



Meeting of the Financial Services User Group

Minutes

11 April 2023

Virtual meeting

09.30 – 15.30

Adoption of the agenda, approval of the minutes of the 22-23 February meeting

The FSUG members have approved the amended draft agenda of the 11 April meeting, as well as the minutes of the previous FSUG meeting of 22-23 February.

Opportunities that “Listing act” could bring to retail investors. Presentation by DG FISMA services

A DG FISMA representative presented the Listing Act initiative explaining the context within which it was created. He highlighted the importance of the Listing Act for the building of the capital markets union. He set out the main elements and changes to the Prospectus Regulation (highlighting the measures that provide benefits to retail investors), Market Abuse Regulation, MiFIR, MiFID and repealing the Listing Directive. The timeline and next steps were also set out in the presentation. Another DG FISMA representative presented the new Directive under the Listing Act on multiple voting rights. The main focus of the presentation was on the context in which this Directive was envisaged to boost listings in Europe and the main elements of the Directive – the scope, safeguards and transparency.

The floor was open for the FSUG members to intervene. Several of them questioned the balance between providing further listings in the EU versus ensuring sufficient corporate governance in the new Multiple voting rights Directive and the views of the members were divided on which one is more important. One member asked about the transparency and visibility towards retail investors in case of modification or adoption of a multiple voting rights structure. As regards the rest of the Listing Act, several members welcomed the streamlining of the prospectus rules, however, increasing the reporting thresholds of managers' transactions for their own account (directors' dealings) was seen as inadequate considering the size of certain markets. One member also questioned the merits of allowing the re-bundling of research payments and brokerage fees.

Commission presentation on the recently adopted ESG Ratings Regulation and discussion with the FSUG members on its possible impact for retail financial users

DG FISMA services presented the regulation on ESG ratings. The Commission had adopted the proposal in June 2023, and the political agreement was reached on 5 February 2024. The regulation still needs to undergo the revision by lawyer-linguists before the final adoption by the Council and Parliament.

The regulation aims to enhance the quality of information about ESG ratings, by (i) improving transparency of ESG ratings characteristics and methodologies, and by (ii) ensuring increased integrity of operations of ESG rating providers and the prevention of risks of conflict of interest at ESG rating providers' level.

Following the question of an FSUG member, a FISMA representative explained that the regulation does not intend to harmonise the methodologies used for the creation of ESG ratings, but to increase their transparency and comparability among the ESG ratings that have similar objectives. ESG rating providers will remain in full control of the methodologies they use and will continue to be independent in their choice, since investors value the diversity of approaches.

Following the comment of another member, the Commission services explained that the regulation contains both principles and specific rules. It aims to prevent greenwashing and any other misinformation practices by increasing transparency about the objectives of ESG ratings, methodologies and data used in the rating process.

Welcome and updates on recent developments by Daniela Bankier, Head of Unit, Consumer Policy and Sustainability, DG JUST

Firstly, DG JUST explained that the future strategic priorities on consumer policy and protection will be mapped out for formulating the Agenda 2030. The Consumer Summit and the Informal Ministerial meetings of 18 and 19 April shall delve into these areas to elaborate future policymaking. With regards to the transposition of legal instruments that were recently adopted, DG JUST explained that the transposition process of the new Consumer Credit Directive (CCD) and the new Distance Marketing of Financial Services (DMFS) has been set in motion, with early engagements involving Member States and stakeholders aimed at ensuring a smooth integration into national laws. What is more, an enriching dialogue has taken place with the U.S. Consumer Financial Protection Bureau (CFPB), initiated in summer 2023, and spanning various facets of consumer finance such as over-indebtedness, digital payments, and automated decision-making in financial services. Finally, there was a debrief on the OECD consumer protection task force that met in Paris in March 2024, with several prevalent issues that were discussed such as on BNPL products, payment fraud, stronger consumer protection and more financial inclusion.

Update from DG JUST on the published call for proposals for action grants on debt advice services in Member States

DG JUST published in March 2024 a call for proposals for action grants on debt advice services. FSUG members were encouraged to further share and disseminate the call. The initiative concerns a total budget of EUR 1,000,000 and invites applications from all Member States to ensure broad geographical representation. The call focuses on funding projects to enhance consumer access to comprehensive and trustworthy debt advice services and to ensure that such services are available to benefit consumers directly in Member States, also promoting debt advice coverage across diverse regions of the European Union. The deadline for

submissions is 6 June 2024. An information session hosted by EISMEA is scheduled to provide further details and facilitate participation.

Tour de table: updates from members on their activities of FSUG interest, newly identified risks to consumers in financial services and on possible issues of the application of law

FSUG members shared the new developments in the field of financial services in their Member States. The Chair indicated that the Commission was also strongly interested in the issues of EU law application and invited members to take this into account in their presentation. It was reported that in Romania a new draft law foresees capping interest rates for small credits which until now could have several thousand percent of annual interest. That would be forbidden if the law gets successfully adopted. The Chair also noted that consumer associations have finally been recognised in the draft law which would allow them to represent consumers towards the financial institution or ADR entity. In Slovenia, new legislation to better protect retail investors is under preparation. Finance Watch informed about meetings with different stakeholders, such as Commission staff, MEPs, with a view to preparing for the next Commission, but also continuing its advocacy regarding the Commission proposal on access to financial data (aka FIDA proposal). Finance Watch also informed FSUG members about its upcoming event on 25 April on the study on payment account markets, focusing with the help of FSUG members, on markets in Germany, Romania and Spain. On the same day, Finance Watch will also launch a report, which will provide the data to underpin the need to revise the Payment Accounts Directive (aka PAD). The Chair has encouraged FSUG members to join the event and suggested to have a topic to discuss PAD related issues at the next FSUG meeting.

As a separate point the Chair thanked Better Finance in helping to prepare the FSUG letter on Value for money that was circulated to the Rapporteur and shadow Rapporteurs on the Retail investment strategy in the EU Parliament.

Continuing the tour de table, an FSUG member informed about the upcoming conference on the transposition of the Consumer Credit Directive in Palermo. There is an ongoing initiative to make industry contribute 0.1% of the granted consumer credit to finance debt advisory services, which will be announced at the conference. He invited FSUG members to involve relevant stakeholders in their countries to build on this good initiative. Currently, in many Member States industry does not contribute to addressing the issue of over-indebtedness despite the fact that they play a major role in this phenomenon.

Another member informed that with respect to accessibility to cash, Belgium tries to avoid any legislation to solve the issue and relies on soft law, like a Memorandum of Understanding. At the moment, it is very difficult to obtain cash if a person lives in a village in Belgium.

Exchange of views with Commissioner Mairead McGuinness on the most pressing issues for consumers, retail investors and SMEs in the field of retail financial services

Commissioner Mairead McGuinness gave a speech to the FSUG, which can be accessed here:

https://ec.europa.eu/commission/presscorner/detail/en/speech_24_1979

The Commissioner's speech was followed by a Q&A session with the FSUG members, who asked for the Commissioner's views on the most pressing issues, such as the way forward on the retail investment strategy and how consumers could access cheaper financial services in other Member States. The Commissioner underlined the need for the real capital markets

union to be able to address the issues that would require huge investments, such as climate change. The Commissioner emphasised the need to empower consumers as this is the only way EU citizens would be able to ensure their own financial security, thus making the European society as a whole stronger. Finally, the Commissioner addressed additional FSUG questions on enforcement, newly proposed payments legislation, including rising number of fraud cases, and financial literacy, pointing out the importance for consumers to know their rights and whom to contact when faced with the issue, the benefits of financial education and actions from industry aimed to better prevent fraud and protect a consumer.

The Commissioner encouraged the FSUG to continue its good work in representing the interests of consumers, retail investors and SMEs.

Update from DG FISMA, Andrea Liesenfeld, Deputy Head of Unit, on the ongoing Commission work on retail finance initiatives

The Commission representative from DG FISMA updated the FSUG members on the vote on the retail investment strategy that took place on 10 April in the ECON Committee of the European Parliament. She provided a summary of what the vote meant on the key areas of the proposed Retail Investment Strategy. While most of the suggested rules on disclosures have been retained, the partial ban on inducements was removed. Value for money/product governance rules have been significantly changed and would require discussion on how this could be implemented in practice.

DG FISMA services also updated on the progress in the negotiations in the Council, praising the ambition of the Presidency of the Council to advance fast on the negotiations of the Retail Investment Strategy, but underlining that many key points of the Commission proposal were still open for discussions and therefore it was too early to draw conclusions on the expected outcome in the Council on the major points of the proposal.

FSUG members were interested in changes to competence and knowledge for financial advisors. One FSUG member also wondered whether it would not be simply better for the Commission to withdraw the proposal. The Commission representative understood the disappointment due to the deletion in particular of the suggested partial ban but underlined that the proposal included other aspects as well, including on value for money, disclosures, marketing and supervisory enforcement.

Possible impact of forthcoming AML/CFT rules on the provision of retail financial services. Discussion with the Commission services on the new AML/CFT package

A colleague from DG FISMA D2 in charge of the anti-money laundering policies, gave a presentation on four legislative proposals of the Commission adopted on 20 July 2021: the AML Regulation, AML Directive, Transfer of Funds Regulation, and AML Authority Regulation. The Transfer of Funds Regulation, which aims at ensuring cryptocurrency transfers traceability, was adopted on 31 May 2023, with a date of application on 30 December 2024 (same as MiCA). The AMLR harmonises existing rules, broadens the scope of obliged entities submitted to AML rules, reviews the mandatory due diligence rules that credit institutions must apply to their customer, sets new data record retention rules (reduced from 10 to 5 years), and updates the EU AML high risk third-country policy. The AMLD clarifies the rules governing anti-money laundering mechanisms which will remain the responsibility of the Member States and which they must have in place in the most harmonised way possible to ensure their effectiveness and cooperation at EU level, such as the powers of the national

supervisory authorities, Financial Intelligence Units (FIUs) and the rules on registers (beneficial ownership registers, bank account registers). It also strengthens and clarifies requirements of Member States for performing regular national risk assessments at least every four years. Last, the new AML Authority will create a single integrated system of AML/CFT supervision, directly supervising major banking and financial institutions and coordinating the supervisory authorities across the EU for the supervision of other financial sector obliged entities. It will also serve as a coordination and support mechanism for EU Financial Intelligence Units, supporting their cooperation and joint analyses. Following the provisional political agreement reached on the AMLA Regulation in January 2024, the AML Regulation and the AML Directive, the final texts are being examined and translated before a final political agreement expected at the end of May/early June 2024.

The intervention was also the occasion to highlight specifically the provisions of the AMLR to address the “de-risking” issue (cases of banks refusing to establish or maintain business relationship with a customer on the basis of potential money laundering or terrorist financing risks). The Commission services explained that in the AMLR it had proposed to better streamline the practice of customer due diligence duties performed by banks, in particular the need to justify decisions not to open or maintain a business relationship, by including the grounds for such a decision in its customer due diligence records.

In the discussion following the presentation by the Commission services, FSUG members raised concerns that the AML framework was not always sufficiently protecting bank customers, including the most vulnerable, referring to instances where banks seem to block payment accounts without providing any information on the reasons of such a decision.

Attendants also raised the issue of a possible conflicts between due diligence measures performed on customers under AML regulation and privacy rules. The Commission services explained there is a trade-off to be found between AML rules, that are necessary, and financial inclusion. Terrorist financing risks can exist even for low amount transfers. However, indeed there is an increased risk of abuses by banks by refusing some customers by using the pretext of ensuring compliance with the AML rules. This is the reason why AMLR provides a need for these banks to justify their decisions not to open or to interrupt a business relationship.

The issue of Politically exposed persons (PEPs) was also raised, as they also face de-risking. The DG FISMA representative acknowledged that requirements for PEPs are very demanding and that banks often require to justify financial operations they do. It has also recalled that every Member State must establish a list of relevant public functions that must be considered as PEPs.

Questioned about the possible benefits that could be taken from the use of artificial intelligence to perform more efficient anti-money laundering checks, the Commission services explained that while artificial intelligence can help standardisation of AML compliance process, it is also subject to errors and therefore may not fully replace human controls.

Update and discussion on the work of the FSUG subgroups

The FSUG Chair informed that the last pending item was the preparation of the Recommendations to the new Commission and thanked the chair of the subgroup for the major improvements to the document. He invited specific FSUG members to add their contribution in the field of insurance services and highlighted that the Recommendations should be clear that Commission services should continue its review work on the Mortgage

Credit Directive, the Payment Accounts Directive and other pieces of legislation. The subgroup leader summarised which specific contributions were still needed from individual members with a view to finalising the Recommendations to the new Commission.

Concluding remarks and AOB

A DG FISMA representative provided an update about the preparation of the external FSUG meeting on 13-14 June in Vilnius. FSUG members were informed that the official invitation has been circulated to the participants and therefore they can now buy plane tickets. Responding to a question raised by an FSUG member, the Commission services underlined that those FSUG members who had previously informed Commission services that they would be staying at the hotel in which the FSUG meeting will take place do not have to book the room separately but need to inform the FSUG secretariat as soon as possible should there be any changes to the booking information, such as dates of staying or room preference, which had been provided to the Commission services via EUSurvey tool. The Commission services will pass this information to the hotel to keep their booking up to date. The payment for the stay at this hotel will have to be made upon arrival.