



Minutes of the Financial Services User Group

28 – 29 November 2019

Joint meeting with FIN-NET

FIN-NET Annual Report 2018

In order to introduce the two groups to each other, the meeting started with a presentation of what FIN-NET is and how the Memorandum of Understanding regulates the interaction among its members. Then an overview of the Annual Report of 2018 allowed to obtain an idea of the number of complaints treated and of the main topics that needed mediation by alternative dispute resolution bodies. Finally, two FIN-NET members presented a representative case study each, providing an example of how the Memorandum of Understanding works in practice and of how useful this network is.

ADR schemes in financial services: results of the survey from Banca d'Italia

Over the summer, Banca d'Italia had launched a survey among FIN-NET members to better map the composition of the network and the current practices. During the meeting, a representative from Banca d'Italia presented the aggregated replies received. The snapshot of the wide variety of FIN-NET members and the issues in the application of the Alternative Dispute Resolution Directive proved to be very interesting.

Presentation of FSUG proposals for the new Commission

When it was the FSUG's turn to introduce itself, the chairing trio presented some selected [proposals for the new Commission](#). This sparked a very interesting exchange between users' representatives and ombudsmen, regarding some behaviours of the consumers of financial services and some widespread issues (including frauds and the consequences of digitalisation).

Discussion: methods for the calculation of costs of Mortgage and Consumer Credit

Following a Polish request, the European Court of Justice issued a ruling regarding the early repayment of consumer credit (C-383/18). In particular, in case of advance payment of the loan, the amount of one-off costs can be significant in relation to the borrowed amount. Therefore, one Italian and one French member of FIN-NET briefly discussed the possible implications of this ruling on ongoing contracts.

FSUG internal meeting

Alternative and online dispute resolution

Following the presentation from Banca d'Italia on their analysis of ADR schemes in financial services in several Member States, FSUG members working on ADR will liaise with Banca d'Italia representatives to get the results of their survey and build on them. The FSUG members working on SMEs will focus on ADR to assess what are the instruments available for SMEs and microenterprises to seek alternative dispute resolution.

In September 2019, the Commission published a [report](#) on the implementation of the Directive on alternative dispute resolution for consumer disputes.

MiFID II

FSUG members flagged that since a review of MiFID II is likely to take place in the first half of the new Commission mandate, they would like to engage with the Commission services at an early stage. Commission colleagues working on MiFID II will be invited to the next meetings of the FSUG.

Presentation of Better Finance study: “Pension Savings: The Real Return – 2019 Edition [Aleksandra Mączyńska, Better Finance]

The 2019 edition of the Better Finance annual study on returns on pensions highlights that the private pensions market is opaque, even for public authorities. This is a big problem, because pension returns are critical to deliver reasonable pensions. It concludes that there is not enough data and too often, it is not detailed (or recent) enough. Better Finance advocates for reporting to take into account not only fees, but inflation and tax.

Introduction of new members, adoption of the agenda and approval of the minutes of the September 2019 meeting

Professor Daniela Vandone, newly appointed member of the FSUG, introduced herself to the group.

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

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 the UK, the FCA fined fund managers £1.9 million for charging thousands of investors active fees on what were 'closet tracker' funds. FCA also temporarily banned the promotion of high risk speculative mini-bonds to most retail consumers. The rules will apply from 1 January to 31 December 2020.
Dozens of digital banking shutdowns last year limited consumer access to online banking.
- In IT, a Jean Monnet Centre of Excellence on consumers and SMEs in the digital single market was set up by prof. Ferretti at University of Bologna.

The University of Milan is launching a project to map Fintech platforms in Italy and try to understand their business model and market segment. At a workshop with Banca d'Italia, IMF and other central banks the main outcome was that big data can contribute to financial inclusion. However, no distinction was made between developing and developed economies.

- In BG, a new methodology introduced for the reimbursement of damages from car accidents is heavily criticized.

The code of procedure for the management of non-performing loans - which is not complying with EU legislation (e.g. EU Charter of human rights) – is subject to revision.

- In DK, the Danish Financial Supervisory Authority (FSA) reported Danske Bank to the police for misleading its customers about the returns they could expect on short-term investments (Flexinvest Fri product). Danske Bank has been preliminarily charged with violating the Danish Executive Order on Investor Protection.

The setting up of a database on customers for anti-money laundering purposes is triggering a big debate.

The government is going to introduce a cap on interest rate for consumer loans.

- In BE, the NewB project to create an ethical and sustainable cooperative bank was launched. Fair Fin has launched a study on the cost of financing green transition, together with trade unions.
- In PT, a big discussion on sustainable finance is ongoing.

The Bank of Portugal has set up a Payment Systems Forum, combining supply and user side. A communication campaign on strong authentication requirements is planned for the next months to promote electronic payments.

Novo Banco, the bank rescued from the ruins of Banco Espírito Santo in 2014, is asking for additional capital injection from the country's bank resolution fund to cover losses built up in the process of offloading NPLs from its balance sheets.

Developments at EU level

- The consultants performing the supporting study for the review of the Payment Accounts Directive (PAD) organised a workshop with industry and consumer organisations to discuss several issues such as the barriers to accessing a basic bank account (e.g. difficult for people without identification documents, because of anti-money laundering requirements), the notion of reasonable fee, and the concept of genuine interest. The outcome of the workshop will feed into the PAD review study.
- Finance Watch has recently organised two workshops around the issues of consumer credit and financial inclusion. The most important issue stemming from the workshop is the importance of cash and access to cash for financial inclusion – as confirmed by an [ECB opinion on tax disincentives for the use of cash](#).
- As regards sustainable finance, it was stressed that investors understand 'sustainability' also as 'sustainable value for money'. Hence, good disclosure, transparency and compliance with investors' rules is key also in this field.
- EIOPA is going to launch a [consultation](#) on the Pan-European Personal Pension Product (PEPP).

- The High Level Group on Capital Market Union has only two consumer representatives out of 28 people. FSUG members will write a letter to the Commission to ask for the rationale for the selection of the High Level Group experts.

Update on the tender specifications for the study on the impact on consumers of NPLs

DG FISMA, taking the lead for the formal launch of the study, updated FSUG members on the state of play of the Terms of Reference for the study on the impact on consumers of NPLs, undergoing some adaptation to better reflect the drafting standards of the Commission and to ensure the compliance of the text with the applicable rules. The fundamental ideas behind the study remained intact, but some redrafting was ongoing. The plan was to publish the call for tender before the end of the year.

Regulatory obstacles to financial innovation expert group (ROFIEG) report [Tobias Mackie, DG FISMA B.3]

Responding to a request by the FSUG, DG FISMA briefly presented the state of play of the [ROFIEG report](#), due to be published in December. Indeed the presentation focused more on the general context, on the steps that led to the formation of the expert group, and on some key messages. Nonetheless, due to the curiosity of FSUG members on one side, and to the impossibility to present the whole report on the other one, an agreement to discuss the topics again after the presentation was reached.

Updates on the new Commission [Jan Panek, Head of Unit DG JUST E.1]

DG JUST updated FSUG members on the new Commission priorities according to the political guidelines of President von der Leyen. Commissioner Reynders has been tasked to lead the work on consumer protection, and “find new ways of empowering consumers to make informed choices and play an active role in the green and digital transitions”.

A Consumer Summit will take place at the end of January, to discuss topics that will be driving the consumer agenda in the next months, including financial services, as well as governance issues.

DG JUST also mentioned the two ongoing evaluations of the Consumer Credit Directive and of the Distance Marketing of Financial Services Directive, whose results will be published in Q2 2020.

Update on the CCD evaluation [Francesco Pontiroli Gobbi, DG JUST E.1]

DG JUST updated the FSUG members on the findings of the ongoing CCD evaluations, as well as its timeline. The Directive is deemed to be relevant and effective, but with some limitations (scope, information disclosure at advertisement and pre-contractual information). It is coherent with other EU legislation but Member States go beyond it in some instances (e.g. interest rate caps). The Directive’s benefits have outweighed the costs. The results of the evaluation will be published in Q2 2020.

Update on the negotiations on representative actions for the protection of the collective interests of consumers [Malgorzata Posnow-Wurm DG JUST E.2]

DG JUST updated the FSUG members on the state of play of the representative action directive (RAD). The Council adopted its general approach (GA) on 28 November 2019. The European

Parliament had already adopted the JURI committee report as a legislative resolution at first reading on 26 March 2016. The next stage in the procedure are the inter-institutional trilogue negotiations.

Both institutions keep the spirit of the Commission's proposal, meaning collective redress available over the EU, through a redress order (and not only a declaratory decision), with more efficient proceedings (disclosure, information about the outcomes, penalties for non-compliance).

Despite intense discussions both institutions keep from the COM proposal the internal market legal basis as well as the possibility for the Member States to maintain their national collective redress mechanisms. The interplay between the representative actions and EU Private International Law rules (Brussels I, Rome I and Rome II Regulations) is clarified in the GA. The scope of application of RAD still needs to be agreed between the co-legislators (the Council GA removed from the scope the IORPs Directive 2016/2341, the venture capital funds Regulation 345/2013 and the social entrepreneurship funds Regulation 346/2013).

Strategy to disseminate FSUG recommendations to the new Commission

Since the mandate letters were not definitive yet, the group agreed to postpone this discussion to the following meeting, waiting for more clarity on the tasks of each Commissioner.

Wrap-up session on subgroups' discussion and work

- Coercive Tied Selling: the paper on coercive tied selling will be circulated for comments and then finalised.
- Financial advice: the scope of the study the subgroup would like to commission in 2020 has been narrowed down. The subgroup leader will prepare a first version of tender specifications by next meeting. The subgroup will meet in February.
- Digitalisation and accessibility: to meet in March.
- Cryptoassets: the paper on cryptoassets will be changed and will focus on decentralised blockchain and consumer protection. The subgroup leader will circulate the new version before the next meeting. A new working strand on centralised blockchain will be created.
- Helping consumers understanding how their money is invested
- ADR: FSUG members will follow up to the meeting with FIN-NET.
- SMEs: focus on ADR (subgroup leader to liaise with FIN-NET members).

AOB and conclusion

- Annual Report: the group agreed on the way forward to start drafting the annual report, and in particular on the distribution of tasks.
- External meeting: the 2020 FSUG meeting outside Brussels will take place in June in Sofia (Bulgaria).
- New structure: a new structure for the FSUG meetings was agreed. There will be four slots for subgroups to meet, during lunchtime and at the end of both the first and second day, for one hour. This will make sure that overlaps are avoided and that members who need to leave earlier on the second day of the meeting do not miss any important point of the discussion. It was also decided that subgroups who want to meet in person should flag it well in advance. As a general principle, it was agreed that when a subgroup meets, the chair of the subgroup should share a preparatory paper in advance, to steer the discussion.