RegTech for CNPD

Objectives

• Develop awareness to Data Protection rules

• Facilitate compliance management and risk management by the regulated companies

• Facilitate supervision by the regulator

• Anticipate application of GDPR

• Contribute to the national governance between regulators
Trusted Financial Ecosystem
Right trade-off between regulation and innovation, between regulation and implementation costs, Dynamic adaptation of the ecosystem to new risks and new legal and regulatory requirements
The GDPR

• The GDPR has a **risk-based approach**:  
  • What has to be assessed is the risk represented by the processing to the rights and freedoms of the affected data subjects (DS)

• **Accountability**: responsible for and be able to demonstrate compliance
• Measures of both organizational and technical nature have to be put in place to mitigate this risk
  • Non-exhaustive list of potential measures:

1. Establishment of an **internal data protection policy** supported by C-level management
2. Setting up **written and binding data protection policies** to be considered and applied to new data processing operations (e.g. compliance with data quality, notice, security principles, access etc.) which should be available to the DS
3. **Mapping of procedures** to ensure proper identification of all data processing operations and maintenance of an inventory of data processing operations
4. Establishment of **internal procedure** prior to the creation of new data processing operations (internal review, assessment etc.)
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The GDPR

- Non-exhaustive list of potential measures:

5. Appointment of a **data protection officer** (DPO) and other individuals with responsibility for data protection
6. Offering adequate **data protection training and education** to staff members and the allocation of **sufficient resources** for data protection management - i.e. Human resources directors, IT managers, developers, director of business units
7. Setting up of **procedures to manage access, correction and deletion requests** which should be transparent to DS
8. Establishment of an internal **complaints handling mechanism**
9. Setting up internal procedures for the effective management and reporting of security **breaches** setting up “incident management” in order to notify an incident, the DC/DP first needs to be able to (technically) identify it
10. Performance of **data protection impact assessments** in specific circumstances (even if it is not mandatory)
11. Internal/external **audits**
12. **Sub-contracting** management (with DP)
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The GDPR

• Need to be able to show “evidence of compliance”: i.e. policies, procedures, records, results of audits, DPIA

• Transparency vis-à-vis the DS, DPAs, and the public in general (Art. 5.1a, Art. 12)
  i.e. through the publication of annual reports

• Mapping data processing activities and keeping detailed records thereof
  ✓ Record keeping is an obligation incumbent to both DC and DP (Art. 30)
  ✓ The GDPR provides for a list of information to be contained in such records
  ✓ All records shall be written, including in electronic form
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Expected results

Customized Tool
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3 projects to design a first set of services

- Risk management tool
- Compliance evaluation tool
- Data analysis tool
- Training

European Directive & 2011/02/27 Law

Telcos

RegTech National Platform

- Risk management tool
- Compliance interface
- Training
- Data analysis tool

CSDR & RAR Circular

CSD & PSFs

- Risk assessment tool
- Compliance management tool
- Audit preparation tool

GDPR

Critical sectors
RegTech program
National Commitment

• Estimated budget: 5 – 10 M€ for 5 years

• Support by ministries and national agencies:
  • Ministry of the Economy
  • Ministry of Finance
  • Service Media et Communication
  • Ministry of Higher Education and Research
  • Luxembourg National Research Fund
  • Luxinnovation

• Large contribution of regulators:
  • CSSF
  • CNPD
  • ILR
RegTech program
First tool
RegTech program

First tool

Part 1 • CSD Requirements

Part 2 • CSD Banking Type Ancillary Services - Capital Requirements

Part 3 • CSD Interoperable Link Requirements
11 • Requirements for CSD links
CSDR Title III Central Securities Depositories | Chapter II - Requirements for CSDs | Section 5 - Requirements for CSD links | Art.48 of the CSDR

11.1 • Monitoring and management of additional risks resulting from the use of the indirect links or intermediaries to operate CSD links
ESMA RTS Chapter XI CSD Links | (Art.48(5) of the CSDR)

ESMA RTS Art.85.1
The applicant CSD has procedures to ensure that where it, as requesting CSD, uses an indirect link, it ensures that:

1. CR761 / ESMA RTS Art.85.1a
the intermediary is one of the two following:

  F

2. CR762 / ESMA RTS Art.85.1a(i)
a credit institution as defined in Art.4.1.1 of EU Regulation 575/2013 that complies with the following requirements

  F

3. CR763 / ESMA RTS Art.85.1a(ii)(a)
   it complies with the Art.38.5 of CSDR [CR282 to CR284]

  F

4. CR764 / ESMA RTS Art.85.1a(ii)(b)
   it complies with the Art.38.6 of CSDR [CR285, CR286]

  F
RegTech program

First tool

ESMA RTS Art.85.1

The applicant CSD has procedures to ensure that where it, as requesting CSD, uses an indirect link, it ensures that:

1. CR761 / ESMA RTS Art.85.1a

   the intermediary is one of the two following:

   - (empty)
   - None
   - Partially
   - Largely
   - Fully
   - Not Applicable

2. CR762 / ESMA RTS Art.85.1a(i)

   a credit institution as defined in Art.4.1.1 of EU Regulation 575/2013 that complies with the following requirements

   - (empty)
   - None
   - Partially
   - Largely
   - Fully
   - Not Applicable
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CR766 / ESMA RTS 85.1a(i)(c)

it has low credit risk

CR767 / ESMA RTS 85.1a(i)(c)

this low credit risk assessment is based on the internal rating assigned by the customer.

CR768 / ESMA RTS 85.1a(i)(c)

To perform the internal rating, the following document(s) must be attached:

- Ref.001 File_financial_reporting.xlsx
- Ref.002 File_financial_001.xlsx
- Ref.003 File_financial_002.xlsx
- Ref.004 File_financial_003.xlsx
- Ref.005 File_financial_004.xlsx
- Ref.006 File_financial_005.xlsx
- Ref.007 File_financial_006.xlsx

Update Doc. List
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