



Meeting of the Financial Services User Group Agenda

10-11 February 2014

Time:	10 February 2014	11.30-18.00
	11 February 2014	09.30-16.30
Place:	European Commission Internal Market and Services DG, Room T Stoll Rue de Spa 2, 1000 Brussels	

Monday, 10 February

Adoption of the agenda and approval of the minutes of the last FSUG meeting (16-17 December) –
Tour de table

The group welcomed Mr Paul Coenen, who participated in the group for the first time. He introduced himself as attorney at the Dutch Investors Association, active on collective redress and financial education. The Chair invited the members to present the main consumers' concerns in their area of work/ country. One member stressed that a first risk is the user under-representation in the ESMA stakeholder group, where the remuneration structure of experts does not adequately attract users' representatives; it was also remarked the imbalance of stakeholders' group representation in the ESAs. A second risk arises from the current debate of the IMF proposal to use 10 % of households' savings in some EU countries to bail in financial institutions. In Romania, the main risk for consumers and users could arise from existing obstacles in financial supervision: recent press information referred to an allegedly fraud by an authorized insurance broker, with the involvement of financial institutions. A systemic risk failure in the governance of a particular global bank could affect the EU and spread globally. In Slovenia, consumers may suffer from a lack of implementation of consumer protection laws. In Germany, attention was recently attracted by the insolvency of a wind farm company, posing risk to 85.000 investors, with the risk not to get compensated for possible losses. In Europe, due to the compliance to the Payment Account Directive and the MIFID 2, one member spotted the possible increase of bank fees; the member referred to the proposal to enable an EU observatory to check the increase of bank fees; on smart phone, the member described the risk for consumers not to be properly informed about the cost before entering into contract. A proposal to heavily restructure the bank system is currently debated in Belgium. Over the last years, the bank fees in Italy have been increasing for 5 %; moreover a law was recently passed to privatize the Bank of Italy and the member wondered at what extent a central bank can be privatized and what the privatization would imply for taxpayers. Some members described the situation in their respective countries and discussion was on the governance at the stake and the relations among consumer interests and the ownership of national banks by private financial institutions. In Spain there is currently a debate on the advantages that bank release empty house to regional authorities for social rent purposes. One member described the transition of banks to Android system: in this phase some users of ATMs were under attack. In Denmark the population is getting more and more sensitive to the fluctuations of the interest rate since the average private debts amount at three times the average income. This ratio poses a significant challenge to consumers' financial stability, which could not be easily ensured through the relatively high level of investments into private pension funds, because consumers cannot easily access them to reduce their debts. In Slovakia the average annual percentage rate (APR) amounts at 17 %, exposing users to high risks when the interest rate will increase. also in Slovakia consumers may suffer from not adequate protection measures in the

annuity and unit-linked markets, where the impact of charges on the final value of the financial product is still not clear: it was brought the example of a generic user who could lose the value of the capital accrued over the first 7 years of contribution in case he/she decides to withdraw from the investment scheme. A general remark was done on the lack of convergence of APR across Europe: it was wondered whether it is due to a lack of competition in the sector. Consumers, especially elderly people, are not always able to understand the provisions in their bank account and experience problems with e-payments: therefore investment in financial education would be beneficial. Lastly, one member indicated that a public authority issued a report that associates consumers' switching among insurance products/annuities to a possible risk of de-stabilisation in the insurance sector: moreover, in the field of enforcement, the member indicated that a possible area to explore could be the impact of insurance companies fines on the market, to check if they lead to improvements for consumers.

FSUG work programme – identification of rapporteurs and creation of sub-groups, and identification of possible topics for research studies.

Members discussed the following priorities:

1. Savings: products for vulnerable consumers and simple savings products
2. Decumulation of pensions
3. Innovation and crowdfunding
4. Overindebtedness
5. Creditworthiness and information security
6. Consumer Protection Authority and enforcement
7. Access to quality financial advice.

Rapporteurs have been selected and it was agreed that they will prepare the terms of reference for each of the projects. FSUG members have been asked to volunteer to work on the selected priorities.

The Commission representative informed members about the deadlines for research projects:

Deadline for the open tender – study of value above 60.000 EUR:

- 1st draft of Terms of Reference – 4 April,

Deadline for negotiated procedure – below 60.000 EUR:

- 1st draft of Terms of Reference – 2 May.

FSUG members were asked to submit proposals for research studies by 7.03.

Study on Performance and Efficiency of EU Asset Management Industry presentation by Didier Davydoff and Yolande Fabri (IODS)

IODS presented the aims of the FSUG study: to investigate the added value of Asset Management and secondly to look into net remuneration (after inflation, but before tax). The scope of the study will include both investment funds (equity, bonds, monetary and balanced funds) and institutional and individual mandates. It will cover the largest EU countries for investment funds (such as Ireland and Luxemburg) but will also include Slovakia, Romania and Denmark. The study will also look at investment performance using the Lipper FMI database for each type of fund.

The study will cover investment charges for retail clients (as IODS does not have information for institutional clients), including i) Maximum fee, ii) Maximum subscription fee, iii) maximum redemption fee, iv) average holding period

IODS warned that currently there is little evidence that higher charges result in lower performance [note this was commented as being an error – and presentation should have read 'higher performance']. IODS will take fund survivorship bias into account by including all funds from 2001/02 to 2012/13. Regarding Resource and Asset Allocation, IODS will use the FACTSET database to assess the efficiency of asset management in the industry, and will use the STOXX index to assess market timing.

Disclosure and Transparency will be investigated using a review of the available literature and regulatory initiatives. It will also include a survey of market participants, and cover conflicts of interest between asset managers and distributors. Regarding the Consumer Confidence objective, IODS does not know of any pan-European surveys, so will seek to include national surveys. To fulfil the Market Structures objective, IODS will update the 2006 OEE and ZEW study to provide the structure of asset

managers and distributors. The IODS model to investigate investment management mandates will use National Accounts to find out the sum of: investment capital gains; dividends and rents in order to assess the overall performance of asset management. IODS will use its own index – IODS Patrimonial index – for the study. However, IODS will not include bank accounts, direct equity and bond holdings by households (as these are held directly not through asset managers); and will cover investment funds; investments held within life contracts and pension contracts.

IODS has prepared a first draft interview guide for FSUG members and the Commission to review and would like to receive any comments by 18 February 2014. The current list IODS is planning to interview 6 FSUG members.

IODS plans to present its Interim Report on 3 April 2014; and to present the final report on 18 July 2014 at the July meeting of FSUG.

One member challenged the performance statistics quoted by IODS in its presentation and held that contrary to what was claimed; over ten years European equities had underperformed. Secondly, the value of using STOXX TMI as the benchmark index was questioned as it represents 95% of the market. One member clarified that it was retail funds FSUG were interested in, and as a recent ESMA study showed that less than 1% of Exchange Traded Funds (ETFs) are owned by private individuals, perhaps ETFs, Institutional funds, and AIFs could be excluded from the study. Average fund charges as stated by IODS were challenged by an FSUG member as being too low; and that a weighted average of 177 basis points was usually quoted by the US Investment Institute. Similarly, many retail investment funds are packaged within insurance based contracts adding another 50-100 basis points on top of IODS estimates.

IODS responded that regarding index, STOXX 50 would be too small for the study, but that they could use STOXX 600 or STOXX TMI. IODS could not include all types of funds as some are too specialised to one market (AIFs in France) to compare across the European market. Regarding the weighted average on charges – IODS held this was correct if you included all the 'dead' funds (no longer functioning), and the fact that passive funds are half the cost of active funds.

Another member asked how the maximum fee average was calculated. IODS responded that the information would be taken from the Lipper database. One member questioned whether using Member State National Accounts (potentially deriving from different accounting methods) would be helpful for a comparative study? IODS admitted that national accounts can be wrongly done, despite a standardised methodology but that the quality had improved a lot in recent years.

Another member asked whether it would be possible to map the distributor function so that concrete recommendations could be derived from the data; and whether IODS had considered analysing the investor life cycle in order to evaluate the impact of different charges on investor performance and outcome. IODS responded that their databases will not allow lifecycles as they only have about 10 years of data. One member volunteered his organisation's help as it rates funds on a daily basis.

EIOPA – Role in Consumer Protection and Financial Innovation – presentation by David Cowan, Co-ordinator of Consumer Protection and Financial Innovation team (EIOPA)

David Cowan introduced EIOPA and its role in consumer protection and financial innovation. Mr Cowan clarified that EIOPA would like to seek closer cooperation with FSUG, in particular, in order to help gather more data on consumer trends. Mr Cowan mentioned that, as regards the definition of "consumer" in insurance and pensions, EIOPA has been debating the question of whether this should be broader given the reference to EIOPA fostering "protection of policyholders, pension scheme members and beneficiaries" in its Founding Regulation. When referring to one of EIOPA's key tools – Guidelines – Mr Cowan mentioned that, although these are non-binding, they can have a positive impact through the 'comply or explain' process and EIOPA can conduct peer reviews to check compliance with them.

In 2013, EIOPA successfully delivered on the following projects:

1. Guidelines and Best Practices Report on Complaints-Handling by Insurance Intermediaries (completed in December 2013).
2. Opinion on Payment Protection Insurance (June 2013).
3. Good Supervisory Practices Report on Knowledge and Ability requirements for distributors of insurance products (December 2013), covering industry training standards and ethical conduct.
4. Good Practices for Comparison Websites (February 2014) covering both commercial and non-commercial websites.
5. Preliminary Report to the Commission on Personal Pensions (February 2014).

6. 2nd Report on Consumer Trends (December 2013).
7. Methodology for Collecting Data (December 2013).
8. Study on impact of Test Achats on use of gender as risk factor in calculation of individual premiums.

The following projects were completed in the Joint Committee in 2013:

1. 1st ESAs Joint Consumer Protection Day.
2. Joint Position of ESAs on Manufacturers' Product Oversight and Governance Process, including designing products to meet the needs of the target market and stress-testing of products.
3. Joint Consultation on Complaints-Handling in the banking and securities sector (ended 7 February 2014).

EIOPA's proposed deliverables for 2014, include:

1. One Minute Guide on the Guidelines on complaints-handling by Insurance Intermediaries.
2. Enhancing Product Oversight and Governance for insurance and pensions.
3. Mobile phone insurance (the UK Financial Ombudsman Service receives 600 complaints a year).
4. Development of a Retail Risk Methodology.
5. Follow up to the preliminary report on personal pensions.
6. Portability of Occupational Pensions (in consultation with DG Employment).
7. Advice on delegated acts to the Commission in relation to conflicts of interest regarding the sale of insurance PRIIPs (amendment to IMD1 via MiFID II)

Joint Committee work in 2014:

1. PRIIPs – possible follow-up work on advice on delegated acts regarding the KIDIP Regulation.
2. Cross-selling (Tying and Bundling) – in relation to MiFID II, IMD2 and the Mortgage Credit Directive.
3. Private Placements - banks selling preference shares to captive market of its own retail customers.
4. Comparison websites.
5. 2nd Joint ESAs Consumer Protection Day on 4th June 2014

EIOPA proposed several ideas for closer cooperation with FSUG including: an annual presentation to FSUG; selected access of core elements of draft policy papers; teleconferences with FSUG Chair and Vice-Chair; and if requested, EIOPA is willing to invite FSUG to meetings of EIOPA's Commission on Consumer Protection and Financial Innovation (CCPFI).

One member challenged EIOPA's progress on consumer trends, as even after 2-3 years the latest report showed no performance data on life insurance and pensions. FSUG would like to help provide data on this front.

EIOPA is interested in social media monitoring as a means to get up-to-date data on consumer trends; National Ombudsmen can also provide useful sources of data on trends. Several members questioned the effectiveness of social media monitoring. Another member felt the key issue not currently being tackled by EIOPA was the lack of market efficiency, in that investment and pension funds underperformed.

15.45 Mortgage Credit Directive – presentation by Emilie Truchet and Adrian Steiner (DG MARKT H3)

The COM representatives presented the content of the Mortgage Credit Directive, which is expected to enter into force in March 2014. The MCD aims to create a Union-wide mortgage credit market with a high level of consumer protection. The main provisions include consumer information requirements; principle based rules and standards for the performance of services, e.g. conduct of business obligations, competence and knowledge requirements for staff; a consumer creditworthiness assessment obligation; provisions on early repayment; provisions on foreign currency loans; provisions on tying practices; some high-level principles, e.g. those covering financial education, property valuation and arrears and foreclosures; a passport for credit intermediaries who meet the admission requirements in their home Member State. The Directive will apply to credit agreements

existing after the transposition deadline (i.e. after March 2016). Transposition workshops with Member States will start in April 2014.

During Q&A, a member asked to what extent the provisions on creditworthiness assessment in the MCD would enable convergence of practices in the Union. The COM representatives specified that examples of factors relevant were mentioned in the MCD. Member States will be free to develop their own guidelines or let creditors have their own methodology.

Another member asked what was foreseen in the MCD to ensure the provision of the standardised information sheet (ESIS) in a timely manner. He also asked whether Member States will be allowed to oblige the parties to a credit agreement to accept that the return of the collateral is sufficient to repay the credit and whether Member States will be able to be more specific about early repayment in their national law. Ms Truchet replied that the MCD allows Member States in some instances to maintain or introduce more stringent provisions in order to protect consumers. The MCD is more precise than the CCD about the timing for the provision of the ESIS, however it also includes the terms 'in good time'. The following additional clarifications were given. About the ESIS, Mr Steiner mentioned that the review of the Directive will include an 'assessment of the use and consumer understanding of and satisfaction with the ESIS'. As far as the Directive's scope is concerned, Ms Truchet clarified that credit agreements 'where the credit is granted free of charge and without any other charges except those that recover costs directly relating to the securing of the credit' are excluded from the scope of the Directive.

Concerns were also expressed by the Chair in relation to the passport for credit intermediaries. The Chair asked what national law will be applicable for the creditworthiness assessment or the decision to grant the credit in the event that an Irish lender uses the services of a credit intermediary based in the UK. It was agreed that COM representatives will reply after checking.

Transatlantic Trade and Investment Partnership (TTIP) negotiation – update by Agnete Philipson and Petr Wagner

Ms Philipson recalled that the EU-USA meetings started in Washington DC in July 2013, that a second round of meeting was in December 2013 and the third round would be on 10th March 2014 in Brussels. These meetings have the objective to explore possible regulatory cooperation: therefore the parties have not entered a negotiations phase yet. With the aim to provide transparency in involving the stakeholders, the European Commission launched i) an advisory group composed of different business sectors, providing input to negotiations and ii) a forum for dialogue with the EU civil society, led by the Directorate-General for Trade. The advisory group met on 25th February 2014 for the first time and on 17-18 February 2014 Commissioner De Gucht would be in Washington DC meeting US counterparts.

Mr Wagner described the current relationship between the two blocs as lacking regulatory convergence, whereas the two economies are heavily interlinked. The rationale behind the TTIP process is that the two jurisdictions could be stronger global player if they were able to foster regulatory convergence. To foster transparency, the Commission published the negotiation procedure on the TTIP webpage, describing what kind of cooperation the EU is seeking. The EU does not intend to negotiate specific negotiations but only the EU intends to set a clear framework detailing the competencies of the different actors involved. One FSUG member wondered about the benefits for the EU to negotiate with the USA. Mr Wagner described the situation where some Member States who participate in G-20 negotiations develop individual rules on financial sector on their own, after agreeing a general approach at a multilateral level: the subsequent implementation of these different national rules does not ensure any sort of regulatory convergence with the rules of other G-20 Member States. While remarking that the TTIP process is a way for both parties to acquire better knowledge about the counterpart's position, Mr Wagner stressed that it TIP are not meant to grant access to foreign markets at the detriment of existing consumer protection rules.

FSUG Work programme – Discussion with Erik Nooteboom (DG MARKT H3) and Olivier Micol (DG SANCO B4)

The FSUG Chair presented the six priorities identified by the FSUG members for the 2014 work programme:

1. Decumulation of pensions

2. Innovation – case study of Crowdfunding
3. Overindebtedness
4. Creditworthiness and information security
5. Consumer Protection Authority and enforcement
6. Access to quality financial advice

These priorities tied in with the Commission's stated priorities: data and information issues; debt and credit; and access to quality financial advice. Commission was also very keen on the topic of simplification of financial products and the FSUG members agreed to work on that as well.

The Chair explained that although work had been done on pensions, none had been done on Decumulation such as annuities and equity release; and would complete the Commission's work on pensions. Regarding innovation, the FSUG wants to use Crowdfunding as an example to debate and analyse how Commission and the ESAs should regulate innovation. Erik reminded FSUG members about the upcoming Commission communication on Crowdfunding, and warned against duplicating efforts.

On indebtedness, Olivier reported that the Commission was still working on the study on indebtedness and had therefore postponed publication. The Commission is interested in how the credit market will look in the future, but also how creditworthiness is currently assessed.

However, the FSUG members' biggest priority was the establishment of a fourth agency looking at consumer issues as a 'Consumer Protection Authority'. Mr Nooteboom reminded FSUG members that the focus should be on improving the current system working with the ESAs to improve consumer protection; and that budget constraints meant a new agency was not likely.

In relation to financial advice, there was some debate among members as to what constituted financial advice – whether this also included websites providing generic advice. Mr Micol reminded FSUG members about the study undertaken on financial advice, the first round of which had included a mapping of financial advice in the Member States. The results of the second round looking specifically at Greece, Spain, Portugal and Italy would be presented to FSUG in April 2014. Erik reminded FSUG that the Commission was particularly interested in simple financial products to serve the needs of consumers; and in the design of products.

The Chair agreed to flesh out the six priorities and to prioritise the proposed studies with set timelines, and to inform Mr Micol and Mr Nooteboom. The Chair warned that the workload might require position papers rather than research studies; and the Commission reminded FSUG that some studies might be commissioned within the framework of the low value negotiated contracts (up to 60,000 euros), but that these take time to approve.

Finally, Mr Micol informed the FSUG members that the Commission launched a study on consumer vulnerability in December 2013 to be completed in December 2015, in order to include this factor better in the consumer score boards. The study will focus on three areas: Financial sector; Energy; and the online environment. The contractor will interview about 100 stakeholders and would like to interview FSUG members if they agree. More information on the development of the study will be presented to FSUG members later in 2014.

Tuesday, 11 February

SEPA migration – update by Pierre-Yves Esclapez (DG MARKT H3)

The Commission updated the members of FSUG on the SEPA 'state of play'. PYE explained that on 9 January 2014 the Commission proposed to introduce an additional transition period of six months until 1 August 2014, to ensure minimal disruption to consumers and businesses. This proposal was adopted by Parliament on 4 February. It is expected that Council will adopt the proposal in the coming days.

Although the migration rates for SEPA direct debit (SDD) and SEPA credit transfer (SCC) had accelerated over the last few months, many member states had migration rates below 20% for SDD, with an overall migration rate of 41% (as at of Dec 2013) and for SCT the overall migration rate (as at

of Dec 2013) was 73.78%. The Commission noted that Estonia has no direct debits as these have been replaced with credit transfers and e-invoicing. FSUG asked why direct debits are not used and the Commission explained that DD was not a popular payment method pre-SEPA so Estonia decided to replace DD with SCT.

The proposal has a retroactive effect as from 31 Jan 2014. As of the 1 August 2014 there will be no further extensions. The Commission is in contact with all member states and most expect to reach full compliance within 2 months.

The Commission informed FSUG that it receives many citizen complaints relating to utility providers not allowing the bill to be paid direct debits from an account in another member state. This should already be happening and is not related to the recent proposal. Article 9 of the SEPA regulation covers this and has been in place since March 2012. The Commission plans to write to all member states on this issue and asked the members of FSUG to highlight the issue to the relevant national stakeholders.

FSUG asked if there are any sanctions if countries do not comply. PYE explained that Member states did not inform the Commission of the sanctions in place there are not current any sanctions but that they already exist in national law. Countries can take sanctions against non-compliant banks and they must inform the Commission of this. FSUG highlighted that some banks, particularly in France, are creating new fees as a result of SEPA, e.g. for direct debits. PYE noted that the Commission is aware of this and is monitoring the situation. FSUG asked the Commission if anyone is monitoring the unintended consequences of SEPA. PYE noted that the Commission is monitoring SEPA.

Study on how to promote access and use of appropriate savings products for all European financial services users, in particular vulnerable people – presentation and discussion with the contractor, ECORYS

Roelof-Jan Molemaker introduced the study and the team and explained that existing networks such as ECDN (European consumer debt network) and EBF (European Banking Federation) will be used. The team are keen to have a close working relationship with the members of FSUG to ensure the study meets expectations and have aligned some key milestones with FSUG meetings. The sub-group was formed to co-operate with Ecorys and complete the project.

The representative of Ecorys explained that the project will be split into four phases: inception, problem definition, solutions and recommendations. There will also be validation and stakeholder workshops. Two subgroup members can attend these meetings.

The group extensively discussed the definitions of vulnerable and 'appropriate' savings products. RJM explained that the definition of vulnerable will be developed throughout the study. Initially a working definition will be developed following the literature review. This may need to be limited to an income related definition if too broad.

FSUG members asked if pension savings will be included. The Commission explained that the aim is not to include pensions; however, this could be an indirect reason why consumers are not saving so it may be picked up during the research.

FSUG members commented that consumer behaviour is driven by supply side behaviours e.g. advertising – how much do firms spend on advertising for consumer credit vs. savings products. RJM explained that supply side behaviours will be mapped but the study will not look into competing expenditure.

FSUG also raised the issue of informal money, and how a lack of saving via 'formal' channels may not necessarily mean that consumers are not saving at all. RJM reiterated that the key focus of the study is reasons why people do not save with particular attention being dedicated to formal channels, while informal money also being considered. FSUG asked Ecorys to consider the tax incentives as this may have an effect on rates of saving in different MS. Ecorys confirmed this will be addressed in the literature review.

The Chairperson noted that in the past FSUG has experienced problems when networks are used for studies and asked how this will be managed. RJM confirmed that different sources have been

combined, there is two networks for each categories to maximise the chance of response and networks are also included in the validation rounds.

It was agreed that FSUG members will also provide input to the study by replying to the questionnaire.

MiFID2 – presentation by Lucia Marin (DG MARKT G3)

Lucia Marin explained that a general agreement was reached in January 2014 The vote in the EP is scheduled for April plenary and publication and entry into force is expected for June 2014. Implementation time is 30 months, to allow markets to prepare and adapt. This means that by the end of 2016 the directive (and Regulation) will be fully applicable.

Key aspects of the directive include:

Scope – MiFID 2 introduces better framed exemptions and brings new products into scope. It also includes enhanced corporate governance. There are new rules on independent advice, conflicts of interest, product intervention and sanctions (enforcement). Taping requirements – investment firms must record telephone conversations and electronic communications with clients and keep records for 5-7 years.

Level playing field – the text try to introduce a certain level playing field with respect to structured deposits and certain principles for insurance PRIPs. In this context, ESMA and ABA will for instance be granted similar powers to intervene and ban or restrict certain products or practices.

Sanctions – NCAs' powers to take action and impose administrative sanctions are very important as this is less costly for investors and more rapid. There is a MS option here: MSs can decide not to lay down administrative sanctions for those infringements for which they have criminal sanctions. MiFID2 also introduces the obligation for investment firms to adhere to the out-of-court dispute resolution procedures.

LM confirmed that ESMA started its internal reflection on implementing measures. Article 26 of the current MiFID implementing Directive has been "upgraded" and inserted in the MiFID 2. Future implementing measures are to be established r and the EC is following the ESMA debates on this.

ML noted that the text contains an important number of level 2 measures, including for the framework to be set for non-monetary benefits. ESMA is involved in level 2 measures and acknowledged that often the view of investors is less prominent during consultations. LM urged FSUG to feed into ESMA on this and provide input on the level 2 principles.

It was noted that MiFID 2 does not capture life insurance. LM commented that the Commission wanted to extend certain distribution rules to insurance based investment products but the outcome is that the amendment in the IMD 1 only, covers provisions on information requirements and conflicts of interest. This could potentially lead to regulatory arbitrage as firms may repackage products into insurance PRIPs. The review of IMD 1 will have to take into account these concerns as the negotiations under MiFID II did not allow for a broader alignment.

Proposal on the reform of the structure of the EU banking sector- presentation by Martin Spolz (DG MARKT H2)

Martin Spolz explained that this proposal forms the final piece of the reform 'puzzle' that the Commission has been working on for the past 5 years. It aims to enhance bank resilience and stability and also to enhance market transparency.

Many Member States have already worked on structural reform following the crisis and have forced certain banks to separate certain activities. The Commission believe that reform is necessary to complement the ongoing reforms and address residual (but substantial) risks of too big to fail (TBTF). The Commission services representative explained that for the biggest banks it is very difficult to resolve a bank and therefore it is necessary to do something more. It is necessary for banks to

exercise prudence when carrying out certain activities. He confirmed that the proposal does not capture all banks, approximately 30-35 banks are captured.

Martin Spolz also noted that the UK has already adopted a law that has the same objectives as this proposal and therefore the UK can ask the Commission to derogate from the proposal, as long as the existing law meets the objectives of the Commission proposal.

The territorial scope was outlined to the members of FSUG. For EU banks, there is worldwide coverage and for foreign banks, the coverage is within the EU.

Members were informed about the proprietary trading ban introduced by the proposal. It was noted that the ban is very intrusive but the Commission considers proprietary trading to be unnecessary and too risky. The impact on the market is not as significant as may be anticipated because many banks have scaled down their prop trading activities following the crisis. Hedge funds are also prohibited in the proposal. This provision applies to all banks and is mandatory – there is no discretion to national authorities.

The proposed timeline was discussed. Adoption is expected in 2015 and it will not be adopted before the new parliament is assembled. It is expected that the directive will enter into force in July 2015, the publication of covered banks will happen in July 2016, the prop trading ban will apply from January 2017, the separation of activities will be effective from July 2018. It was noted that this is an ambitious timetable.

One of FSUG members inquired why the recommendations from the expert group were not followed. The Commission services representative answered that following the impact assessment the decision was taken to go with options C and E (out of options A to I). This is a combination of a ban and separation. The same member also asked how interconnectedness will be measured. It was noted that this is very difficult but it can be done, for example via daily exposure to supervisors.

Ongoing study on comparison tools and related third-party verification schemes – presentation by Julien Brugerolle

Consumers have been benefiting more and more often from the advantages provided by comparison tools websites. More than 80% of consumers use them regularly. Comparison tools are all those digital content and applications allowing the comparison of products and services, such as price comparison websites, comparative evaluations of products and services, automated online “brokering” services, user review aggregators and search engines.

The European Commission decided to study more the phenomenon and gather evidence for 3 main reasons: i) the online information overload makes consumers looking for “shortcuts” to find more choice and cheaper prices; ii) comparison tools are increasingly important, as over 80% of consumers use them, and iii) 12 % of consumers perceive to be misled, with negative impact on consumer trust in e-commerce (Results from 2011 study on e-commerce¹. In this context, a Multi-Stakeholder Dialogue on Comparison Tools was set up, comprising of representatives of Member States' enforcement authorities and national regulators, consumer organisations, business trade associations and operators of comparison tools.

The purpose of the MSDCT was to (a) provide a better understanding of the functioning of the various types of comparison tools, (b) analyse the roles and interaction between all the stakeholders involved in comparison websites, (c) map best practices in different sectors and (d) identify potential areas of improvement.

The conclusions of the Multi-Stakeholder Dialogue on Comparison Tools were presented at the 2013 European Consumer Summit². They include a first set of recommendations to ensure the transparency, reliability and user friendliness of comparison tools and called for further research to be done in this area.

¹ http://ec.europa.eu/consumers/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

² http://ec.europa.eu/consumers/documents/consumer-summit-2013-msdct-report_en.pdf

As a follow-up to this report, the Commission contracted an independent study in November 2013 focussing on 6 sectors, whose final results are expected in the course of 2014. The contractor has been mapping around 1000 comparison tools: 120 of them are in the financial services sector. Mr Brugerolle agreed that the outcome of the study could be presented to the FSUG. One FSUG member remarked that comparison tools may be used for different purposes by consumers, and not only to find lower prices, as it could be in the tourism sector: the member stressed that when using comparison tools to lower the price of insurances, consumers are likely to be affected by a significant decrease of the quality of the products purchased, and often the terms of reference of the cheapest product do not satisfy consumers' needs. The member offered to share a series of websites that could be of interest of the Commission and its contractor.

2nd Vice-Chair election: Ms Anne Fily was elected second Vice Chair

Review of the Deposit Guarantee Schemes Directive – presentation by Konrad Szelag

The Commission tabled its proposal in July 2010; a Council General Approach was reached in May/June 2011. The proposal is scheduled for vote in the European Parliament in second reading in April 2014.

The Directive applies to Statutory Depository Guarantee Schemes (DGS), Institutional Protection Schemes officially recognised as DGS and the banks who are member of those schemes. The directive fixes a level of coverage which amounts at EUR 100.000 per depositor per bank, applicable in all Member States and EEA countries; derogations are granted to temporary high deposit balances above EUR 100.000 for deposits arising from housing transactions (e.g. sale of residence) or from specific life events (e.g. marriage, divorce, inheritance). The scope of the directive is limited to depositors such as individuals, and enterprises and products such as deposits also in non-EU currencies. The directive introduces also significant changes in the pay-out timing: if financial institutions currently have to liquidate depositors within 4-6 weeks, from 2024 this period will be reduced to 7 working days. The schemes will be financed by Member States with (at least) 0.8% of the value of the covered deposits within 10 years; the scheme should consist mainly of cash, deposits, and low-risk liquid assets. Some extra-ordinary funding will arise from ex-post contributions (up to 0.5% of covered deposits annually). The main use of DGS funds is to reimburse depositors should a bank fail, but they shall also be used to finance the resolution of credit institutions and may be used for early intervention to prevent banks to fail.

The last case is viable only at certain conditions (e.g. if the member bank is able to pay immediately the extraordinary contributions). In any case, member banks must immediately repay the DGS funds used for early intervention if the DGS needs to make a pay-out and its funds amount to less than 2/3 of the target level and if the DGS funds fall below 25% of the target level as a result of the early intervention. In a bank resolution, the DGS would contribute as a preferred creditor and it would happen only in the last instance, i.e. after bailing-in all unsecured creditors and using the financial means of the Resolution Funds. Moreover, the DGS's contribution would be limited up to the amount they would have contributed in insolvency and up to the amount equal to 50% of the DGS target funding level. In cases of insolvency and resolution, the Creditor hierarchy would consist primarily of the covered deposits (e.g. those protected by DGS up to EUR 100.000) and secondly the eligible deposits of households and enterprises (micro, small and medium companies).

Depositors will benefit from better information: when depositing money at a bank, depositors will have to countersign a standardised information sheet containing all relevant information about deposit protection by the DGS; secondly the updated standardised information sheet will be sent by banks to their customers at least once a year. Furthermore, banks will be obliged to inform their depositors about DGS protection of their deposits on the statements of account and lastly some restrictions on advertising on deposit products will apply (only factual information and reference to limited protection will be legal). The currently foreseen entry into force of the Directive is in June/July 2014, with a general transposition deadline for Member States around June/July 2015.

One FSUG member wondered whether Member States could decide to calculate in a different way the funding of DGS: Mr Szelag reported that no differences will be admitted across Member States and that the amount of EUR 100.000 per depositor will have to be ensured by the DGS. Another FSUG member remarked that in Spain some DGS have been used to bail out banks, in order to avoid State-

intervention and wondered whether the EU could use DGS in a different way, not to bail out banks. Mr Szelag answered that early intervention is a sort of bail out, aimed at preventing the banks to fail.

EPFSF lunch discussion on “Review of the European Supervisory Authorities” - Alin-Eugen Iacob briefly up-dated members about the lunch discussion.

Reporting to Mr Mario Nava, Director “Financial Institutions”, Internal Market and Services Directorate-General and **Ms Despina Spanou**, Director "Consumer Affairs", Health and Consumers Directorate-General, **followed by discussion.**

FSUG members provided an update on their proposed work programme for 2013/2014. There was also a brief discussion with Mario Nava regarding the trilogues for the Payment Accounts Directive (PAD).

FSUG members asked Mario Nava about the progress with the PAD and expressed some concern that the UK appeared to be attempting to retain self-regulatory measures (rather than comply with the directive). In FSUG's view, these measures have not been effective. FSUG agreed to write to the key rapporteurs on PAD to communicate these points and explain why in their view the current system in the UK is not effective.

The FSUG Chair outlined the proposed work programme for FSUG over the next years. Six key priorities were explained:

- Savings products (a study is currently underway).
- Pension - FSUG members would also like to focus on pensions decumulation including annuities, income drawdown and equity release. FSUG has already carried out studies related to the accumulation phase.
- Regulation and Innovation. Crowdfunding will be used as a case study for this.
- Consumer data and practices of creditworthiness assessment. This will focus on the increasing use of data and information.
- Over-indebtedness.
- Access to quality financial advice.
- Simple financial products.

He also referred to the long term project on the consumer protection authority, including how European legislation can be enforced more effectively. FSUG does not feel that the ESAs have been effective in the area of consumer protection.

He also explained that rapporteurs have been appointed for each topic. The next step is to draft the terms of reference for each of the priorities and agree on timings. Rapporteurs have been asked to come back with the objective for each topic.

Mario Nava commented that many of the ideas are very good, and was especially interested in the topics related to innovation and savings products but he noted that he was surprised by the group's view of the ESAs. The Chair noted that experience has shown that prudential will always prevail over consumer protection and it is therefore necessary to think about how to better structure consumer protection in the long term.

Despina Spanou also reacted positively to the ideas and noted that the topics are very modern and relevant. In relation to over-indebtedness, Despina Spanou noted that Sanco has been involved in a very challenging study. From the Sanco point of view, among the suggested ideas, creditworthiness is important.

The FSUG Chair then outlined that FSUG's risk outlook for 2014:

- Perimeter risks
- Useless insurance
- System failure and security risk
- Fraud and scams (including information security)
- Interest rate risk (post recovery phase)
- Exploitative practices
- Wholesale scandals
- Non-implementation of consumer protection measures
- Rise in bank fees.

Despina Spanou commented that there is a risk of complacency in the post recovery phase and consumers could be exposed to higher fees. She also noted that in relation to non-implementation and non-enforcement of EU legislation, there is a risk that the most 'compliant' member states will pull back and do less because of consistently uncompliant member states.

Mario Nava encouraged FSUG members to provide the Commission services with more information.

The FSUG chair proposed to update the FSUG risk outlook.

16.15 Conclusions