



Meeting of the Financial Services User Group

Minutes

17 November 2022

Virtual Meeting

Welcome remarks, adoption of the agenda, approval of the minutes of the September meeting

The agenda for the meeting was adopted and the minutes of the last meeting were approved.

Exchange of views with the Commission (Blanca Rodriguez Galindo, DG JUST Directorate E “Consumers” Acting Director)

Ms Rodriguez Galindo highlighted that the Commission is working on both legislative and non-legislative initiatives with a relevance for financial services. In particular, there is an ongoing digital fairness fitness check about the adequacy of current EU consumer law in respect to the developments of digital markets in all sectors. The fitness check is foreseen to be completed in the first half of 2024 and – depending on the outcome – may be followed by a legislative proposal (under the next mandate of the Commission). The Commission is opening a public consultation at the end of November. Comments and inputs of FSUG members are very welcome. Despite of the many opportunities for consumers in digital markets, the risks, e.g. the misuse of open finance, must be kept in mind. [*Post-meeting note: the public consultation on Digital Fairness was launched on 28 November 2022 and will be open until 20 February 2023. It can be accessed here: [Digital fairness – fitness check on EU consumer law \(europa.eu\)](https://european-council.europa.eu/media/en/press-communications/default.asp?id=13207&lang=en)]*

Additionally, Ms Rodriguez-Galindo gave a short presentation of the files DG JUST E.1 is currently working on and corresponding relation to the work of the FSUG, especially the Consumer Credit Directive (CCD) review and the Distance Marketing of Financial Services (DMFS) proposal.

FSUG members raised concerns about the timeline of the fitness check (it might be too late to impact CCD and DMFS), about data protection of borrowers in digital credit settings and asked if the Commission intends to get a broader overview of concepts regarding vulnerable

consumers. The Commission explained that the results of the fitness check would be reflected in future initiatives affecting horizontally consumer law.

Tour de table

Members shared an update on their activities which might be of interest for the FSUG's work on newly identified risks to consumers in financial services.

BEUC representative shared a couple of published studies on digital asymmetry which are trying to identify current challenges:

https://www.beuc.eu/sites/default/files/publications/beuc-x-2022-015_protecting_fairness_and_consumer_choice_in_a_digital_economy.pdf;
https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-116_the_regulatory_gap-consumer_protection_in_the_digital_economy.pdf;
https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-018_eu_consumer_protection_2.0.pdf

He underlined the importance of the Commission's work in this regard, e.g. DMFSD contains many of these concerns.

FairFin representative gave an update from the Belgian banking project newB. He considers newB to be a banking project which – in a positive sense – is closer to the consumer. Unfortunately, the project is about to fail as it turned out to be economically impossible to achieve the necessary scale. He criticized that EU regulation might keep new entries out despite apparent consumer friendliness. FSUG Chairman proposed to put this topic on the agenda of a meeting next year.

DSW indicated a recent lawsuit in Germany concerning misleading advertising for allegedly sustainable investment products. The case was brought forward by the local consumer center ("Verbraucherzentrale") against investment manager "DWS" in the federal state of Baden-Württemberg.

FSUG member representing DECO pointed to the increasing problem of variable mortgages in face of sharply rising EURIBOR rates. In Portugal, mortgages with variable interest rates account for 93 % of mortgage credits. Consequently, many consumers are currently reaching out for advice on how to restructure credit contracts. Recently, the government came up with an assistance program to force banks to present options for consumers to adjust mortgage conditions. Furthermore, the Portuguese government is strongly considering to implement taxes on crypto assets.

An FSUG member mentioned that inflation in Poland has risen to 18% being further sustained by large government expenditures in face of elections next year and was concerned about rising interest rates on mortgage credits in Poland. Even though it is now obligatory under the recent Polish law for creditors to postpone up to eight repayments before end 2023, not all consumers are aware of this option and know how to proceed. ADICAE member echoed those concerns that issues could be solved by a legal framework in the context of the banking union.

Another FSUG member informed about the report of the National Bank of Romania which shows decreasing demand for mortgage credits but an increase in demand for credit cards with the later indicating the increased risk of over-indebtedness because the interest rates for consumer credits are the highest in the market.

Finally, an FSUG member informed of an ongoing political reform in Cyprus that aims to improve debt recovery.

Commission proposal on Instant Payments: (i) presentation on the key features of the proposal by Commission services; (ii) discussion

DG FISMA representative gave a presentation of the proposal for a regulation on instant credit transfers in euro. First, he explained the reason for the proposal: instant payments are a major technological innovation in payment allowing funds to be transferred 24/7/365 and in less than ten seconds. That is why they can bring multiple benefits for EU consumers, businesses, public administration, banks and fintechs. However, the full-scale benefits cannot be achieved without sufficient uptake of instant payments. Today only around 13% of all euro credit transfers in the EU are processed instantaneously (SEPA instant credit transfers, SCT Inst.). Legislative intervention is therefore necessary to remove the obstacles to a higher uptake of euro instant payments and thus unlock the full-scale network effects of instant payments. Then he presented different problem drivers and the provisions addressing them.

FSUG members welcomed the proposal mentioning that it was the first time when consumers have the possibility to check the IBAN. The nature of instant payment can change a number of relations which might be positive from a consumer's perspective. FSUG members enquired i) if the proposal includes a methodology to specify where the actual price should be considered; ii) if the proposal ensures that account details are not passed and data is not retained longer than needed or if this is left to national level; iii) if the proposal addresses the abuse of instant payment by including the possibility to make a transfer reversible.

Over-indebtedness and debt-advice on-going initiatives: (i) the Commission services will update on their progress; (ii) Q & As

DG JUST of the Commission informed that the update was postponed to the next meeting in February, when the results of the study will be available. DJ JUST representative gave a short overview on the background and topics of their initiative.

A first study in 2012 has shown that more than 10% of EU citizens are over-indebted. The Commission organised a number of actions to deliver debt advice. Furthermore, article 36 of the CCD proposal states an obligation for Member States that debt advisory service is provided.

The study is planned to be finalised by the first quarter in 2023. It covers five different topics, namely: i) a quantitative and comparative mapping of the situation; ii) a survey on consumers' opinions about „being over indebted“; iii) an analysis of the impact of Covid and other economic forecasts; iv) a legal analysis of the rules on consumer protection and their effectiveness; v) a behavioral experiment focused on the disclosure tools.

FSUG members pointed out that there was also a subgroup working on over-indebtedness and proposed to cooperate in order to avoid overlapping. Especially, they are interested to work on the results of the legal analysis of national rules.

Update on MCD study and next steps

A DG FISMA representative gave a short update on the Mortgage Credit Directive. Regarding the timeline, he mentioned that the aim was to finalize the report this year and to publish the report in January 2023. It is more likely that a legislative proposal – if any – would be made under the next Commission.

FISMA also mentioned that on 8 December [GEGRFS expert group](#) meeting in which also the Member States would update about the measures taken to supporting consumers that have issues in timely repayment of their mortgage loans in the light of the current economic situation caused by increasing energy costs.

Recent BEUC/Finance Watch studies: (i) presentation of the results; (ii) discussion

A BEUC representative at the FSUG explained that the purpose of his contribution was not to present the paper, but to discuss the position of the FSUG to the Commission's upcoming proposal on Retail Investment Strategy which is expected to be published in Q2 2023. More specifically, the Commission is considering to propose a ban of all inducements related to retail investment advice.

The industry is currently intensifying lobby efforts. The Commission is looking for feedback from Member States before launching the proposal.

The participants agreed that there was a political momentum to ban inducements.

DG FISMA official stated that a decision has not been taken and all options are on the table. One option is a total ban, but it is not the only option. The Commission is currently in the midst of an impact assessment and will decide based on evidence. The impact assessment is looking at the effect of a potential ban. One important point in this context is the frequently stated counterargument of an advice gap.

One member raised a concern of how to interpret and analyze the data of the impact assessment regarding the option of a ban because this case was not widely spread across Member States.

FSUG members decided to prepare an FSUG opinion on retail investment strategy in view of the upcoming Commission proposal.

Discussion and decision about the potential FSUG External Meeting in 2023

FSUG members agreed that the next FSUG external meeting could take place in Finland on 22 and 23 June, as kindly offered by FSUG member from Finland. On the first day, there could be a meeting with local experts, on the second day the usual FSUG meeting could be held.

Work in the FSUG subgroups: (i) update from the leaders of each subgroup on the progress achieved; (ii) discussion

FSUG members discussed and adopted its opinion paper on the Commission's forthcoming retail investment package worked out by subgroup 3 (retail investment strategy).

Subgroup 1 (open finance) has sent a checklist for the open finance initiative.

Subgroup 2 (review of the revised payment services Directive (PDS2)) held a meeting on 31 October and discussed principles of their opinion paper. They presented the most important points of their finalised first draft. The group is of the opinion that the directive needs a provision to prevent payment service providers to use the payment service directive to avoid competition. It is therefore essential to focus on the most sensitive points to consumers. Furthermore, complaints handling is important in this environment because there are many occasions where consumers cannot send their complaints in face of payment providers entering the market from other Member States. As payments become more digital, it is more important to allow consumers to revoke their payment until it is executed. The draft will be finalised and sent to the Commission by the end of November.

Subgroup 4 (the review of the Mortgage Credit Directive (MCD)) gave a presentation about their meeting on 14 November. The members took note of the materials submitted by the contractor to the Validation Workshop on 25 October and are waiting for the final report. They understood that a full review of the MCD is not foreseen in the current Commission mandate. They underlined that however the cost-of-living crisis and the significant increases of interest rates in response to it are having an impact on existing mortgage borrowers. In their opinion, this would require a response of policy makers in the short-term, especially on measures concerning forbearance to provide debt relief mechanisms for struggling borrowers. The subgroup considered that the Commission should carry out a targeted review of the MCD on forbearance measures (according to Article 28 MCD) to strengthen existing forbearance rules.

Subgroup 5 (implementation of the capital market union (CMU) action plan) will circulate ideas and organize a subgroup meeting in the upcoming weeks.

Because Subgroup 6 (access to cash) has not a leader yet, the update was postponed

Subgroup 7 (over-indebtedness and personal insolvency) agreed on a first meeting to work on the objective in a longer term as there is no immediate evidence to act. They emphasised the relevance of the Commission's work (study on over-indebtedness and debt advisory) which also looks at national legislation. They plan to keep in close touch with the Commission and invite their representative to the next subgroup meeting in December.

The **next FSUG meeting** will be on 9 and 10 February in Brussels, meeting room in DG FISMA.