

# BIIA

Business Information Industry Association

## Regulatory Monthly Newsletter



*Welcome to the 60<sup>th</sup> monthly newsletter designed to keep BIIA members informed of the significant developments on the policy dossiers being worked on in geographical territories that members operate in.*



BIIA would like to thank its fellow industry association, ACCIS, for allowing us to re-use certain information that they have published on regulatory developments within Europe.

### SUMMARY

In this month's newsletter we report on the recently held **BIIA Middle East and Asia Pacific Regulatory Roundtable**, the third such event we have been proud to facilitate. In discussions between regulators and credit bureaus who attended from 12 countries in the region it was clear that one of the key topics of interest is **Alternative Data** - new sources of data that can improve the decisions made by lenders and other credit grantors.

As readers may be aware **'The use of new alternative data in credit risk management'** is one of the key topics that will be discussed by an expert panel at the upcoming **2022 BIIA Biennial Conference** to be held in **Singapore** from **May 23rd to 25th**. There is no doubt that the amount of **alternative data** that is available will continue to grow with the growth in the digital world so if you want to find out how organisations are looking to capture this data and help clients use it in better credit risk management decisions we strongly suggest you sign up to attend the conference.



For more information on the conference programme and how to reserve your place simply click [here](#).

In this month's newsletter we also continue to report on the subject of **AI**. As readers will be aware from last month's newsletter this subject will be discussed at the next meeting of the **BIIA Regulatory Forum**, being held on **March 23<sup>rd</sup>, at 08.00 EST, US**. Our guest speaker for the event will be **Enrique Velázquez, Director General of ACCIS**, who will provide an update on the development of **AI regulation** in the **European Union**. As with the General Data Protection Regulation (GDPR) this new regulation is expected to

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have a significant impact not just in the EU but across the globe. Should you be interested in joining the Forum event please contact Neil Munroe @ [munroen@biia.com](mailto:munroen@biia.com)

We also report this month on a number of development in **credit reporting, data privacy, financial services AML and ESG**. How do organisations comply with the last two topics is also a subject we will be looking to cover during day two of our conference. Another reason to attend!

We are keen to ensure that we cover as many relevant regulatory developments as we can in this newsletter so if you have any items you feel would be worth incorporating please do get in contact with Neil Munroe, Deputy Managing Director and Editor of the Regulatory Newsletter by email @ [munroen@biia.com](mailto:munroen@biia.com).

#### 2022 Middle East and Asia Pacific Regulatory Roundtable

Readers of this newsletter will be aware that BIIA, as a neutral non-partisan body, facilitates a Middle East and Asia Pacific Regulatory Roundtable. Roundtables are held on a regular basis (if possible at least once a year) to enable the meeting of a number of regulators from the Middle East and Asia Pacific region to discuss key areas of interest as they relate to credit reporting.



The objectives of the Roundtable are:

- to facilitate and promote closer regional discussion and engagement by regulators on the topic of credit reporting enabling a better understanding of the regional challenges facing regulators and the credit reporting system and their role in the overall credit information sharing environment.
- to help regional regulators identify areas of mutual concern and potential collaboration, as well as gaining insight into how the credit reporting industry may change or evolve in response to changing demands and requirements.
- to promote closer engagement with the ICCR as the global credit reporting standards setting body, enabling regulators in the region to work with the committee on key areas requiring global guidance.

The Roundtable events normally consist of an initial meeting of regulators and representatives from the World Bank/IFC, the International Committee on Credit Reporting (ICCR) and BIIA followed by a meeting which includes other stakeholders such as credit reporting service providers. The event is held as an 'invitation only' event and operates under 'Chatham House' rules to ensure an open dialogue amongst participants.

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On February 28<sup>th</sup>, BIIA hosted the Third Roundtable (as a virtual event), the first one having taken place physically in Bangkok in 2019 in conjunction with the BIIA Biennial Conference and the second one as a virtual event in March 2021.



In the first session of the Roundtable over **35** representatives from regulatory bodies from **12** countries met to hear an update on regulatory developments from BIIA and the ICCR and to share key developments in credit reporting in their countries. The countries represented were **Bhutan, Brunei, Cambodia, China, Hong Kong, Malaysia, Nepal, Pakistan, Papua New Guinea, Philippines, Singapore and Vietnam**. They were then joined in the second session by **19** representatives from credit reporting service

providers from **9** countries.

One of the key topics raised by both Regulators and credit reporting service providers at the Roundtable was **alternative data** and how this could be effectively incorporated into credit reporting and business information systems. As readers will be aware **alternative data** is one of the key topics that will be discussed at the **2022 BIIA Conference in May in Singapore**.

We have assembled a panel of senior experts from around the globe to discuss the role of **alternative data** and we would strongly recommend anyone who is actively looking into this subject to attend the conference to understand the key benefits this data can provide and some of the factors that have to be taken into account when looking to on board this data. To find out more about the Conference and to register click [here](#).



Following the continued success of the Roundtable, the positive feedback received from attendees and the highlighting of the interest in alternative data, discussions are taking place about a further Roundtable taking place in conjunction with the BIIA Conference so Regulators can benefit from the input of the panel of experts we have assembled to discuss the subject.

If you are a Regulator or credit reporting company in the region and would like to participate in the next Roundtable please contact Neil Munroe, Deputy Managing Director at [munroen@biia.com](mailto:munroen@biia.com)

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#### Credit Reporting

##### **UK - Financial Conduct Authority (FCA) Credit Information Market Study**



The FCA has resumed their work on the Credit Information Market Study. They are currently engaging with industry and consumer groups and completing their analysis, ahead of publishing an interim report, which is now scheduled for Summer 2022. The study will take account the recommendations of the [Woolard Review](#) which looked at unsecured credit market regulation.

The interim report will set out the FCAs vision for the credit information sector, their emerging findings (including on lenders’ reporting of forbearance) and their early thinking on any potential remedies. It will also take into account a [report](#) that was commissioned by the FCA into potential future developments in the credit information market. **Click on the highlighted text to access the Woolard Review and the Future of the Credit Information Market report**

#### Privacy

##### **Dubai - Singapore, South Korea and APEC recognised by Dubai International Financial Centre as adequate for cross border data transfers**

On 4 February 2022, the Dubai International Financial Centre (DIFC) Office of the Commissioner of Data Protection announced that it has issued an adequacy decision simultaneously recognising Singapore’s Personal Data Protection Act (PDPA), Republic of Korea’s Personal Information Protection Act (PIPA), and the APEC Cross-Border Privacy Rules (CBPR) as providing adequate protection for transfers of personal data from the DIFC.



For a full list of data protection jurisdictions and regimes assessed to be adequate by the DIFC, as well as the criteria applied in making such assessment can be found [here](#).

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#### France - French Data Protection Authority (CNIL) bans Google analytics

On February 10, 2022, the French Data Protection Authority (CNIL) concluded that the conditions under which data is collected through Google Analytics and transferred to the United States violates the GDPR.

The CNIL [order](#) stems from the 101 complaints that None of Your Business (“NOYB”), a Vienna-based non-profit organisation founded by Max Schrems. Although the NOYB complaints were filed in August 2020, the CNIL’s ruling is only the second decision made thus far. It comes weeks after the Austrian Data Protection Authority published a similar decision.



The CNIL decision has implications for any website based in France currently using Google Analytics as well as other tools used by sites that transfer EU data to the U.S. With a plethora of NOYB complaints still pending and given that the CNIL decision was made in cooperation with its European counterparts, it seems likely that more decisions on the use of Google Analytics will be forthcoming in the near-term and that other European data protection authorities will draw similar conclusions. **Click on the highlighted text to access the order made.**

#### UK - New Addendum for International Data Transfers Set to Come into Force in March

The UK Government has finalized, and laid before Parliament, its International Data Transfer Agreement (“IDTA”). The new IDTA will come into force on **21 March 2022**, together with a supplemental document to the new EU Standard Contractual Clauses (“**UK Addendum**”) and transitional provisions, to address requirements under the UK GDPR and UK Data Protection Act.

Both the IDTA, UK Addendum, and transitional provisions will replace use of the previous EU Standard Contractual Clauses (approved by the European Commission) under the UK GDPR (“Directive SCCs”). In terms of timing, contracts concluded on or before 21 September 2022, on the basis of the Directive SCCs continue to provide appropriate safeguards until 21 March 2024 for the purposes of the UK GDPR, as long as the processing operations and the subject matter of the contract remain unchanged, and reliance on those Directive SCCs ensures that the transfer of personal data is subject to appropriate safeguards. This means organisations will be afforded time to update existing prior agreements based on the Directive SCCs.



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The UK Addendum or the IDTA will need to be used from 21st March this year for any new contracts involving data transfers. To read more about this development from the UK Information Commissioner's Office, click [here](#).

#### Financial Services

##### **UK - Financial Conduct Authority (FCA) secures contract changes for buy-now-pay-later customers**



On February 14th the FCA announced that it had secured changes to potentially unfair and unclear terms in the contracts of Clearpay, Klarna, Laybuy and Openpay. The FCA was concerned there was a potential risk of harm to consumers as a result of the way some of the firm's terms were drafted.

The Woolard Review into change and innovation in the unsecured credit market found the use of Buy-Now Pay-Later (BNPL) products nearly quadrupled in 2020 to £2.7 billion. The UK Government plans to change the law to bring some of the current forms of unregulated buy-now-pay-later products into FCA regulation.

Even though the type of buy-now-pay-later agreements offered by these firms are not yet regulated, the FCA was able to use the Consumer Rights Act to assess the fairness and transparency of the terms.

As a result of the FCA's work, the firms are making terms on issues like contract cancellations and continuous payment authorities fairer and easier to understand. In addition, one of the terms that involved late payment fees has resulted in Clearpay Laybuy, and Openpay agreeing to voluntarily refund customers who have been charged late payment fees in specific circumstances.

#### Artificial Intelligence

##### **China - New Rules on Algorithm-Based Recommendation Services**

A new set of rules published by the Cyberspace Administration of China (CAC) requires companies to allow users to control how their information is used in algorithmic-based recommendations. The rules are set to take effect on March 1, 2022.

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The rules require companies that use algorithm-based recommendations on their social media feeds to inform their users about the purpose and basic principles of the technology, and allow them to choose the specific tags that will trigger the operation of the algorithm or to completely opt-out. In addition, the rules prohibit companies from using the technology to influence online public opinion, evade supervision, or engage in illegal activities or activities that might risk public safety. Violation of the rules might result in fines of up to 100,000 Yuan (approximately \$16,000).



#### European Union - Security of Machine Learning (ML)



The European Union Agency for Cybersecurity (ENISA) has published a new [report](#) on securing machine learning algorithms. Based on a systematic review of relevant literature on machine learning, in this report ENISA provides a taxonomy for machine learning algorithms, highlighting core functionalities and critical stages. The report also presents a detailed analysis of threats targeting machine learning systems. Identified threats include inter alia, data poisoning, adversarial attacks and data exfiltration. **Click on the highlighted text to access the report**

#### AML

#### European Union - European Banking Authority launches central database for anti-money laundering and counter-terrorist financing

On 31 January 2022, the European Banking Authority (“EBA”) launched a central database for anti-money laundering (“AML”) and countering the financing of terrorism (“CFT”).

The EBA was established on 1 January 2011 as part of the European System of Financial Supervision (“ESFS”). It is an independent EU Authority which works to ensure effective and consistent prudential regulation and supervision across the European banking sector. The EBA is tasked with contributing to the creation of the European Single Rulebook in Banking, which aims to provide a single set of harmonised prudential rules for financial institutions throughout the



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EU. In particular, the EBA has a legal duty under EU Regulation No. 1093/2010 to contribute to the prevention of the use of the EU's financial system for money laundering and terrorist financing. The EBA has therefore established a central database for AML/CFT called EuReCa. The EBA states that EuReCa will be pivotal to coordinating efforts by competent authorities to combat money laundering and terrorist financing risks in the EU.

EuReCa will contain information on material weaknesses in individual financial institutions that make them vulnerable to money laundering and the financing of terrorism. Competent authorities across the EU are obliged to report such weaknesses, as well as the measures they have imposed on financial institutions to rectify those material weaknesses. Examples of such material weaknesses include:

- the lack of adequate AML/CFT policies and procedures
- the absence of transaction monitoring at the group level
- the absence of policies and procedures for high-risk customers, which increase the money laundering or terrorist financing risks associated with the financial institution.

In addition, EuReCa will include internal audit findings identified by a prudential authority during an on-site inspection about which senior management appeared to have been informed of a money laundering or terrorist financing risks and decided not to remediate.

The EBA intends to use EuReCa to inform its view on money laundering and terrorist financing risks and to perform risk assessments. It will also share pertinent information from EuReCa with competent authorities where appropriate, to support them in their supervisory activities and, in particular, in the event of the emergence of specific money laundering and terrorism financing risks or trends. The EBA states that EuReCa will therefore act as an early warning tool, which will enable competent authorities to act before money laundering and terrorist financing risks materialise.

#### ESG

#### **European Union - EU banking watchdog publishes rules on banks reporting climate-risk data**

The European Banking Authority ("EBA") recently published final rules for lenders on how they must publish data on environmental, social and governance ("ESG") risks, and how these risks may affect their balance sheets. The watchdog hopes that the proposed rules will help to "address shortcomings of institutions' current ESG disclosures at EU level by setting mandatory and consistent disclosure requirements, including granular templates, tables and associated instructions."

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In developing this framework, the EBA has built on the recommendations of existing initiatives, like those of the “Task Force on Climate-related Financial Disclosures (“TCFD”) of the Financial Stability Board (“FSB”)

The so-called “Pillar 3 disclosure requirements” will require businesses to disclose details about their risk management policies and capital resources associated with ESG.

“Disclosure of information on ESG risks is a vital tool to promote market discipline” the EBA said. Banks will be

required to show how climate change may negatively impact other risks on their balance sheets through comparable disclosures, and to then inform investors as to how they are mitigating the potential risks. The rules also require that, from 2024 onwards, lenders are to publish two new ratios: a green asset ratio (“GAR”), and a banking book taxonomy alignment ratio (“BTAR”). In short, the ratios will show how many green assets a bank has as a proportion of its total assets and will measure how a bank’s activities are contributing to EU climate goals by financing sustainable activities, respectively.

Under the proposals, banks will have to set out quantitative disclosures on climate change risks, including details on their assets that are exposed to polluting companies, and further disclosures on how they are supporting the transition to a carbon-neutral economy. They must also provide qualitative details on how they are considering ESG in their governance, business model, strategy, and risk management framework.

The rules must first be approved by the European Commission. In April 2021, the Commission adopted the EU Taxonomy Climate Delegated Act, which seeks to create a common language for investors when they put funds into environmentally friendly projects – the EBA proposals aim to build on this and further increase financial flow towards “green” activities and avoid “greenwashing”.

Further details can be found [here](#).

#### **UK - New Financial Conduct Authority (FCA) rules on climate-related disclosures**

The Financial Conduct Authority (FCA) has published its final rules on climate-related disclosures by asset managers, life insurers and FCA-regulated pension providers under Policy Statement 21/24 (PS 21/24). The new obligations already apply in respect of some of the largest firms from 1 January 2022. The requirements are aligned with the widely recognised Taskforce on Climate-related Financial Disclosures (TCFD) recommendations. In this note, we will consider some of the implications of these changes and how market participants can best prepare for their implementation.

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The FCA is introducing a new Environmental, Social and Governance (ESG) sourcebook of the FCA Handbook, setting out rules and providing guidance for asset managers and certain FCA-regulated asset owners for making disclosures consistent with the recommendations of the TCFD.

Specifically, asset managers and certain FCA-regulated asset owners will be required to make mandatory disclosures on an annual basis, with the reporting scope being two-fold, both:



- **Entity level** – an entity-level TCFD report explaining how the firm takes climate-related risks and opportunities into account when managing or administering investments on behalf of clients and consumers; and
- **Product or portfolio level** – a baseline set of consistent, comparable disclosures on the firm’s products and portfolios, which must include a core set of metrics.

The new ESG sourcebook includes useful guidance on determining whether disclosures are consistent with the TCFD’s recommendations and the rules.

The new rules apply to UK firms in relation to their “TCFD in-scope business”. This includes core fund management activities, but also the MiFID investment service of portfolio management. Firms with less than GBP5 billion in assets under management (AUM) or administration (calculated on a 3-year rolling average basis, assessed annually) are excluded from scope of the regime.

#### Digital

#### European Union - European Supervisory Authorities Publish Report on Digital Finance

The European Supervisory Authorities - ESA (the European Securities and Markets Authority, the European Insurance and Occupational Pensions Authority and the European Banking Authority) have published a [joint report](#) on digital finance and related issues, in response to the European Commission's Call for Advice on digital finance, which was published in February 2021.



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The Call for Advice sought input to advance the EU Digital Finance Strategy, which was launched in September 2020 and set out the EU's plan to review the EU financial services legislative framework in light of developments in digital finance in order to safeguard financial stability and protect consumers. The ESAs' Report contains 10 recommendations for digital finance regulation including the following:

- the Commission should take a holistic approach to regulation and supervision of the entire financial services value chain, including the use by financial institutions of third-party service providers;
- EU disclosure requirements should be reviewed to ensure they are fit for the digital age and to protect consumers against the risks of mis-selling;
- data protection obligations in the customer due diligence and anti-money laundering/counter terrorist financing context should be reviewed and consideration should be given to whether all crowdfunding platforms should be subjected to the EU AML/CTF legislative framework;
- financial and non-financial services authorities should develop frameworks to enhance cooperation and promote information-sharing on policy developments; and
- the ESAs should actively monitor the use of social media in financial services and assess whether any regulatory action is required as part of future work.

Click on the highlighted text to access the report.

More information on the latest regulatory developments from across the globe is available on the BIIA website in the [Regulatory section](#)

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