



Minutes of the Financial Services User Group

6-7 February 2020

Welcome remarks and exchange of views with Mario Nava, Director, Horizontal policies, DG FISMA

Dr. Nava sketched the Commission Work Programme and drew the implications for financial services for each quarter of 2020. In particular he mentioned the ongoing work of the High Level Forum on the Capital Markets Union, the targeted review of MiFID II/MiFIR, of the Benchmark Regulation and of the Non-Financial Reporting Directive, as well as the upcoming payment strategy and digital strategy. In the debate following his short presentation, he could clarify some points and collect inputs and ideas of the group.

Adoption of the agenda, approval of the minutes of the November 2019 meeting and annual report

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

As regards the Annual Report, a first draft was prepared and it needs to be completed by contributions from members.

Annual reminder of expert group rules and appointment of the Chair and Vice-Chairs

As required by the Decision C(2016) 3301 establishing horizontal rules for Commission expert group, 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.

Concerning the appointment of the FSUG Chair and Vice-Chairs for 2020, members are asked to signal their interest to become Chair or Vice-Chair before the next meeting.

Tour de Table

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

Developments at national level

- In IT, CONSOB, the public authority responsible for regulating the Italian financial markets, has published a discussion paper on possible regulation of cryptoassets. They will also launch a consultation.

The Italian Competition Authority has recently imposed quite significant fines on some telco operators who accept direct debit payments only to the extent that their customers are holders of an Italian banking account.

Recent data on over-indebtedness show that the trend is getting worst.

Another bank went down. The rescue of banks in Italy is costing a lot to financial services users, because the increased costs for the deposit guarantee scheme are ultimately passed on to consumers (e.g. costs of payment accounts increased).

- In BE, NewB got its permit from the ECB.
- In the UK, a big mis-selling pension scandal involving more than 160 000 people, linked to firms providing bad advice, broke out in January.

In 2019, the Financial Conduct Authority (FCA) has banned excessive and confusing overdraft fees. However, the major banks seem to have set identical overdraft rates of 40% in response to new rules. The FCA is looking into it.

As regards the disclosure of ESG risks, voluntary approach does not seem to have a substantial effect on institutional behaviour.

The FCA is liaising with Google to intervene to stop fraudulent companies using the advertising services provided by the tech giant to draw customers into scams.

Over-indebtedness is a persisting problem. Moreover, the number of debt judgments against consumers has reached a record level, the highest since the financial crisis.

- In BG, the preparations to join the euro zone are on track and the government said that the country might adopt the euro as early as January 2022. There are conflicting views on the matter.
- In FR, a member of COFACE has launched a campaign against cold calling for insurance products.
- In DE, a white paper from Börse Stuttgart highlights that retail investors are being systematically excluded from trade in easily comprehensible corporate bonds. Nearly four-fifths of corporate bonds are de facto no longer tradable for retail investors. As a result trading volumes at Börse Stuttgart have declined significantly.
- In PT, the costs for banking fees are raising (e.g. traditional banks charging consumers when they transfer money to e-wallets like Revolut).

Bank of Portugal is promoting the use of electronic payments – even though in PT you cannot refuse to accept cash. Portability is being introduced.

Macro prudential rules for loans were also introduced because of the risk of over-indebtedness. The maturity for new consumer credit contracts was reduced to 7 years.

Developments at EU level

- The High-level group of experts on pensions published a report in the beginning of February to provide analysis and policy advice relating to the role of supplementary pensions in contributing to adequacy of old age incomes and the development of their market in the EU.
- EIOPA has launched on its approaches for regulating key aspects of the Pan-European Personal Pension Product (deadline 2 March 2020).
- On 19 February, the Commission will publish a Digital Strategy, including a data and AI strategy.
- Sustainable finance is being tackled by the European Commission through several initiatives (e.g. ecolabel, taxonomy). The FSUG will work to develop a position paper on green retail financial market.

- Better Finance is looking at closet indexing, and also at ESG or sustainable funds and labels to see what criteria are considered in those labels.
- As regards the NPL Directive, the EP ECON committee is now discussing compromise amendments which focus on the protection of borrowers. There is a necessity to build indicators on default of credit rate – in particular for consumer credit.

Strategy to disseminate FSUG recommendations to the new Commission

To disseminate and the FSUG recommendations to the new Commission and Parliament, the FSUG members will prepare a draft letter to present the recommendations and possibly set up a meeting to be sent by the Secretariat to:

- the Chairs of the EP ECON, IMCO, ENVI, and JURI committee;
- The HR and DE Presidencies.

The FSUG would like to engage also with DG CNECT services in charge of the Digital Strategy.

Update on the study on the impact on consumers of NPLs and on financial advice/inducements

Marco La Marca informed the FSUG members that the Commission received 5 offers from tenderers interested in performing the study on the impact on consumers of NPLs. The group designated Rym Ayadi as the contact person to follow the developments on behalf of the FSUG.

With regard to the study on financial advice/inducements, procurement rules don't allow to provide additional information but the call for tender should be published very soon and the FSUG will receive the tender specifications as soon as they become public. This way the group will be able to decide whether to procure another research on a neighbouring topic or to change subject completely.

Complaint from a consumer

The Commission shared a complaint received in the functional mailbox of the FSUG. It comes from a citizen who lives close to a national border and has problem in accessing a specific service when on the other side of the border, because the payment system the service provider chose is not accessible to foreigners. After ascertaining that it is not a problem the FSUG can solve, it was agreed to prepare a reply and possibly redirect the consumer towards a national consumer association.

Santander

Following a suggestion of a FSUG member, the Commission got in contact with a representative of the responsible banking division of Banco Santander in order to prepare the ground for a future presentation of the activities of Banco Santander to the FSUG. The members, after discussing whether presentations by the industry would be anyhow beneficial to the work of the group, decided to get more information about the service provider before taking a decision.

Next external meeting

The 2020 FSUG external meeting will take place on 4 - 5 June 2020 in Sofia. More information can be found [here](#). The focus on the meeting will be on Bulgarian national issues.

[Considering the developments linked to the COVID-19 outbreak, the meeting in Sofia will most probably be postponed to September]

Presentation by the Commission of the work of the Risk-Free-Rate Working Group (Marjolein de Jong Knol, ING, Global benchmarks officer and chair's support of the working group on risk-free rates; Johanneke Weitjens, ING, Head of regulatory affairs; Yamina Isabel Santalla Perez, ECB; Alessandra Atripaldi, DG FISMA)

The Commission is revising the Benchmark Regulation. In order to stop relying on InterBank Offered Rates (-IBORs) for retail loans, the Commission set up a working group with the ECB and some stakeholders to investigate which would be the best possible risk-free rate and all the related issues. The Chairwoman of the working group (Marjoleine de Jong), together with a colleague of the Commission (Alessandra Atripaldi, DG FISMA.C3) and a colleague of the ECB (Yasmina Perez) explained where they stand with their work and called for users representatives to join the working group in order to improve the policy outcome they will be producing along the current year.

Sustainable corporate governance

Following the Sustainable Finance Action Plan, the Commission is working on sustainable corporate governance for companies, including financial services providers. This topic was also included in the Green New Deal chapeau communication. The issues that are being discussed – among others - are transparency, long-termism and responsible approaches in taking corporate decisions, implementation of indicators, duty of diligence for the company to identify all negative impacts on human and environment and mitigate them. The Commission has outsourced two studies, one on due diligence and one on fiduciary duty, sustainability strategy and targets. Members of the FSUG will be kept informed on the ongoing work of the Commission.

Presentation by the Commission on the state of play of the PAD review and of the related studies (Pierre Séailles DG FISMA.B3)

Pierre Séailles presented the process of review of the Payments Account Directive and the studies that are feeding into it. He mentioned the studies on switching deriving from the Retail Action Plan of 2017, but also some specific studies related to topics within PAD that needed data collection and analysis. He also shared what are the main issues the Commission is looking at although it is still too early to anticipate any conclusion .

Work Programme for 2020

The discussion on the work programme was postponed to the next meeting, pending the need to check the previous project against the Commission Work Programme that was recently published.

Update on the Commission work on cryptoassets (Jon Isaksen DG FISMA.B5)

Jon Isaksen described the work the Commission is doing in making sure people reap the benefits of crypto-assets while managing the risks. The topic emerged already few years ago, but since Facebook decided to launch Libra, which eventually did not happen, the Commission reacted pushing for the ongoing work and ensuring that the right legal framework is in place to regulate any future project based on DLT and traded as an asset. The Commission launched already an open public consultation with the aim of a legislative proposal for later this year. The discussion was open and fruitful, with FSUG members showing curiosity and the willingness to contribute to this work stream.

Discussion on the reply received by DG FISMA on the user representation in the HLF on CMU and on a possible strategy to contribute to the Commission's work on CMU

FSUG members sounded unsatisfied by the reply they obtained and decided to explore every possible channel of interaction with the HLF, in order to contribute to the important decisions that the Commission will take after the Forum will have produced its report.

Presentation by the Commission on MiFID II

Concerning the point on the Mifid/Mifir review, the Commission listed the main topics subject to revision, differentiating between priority and non-priority areas. The investor protection would be one of the priority areas.

FSUG members raised a number of questions as regards this choice of FISMA. They asked in particular whether, under the point on consumer protection, issues like the harmonisation of the pre-contractual information, the ban of inducements and a more appropriate definition of "small investor" would be included or not. In addition, the non-inclusion of the PRIIPs and, more in general, of the rules on advice, was also raised as a key point, as FSUG members would prefer to take this matter in its complexity and as a whole, not through separate actions. Moreover, the FSUG called for a larger attention about the efficiency of the asset management services – they would like that the Commission finds a way to measure it and so calculate the real benefits for consumers of such services. In this sense, the FSUG also commented negatively the exclusion of the derivatives from the priority, due to their direct and indirect impact on consumers' investments.

DG FISMA acknowledged all these comments and gave the full availability of the Commission to analyse this matter adequately, in particular as regards issues such as the definition of "simple products" or the ban on inducements. However, as regards PRIIPs, DG FISMA stressed that their specific nature requests a targeted approach. Concerning the need to classify adequately consumers in terms of risks and benefits, DG FISMA announced that also the possibility to identify a new category of "qualified retail investors", following the request of the Council, is being analysed in the context of the Mifid review. These qualified investors, selected according their financial knowledge, experience and resources, could decide to get rid of certain information and protection rights, in order to be admitted to access more risky products and easier procedures.

Concerning the next steps, the Commission announced the publication of the Inception Impact Assessment and the Public Consultation Document by Mid February. Then the Draft Impact Assessment would follow and finally, by Q3, the Final Report and the proposal for possible legislative amendments would be expected.

Presentation by the Commission on the Sustainable Finance Action Plan Guido Moavero Milanesi (DG FISMA.B2)

Guido Moavero Milanesi presented the whole framework related to the sustainable finance, in order to introduce the ongoing work. He also anticipated that the Commission is preparing an open public consultation on this topic and would welcome inputs in terms of both suggestions on the questions to ask and replies once the consultation will be public. FSUG members, most of whom are already working on this topic, showed proactivity through questions that targeted specific issues under discussion and provided some suggestions, while looking forward to participate to the consultation.

AOB and conclusion

- Annual budget for researches: while waiting to assess the compatibility of a study on financial advice/inducements with the initiative of the Commission, it would be good to collect ideas for small scale studies. This would also allow to have a completed outcome, followed by a position

paper, before the official termination of the group. Ideas are welcome. Some might be: fairness in pricing of financial services, definition of small investor (vs. “retail investor” and “individual investor”).

- Annual work programme of the Commission: sub-group leaders are invited to check the timeliness of their work.
- The group asks for more transparency on the selection of contractors for the NPL study.