**FEBIS Regulatory Committee conference call –05.06.2018**

**Minutes of the conference call**

**Attendants:**

 - Luis Carmona, Informa

 - Bernie Grady, Experian

 - Nathalie Gianese, Informa

 - Stephanie Verilhac Marzin, FEBIS/SVM consult

 - Matteo Marconi, CRIF

 - Georg Hittmair, Compass

 - Claire Fritz, Ellisphere

 - Axel Bysikiewiecz, Schufa

 - Mark Preston, DnB

 - Katleen Mertens, Graydon

 - Daniel Francis Morin, FEBIS

**Agenda:**

- Draft response to the consultation on public reporting

- E-privacy latest steps

- First GDPR overview around the members to see who has what in place (or not!)

- AML directive (recent discussion at the Council).

**Preamble**

Before dealing with agenda points, participant answer to a mail received from Wolfgang Keusgen, Creditreform about anti- competition clauses and e-privacy disclaimer

A first draft of “Do and Don’t” established by FEBIS legal advisors Garrigues has been completed by Thomas Riemann, Creditreform in-house counsel and lawyer. Participants agree with the new version and recommend mentioning these rules before each FEBIS meeting. We also must be careful that any information shared with members is granular enough not to infringe European directives.

However the way to remind these rules should remain simple, for example they should be displayed on the web site and a mention of them be recalled on each invitation to meetings or agendas.

It does not appear necessary to do anything special for the “calls” as a respect of the best practices is enough.

As well Wolfgang draw attention on e-privacy disclaimers to be compliant with GDPR. A first draft of disclaimer has been sent by the Secretariat and is agreed by the Reg co with some minor adjustments. A last version will be written soon and circulated to each FEBIS member. Secretariat has to check first that addressees are only “Members” and not all invited parties. As well the e-privacy policy mentioned on the web site is only displayed in German and an English version has to be written.

Secretariat is informed about these issues and will submit the new documents to Reg Co and FEBIS Board ASAP.

**1. Draft response to the consultation on public reporting**

Stephanie received input from Claire and Matteo, but additional information is still needed with national views on shortage of data or the current state (and side effects) of the transposition of the accounting Directive per country.

The response to the consultation will also be another opportunity to stress the point on sole traders and the ambiguity generated on natural and legal persons statutes. As well a short sentence should mention the contradictory approaches of the AML pushing for more info on companies (trust issues) while less and less info is available on micro entities.

Claire confirms the importance of such contradiction for anti corruption law; Europe wants a unified policy while it is difficult to get info from legal registers at national level! Luis approves and underlines the great difficulty to fulfil the obligation of identifying the ultimate beneficial owner under such conditions.

Claire raises the point of the definition of data “open to the public” in such matter. The 5th AML directive (still to be officially published) says that UBO information is “accessible in all cases… to any member of the general public. Will it mean that this information will become Open data or be accessible one by one only?

Stephanie believes certain set will be available but others will depend from each MS local decision. Stephanie sends a link to the latest text version. When asking participants about the current situation, Bernie said UK benefits from significant access but Claire said that in France only entities having to be compliant with the national transposition of the 4th AML directive have access to data on a one by one basis, “this company…for this topic” from the Business Register; Axel has no precise view on the German situation.

Stephanie ask the group to investigate as it will be good linking this point to PSI discussion and it would be good if public accessed such info.

Georg recall then the importance to well define the content of the PSI High value data sets and include this type of information into the list.

**2. E-privacy latest steps**

To be discussed on June 8th by Ministers but intense lobby from large groups like Telco, GAFAS to stop it or at least obtain a break. Bulgarian Presidency presents a progress report but no concrete common position reached. A bunch of articles are ready but others are more “open”.

The Austrian Presidency starts on July 1st and seems not keen putting focus on e-privacy.

Georg confirms this view, however should a common proposition arises on June 8th they will be forced to follow, nevertheless such situation is not foreseen yet.

Stephanie mentions that the margin for manoeuvre is constantly reducing; lot of contentious on e-privacy issue leads many players to advocate waiting first for GDPR to be in place before addressing this topic.

If Austria does not reach a common position European Parliament will face a challenge with the 2019 upcoming elections leading to potential changes. Thus either we have a decision now or it will be really postponed to the composition of the new team.

EC puts a lot of weight to get the decision are they are not happy waiting for the new Commission; it is a real political bargain. Georg approves and says it is not at our level anymore..

Stephanie draw attention on art 15 and unsolicited commercial communication; compromised position is more manageable now with natural person being considered as businesspersons only for commercial issues. Stephanie will keep the group updated.

The Free Flow of data proposition from Mrs Corraza Bildt group has been adopted yesterday by a large majority and they can start the Trilogue mid June, then the Austrian Presidency may deal with FFD before e-privacy, as it is less conflictual.

Regarding Mix data set, they kept the proposition; GDPR applies to personal data, FFD applies to non-personal and for inextricable data, FFD applies provided is it not prejudicial of GDPR!!

The Parliament report asks some guidance on Personal and non-personal data when it is inextricable and thus put the burden on the Commission

**3. First GDPR overview around the members to see who has what in place (or not!)**

Next FEBIS AM would be the good place to collect information on how it goes in each country and what are the challenges for credit reporting; which countries lack of transposition law and what are the notification for offenders.

Luis agrees it could be part of the Reg co presentation and Stephanie warns again it could not be too granular in order to avoid anti-competition

**4. Draft directive “ Preventing restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures” (recent discussion at the Council)**

Insolvency and second chance directive was discussed yesterday; agreement was reached on second chance but discussion still active on insolvency issues.

Debtor discharge could be of 3 years instead of 5 years and communication on liquidation should be enlarged. Still issues on harmonization law as there are discrepancies amongst MS, so negotiations go on before it becomes a Directive. Stephanie to send info on the second text and Nathalie to see what is the position of UEAPME. Luis recalls he is to invite Mr Hendrickx to Athens.

**5. AOP**

Discussion went on the white paper on Scoring-Rating for ICCR

Regarding the Scoring Vs Rating paper - the group have been unable to agree a document that compares the two. The last draft gave a definition of scoring and ratings and then listed the key elements of a scoring model without direct comparisons to ratings. As this did only achieve partly what had been proposed the share with the ICCR the recommendation is to not proactively share the last draft of the paper with the committee. As a result we will need to monitor their work and address any areas of confusion between the two areas as they occur. Whilst it is a pity we can’t be proactive in our ICCR engagement a) we will not always be able to reach agreement on all documents within the group b) we can use the material as and when any specific issues arise and c) it wouldn’t be appropriate to send a document that the group did not reach consensus on.

We still have to decide what to do even if there is no real pressure from ICCR, the working group being planned for October and ALACRED (leading the WG) not having reacted yet.

End of the meeting