

## Light touch on blockchain urged in UK

The British Bankers Association (BBA) and the UK Payments Council (PC) have responded to HM Treasury's call for information on digital currencies, asking that the Government only lightly, if at all, regulates the distributed ledger technology - the blockchain - behind decentralised currencies, in a response dated 3 December.

The BBA and the PC assert that the technology is an innovation offering 'potential opportunities to fundamentally change the way many value transactions both within and outside of the payments system are made.' The open source nature of the technology is one of the factors that suggest that any regulation should be 'light touch' to avoid stifling innovation, according to the response.

"Given the potential for distributed ledger technology to trigger innovation in so many areas outside of payments, this plea may reach a receptive audience at HM Treasury," said Russell Hoare, Senior Associate at Nabarro. "We think it more likely that any regulation would be more concerned with the security and stability of cryptocurrencies themselves rather than the technology used to effect payments."

## Federal breach notification standard proposed in US

US President Barack Obama announced on 12 January the draft Personal Data Notification and Protection Act, which would create a nationwide standard for the reporting of data breaches, with companies suffering breaches that pose a reasonable risk of harm to individuals needing to notify individuals within 30 days of discovering the breach.

The bill puts forward requirements for the content of breach notices, and outlines that organisations such as national security authorities must be contacted in the event of some types of breach. The standard is intended to replace the 45 state laws on data breach reporting. President Obama, speaking at the Federal Trade Commission, described how varying state laws are "confusing for consumers and...confusing for companies."

"With varying requirements

from state to state, businesses have to keep track of different deadlines, content requirements for notification letters, and a host of other provisions, which can be costly and time-consuming," said Brandon Ge, Associate at Epstein Becker Green.

The proposed legislation would pre-empt state laws relating to notification of breaches of computerised data, although state laws would still be able to require that a breach notice included information relating to victim protection assistance that the state provides.

"The potential downside to a federal standard is that the proposed bill would supersede stronger state laws, and there are those who favour disclosures faster than 30 days," explains Ge. "This can be remedied by making the federal standard merely a baseline and allowing states to establish stronger

standards. However, this would water down the bill's effectiveness in resolving the current fragmentation in data breach law."

While officials from the White House have expressed that they do not predict 'fierce opposition' to the bill, others are less certain. "Even with recent high-profile breaches [such as the Target breach], passing the bill - at least in its current form - is no sure thing," said Ge. "For example, the bill contains many of the same provisions as those included in previous failed bills on national breach notification." Jon Neiditz, Partner at Kilpatrick Townsend & Stockton, is more pessimistic: "The bill is dead on arrival because the business community will not support it unless it preempts state laws, and the states will not support it unless more stringent state requirements are not preempted."

## Register of beneficial ownership now part of 4th AML Directive

The Presidency of the Council of the EU issued a press release on 17 December announcing that it has reached an agreement with the EU Parliament on the proposed Fourth Anti-Money Laundering Directive and Funds Transfer Regulation, which includes a requirement that all EU countries establish a central register of beneficial ownership information.

The new provisions on centralised registers would require ultimate owners of companies to be listed in central registers in EU countries, acces-

sible to competent authorities, FIUs, 'obliged entities,' and those with a 'legitimate interest,' in order to enhance transparency and provide tools to combat money laundering and terrorist financing.

"It is possible that there could be compliance challenges here," said Juan Palomino, Lawyer at Pérez-Llorca. "EU Member States would have to establish obligations for businesses to provide information about their beneficial owners. Given the wide definition of 'beneficial owner' and the nature of some

companies, these obligations would not necessarily be easy to fulfill. Furthermore, the extent of this obligation and the means to comply could even be considered against basic principles of corporate law in some Member States. Lastly, another major challenge would be to avoid breaches of fundamental rights as a result of giving access to third parties who accredit a legitimate interest."

Final approval of the Parliament and the Council is needed before the new rules can come into effect.

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