



## **Minutes of the meeting of the Financial Services User Group 7 – 8 July 2014**

### **Monday 7 July**

#### **Adoption of the agenda and approval of the minutes of the FSUG meeting (16 – 17 June 2014).**

The agenda was adopted and the adoption of the minutes of the previous meeting was postponed via written procedure. One member asked the planned dates for 2015: the Commission will inform as soon as dates are confirmed.

#### **Lessons learnt from the meeting in Warsaw.**

Members accepted to draft a report of the meeting outlining areas where consumer protection must be strengthened. Three FSUG members volunteered to coordinate the feedback from the group, with the idea to deliver a report by early September and eventually feed it into the annual report.

The group discussed the main learnings, in particular: i) the demographic trend and the challenges for some aging groups of the population to keep the pace with societal and technological changes and the related different marketing approaches of industry to aging groups; ii) it was remarked the lack of transparency on charges on some products (private pensions) which ultimately deliver low value to consumers and also cause losses in capital gains, as in other members States (Czech Republic, Slovakia, Hungary and Romania); iii) the establishment of the registry of abusive clauses was remarked as innovative and consumer friendly; iv) the effectiveness of a strong ombudsman able to enforce consumer rights, who can have a stronger impact than several consumer organizations who do not sufficiently network; v) the deficit of consumer redress and lack of competition; and vi) the limits of unit-linked insurances in ensuring the return of the investment.

#### **Finalisation of the Risk Outlook**

The risk outlook is intended to warn the next Commission about some market failures that it is in consumers' interest to address. In addition, the risk outlook intends to inform about the emerging risks specifically by sector, by offering a picture of those markets which do not serve consumer properly. Members agreed that the Revised Risk Outlook would contain a special feature on enforcement, references to over-indebtedness and the deficit of consumer redress. Members agreed to comment by mid-July.

#### **Reply to the TTIP consultation**

Paul Coenen presented the main parts of the FSUG answer to the Commission consultation, filed on 4th July.

## **Final report of the study on the performance of the asset management industry by the contractor, IODS.**

IODS presented the draft final report for the study on the asset management.

IODS has built performance indicators of funds, in nominal and in real terms, for the period from 2003-2012, subdivided by fund investment type and focus of investment. Indicators are net of charges and simulations have been run to take into account the additional entry and redemption costs related to switching behaviours of investors. Performances have been compared to relevant benchmarks defined as the relevant index reduced by the level of charges applying to passive funds. The representative of IODS focused its presentation on what was new in the final report as compared to the last presentation. Some members raised a few questions: concerning the presentation of investment funds in Romania, correlation between fees and performance, level of charges, switching behaviour, addition of the model which estimates welfare loss/ gain.

FSUG agreed to provide the Chair by mid-July with written comments so that he could pass them to the contractor.

## **Draft position paper on *Simple financial products***

The Chair presented the 1st draft position paper analysing the theory and practise of regulation and product intervention, analysing the potential of simple products and presenting recommendations and next steps. The position paper was accompanied by the Annex with the summaries of case studies. Concerning the simple products it was noted that products may be simple but not necessary the best value for money. In addition, just to have a simple product on the market would not be enough; the most challenging would be to ensure that the product reaches the consumer – distribution channel would be crucial. The paper has proposed a few possibilities for the distribution of simple products: alternative financial advisers, non-profit distribution or regulatory intervention. FSUG members discussed different initiatives and their effectiveness. They were asked to provide comments by the end of July.

## **Presentation of the report on the Consumer Credit Directive**

The Commission focused on the key findings on the results of the study on the consumer credit market and the study on regulatory choices and their impact on the internal market and consumer protection.

Some FSUG members noted that the calculation of the APR does not seem to be in consumers' interest, since they are not able to understand the basis of its calculation. It was remarked that the total cost of credit disclosed to consumers should enable them to better identify the best credit offer in the market.

The Commission stressed that the APR is the most effective way to calculate the real cost of credit.

Following this study, the Commission informed that enforcement at Member States level is critical: at this regard an expert group was set up to exchange views on best practices.

The Commission was asked if mystery shoppers understood that they were also being sold ancillary services while taking up credit, and if there is any enforcement ratio on the study for each country.

Regarding the mystery shoppers, the FSUG members were informed that the study provides some data. Furthermore, the study showed a degree of compulsory acceptance of these ancillary services in order for consumers to have to credit.

On the enforcement ratio, the Commission noted that the study measured compliance ratio, not enforcement. It was further stressed the difficulties in assessing enforcement ratio since its approach varies across Member States.

### **Presentation of the draft position paper on consumer data and practices of creditworthiness assessment**

The FSUG presented the draft position paper outlining the key topics: the different purposes of consumers data sharing, the constantly expansion of the use of data, the legal form and the functions of credit bureaus, transparency and data security, the cross border exchange of data, data protection and the consumer protection dimension. A consolidated version is expected in September, while the final version will feed into the program of the November conference on retail financial services.

During the discussion, the Commission called for the need of hard facts and data to substantiate the conclusions of the draft report, suggesting a mapping of the current situation in Member States to better analyse and collect information about the functioning of private and commercial credit bureaus. In relation to the type of data, the Commission stressed that it would be helpful to have a picture of what kind of data are currently used by certain private organizations and at what degree. It would be also useful to evaluate to which extent are credit databases analysing creditworthiness assessment: this is relevant since these entities rely firstly on risk assessment and not on creditworthiness assessment.

The FSUG stressed that the purpose of the study is to trigger the possibility of credit registries being used at a policy level to tackle other issues such as the prevention of over-indebtedness. This prompted the Commission to note that its request for concrete data is important to better contextualize the issue with the purpose to propose policy initiatives backed by solid data and evidence. The FSUG presented also the first conclusions stressing that they are at preliminary stage.

### **Discussion on revised terms of reference on financial advice and the proposal for the research study – report on the progress since the last meeting.**

The revised terms of reference were discussed. The proposed study will look at 3 main areas: the definition of target consumers, the best practices of financial guidance both at EU level and outside the EU and the potential incentives that would be the most effective to foster demand for this type of services. Members discussed also the distribution of the research budget among 2 projects: financial advice and crowdfunding. Members decided to allocate 75.000 EUR to each of the projects.

### **Tuesday 8 July**

#### **Study on how to promote access and use of appropriate savings products for all European financial services users, in particular vulnerable people – revised Interim Report.**

The representatives of the contractor presented the revised Interim Report. FSUG members raised many concerns about the report concerning:

- Literature and data used for quantitative and qualitative analysis –

Desk and literature research was still far from being at a satisfactory level. Important sources of information were missing. The contractor was asked to include more statistical data about actual savings across the EU (household saving rates, value, value per household) using available sources and to provide a complete list of all data that will be analysed.

- In-depth interviews and surveys

Concerning the online survey – taking into account a low number of replies from the banking industry a clear disclaimer should be added explaining that the data is not representative. The full survey results should be included, not only aggregated ones but also per country. The assessment of the results should be added. Generally speaking, it seems difficult to draw general conclusions at the EU level based on the opinion of 31 persons, especially as the quality and representativeness of respondents has not been evaluated.

Information on the in-depth interviews carried out to complement the online survey should be added and analysed.

Members stressed that the results of the survey cannot be used as quantitative data and we cannot be comfortable with a methodology which consolidates the results in one box for the UE.

- UK Country Fiche

The general statements in the UK sample fiche were not yet supported by enough evidence and data. The contractor was asked for further detailed information for the UK.

There were many inaccuracies which needed to be corrected: e.g. the description of the regulatory framework - deposit taking firms are dual regulated by the Prudential Regulatory Authority and Financial Conduct Authority - and the funding of the Money Advice Service, which is by the industry through the FCA levy, not by the Government.

The UK member stated that savings are in fact heavily subsidised in the UK, but the subsidy works through the tax system rather than matched funding. This disproportionately benefits the better-off, particularly higher rate taxpayers. As well as being regressive (those who do not pay tax get no benefits from ISAs), there is evidence that tax bungs are largely deadweight. We are not sure what lists of savings accounts tell us without some analysis of the effectiveness of incentives.

- Problem definition:

The general definition of savings products has been improved in the revised IR.

However, life insurance products should not be excluded as they offers security in regards to the savings and the interest it will produce.

Members stressed that they were not comfortable with methodology of Chapter 7. The online survey, that is by the way quite weak and not representative (in total 31 responses for 16 Member States, including only 8 from the banking industry), should be backed by more standardized data, not just by random studies.

The representative of the Commission pointed out that the revised Interim Report did not meet the requirements of ToR, he also pointed out to the delays in the execution of the study and ended up saying that the project is facing serious problems. As a result, he asked for a meeting with the contractor to discuss the situation and possible solutions.

## **Draft reply to the European Ombudsman consultation on composition of European Commission expert groups**

Members discussed the problems that the representatives of consumers face both at national and EU level. Since the public consultation run by the European Ombudsman was open until 31 August and the following meeting only at the beginning of September, they agreed to prepare the contribution in the written procedure.

### **10<sup>th</sup> edition of the Consumer Market Scoreboard**

The Commission presented the 10<sup>th</sup> edition of the Consumer Market Scoreboard, published on 30 June 2014, outlining that the main sources of information are from a market monitoring survey, and the complaints collected by Member States.

Data come mainly from consumers with recent purchasing experience in the 52 consumer markets (31 of these are services') in the EU28, Iceland and Norway; these markets accounts for 60% of consumption expenditure.

The data analysis provides with comparisons among years 2010, 2011, 2012.

The scoreboard presents 3 indicators: the market performance indicator (which considers the level of comparability, trust, problems and complaints and consumers' satisfactions in getting what they wanted), the market performance indicator including choice, and the market performance indicator including choice and switching. The overall trend in 2013 was slightly positive, compared to previous years. The scoreboard allows analysing the performance of different markets and individual countries and comparing them to previous years. It shows

also the socio-demographic differences (by gender, age, education, occupation, internet usage) in the different financial services markets. Overall, the scoreboard recognises a poor functioning of financial services for consumers.

The data from the scoreboard feed into the Commission exercise of the European Semester, notably the part on socio-demographic differences in market assessment for the banking services. In addition, the data feed into the Commission annual report on the integration of the single market, into part of 2014 Annual Growth Survey for the key areas of financial services, transport, energy sector, and digital markets. Eventually they are taken into account in national reform programmes and they feed into country specific recommendations.

The Commission indicated that the 2014 edition allows a "personalized" extraction of data, and therefore specific reports can be created by country/market/component.

#### **Draft reply to ESMA MiFID II/MiFIR consultation paper (technical advice for delegated acts) and discussion paper (for future technical standards):**

Members agreed to share comments by mid-July to respect 1<sup>st</sup> August deadline to file the contribution.

#### **Presentation of the DG SANCO study on over-indebtedness**

The Commission referred to the study which will be published before the end of the year. The study presents a snapshot of the situation, provides an operational definition of over-indebtedness, and identifies the main causes and consequences, and indications on possible measures to alleviate its impact on households. The study started from a previous research from the Commission in 2008 entitled "*Towards a European operational definition of over-indebtedness*".

One FSUG member called on the need to encourage financial institutions to sell simple financial products to support consumers' savings; also the introduction of insurance policies against the job loss and fiscal incentives on financial products could help households to face unexpected expenditures and avoiding over-indebtedness. Another member suggested to investigate on banks' business model for consumer credits, where there are incentives to duplicate or postpone the credits, or do not exist incentives for more consumer-friendly financial products. Another member suggested investigating the global macro-economic impact of households' over-indebtedness; another member suggested investigating if the legal option for personal insolvency reduces the costs or the exposure to over-indebtedness.

#### **Discussion on revised terms of reference on crowd-funding and the proposal for the research study - report on the progress since the last meeting**

Members decided to allocate 75.000 EUR to each of 2 projects to be financed from 2014 budget, meaning that the crowdfunding budget would be reduced from previously proposed 90.000 EUR. Taking into account that the distribution of the online questionnaire would depend on the co-operation of crowdfunding platforms, members decided to test the willingness to co-operate of crowdfunding platforms before launching the study.

#### **Discussion on revised terms of reference on private pensions (de-cumulation phase)**

Members discussed the proposal to prepare a paper on decumulation, and in particular on:

- Annuities issues (both immediate and deferred, life annuities and term annuities) using examples of concerns.
- Issues regarding other decumulation options from pension products (capital withdrawals from DC products, etc.)
- Issues regarding other decumulation options outside of pension products: equity release from home properties, etc.

Members discussed also briefly the proposal to outsource mapping of decumulation practises and trends. Further discussion should take place at the next meeting when the proposals for the use of the research budget will be discussed.

### **Reporting to the Commission on the progress of FSUG work programme.**

The Chair reported on discussions that members had during the meeting. He referred to the discussion on simple financial products, Risk Outlook and concerns about enforcement as well as discussion about credit registries and their use.

Mario Nava agreed that the Commission sees the problem of the use of consumer data. He also mentioned recent discussions about simple securitisation, and remarked that in the case of simple financial products one needs either some push or pull at least at the beginning. He also explained that six years after the 2008 crisis, it is widespread perception that the actions implemented by the EU helped moving out from the urgency; he briefly described reaction to the financial crisis since 2008: ensuring financial stabilization and the reinforcement of prudential regulations. Obviously the consumer protection comes after the system is stabilised.

He stressed also that over the next mandate more action may be undertaken on enforcement at EU level. He commented also about the composition of the new EP and especially remarked that ECON committee will be 2<sup>nd</sup> largest showing shift of focus in the new EP. It is likely that the Committee will be interested in enforcement of existing legislation and general consumer rights.