Attendees
Nick
Sean
Jannie
Sikhulile

Apologies
David
Gareth
Francois

Minutes:

Licenses

- Guiding principle: What are the risks we are protecting against? Given these, what is the shortest/least complicated license that covers these risks?
- On the one hand, we have copyleft licenses, but we agreed during the last meeting that these are far too restrictive for our purposes.
- On the other hand we have the MIT license, which says "you can do anything with the software, but please don't sue us".
- An extension to the MIT license that we need to consider is one which gives protection against 'patent trolls' – i.e. the risk that someone attempts to patent the Open ASSA software and start demanding payment from us.
    - Jannie shared a link to a discussion on Google's recent cashflow modelling patent activity, and suggested we spend some time understanding what they've done.
    - https://www.youtube.com/watch?v=0d5TGaeD6CU&list=PLiC1doDIe9rBlPcMhBRePsGIi4Mu_RkAH&index=3
    - From 06:00 approximately.
- Given this, it really comes down to choosing between an MIT-style license (or BSD license), or an Apache license.
- The suggestion at this stage is that we should go for an MIT-style license, but with some kind of patent agreement.
- David is working on a document summarising these points and will share the document in due course.
- The Apache license doesn't add too much complexity but solves the patent troll issue (even if it is a bit wordy!).
- A key topic for discussion is whether we are comfortable with the possibility that someone takes the Open ASSA software, packages it in a proprietary product, and starts selling it. I.e. are we comfortable with the possibility that someone could later profit off the work of our volunteers?
    - In the meeting, it was felt that this might actually be a measure of success.
    - In addition, the general feeling was that this was something we need to live with otherwise we won't get any adoption in the industry.
    - Would be worth running this past ASSA as well.

Contributor agreement

- Many of the issues to do with contributor agreements overlap with the IP topics.
- So once we have decided on the way forward with the IP topics, the contributor agreements will follow.
- The main principle here is that contributor agreements usually put all of the legal responsibility of contributing IP back on the contributor.

- This seems a bit harsh, and a shared responsibility model between employers and employees might be preferred.
- See IP section for more details.

Antitrust

- Having been through the applicable legislation and having consulted with some legal contacts, the Open ASSA project does not appear to be an anti-competitive initiative on the face of it.
- Antitrust is usually concerned with coordinated behaviours, or the sharing of sensitive market information.
- The main idea being that companies must behave independently in the market, and must not know what competitors are doing so that they are constantly made to do their best when it comes to products and pricing.
- A useful way of thinking about this is to assume that there is 100% take-up in the market of the Open ASSA tools. Then ask, is it detrimental to the quality of products, the competitiveness of pricing, or the end consumer? If the answer is yes, then it warrants further investigation. If the answer is no, then it's unlikely to be anticompetitive.
- Examples of strictly prohibited things include sharing information on:
    - Pricing
    - Policy terms and conditions (including exclusions etc.)
    - Customer information
    - Business strategy
    - Cost structures
- As a professional body, ASSA is allowed to compile and share information on market trends, as long as the data are historical and aggregated.
- So creating open source software for actuaries is not, on the face of it, anticompetitive. This is because it does not coordinate behaviours and it does not stop companies from pricing or developing products independently.
- Going forward, however, we do need to ensure that the members of the working group act appropriately at all times. A few suggestions are as follows:
    - To set out the rules of engagement for members of the working group (e.g. please don't share any of the following information, please don't discuss what your company is doing in a certain area etc.)
    - To do some due diligence (risk assessments) before proceeding with any software builds – e.g. record our assessment of whether the build in question could negatively influence behaviour to the detriment of consumers.
    - To ensure transparency at all stages, so as not to be seen to be hiding anything from various stakeholders.
    - To keep records of agendas and minutes of meetings

Intellectual property

- Initially, it was thought the IP issue would primarily be about employers being upset with their employees for contributing IP that is not theirs to contribute.
- However, there are actually some more prominent risks:
    - The risk that a volunteer decides at a later stage to put in an IP claim on his/her contributions to the project
    - The risk that an employer puts an IP claim on its employee's contributions to the project
    - The risk that another, 3rd party, puts in an IP claim on the project.

(Aside: During the meeting, it was pointed out that ASSA is already exposed to some of these risks on any of its industry projects where ASSA members collaborate. How do they currently manage this risk? Perhaps we cold learn from something ASSA already has in place. A possible starting point could be the CSI committee. In addition, I'm told that the CSI committee was investigating the possibility of using shared experience analysis code for their studies. It would be interesting to see what the crux of their discussion was and whether we can learn anything from them.)

- In most cases on this project, the volunteers will be employees working for insurance companies in SA.
- Each of the volunteers will have their own employment contracts with their employer, and these employment contracts usually say something to the effect that all IP produced by the employee in the ordinary course and scope of their employment belongs to the employer.
- Considering that this is very much an actuarial project, the line between this project and 'the ordinary course and scope of employment' is blurred.
- In addition, the line between doing something as a work project and doing something as a volunteer in your own time is also blurred. E.g. if your employer has a possible reputational impact from your involvement in the project, then are you really volunteering in your own time? Or are you representing your company in a way?
- So buy-in from employers is absolutely critical, and is the most direct way to deal with IP issues. In particular, we would need employees to agree with their employers:
    - That the employee has notified the employer of involvement in the project, and that the employer has granted permission (and is comfortable with the employee sharing some ideas).
    - That there is a commitment that the IP contributed to the project does not belong to the employer.
    - That the volunteer is not getting paid for the work.
    - That the IP will vest in the project and that it is only for this project.
- In addition, there should be an agreement with the volunteers to say:
    - That there is no remuneration for contributing to the project.
    - That all IP vests in the project.
- The agreement with contributors can be handled through a contributor agreement (mentioned above).
- However, we need to decide how best to get company buy-in. It is much better to sort this all out at the start of the project than fight about it at the end. Perhaps a high-level agreement could be reached with employers through ASSA?
- This would allow shared responsibility between the volunteers and their employers, and not leave all legal responsibility sitting with the volunteers.
- If we have a contributor agreement in place, it should also shift the legal responsibility of infringing on a 3rd party's IP rights with the contributor.
- We also need to make it clear that nobody profits in the end.
- A notable drawback to getting agreements with employers, is that we cannot practically put this in place for all possible contributors. For example, what if someone from another country contributes to the project?
    - It was decided that we should investigate how other open source projects handle this.
    - Whatever mechanism we choose here needs to be practical and easy to implement.

<u>Actions</u>
David to summarise the license and contributor agreement information in a written document.

Nick to summarise the IP and antitrust information in a written document, and combine with David's document.
Nick and Sean to organise for combined document (with recommendations) to be sent through ASSA for a legal review.
Sean to contact ASSA and find out what IP measures ASSA already has in place, and how they currently handle IP risks. In addition, to find out what their view is on the possibility of someone packaging the Open ASSA software and redistributing for commercial gain.
Sean to contact CSI committee to find out about their discussions on using open source experience analysis code.