



## **Minutes**

### **FSUG meeting of 12-13 April 2011**

Following Maris Ilves' and Jelisaveta Stankovic-Banka's announcement that they will no longer be providing secretariat support to the FSUG, the group wished to thank the two Commission representatives for their work. Their input and quality of work were most appreciated by the FSUG members.

The session was chaired by Guillaume Prache, vice-chairman of FSUG, in the absence of Mick McAteer.

#### **1. Adoption of the agenda**

##### **Feedback from participation in external events**

The group adopted the agenda.

Two members of the group represented FSUG at the debates of the European Parliamentary Financial Services Forum. The first debate focused on responsible lending and borrowing and the second on retail investments and on the PRIPs initiative. Concerning the second meeting, one of the members present at the hearing expressed disappointment with narrowing down the initial scope of the initiative on PRIPs, referring mainly at the fact the scope no longer covers pension products. Another FSUG member proposed to raise this concern in different contexts as well, such as the revision of the IORP Directive or other working groups. The next public hearing will be held on 4 May and the discussion will focus on the CRD IV initiative. One of the participating FSUG members at the public hearing invited the other members of the group to take part in the next hearing as this provides the opportunity to voice consumer concerns over specific issues.

Another member of the group took part in the ECON Committee in the European Parliament where the debate focused on financial inclusion, access to a basic payment accounts, the benefits and disadvantages of self-regulation. This member made a presentation on the concrete facilities to be included in the access to a basic bank account initiative.

#### **2. Intervention by Ms Paola Testori Coggi, Director General of DG Health and Consumers**

Ms Testori Coggi thanked the group for its input and stressed the importance of the work FSUG carries out in developing well-informed consumer policies. She mentioned DG Health and Consumers' active involvement in consumer education and financial literacy and focus on the issue of pensions. She pointed to the ongoing analysis of replies to the Green Paper on Pensions, which will feed into the work on a White Paper on Pensions. She also mentioned the launch of the active and healthy aging partnership, under the Innovation flagship of the Europe 2020 initiative, whose aim is a 2-year increase of healthy life, now at an EU average of 62, by 2020. One member of the group advised on more caution with the

use of terminology for communication purposes, i.e. when regarding aging people as a burden to the system. Instead, he stated, they should be considered beneficiaries of the resources to which one has contributed. Another FSUG member argued that prevention of health problems is essential in sustaining a healthy life. Ms Testori Coggi agreed with the comment and added that DG Health and Consumers stresses on the importance of maintaining a healthy lifestyle and works towards making people act more responsibly from this point of view.

### **3. Follow-up to the Green Paper on Pensions – presentation by Mr Eelke Postema (Internal Market and Services DG/H2)**

The Internal Market and Services DG gave an overview of the current developments in the pension area. The consultation following the Green Paper on Pensions was closed with over 1 600 responses received over a four-month period. The analysis of the replies will feed into the White Paper on Pensions whose adoption by the Commission is scheduled in the third quarter of 2011. Replies to the consultation focused on a number of issues such as the importance of adequate pensions and the set-up of a tracking system providing information on one's retirement benefits at all times. The overarching aim of the White Paper is to ensure adequate and safe pensions on a sustainable basis, which will be addressed by a range of policy options in matters such as demographic change, higher effective retirement age and gender issues.

The presentation also touched upon the review of the Institutions for Occupational Retirement Provision Directive (IORP). The aim of the review is threefold: increasing transparency for scheme members and beneficiaries, making the pension provision less expensive and more accessible by enabling pension funds to benefit from the internal market and establishing up-to-date solvency rules for IORPs. A Call for Advice was sent to EIOPA in April 2011, which is expected to reply by 16 December 2011. The revision of the Directive will be accompanied by a thorough impact assessment.

### **4. Update on work on combating discrimination against vulnerable consumers in financial services – presentation by Mr Tobias Müllensiefen (DG Justice)**

DG Justice gave a presentation on the work regarding the use of age and disability in financial services, in particular on the findings of the recent study on industry practices and complaints about discrimination in insurance and banking. The Commission proposal for a new Equal Treatment Directive, which also deals with this issue, is still under negotiation in Council.

An FSUG member offered to send the Commission services a mystery shopping study undertaken on the Austrian insurance market.

### **5. The Social Business Initiative: How to encourage social investment? – presentation by Ms Esther Wandel (Internal Market and Services DG/G4)**

The Internal Market and Services DG gave an overview on the Single Market Act. Members of the group were invited to reflect and to provide input on possible ways for the financial sector, including the asset management industry, to better serve the society and facilitate, reward and incentivise social entrepreneurship, i.e. a form of business thinking which would aim to achieve socially inclusive and sustainable goals rather than pure profit making. Possible ideas in this respect are the creation of social banks or stock exchanges, but also the role of microfinance or the possibility of creating a new type of investment fund. The more

mainstream segment of SRI vehicles (socially responsible investment funds) was equally discussed, and whether and how such funds might be better and more clearly distinguished from other funds. The Commission invited group members to give their views on the potential consumer interest for investment products which go beyond the pure generation of financial returns and how consumers would react to the fact that there might be a trade-off between returns and the pursuit of other goals. One group member advised on being cautious with labelling investments as socially responsible. He argued that labelling an investment product as socially responsible could be very appealing to consumers given that it suggests having the chance to do something good beyond the mere investment purpose. It should be avoided that such labels degenerate into a pure marketing tool for the industry and – as highlighted by the chair of the group – as a means to disguise e.g. additional costs. As other group members, he advocated that there should be a clear understanding/definition of social investments and/or the targets of such investments. The Commission representative pointed out that making information about such types of investment more reliable and credible could be one possible work stream to be explored in the context of this initiative. Some other members of the group underlined the importance of CSR disclosures/reporting by companies and advocated the need for binding standards in this respect.

Further developments on this issue will be discussed at one of the next meetings.

#### **6. Impacts of Case C-236/09, Test-Achats on the EU internal insurance market – presentation by Lukas Bortel (Internal Market and Services DG/H2)**

The Internal Market and Services DG presented the implications of the ECJ ruling in Test-Achats case. The case concerns the Gender Directive “implementing the principle of equal treatment between men and women in the access to and supply of goods and services”. As a result of the case, as of 21 December 2012 onwards, unisex premiums and benefits will be applied in the insurance sector. The Commission Services understand that no retroactive effects of the case are involved. Uncertainties such as renewals of insurance contracts after December 2012 and other issues being now collected will probably be clarified in the Commission Communication planned for the second half of 2011.

#### **7. Public consultation “Towards a coherent European approach to Collective Redress” – finalisation of FSUG response**

The leader of the sub-group presented the first draft of the reply to the public consultation, whose deadline is 30 April. It was agreed that any additional comments on the draft response circulated on 12 April together with examples of best practices would be sent to the leader of the sub-group by 21 April.

#### **8. FSUG work programme regarding priorities and research projects/Discussion of Terms of References of studies**

FSUG members agreed to leave the list of priorities open for the time being. A key priority for the group should be drafting responses to public consultations organised by Commission services.

The following topics were selected for research in 2011 at the February meeting:

- Pension reform and pension products
- Mortgages and repossessions – best practices and consumer protection
- Remuneration structures/practices and conflicts of interest

Sub groups and sub groups leaders were decided to draft the terms of references of the projects.

The Commission services advised for the terms of reference to be finalised at the May meeting and submitted to the Commission by July in order to seize on the 2011 research budget allocated to the FSUG group.

The Commission will provide guidelines on drafting terms of reference, an example of a research study and a list with possible consultancies to conduct the research projects.

Members agreed to discuss research projects in May and to make final decision on them. Accordingly, the Commission secretariat will circulate a revised excel sheet.

**9. Update on retail financial services** – presentation by Internal Market and Services DG/H3 (Jennifer Robertson, Jean-Yves Muylle)

The Internal Market and Services DG gave an overview on developments on several retail financial services files. The proposal for a Directive on credit agreements relating to residential property was adopted by the Commission on 31 March and is currently under negotiation in the Council and the European Parliament. The Directive is considered as a first step towards a single market for mortgages by creating a level playing field for all actors involved with a high degree of consumer protection, advocating for responsible lending and borrowing by all market participants. It was noted that the creditworthiness concept covered by the proposed Directive goes beyond the issue of credit history. A group member was interested in knowing whether a consumer is to expect a written explanation on the reasons for denial of credit on basis of a negative creditworthiness evaluation. The Internal Market and Services DG clarified that the text of the proposed Directive indicates that the creditor has to inform the consumer on the reasons for rejection, but there is no specification on the need for a written response.

The Internal Market and Services DG also gave an update on the negotiations on the SEPA end-date file, the preparation of the proposal on ensuring access to a basic payment account to be finalised before the summer period and the initiative on bank fees. As regards the latter, discussions on the proposal are advancing and pressure for deliverables by summertime is being put on the industry.

**10. Intervention by Mr Jonathan Faull**, Director General of Internal Market and Services DG

On behalf of the Internal Market and Services DG, Mr Faull thanked the members for their valuable input and expressed his appreciation for the work carried out by FSUG. Mr Faull stressed the importance of consumer input in developing sound financial policies and the difficulties in ensuring balanced representation in advisory/expert groups. The group agreed with this argument and one FSUG member argued that in the newly created EIOPA and EBA advisory groups, consumers and retail investors are seriously underrepresented. Mr Faull invited the FSUG, and the entities they represent, to take this issue up with the two European Supervisory Agencies, if this should be the case, since they make independent decisions on

their advisory groups' members, and emphasised again the importance of well-informed consumer representation in these forums.

**11. Public consultation based on the Green Paper *The EU corporate governance framework*** – presentation by Mr Matthias Schmidt-Gerds (Internal Market and Services DG/F2)

The Internal Market and Services DG presented the consultation on the EU corporate governance framework open until 22 July. The long consultation period provides for more time to develop complex responses on the matter. The Green Paper contains 25 sets of questions in three chapters (boards, shareholders, comply or explain principle) and covers issues like shareholders' say on pay, the composition of boards (including gender diversity), employee share ownership, minority shareholder protection, etc.

A sub-group was formed to draft and submit a response to the consultation by the 22 July deadline.

**12. Legislation on central securities depositories (CSDs)** – presentation by Ms Felicia Stanescu & Mr Marcel-Eric Terret (Internal Market and Services DG/G2)

The Internal Market and Services DG presented the work carried out on possible future legislation on CSDs and invited members of the group to reflect on several issues related to regulation of these specific financial market infrastructures.

A sub-group was formed to draft and submit an opinion by end June/beginning July.

**13. Consultation on taxation problems that arise when dividends are distributed across borders to portfolio and individual investors and possible solutions** – presentation by Ms Marina Whitehouse (Taxation and Customs Union DG/D2)

The Taxation and Customs Union DG gave a presentation on the consultation on Cross-border dividends tax issues open until 30 April. The aim of the public consultation is to obtain information on all tax problems that arise when dividends are distributed across borders to portfolio and individual investors, as well as on stakeholders' views on possible solutions. An FSUG member asked whether there is any quantification of the existing problem. The Taxation and Customs Union DG clarified that, apart from the study carried out in the framework of the Commission's work on withholding tax relief procedures [http://ec.europa.eu/taxation\\_customs/resources/documents/common/whats\\_new/study\\_fisco.pdf](http://ec.europa.eu/taxation_customs/resources/documents/common/whats_new/study_fisco.pdf), the Commission is not aware of other relevant quantifications. However, the Commission receives numerous complaints from the public and these are an indicator that problems exist. In order to obtain further evidence and to quantify the issue, the Commission is asking its stakeholders for their input on the size of the problem in its public consultation. In addition, a study by an external contractor is currently being carried out for the Commission. The study will examine and quantify the current situation and will then evaluate the legal and economic impacts of a number of possible solutions on Member States, taxpayers and the internal market. Upon its completion, the study will be published on the website of the public consultation. In addition, the Commission will also undertake an in-depth impact assessment which will take into consideration the contributions to the public consultation, the results of the study and other relevant publications, research, etc.

One FSUG member will provide a study published in the German media on taxation of shares.

A sub-group was formed to draft and submit a response to the consultation by the 30 April deadline.

#### **14. Discussion of membership of ESA stakeholder groups**

FSUG will draft letters to the chairmen of EIOPA and EBA and to the European Commission on the matter of consumer/retail investor underrepresentation on the ESA's advisory groups. A first draft letter will be circulated by one of the group members.

#### **15. External relationships of FSUG**

The proposal advanced by GEBI of a joint Group of Experts in Banking Issues (GEBI) – FSUG meeting was circulated during the meeting. Due to time and agenda constraints the joint meeting will not take place. To further develop the external relationships of FSUG, the group members agreed to make contact with Consumers International and the upcoming EU presidencies.

Members agreed on the need to increase the group's visibility and suggested for the chairman to draft an article on FSUG's activity.

#### **16. Conclusions**

Before the next meeting will take place, members of the group agreed to send the chairpersons suggestions of European cities (outside of Belgium) where a meeting of the FSUG could be held in autumn 2011.

#### **List of participants**

FSUG: all members, excluding Mick McAteer

Commission:

Internal Market and Services DG: Maris Ilves (H3), Anita Varga (H3), Irena Vukic (H3)

DG Health and Consumers: Jelisaveta Stankovic-Banka (B4)