoked what they are doing with their Code of Conduct exercise internally but also 2 or 3 by- products. Because of the Code of Conduct, FENCA is involved with sub-group on Code on Conduct and GDPR implementation. Still having some issues with members about level of understanding of data controllers/data processors. German guidelines from debt collection agencies to give general principles and recommendations. Some FENCA national members are working on principle-based guidelines

On Non-Performing Loans, the idea was to exchange on the recent Council Action Plan on Non-Performing Exposures and follow-up European Commission and European Central Bank actions. The ECB issued fairly comprehensive guidelines on how to address NPLS for institutions falling under financial supervision. EBA general guidelines + EBA guidelines on bank loan origination.

Eurofinas setting up a task force (internally) to get the comprehensive view and ACCIS, Eurofinas and FENCA have provided input to the Commission consultation on NPLs.

The whole meeting proved very interesting and successful, it's good that FEBIS cooperates with other associations of the credit sector chain to represent the business side of credit information.



About 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 100 members from all over the world involved in providing Business Information and credit information services of national and International importance.

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.

