



Minutes of the meeting of the Financial Services User Group 23 – 24 October 2014

Thursday 23 October

Adoption of the agenda and approval of the minutes of the FSUG meeting on 7 – 8 July 2014.

The agenda was adopted and comments on the minutes will be included via written procedure.

Tour de table on Members' activities of FSUG interest, participation in events on behalf of FSUG, update on identified consumers' risks or detriments as early warnings to the Commission and ESAs:

In Slovenia, financial inclusion is becoming an issue and the introduction of alternative dispute resolution for banking services is now planned, despite the fact that there is pressure to make the impact of the procedure non-binding and confidential. Consumers are insisting not to have a payment card included in the account if they do not want to. As for the Netherlands, in the field of construction work, as of 2015 it will not be possible to pay salaries in cash, to limit illegal work. New legislation has been put forward to prohibit forced decumulation for unemployed. In Slovenia, financial sector reform is ongoing, such as a debate on licenses for supervisors. In Italy, it seems that the treatment of end working relationship (a sort of saving product) could be now paid –for those willing to have it-monthly into salaries. In Poland, recommendations on bank insurance and fines for financial institutions for mis-selling of deposit and other products have been adopted. Credit unions are not running well. In Denmark, new players are emerging in the banking sector, raising problems of privacy and consumer protection. Czech Republic is also facing problems concerning APRs. A social scandal on pension funds has emerged in France. In Spain, there are problems on collective redress because of the interpretation of several clauses by the courts; more persons are exposed to illegal situations and banks have been discovered issuing "black cards" with unlimited expenses to certain consumers, raising issues of tax evasion. In Germany, a draft law on capital markets, which contains an exception for cooperatives and crowdfunding, is considered having significant gaps. Romanians consumers, as from 2015, will be informed of charges when withdrawing money. In Greece 1 out of 2 cannot pay financial obligations to pension funds for self-employed entrepreneurs, while there is a trend towards oligopoly in the banking sector (no cooperatives and only 4 banks detaining most of the market). The UK Treasury is likely to renounce to the voluntary agreement and to pass a bill on the right to a basic bank account. Legislation has been put forward on national advice service pre-retirement on how to use funds accumulated. It is key to ask for high standards to protect consumers' interests.

Members also highlighted the need for an update from MARKT on benchmarks negotiations and signalled that the revision of Euribor could be problematic for certain MS as for the impact on mortgages or other products. They mentioned that the Pension Forum did not like the idea of a code of best practices being binding and mentioned a Q&A session on PAD, organised by the Commission, as a positive initiative. The idea of sending a thank you-letter to Commissioner Barnier and a letter to welcome Commissioners Hill and Jourova was raised, together with concerns on mobile payments, flagged as cost-effective but with possible consequences on the extension of credit. In this field, members also pointed out at new applications developed to keep control over the balance and stop operations on the account, if needed. They also drew attention on several conferences and studies which could be of interest for FSUG.

FSUG Annual Report

A draft is to be sent around for comments after the meeting so that the Report can be approved before the end of the year.

Discussion on the paper on consumer data and practices of creditworthiness assessment

The Commission acknowledged that there are many relevant observations in the paper but noted that definitions are missing and that credit risk is different from credit-worthiness. FSUG members replied that there is a strong link between the two concepts and that, in their opinion, the paper is balanced and is a good tool to foster discussion. FSUG therefore decided to finalise the paper and adopt it. One member also proposed to develop a paper on credit risk that might be complementary to the one on credit-worthiness.

FSUG was asked to present the paper at the Conference on Retail Financial Services taking place on 18 November. Once the paper is finalised, it will be published on the FSUG website.

Finalisation of the 2014 Risk Outlook

A draft is to be sent around for comments after the meeting.

Simple financial products

The updated Report on Simple Financial products was presented to FSUG members with a particular focus on the main changes included in this last draft on pages 4/5 (role of simple financial products in social policy) and 9 (exhaustive breakdown of the costs of any financial product).

FSUG members discussed on the number of products to be included in the list on page 13, but it was decided to keep a long list at that stage. Also, some members asked whether the example of the French Livret A could be added in the annex as an example of a simple regulated saving product.

Overall, FSUG members agreed on the content of the Report and decided that the executive summary could now be added and the title may be changed to better reflect its content ("A new model for product intervention").

Access to comprehensive financial guidance for consumers: adoption of the terms of reference

FSUG members were updated on the state of play for this study. The answer from the 2nd contractor from the list, PWC, is still awaited. The deadline for answering is Friday 24 October. If PWC is not interested by this study, the third contractor, Oxera, will be contacted as soon as possible.

The Commission stressed that, since Oxera seems to be interested to work on the study on crowdfunding, it is not certain that they have enough resources to take both.

The situation will have to be monitored carefully in the coming days, since both studies should be launched in 2014 to be covered by 2014 Budget.

Efficiency and performance of the asset management industry

FSUG Members agreed that the study was very powerful and could fit very well with the current priorities of the new Commission (Long Term investment and Capital Market Union). In that context, FSUG members agreed to publish the study on their website as soon as possible, and then to add the corresponding position paper as soon as it is available.

Presentation of the 2014 Edition of "Pension Savings: the real return"

One member presented the study from Better Finance for All. Data on real return of pension savings for individuals are scarce, perception of the problem differs from reality, as real performance (before tax) is rarely disclosed to citizens. The study covers 75% of EU population and has found out that returns are very low because of fees, commissions, taxes and investment choices. The study recommends to improve disclosure for saving products, to use simple products to protect long-term savings, to have ESAs analysing and reporting on trends, to establish an EU-wide transparent and competitive annuities market and to improve simplification and standardisation of product offers. Governance of collective schemes should also be improved, biased advice should be discouraged, financial education should be promoted and taxation should incentivise long-term savings.

Friday 24 October

The FSUG decided to contribute to 4 on-going consultations:

1. Cross border mergers and divisions / company law
2. Conflict of interest in direct and intermediated sales of insurance-based investment products
3. Review of the Insurance Block Exemption Regulation
4. UCITS

Research budget 2015

It was agreed to send around the text of the proposals in order to decide at the November meeting on the course of action. Five ideas were presented:

1. Borrowers in foreign currency – in certain MS these loans have been aggressively promoted before the crisis, without informing consumers of the risks. Being the rate of interest low, consumers decide to take out these loans but are now faced with high instalments to pay. The aim of the study is to map all solutions in benefit of consumers.
2. Credit data – the idea is to focus on certain MS with interviews and research, in order to map existing practices and the extent to which credit data is used. The risk is that the industry may not want to cooperate.
3. Enforcement – enforcement at the moment is not fully satisfactory. The idea is to assess enforcement (capacity and willingness) of a given piece of legislation in a small number of MS to see best practices and what can be done at EU level in this field. The issue of passporting could also be investigated. Desk research could be done by FSUG, whereas mystery shopping could be very expensive
4. Decumulation – the idea is to monitor the performance of pension funds and the way decumulation is done. A position paper would map concerns and research would investigate possible best practices. Main issues to look at would be annuitisation, disclosure of annuities,

returns of annuities, use of pension pot, equity release and potential added value of EU annuities market.

5. Savings – since 1 out of 3 EU citizens cannot deal with its own expenses, access to savings is crucial. There is the need to better define problems and consequences. It also has to be investigated whether a link exists or not between over-indebtedness and lack of savings. Best practices should be analysed and FSUG members could contribute with their own national experiences.

The Commission was also asked to help FSUG on estimation of costs in order to avoid rejection of the proposals by contractors.

Crowdfunding

One member provided the group with a summary of the first EC Stakeholder Forum (ECSF) on crowdfunding. Main issues analysed were lack of financial education, features of successful campaigns and risks for consumers. The Commission is also working on a guide for SMEs, but it is not clear whether a similar initiative will be done for consumers as well. The FSUG study was also presented. Concerning risks for consumers, main reasons for platform failures and campaign failures were analysed, while risks for crowd-lending and crowd-investing were also discussed. The discussion also focused on virtual currencies and risk mitigation measures. EBA presented their response to the EC consultation and their own risk mapping, still in progress.

Follow-up on the study: the contractor agreed to cover 3 MS (UK, DE, ES). FSUG accepted the offer and the member in charge will soon update FSUG members on the methodological details.

Update on the retail conference on 18 November

Maciej Berestecki provided an update on the Conference on emerging challenges in retail finance and consumer policy which the European Commission is organising on 18 November in Brussels. It was confirmed that 18 members of the FSUG would take part in the event. During the meeting, they decided in which break-up sessions of the conference they would participate. Two position papers of the FSUG – on simple financial products and on consumer data and practices of creditworthiness assessment – will be briefly presented at the beginning of relevant break-up sessions. Mr Berestecki informed that the conference was already fully booked and that all the stakeholders will be represented in a balanced way. He also invited the group to read the steering notes concerning the topics to be discussed during the conference, published on the conference website and prepared by the Commission with the aim to provide participants with background information and to outline the policy objectives.

Update on PRIIPs

Katarina Melichercikova underlined that the objective of PRIIPs is to better inform retail investors on investment products which they are considering purchasing. For this purpose, it introduces a 'Key Information Document' (KID) which is a new, innovative standard for product information, one that is short and plain-speaking, and thus more consumer-friendly. KID will provide information in a standardised way on the product's main features, as well as the risks and costs associated with the investment in that product. Information on risks will be as straight-forward and comparable as possible. Manufacturers of investment products, such as investment fund managers, insurers, banks, will have to produce KID for every packaged retail and insurance-based investment product (e.g. investment funds, insurance-based investments and retail structured products).

Ms Melichercikova also explained which products are outside the scope of PRIIPs: all types of general insurance (motor, household, medical); all types of pure protection policies (pure

life insurance, sickness plans) as well as shares, bonds and simple saving accounts. She added that the PRIIPs Regulation is complementary to IMD as well as MiFID, and it satisfies the core product disclosure requirements while all subsequent requirements follow as usual. The Regulation was adopted by the EP plenary on 21 October 2014 and the European Supervisory Authorities have started preparing the Regulatory Technical Standards to specify the KID content and the methodology of risk and cost measurement. The Commission is assisting in the process by carrying out the KID consumer testing study.

EBA's work on consumer protection and financial innovation

Prof David Llewellyn, who is the Chairman of the EBA Banking Stakeholder Group, explained the role and activity of the Group and discussed possible ways of cooperation between the FSUG and the EBA Banking Stakeholder Group. In his view, such cooperation would be of great value for both bodies. He proposed for instance that the groups could agree and develop common position papers which would ensure greater impact of their views. In addition, Mr Llewellyn suggested that the work agendas of both the FSUG and the EBA Banking Stakeholder Group could be coordinated.

Mr Haubrich presented some general information on the reasons behind the creation and on the competences of the European Banking Authority. He explained that the EBA is an independent authority accountable to the EU Parliament and Council and it has the Board of Supervisors, comprising the 28 national supervisors which is its highest decision making body. The EBA's general objective is "to protect the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses." It achieves this objective by, among others, enhancing consumer protection and monitoring new and existing financial activities and adopting guidelines and recommendations with a view to promoting the safety and soundness of markets and convergence of regulatory practice. There is a number of EU Directives which fall within the EBA's scope of action and it has several legal instruments at its disposal (such as technical standards, guidelines and recommendations, warnings, etc.). One of the Directives which falls outside the scope of the EBA's remit is the Consumer Credit Directive which for instance prevents the Authority from tackling the issues of payday lending. The EBA can only act on consumer protection and financial innovation issues if it has been given a direct mandate through an EU Directive or Regulation, and/or it has identified risks to its ability to fulfil its existing objectives and tasks. Its work involves close cooperation with a number of stakeholders (consumer associations, firms and trade associations, EBA Banking Stakeholder Group and EU Institutions) at various stages of the process as well as with the other European Supervisory Authorities (ESMA and EIOPA).

FSUG reporting to the Commission and discussion

The Chairman of the FSUG presented the conclusions of various points discussed during the meeting to Despina Spanou (Director Consumer Policy in DG Sanco) and to Erik Nooteboom (Head of Retail Financial Services and Consumer Policy Unit in DG Markt). He made a reference to the research studies currently carried out by the FSUG and those planned for the next year, and he underlined the importance of the two position papers which the group was preparing in view of the conference on 18 November.

Ms Spanou thanked the FSUG for their engagement and commitment to assist the Commission in the policymaking work. She explained the changes which will affect the Commission as of 1 November and informed the group that the Directorate in charge of Consumer Policy will be moved from the current DG Sanco to the new DG Justice, and Consumers. She also mentioned that the new Commission will place a lot of emphasis on the efficiency and transparency of work.

Mr Nooteboom added that as of 1 November his Unit and the Financial Services Policy will belong to the new DG Financial Stability, Financial Services and Capital Markets Union. He

also once again invited the FSUG to actively participate in the upcoming retail conference and informed that it will be opened by the new Commissioner in charge of the DG Financial Stability, Lord Jonathan Hill. He pointed out that the Commission is expecting to receive a substantial input to the future policy on retail finance as the outcome of the conference.