

Convergence Romania Financial Sector Modernization

Special Projects Initiative Public-Private Steering Committee



Bucharest, November 17, 2006

Ms. Georgeta Basarabescu
President
National Authority for Supervision of Personal Data Processing
Bucharest

Dear Ms. Basarabescu,

Follow up to the meeting on the expansion of credit bureau services

We would like to thank you for the very useful exchange of opinions we had on Wednesday, November 15, 2006, regarding the NASPDP perspective on the design and implementation of the framework for personal data protection in the context of the credit bureaus operations. We very much appreciate your commitment towards finding the right balance between protecting personal data and using this information for the benefit of individuals while also implementing the EU relevant legislation.

Following the letter sent to you on behalf of the Special Projects Initiative Public-Private Steering Committee (the SPI Committee) on November 7, 2006 (attached), and based on our discussions, we are pleased to provide you with the summary of our meeting and with additional information and documents that could better inform the NASPDP decision which as presently envisaged would, among others, prevent the credit bureaus from processing positive data and hence harm the access by Romanian citizens to financial services.

Summary of discussions

Established and operating in conformity with relevant EU legislation on personal data protection (i.e., Directive 95/46/EC) NASPDP is looking into other EU countries experience in implementing EU legislation. In the EU, the application of personal data protection legislation pertaining to the financial sector has resulted in different models that reflect the historical characteristics, the stage of development, and the structure of the respective financial markets. A vast majority of the EU member states share both negative and positive data, with the two countries not sharing yet positive information being France and Hungary.

The draft NASPDP decision has the potential to harm the interests of Romanian consumers of financial services and, as a second round effect, also the stability of the financial sector. From both emerging and developed countries experience, positive information sharing improves access to credit, by opening the avenue to financing at potentially lower cost to people and small and medium enterprises that dispose of scarce physical collateral but have an excellent track record of debt repayment. At the same time, positive information sharing contributes to

strengthening the financial system stability by offering an additional instrument for credit risk management, lowering default rates and cost of credit.

On the other hand, the lack of positive information accentuates the asymmetry of information available to financial markets players and, in many cases, has contributed to destabilizing financial crises. Following such experiences, the International Finance Corporation (part of the World Bank Group) decided to contribute to the improvement of an important component of the financial market infrastructure through an ambitious Global Credit Bureau Program, established in 2001.

Given the rapid pace of growth of household lending in Romania, there is a real danger that bank borrowers could become over-indebted by taking credit simultaneously from several banks, without any of these being aware of the total amount of credit that the borrower has taken on without adequate risk mitigation measures in place. The default of such borrowers can create a domino effect on the multiple lenders and can lead to significant financial vulnerabilities, as witnessed by other countries' experience. In this spirit, the SPI Committee members (National Bank of Romania, Ministry of Public Finance, Romanian Banking Association, and Convergence Program) have recognized the importance of positive information sharing and have approved the undertaking of the SPI project on the expansion of the credit bureaus services to include positive information sharing.

The public good value of positive information sharing is well acknowledged in EU regulations. Directive 95/46/EC indicates that for the purpose of monitoring important economic or financial interest, member states may impose limitations on personal data protection.

The SPI credit bureau project is based on the fundamental premise that a positive information system must have in place important safeguard features in order to protect the rights of the individuals while maximizing the benefits for them and financial institutions:

- a) an adequate governance of credit bureaus, including control mechanisms, ensuring that the data received is processed with outmost diligence;
- b) an adequate protection of individuals' rights and privacy such as restrictions on access to information based on permissible purposes and individuals' consent, procedures in place to challenge erroneous information in reasonable time frame, access by borrowers to their own credit reports, etc.;
- c) fair credit granting and consumer regulations;
- d) a broad coverage of reporting institutions (i.e. credit institutions, non-banking financial institutions, telecoms, retail services companies, etc.) that would ensure the comprehensiveness of the information available, etc.

The SPI project is aimed at removing unnecessary regulatory and technical requirements that would prevent private credit bureaus in Romania from collecting and processing positive credit information. While also the National Bank of Romania Credit Registry is set up to collect both negative and positive information, private credit bureaus help financial and non-financial institutions in assessing mainly small borrowers (individuals and SMEs) characteristics, while the public Credit Registry collects data only from regulated aimed at monitoring systemic risks.

NASPDP welcomed the opinion provided by the IFC expert and appreciated the discussion, stressing that this point of view based on global experience will be taken into consideration. The NASPDP stated that a final decision on the draft decision will be made by the NASPDP board upon consultations held with other EU data protection agencies and with financial authorities and market participants in Romania.

Supporting documents and assistance

As stated at our meeting, we attach some additional documents on the role and importance of credit reporting. We will send an additional important technical document shortly. We remain open to provide you with any information you may consider necessary in order to better inform your decision and to avoid unintended negative consequences on users of financial services and on the stability of the Romanian financial system. The SPI Secretariat and IFC could also organize a follow up meeting with NASPDP representatives in order to clarify any remaining issues.

At the same time, we believe that it is very important that the NASPDP continues its consultation process with both the authorities and market participants in order to agree on a regulatory action that serves best the interests of consumers and providers of financial services in the context of the overall public interest.

We hope that you will find our assistance useful and we remain available for any other clarifications you may need in order to make your final decision with respect to the proposed regulation.

Best regards,



Oana Nedelescu
SPI Director for Analytics and Policy

--/s/--

Stefano Stoppani
IFC Credit Bureau & Credit Risk
Management Advisor
Convergence Technical Anchor

cc: SPI Committee Members (Ms. Alice Cezarina Bitu, State Secretary, Ministry of Public Finance; Mr. Florin Georgescu, First Deputy Governor, National Bank of Romania; Mr. Radu Gratian Ghetea, President, Romanian Banking Association; Mr. Luigi Passamonti, Head, Convergence Program, World Bank); Mr. Steven Cornelis van Groningen (SPI Project Owner, President of Raiffeisen Bank); Ms. Ana Maria Mihaescu (IFC Chief of Mission, Romania); Mr. Peter Johan Hustinx (European Data Protection Supervisor).

Attachments (5)

1. SPI Committee Letter on the *Draft NASPDP decision regarding the processing of personal data through credit bureaus*;
2. Legal and regulatory framework for credit reporting. International experience. Prepared by Margaret Miller and Nataliya Mylenko, OPD, World Bank;
3. Expanding Access to Finance and Developing Economies: The Fundamental Role of Credit Bureaus. Prepared by Stefano Stoppani, International Finance Corporation (The World Bank Group);
4. Development of Credit Reporting Around the World. Prepared by Leora Klapper, Development Research Group, World Bank, 2004.
5. Getting credit. Who is reforming? What to reform? Why reform? Doing Business World Bank Publication, 2006.