



Minutes of the Financial Services User Group virtual meeting

12 February 2021

Welcome remarks, adoption of the agenda, approval of the minutes of the November meeting

The agenda for the meeting was adopted and the minutes of the last meeting were approved. Representatives from the European Parliament Internal Market and Consumer committee secretariat will attend future FSUG meetings.

Procedure for the renewal of the FSUG mandate

The Commission is considering several possibilities for the renewal of the Group. The secretariat will inform members when a decision is taken.

Presentation on the study on NPLs impact on consumers

A presentation on the NPLs study was given by consultants from LE Europe. The study approach consisted of evidence review, evidence collection and evidence assessment. It covered 13 carefully chosen MS.

The conclusions and recommendations of the study are:

- Improve enforcement of existing laws through a designated supervisory body and tightened authorisation to conduct debt recovery activities. National debt collection associations also play an important role in self-regulation and best practice, membership could be encouraged by the supervisory body.
- Ensure a minimum standard of living is provided to the debtor in principle at the amicable stage and readily enforced at the judicial phase.
- Harmonize minimum information requirements provided to the debtor as part of the debt sale and collections process.
- Greater collaboration on the formation of best practice guidelines in consumer debt collection between consumer organisation/debt advisers and national debt collection agencies.
- Credit servicers should ensure regular training of staff and create the right incentives within the industry.
- Improve consumers' knowledge and education with regards to debt collection legislation and empower consumers to exercise their rights.
- Develop methods for debt collection agents to identify vulnerable debtors.

Members pointed out that the recommendations for the IT case require digital access but that in IT many people do not have access.

Members added that often there exist problems with the way that debt collectors interact with consumers. In France for example, banks do not engage in forbearance measures. Some debt collectors try to claim debts that are no longer valid.

On this specific matter, LE indicated that those practices have been identified in the report.

New Consumer Agenda

The New Consumer Agenda will be presented at the next meeting.

CMU Action Plan (Christoph Emsbach, Alexandra Jansen, FISMA B.1)

FISMA colleagues explained that the 16 actions are structured around 3 pillars:

- Actions related to making financing more accessible to European companies
- Actions related to retail investment
- Actions related to integration of national capital markets

The planned work for action 7 (Financial Literacy), action 8 (Retail investors' trust in capital markets), action 9 (Pension), action 12 (Shareholder Engagement) and action 16 (Supervision) was presented.

- Members asked whether the Commission intends to do anything on the employee share ownership.
- Concerning the work in the sustainable finance work stream, members expressed concern that there seems to be an incorrect view on shareholders. The sustainable corporate governance consultation is missing the link with the CMU.
- In the context of the Competence Framework under action 7, members asked whether the scope of the action also covered adults and financial advisors. Often advisors are not knowledgeable enough. They asked whether the Commission is considering addressing the topic of adult financial education beyond a certificate for financial advisors.
- The Commission was also asked who is responsible for supervision or enforcing measures foreseen in Shareholder Rights Directive (SRD2), as there appears to be a diverse range of rules that apply, and it is therefore unclear for each MS who is responsible.

FISMA colleagues provided the following answers:

- Employee Share Ownership: Tax incentives provided by Member States to promote Employee Share Ownership have proven to be particularly important for the success of such schemes. Under the previous CMU action plan the Commission has promoted the exchange between Member States and the development of best practices. The current CMU Action Plan does not set out any actions in this area.
- Sustainable Finance: FISMA colleagues pointed to the sustainable finance strategy and explained that aspects related to sustainable finance will also play a role in the forthcoming Retail Investment Strategy, which is currently being prepared.

- Shareholder Rights Directive (SRD2): FISMA colleagues took note of the concern voiced.
- Financial Education: FISMA colleagues clarified that the scope of the financial competence framework covered youth and adults as consumers, and that competences of finance professionals (e.g. financial advisors) were not part of the scope. Competences of financial advisors are indeed covered under action 8.
- Certificate for advisors: When it comes to the certificate, we have to be mindful of the division of competences between EU and MS. Certificates proving advisors' level of knowledge and qualifications would be introduced at national level.

Presentation of the subgroup work and discussion

- **FSUG opinion on COVID-19 related measures** (led by Daniela Vandone, who is going to consult Rym Ayadi): This urgent work would now focus on NPLs and over-indebtedness in the context of the on-going pandemic also building on the stakeholder dialogue's [best practices in relation to relief measures offered to consumers and businesses in the context of the COVID-19 crisis](#) and on the EC Communication of December 2020 : [COM\(2020\)822/F1 - EN](#). Paper to be finalised ahead of the next meeting.
- **NPLs impact on consumer** (led by Rym Ayadi): Paper with recommendations to be finalised based on the external study from LE ahead of the next meeting.
- **Digitalisation and accessibility** (led by Anne-Sophie Parent): Work ongoing, paper with recommendations to be shared with the group ahead of the last FSUG meeting.

Drawing the lessons of the Wirecard case (Andreia Delia Mehedintu, Jean Philippe Rabine, DG FISMA C.1)

FISMA colleagues explained that Corporate reporting contains 3 safeguards:

- Corporate governance
- External Audit
- Supervision

On corporate governance, EU law already asks for corporate reporting.

For supervision, the Transparency Directive addresses the coordination and exchange of information between national authorities and EU, but not between national authorities in a Member State. The Commission invited ESMA to do a fact finding investigation when Wirecard filed for bankruptcy. Findings include that there may have been issues with the independence of BaFin and there were signals that BaFin failed to follow-up adequately. This raises questions about the effectiveness of the supervision. The Commission expects recommendations from ESMA on the EU supervisory framework and is closely monitoring the case. A Member observes that the way BaFin used their powers in the circumstances may also attract attention to the short selling regulation. Another Member enquires about the prospects of an EU supervisor. Commission recalls that the CMU action plan is proposing a single rulebook which will be a step forward in harmonizing supervision.

On audit, current legislation organises the supervision of external auditors at national level. If there is a change in the work that the auditors will do, this may need to be reflected in the tasks of the supervisory bodies. Also, audit committees play an important role as they need to monitor the financial reporting of the external audit companies. A question is whether the audit committee should have been established earlier in the Wirecard case, and what role it should have played.

There was a discussion about the international accounting (and yet not adopted auditing) standard, especially with regards to financial institutions. Some Members added that the question of liability and indemnification is also a key question. The auditors had a cap of 4 million liability, BaFin is exempt from liability and so the shareholders can turn to no one. A Member remarks that collective redress for consumers directive has just been approved by the EU after the Wirecard case, but that it does not include individual shareholders in this collective redress scheme for consumers.

EC future action on sustainable governance (Susanne Knöfel, DG JUST A3)

The Commission Work Programme 2021 announced a legislative initiative to foster responsible corporate behaviour with a view to better align the long term interests of management, shareholders, stakeholders and society. It aims at improving the framework to incentivise corporate boards to integrate properly stakeholder interests, sustainability risks, dependencies, opportunities and adverse impacts into strategies, decisions and oversight.

An Inception Impact Assessment was published in summer 2020 and 114 feedback replies were received. A public consultation to collect the views of a broad range of stakeholders was launched in October 2020 and closed on 8 February. The objective is to adopt a legislative proposal in Q2 2021. Services are currently working on the Impact Assessment exploring several options including corporate duties e.g. companies to take measures to identify, prevent and mitigate actual and possible adverse impacts on human rights (including labour rights), health and the environment (including the climate), in the company's own operations and its value chains (due diligence duty), and directors' duties.

FSUG members voiced their concern about an external study performed by EY, which is informing the Commission work (e.g. the public consultation). For instance, the group members expressed doubts about the representativeness of the study and of KPIs used. They also stressed that coherence is needed between Commission initiatives, and asked whether the financial sector is going to be covered. FSUG members also asked about the timeline for the publication of remuneration guidelines.

The Commission replied that the study is part of the sources that are being used for the Impact Assessment, including its consultation activities, but the impact assessment work is based on broad input. The findings of the EY study are also in line with the conclusions of other studies that have underpinned corporate governance reform since the financial crisis. Commission services are now looking carefully at the feedbacks received, including the broad feedback received in the public consultation, and analysing all the relevant data. In principle, the objective is to conceive a horizontal initiative covering all sectors. There is close cooperation with colleagues working on the corporate governance of financial institutions which is also

under the remit of DG JUST. As regards remuneration guidelines, the current target date is Q4 2021, due to review of priorities in light of the Sustainable Corporate Governance legislative initiative in CWP 2021.

FSUG members thanked the Commission representative for the explanation received but decided to send a letter on the EY study to the Commissioner as a follow up.

Tour de table with a focus on measures to protect retail financial services consumers in the light of the COVID-19 crisis

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, payment moratoria for mortgages are still in place, but they will end at the end of March. There is a lot of concern about unemployment that is expected to raise. A new government has been appointed.
- In SK, there is still a lockdown. Payment moratoria for loans have not been extended and will end in March. There was a scandal with the Slovak Arca group company selling unsuitable products to retail investors. The investigation suggested that the financial group is also providing brokerage services but offering portfolios with only one product (no diversification). The company was fined but the potential losses for investors amount to EUR 500 million.
- In PT, DECO is asking the government to prolong and extend public moratoria and credit providers (banks and non-banks) to prolong private moratoria. They also ask for restructuring before debt collection. Banks seem to be raising their fees and charges.
- In the UK, self-employed people are very impacted by the COVID-19 crisis.
- In DK, the Financial Supervisory Authority is investigating whether lied about its efforts to address debt collection errors. Thousands of customers were overcharged due to errors in the bank's debt collection system.
- In FR, consumer organisations warn about the expected rise in NPLs.

Developments at EU level

- BEUC: There is a lack of consistency between Member States on type of loans that are covered by COVID-19 measures. Also, there are concerns on potential raise of NPLs in the wake of the crisis. As regards insurance, rebates are asked by consumers for example because they are driving much less.
- Better Finance: They participated to the Commission roundtable meetings on best practices in relation to relief measures offered to consumers and businesses in the context of the COVID-19 crisis. They are concerned about pension savings. They are working on CMU and sustainable corporate governance.

AOB

- **Annual report on 2020 and 2021 work:** Usually minutes are included, as well as summaries of the papers and studies that have been produced. The Chair will coordinate the work and liaise with members to get input on the papers/projects they were leading.

- **Next FSUG meeting:** 23 April. It will be hosted on Microsoft Teams. The new Head of Unit of DG JUST E1 will be invited to the meeting.
- **Possible topics to be discussed at the next meetings (tbc):**
 - o New Consumer Agenda
 - o Renewed Sustainable Finance Strategy public consultation
 - o PAD
 - o Strong Customer Authentication implementation
 - o GameStop case: impact on retail investors
 - o Gender equality in financial services