Minutes of the Financial Services User Group

14-15 July 2016

Discussion about the financial guidance study

The contractor went through the main findings of the Draft Final Report which will be ready by 25th July (FSUG comments by mid-August, final report by 24th September). Main findings sa far include: 10% of consumers are likely to use financial guidance services, many consumers are not able or unwilling to pay for such a service, there is a need to encourage the development of financial guidance as there is a low level of financial capability and it is difficult to find reliable impartial information. In the 6 countries surveyed many organisations claim to be providing financial guidance but instead provide advice or information linked to selling of products. Provision of financial guidance varies across countries, the definition of financial guidance is different and the boundaries with financial advice are not always clear.

Members decided to draft an own position paper on the issue. The paper is going to encourage consumers to use of financial guidance; it will also list solutions that could be adopted at Member States' level. The paper will also touch upon the main features of financial guidance.

Many members recommended that the paper should also cover the definition of financial advice as opposed to guidance and provision of information.

Pillar 2 pension schemes and the Consumer Market Scoreboard – discussion with DG JUST

JUST.E1 delivered a short presentation on the CMS and its Market Monitoring Survey (MMS) to clarify its scope. Participants discussed whether investment services also cover occupational pension products and it was explained that occupational pensions funds are only covered in case consumers made an active choice for them and paid for the product (practice varies across Members States). This is also explained in a footnote in the report.

JUST.E1 clarified also that discussion with this representative from Pension Europe was only on the methodology of the Scoreboard. In the MMS feeding into the Scoreboard, consumers are asked a question on whether they have bought, over the past 2 years, any pension products. JUST.E1 made clear that the discussion had no policy implications. In addition, JUST.E1 also presented the Group with some preliminary findings of the CMS 2016 - to be published in September – on the financial services market.

JUST E.1 explained that the study looked at 42 markets, including four financial services markets: loans/credit, insurance, credit cards and investment products. All markets were assessed against the following criteria: comparibility, trust, satisfaction, choice and detriment. The last two are new criteria compared to the previous year. Overall the banking services cluster was the lowest performing cluster and the investment products' market also performed poorly. Still there is very little switching.

Presentation of the Big Data paper to the Commission services.

One of the FSUG members gave a presentation of the benefits and risks stemming from big data. He noted that benefits from big data are not always automatically benefits to consumers (e.g. dynamic pricing based on one's search history means that a consumer may be offered higher prices because their browsing history shows that they do not shop around or mainly look at more expensive brands). He added that big data processing and customisation of products will have an impact on the mutualisation/socialisation of risk which currently happens in financial services. He also discussed that the right to be forgotten is important – how can a consumer remove adverse data about themselves from data banks?
Another member noted that big data and FinTech are making a massive difference in financial services. He also noted that rules and legislation only go so far, so supervision and enforcement of these is also very important.

A Commission services representative pointed out that the question is not about necessity of data but rather proportionality in its use. It was also noted that no one owns data but they have rights to data; if there is an imbalance of power, companies have to demonstrate that they have sufficient consent to process data; and if there has been an automated decision, consumers have the right to challenge it and ask for a human assessment. It is always up to the provider to demonstrate that the consumer expressed a genuine consent and that he/she was not in an unbalanced position when agreeing to the treatment of data.

During discussion it was further noted that currently providers talk very positively about big data but there is need for more evidence from the consumer side.

The rapporteur advocated personal clouds for consumers' data to which they could allow and discontinue access as they prefer. Consumers do not know how much their data is worth, so new indicators are required to help consumers understand the value of their data. The presentation demonstrated that the consumer is always in a vulnerable position.

To counter this, the FSUG recommends to set governance rules for the use of data and algorithms, to set up governance bodies involving all stakeholders. It remains to be seen how the new General Data Protection Framework covers these issues. Reflection on consumer information in the digital space is very important as consumers have no idea of the value of their data and how these data are used by the industry.

Regarding next steps, after reviewing some of the terminology, the report will be published

Regulation and microenterprises

The Rapporteur asked 4 members to check whether, in their countries, micro-entities are eligible for redress to see whether there is a difference in treatment with consumers. The findings of this case-study will help to evaluate whether the current EU framework takes adequately into consideration micro-enterprises or whether it needs to be revised.

Draft final report for the Study on pension decumulation – discussion with the contractor (E&Y).

The contractor presented key message and the process. Members raised a number of comments regarding the draft report:

- Add an introduction on the replacement rate in each country (based on Age report)
- Further analyze the reasons that may explain why MWR in Netherlands are higher than in UK
- Present sensitivity analysis on fees (optimistic 1%, average 2% and worst 3%) and return on drawdown and present the length of time after which accumulated amounts exhaust (to emphasize that drawdown do not cover longevity risk)
- Review data on tax incentives in Poland
- Elaborate on the looking forward part on the national debate - to the extent possible indicate whether consumers are involved in the debate
- Add a paragraph on scam when people take lump sum
- Clarify Canon & Tonks results on price competition in Netherlands
- Financial advice, adjust wording as financial advice is regulated
- Clarify / eventually delete one of the figures 4 or 8. Those figures are similar and the slight differences may not be visible for the reader

Among other issues, discussion focussed around whether competition is the reason why consumers receive better value from their annuities in Netherlands compared to the UK. The contractor argued that regulation has a major impact on the type of products offered on the decumulation market. Participants also expressed concern that it is difficult to compare drawdown products and annuities as the overall costs to consumers are not clear. The contractor agreed to include charts in the study that would project the value of different products assuming an annual cost of 1%, 3% and 5 %.
One member noted that she would like to see more information about the impact that product disclosure has on consumers and whether there are any lessons learned across the member states.

Presentation of the consultation on the evaluation of the financial conglomerate directive - followed by short discussion

The commission representative explained what FICOD is about, presented its content, changing regulatory landscape as well as market reality. Main questions raised by FICOD were discussed, as well as interactions between FICOD and sectoral legislation: CRR/CRD, and SOLVENCY II. Discussion followed about the conflict of interest in the financial conglomerates, the following issues were raised: conflict of interest related to the closed architecture – distributing own products; asset managers buying swaps and hedging strategies from banks in the same financial conglomerate; as well as the conflict of interest between insurance and asset management when asset managers are holding assets in the holding company and thus not interested in selling those assets. Other examples of the conflict of interest were mentioned – when due to the low profitability of banking activities, some conglomerates shift to other sectors, e.g. sell actively insurance products and explore different levels of protection in different financial sectors.
A sub-group was formed to prepare a draft reply to the public consultation.

Annual Report – members discussed division of tasks. Members agreed to add the following special features: user representation, pensions, Asset Management (TBC), Redress, SEPA (as a success story).

Presentation of the consultation on cross-borders distribution of investment funds – followed by short discussion (

The Commission services representative explained the reasons for the consultation - one third of UCITS that are marketed cross-border are only sold in one Member State in addition to their home country, and mainly back to the Member State where the Asset Management Company is domiciled. Another third is not sold in more than four Member States outside of their home country.
EU UCITS funds are also significantly smaller than US mutual funds. There are more than 30,000 UCITS funds available for sale in Europe in contrast to 7000 mutual funds in the US and while the average European mutual fund is valued at approximately €200 million, its counterparts in the US are almost seven times as large. This has consequences for the economies of scale these funds can reap and fund costs. The costs of marketing across borders may fall disproportionately on smaller, start-up or more specialised funds.
The Commission is seeking details and evidence from stakeholders including fund managers, investors and consumer representatives in order to understand where and how the cross-border distribution of funds could be improved. He explained that the Commission is looking for specific examples and where possible quantitative evidence on the financial impact of the barriers to cross-border distribution of funds.

Members raised the issue of the dominant position in distribution channels, explaining that even if online platforms offering investment funds will be accessible, those funds will not be sold unless an adviser would refer investors to them. They mentioned cases when bad products block distribution of good products.