



Minutes of the Financial Services User Group (FSUG) meeting

31 January – 1 February 2019

Adoption of the agenda and approval of the minutes of the previous meeting

The minutes of the previous meeting were approved, and the agenda of the meeting was adopted.

Annual reminder of expert group rules

As required by the Decision C(2016) 3301 establishing horizontal rules for Commission expert groups¹, since it was the first meeting of the year, the Chair of the FSUG reminded all members appointed in a personal capacity of their obligation to promptly inform the Commission of any relevant change in the information previously provided. In such case, they must immediately submit a newly completed declaration of interests describing the change, in order to enable the Commission to assess it in due course.

Tour de table

Members gave an update on issues and risks for consumers in Member States and presented activities of FSUG interest.

Updates from Member States

- In DE, the government launched a consultation on the Act on the Transposition of the Second Shareholder Rights Directive. The government is also consulting stakeholders on the Second Act Amending Financial Markets Regulations, transposing MiFID II and MiFIR.
- In the UK, FCA published guidelines on the temporary permissions regime and a draft legislation for the financial services contracts regime. The risk of a hard

¹ See Commission Decision C(2016) 3301 establishing horizontal rules on the creation and operation of Commission expert groups, 30 May 2016; and Commission Communication C(2016) 3300 framework for commission expert groups: horizontal rules and public register, 30 May 2016.

Brexit, and dangerous consequences for consumers and SMEs both sides, has risen considerably. FCA also announced a package to reform the way banks charge for overdrafts, but this proposal looks quite weak.

Santander is to close 140 branches in the UK throughout the year, which could put at risk consumer access to cash.

- In BG, there is an ongoing debate concerning the voucher scheme to support SMEs listing on the stock exchange. There is also an ongoing debate on the future possible adoption of the euro. Moreover, certain banks and insurance companies are withdrawing from the market.

- In IT, the banking system has stepped in to rescue another bank, Carige, whose bonds will be 100% guaranteed by the State.

The Lega-5 Stelle government has put in place a sort of “citizenship income” for low-income people. Due to its complex design, it is difficult to tell whether it is a subsidy. The government also proposed a reform of the pension system, “Quota 100”.

The Italian Parliament is discussing legislation on blockchain and smart contracts.

- In BE, NewB has introduced a banking licence request. A new bank entering the Belgian market is a good development because it will foster competition in a market where choices for consumers are quite limited.

- In the NL, the Netherlands Scientific Council for Government Policy (WRR) - an independent advisory body – has published a report on money creation and society with interesting insights.

- In SE, there is a scandal on connections between municipalities and debt collecting companies.

- In DK, following the Danske Bank scandal, the Danish FSA published a report highlighting the bank's compliance with the orders stated in the FSA decision of 3 May 2018. However, the Estonian FSA does not seem to agree with them.

- In FR, at the Paris Fintech Forum, Christine Lagarde advocated for using cryptocurrencies to face the problem of access to cash.

- In PT, the Portuguese Securities Commission (CMVM) has launched a consultation on ESMA on restriction of marketing of Contracts for differences (CFDs) and prohibition of the marketing, distribution or sale of binary options to retail clients. Such prohibition was in effect since 2 July and it was renewed in November for a further three-month period.

Banco de Portugal has published a study on the social costs of retail payment instruments in 2017. From the consumers' perspective, cash and direct debit were the cheapest instruments, whereas cheques had the highest charges per transaction. PSD 2 was finally transposed on November 2018.

An audit identified that some loans from CGD, the biggest Portuguese bank, were granted to big companies for political reasons, resulting in significant losses for the bank.

The Portuguese government issued a contingency plan on Brexit.

In PT, NPLs are still significantly high and a topic of debate.

- In SK a new bank entered the market, [365](#). It fully operates online.

From a macro-prudential point of view, it seems that the Slovak people are taking too many mortgages. Their indebtedness rose sharply in the last years.

Developments at EU level

- At EU level, the Commission work on an Ecolabel for financial services is not proceeding as fast as expected.
- As regards the European Supervisory Authorities (ESAs) review, the Parliament ECON committee adopted its report in January, and then the Plenary voted to

enter into inter-institutional negotiations. On the Council side, the Romanian presidency considered splitting the file to prioritise anti money laundering and leave aside ESAs governance, mandate and funding.

- ESAs reports on costs and past performance of retail investment, insurance and pension products [*presented by DG FISMA on the second day of the FSUG*] present several limitations e.g. lack of data.
- As highlighted for the UK, a worrying tendency across the EU is the fast decrease of the number of bank branches and ATMs, which could make access to cash more complicated and costly.

Members' activities

- Better Finance has published the 2018 Capital Markets Union the EU Citizen's Barometer, including key performance indicators to measure the CMU progress for European savers and individual investors.
- Finance Watch will soon publish a paper on discriminations in insurances and another one on the Consumer Credit Directive evaluation on the dangers of consumer credit for end-users.
- In November 2018, COFACE organised a seminar on [Economics at the service of society](#) in Brussels. The presentations are available on the COFACE website.

European Commission first feedback on FSUG recommendations to the Commission 2019-2024 (Eric Ducoulombier, DG FISMA unit B.3 and Renatas Mazeika, DG JUST unit E.1)

FSUG members introduced their list of 15 recommendations to the next Commission, by providing context and explaining the main points of concern for each one of them. Furthermore, FSUG members referred to the many requests for inputs that consumer organisations receive from contractors developing analyses and studies for the Commission. Such requests are more and more numerous and very detailed, thus answering them requires significant time resources from consumer organisations. The FSUG suggested that the European Commission require in calls for tender that contractors explain how they plan to access specific expertise e.g. by foreseeing financial compensation to consult consumer organisations.

DG JUST and DG FISMA had circulated the FSUG recommendations internally. DG FISMA presented them to the Financial Services Policy Group (FSPG), which is the assembly of Heads of Units in DG FISMA. Directors in DG FISMA also received a brief on the recommendations as well as the outcome of the discussions in the FSPG.

DG JUST welcomed the recommendations' focus on stages of the purchasing process where consumer protection mechanisms could be enhanced. DG JUST is currently working on several of the points raised by the FSUG (cross-border provision of financial services, responsible lending, overindebtedness, information disclosure in a digital environment...) for instance in the framework of the evaluations of the Distance Marketing of Financial Services Directive and of the Consumer Credit Directive.

The Commission acknowledged good receipt of the FSUG recommendations, it welcomed the link to flagship initiatives of the Commission (e.g. Capital Markets Union), and will further engage with the FSUG on the issues identified. However, the Commission asked the FSUG to streamline and prioritise their proposals.

FSUG explained that the purpose of the exercise was to send a message to the next Commission and agreed to prioritise and fine-tune the recommendations (by the next

meeting in March). These will be reorganised in four clusters: CMU, Retail investors' issues, Better regulation and supervision issues, and Digitalisation. The FSUG will later decide on the way to communicate and disseminate their recommendations, be it in a formal letter or as a document published on the website.

Presentation of the Evaluation of the Distance Marketing of Financial Services Directive and update on the Evaluation of the Consumer Credit Directive (Francesco Pontiroli Gobbi and Julien Brugerolle, DG JUST unit E.1)

DG JUST speakers provided members with an overview of the Evaluation of the Consumer Credit Directive (CCD), which is part of the European Commission 2019 Work Programme REFIT initiatives. There is a legal obligation (Art. 27) to evaluate the Directive and the work performed under Actions 7 and 9 of the Consumer Financial Services Action Plan, respectively on enhancing cross-border credit and advancing on credit worthiness assessment and credit data registers, will feed into the Evaluation. On 30 June 2018, the Commission published a Roadmap explaining that the Evaluation will be based on the five Better Regulation criteria: efficiency, effectiveness, relevance, coherence and EU added value. DG JUST informed stakeholders about the study - outsourced in November - that will inform the evaluation. The contractor is performing different tasks, ranging from legal analysis, literature review and stakeholder consultation (both open public and targeted to main stakeholders) to mystery shopping and quantification analysis. DG JUST also provided a tentative timeline of the main consultation activities, planned for the period January-April 2019, and informed FSUG members that an event on the interim findings of the study will be organised on 18 June 2019.

DG JUST speakers also presented the state of play of the Evaluation of the Distance Marketing of Financial Services Directive (DMFSD), also part of the European Commission 2019 Work Programme REFIT initiatives. The work performed under Action 12 of the Consumer Financial Services Action Plan on monitoring online selling of financial services will feed into the Evaluation. Such work includes a behavioural study on the digitalisation of the marketing and distance selling of retail financial services to be published at the beginning of April 2019, that was presented by DG JUST. A study commissioned to an external contractor will inform the Evaluation, as specified in the Roadmap published in December 2018, and a public consultation will take place in Spring 2019.

Both the Evaluations are planned to be finalised by Q4 2019, with a Staff Working Document and a Report to the co-legislators for each of them.

FSUG members asked how the Commission intends to disseminate the CCD public consultation to collect diverse and representative replies, including from EU consumers. They also asked whether the interim reports of the study would be shared with stakeholders. DG JUST reassured members that the public consultation has been largely advertised not only through the Commission expert groups, but also on social media. The interim findings of the study will be presented at the June event, that will gather different stakeholders, directly and indirectly affected by the CCD.

FSUG members highlighted the importance of studying the impact of digitalisation on financial services, with a particular focus on customer decision-making process, targeting and personalisation. They asked to have a more extensive presentation on the behavioural study at the next meeting.

Presentation on the results of the first reports of ESAs on costs and past performance of retail investment, insurance and pension products (Piotr Nowak and Christoph Emsbach, DG FISMA unit B.1)

DG FISMA gave an update on the results of the first reports of ESAs on costs and past performance of retail investment, insurance and pension products. The reports were published on 10 January 2019 and are available on the websites of ESMA, EIOPA and EBA. The three ESAs presented the main findings during a workshop organised by DG FISMA on 21 January 2019.

The Commission explained the main findings of the reports:

- ESMA - “Performance and costs of retail investment products in the EU” report
 - Data was available for UCITS, but still there were lots of difficulties (e.g. in terms of taxonomy, funds’ domiciliation, inflation);
 - For UCITS, there is a big impact of costs on net returns, in particular on-going costs;
 - Retail investors pay almost double than institutional clients;
 - In terms of net returns, passive equity funds consistently outperform active funds;
 - UCITS findings are robust;
 - For AIFs (retail alternative investment funds) and SRPs (structured retail products): limited data availability.
- EIOPA – “Costs and Past Performance: Insurance and Pensions” report
 - Difficulties in obtaining the data ;
 - Sample-based approach was used to cover 65% of the market;
 - The report includes mostly aggregate data and does not enter into detailed analysis between Member States. It covers only 21% of life insurance market;
 - Costs vary by type of product (unit-linked costs are higher), risk class, type of premium (regular premium products have higher costs) and Member State. Holding periods do not affect costs significantly;
 - The risk category of a product is the largest single driver of variations in cost, especially for unit-linked products;
 - For pensions, the sample was limited to personal pension products in three countries, therefore conclusions could not be drawn.
- EBA – “First EBA report on cost and performance of structured deposits” report
 - Great difficulty in obtaining data on cost and performance
 - Effort to establish the market size for structured deposits

FSUG members expressed their concern about several issues: limited data availability to supervisory bodies, the issue of resources of ESAs, the lack of recommendations in the reports, the lack of transparency of some reports. FSUG insisted on the limited data availability issue explaining that they see data access as being critical to the three ESAs to perform their supervision mandate. One member asked if the Commission explores possible options for improving the quality of the reports. Another member asked if the EC considers creating a centralised mandatory repository for the KIDs, explaining that this might be a step forward in helping to address the data issue.

The Commission explained that these are first time reports and that they represent a progress. They are of course a first step, hence further action will be considered. The Commission is aware of the various limitations and fully understands the expectations expressed by FSUG members. The relevant services in DG FISMA and DG JUST will

reflect on the way forward. Future reports will have to provide comparisons with the previous ones, thus ensuring continuity and consistency.

To conclude, FSUG members required to be kept informed on the next steps, especially on data standardisation and ways of making the data available to supervisory bodies and to consumers.

Presentation of 2018 Consumer Market Scoreboard (Maria Luisa Janschek, DG JUST unit 03)

DG JUST presented the [2018 Consumer Markets Scoreboard](#), which provides an overview of EU citizens' assessment of the performance of 40 consumer markets across the EU Member States, Norway and Iceland (500 interviews per market and per country), using the Market Performance Indicator (MPI) index. MPI is composite indicator based on five components: comparability, trust, expectations, choice, and overall detriment.

Consumers' overall assessment of market performance in 2017 improved by 0.3 points on average compared to 2015 for all markets surveyed. However, banking services continue to be the lowest performing cluster from a consumer perspective. The poor performance of this cluster is driven by the 'investment products, private personal pensions and securities' market and the 'mortgages' market. Both markets are in the low-performing quartile. The 'bank accounts' market and the market for 'loans, credit and credit cards' are in the middle-to-high performing quartile.

FSUG members exchanged with DG JUST on the methodology used for the Consumer Markets Scoreboard.

Retail Financial Services Action Plan, update on Action 1 and 2: cross-border payments (Nicolò Brignoli, DG FISMA unit B.3)

The Commission updated FSUG members on the advancements on the Cross-border Payments Regulation. On 17 December 2018, Coreper II approved the provisional agreement on the Cross-border Payments Regulation and on 10 January 2019, the ECON Committee adopted the agreement text.

On charges for cross-border transactions, the Commission proposed the "same charge rule", meaning that cross-border payments in euro should cost the same as domestic payments in the local currency of a Member State from which the cross-border payment originates. This rule will become applicable on 15 December 2019, regardless the date of publication in the Official Journal.

On currency conversion transparency for card-based transactions, the provisional agreement requires a harmonised way to disclose currency conversion charges. In the case of dynamic currency conversion, the charges will be disclosed prior to the initiation of the transaction (on the screen of the ATM or POS terminal or over the counter). In the case of non-dynamic currency conversion, the card issuing bank will disclose its currency conversion charge in the Terms & Conditions of each payment card and on its website. The payer will also receive an electronic message with the applicable currency conversion charge. These provisions will become applicable 12 months after the entry into force of the Regulation, except for the electronic messaging requirement, which will apply as of 24 months after the entry into force of the Regulation.

FSUG members raised the issue of the Commission's communication on the outcome of this Regulation. They consider that the Regulation is a success as regards the same

charge rule, but on the contrary, the Regulation does not address well the transparency issue. Still, the Commission plans to communicate the entire outcome of the Regulation as a success and FSUG members believe that this was misleading. FSUG members explained and gave examples of how the transparency solution does not offer comparability to consumers as information reaches the user post-factum.

The Commission explained that this is an improvement and that the process will continue, while taking note of the remarks concerning the communication.

Work Programme for 2019

FSUG members discussed the internal work programme to monitor the state of play of different actions. In certain cases, deliverables for specific topics were advanced or postponed, depending on the developments on related EC dossiers or on internal workload. A new subgroup on NPLs and consumer protection was added to the work plan.

As regards the 2019 external meeting of the FSUG, the first option is having it in Rome in September. The second option is Sofia.

2019 Research projects: discussion and vote

FSUG members discussed on various possible research studies that could support their work in the sub-groups. One proposal relates to research on the topic on non-performing loans and debt servicers, in particular to identify the way debt is collected, to gather evidence on consumer detriment and to pinpoint other direct implications on consumers. FSUG members voted and agreed to outsource this research study in 2019. Consequently, a new dedicated subgroup will start immediately to draft the Terms of Reference for this study. The FSUG secretariat will provide the template document for the Terms of Reference as soon as possible.

FSUG members voted to postpone the research study on financial and investment advice to 2020. However, the work on defining in detail the content of the study and on drafting the Terms of Reference will start in May 2019.

FSUG members also discussed about a small external research study on investment choices which might be still contracted this year. The topic will be revisited during the next FSUG meeting.

Update on the FSUG 2018 Annual Report

FSUG members started drafting the Annual Report 2018, but several contributions are still missing. The FSUG Vice-chair will send reminders to those members still having to contribute to the Annual Report. Thus, FSUG members will be able to agree on the Annual Report at the next FSUG meeting, on 28-29 March 2019.

Risk Outlook

Very few contributions were received so far on the draft Risk Outlook document. FSUG members decided to keep the Risk Outlook as a separate paper, no longer part of the Annual Report. The following structure was agreed upon:

- Banking risks
- Pension risks
- Consumer protection risks
- Risks related to Brexit – to be developed based on the presentation delivered during the 3rd FSUG meeting in 2018.

Members should send their inputs and comments to the sub-group leader as soon as possible, so that the risk outlook will be ready for the next FSUG meeting.

Wrap-up session on subgroups' discussions

- Consumers unable to choose the right financial product: will work on a paper highlighting the risks for consumer in choosing the wrong products to be published in Q3.
- Digitalisation of financial services – conduct of business and big data: will complete a scoping exercise of their paper by the end of March, prepare preliminary policy recommendations by the end of April and finalise the paper by the end of May.
- Cryptoassets: has discussed the second draft of their paper that should be finalised by Q1 2019.
- Financial advice: decided to postpone the outsourcing of a study on financial advice to 2020 and will work on the terms of reference for such study in Q2-Q3 2019.
- Digitalisation of financial services - accessibility issues: agreed to prepare a first draft of their paper in the next few weeks to be discussed at the next FSUG meeting, and prepare a final version by Q2 2019.

Topics for next meeting(s)

Once FSUG members will have reorganised their recommendations, they would like to discuss them with the relevant services in DG FISMA and DG JUST.

FSUG members would like to receive updates from the Commission on:

- Enforcement of consumer law (with a focus on financial services);
- Commission behavioural study on the digitalisation of the marketing and distance selling of retail financial services;
- Sustainable finance;
- MiFID II review.

Members will also liaise with the Belgian ombudsman people working on redress and with an expert on cryptoassets from EBA to see if they can present their work to the group.