FSUG Report 2020-2021

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ABOUT THE FSUG

The Financial Services User Group (FSUG) was set up by the Commission in order to involve users of financial services in policy-making. The group was established in 2010 with Decision 2010/C 199/02. This decision was recast in 2017 by Decision C(2017)359.

The FSUG's tasks include:

- To advise the Commission in the preparation of legislation and policy initiatives which affect the users of financial services
- To provide insight, opinion and advice concerning the practical implementation of such policies
- To proactively seek to identify key financial services issues which affect users of financial services
- To liaise with, and provide information to, financial services user representatives and representative bodies at the European Union and national level.

The FSUG has up to 20 members, who are individuals appointed to represent the interests of consumers, retail investors or micro enterprises, and individual experts with expertise in financial services from the perspective of the financial services users.

The FSUG meets five times a year, and its Chair and two Vice Chairs are elected from amongst the group members. DG FISMA and DG JUST jointly provide secretarial services for this expert group.

The FSUG works on a consensus basis and tries to ensure that it arrives at a collective opinion on issues it considers. However, from time to time, members may register a minority opinion.

As well as working on its agreed work programme, the FSUG:

- responds to relevant consultations from the European Commission and other EU policymakers
- proactively seeks to identify key financial services issues which affect users of financial services and
- liaises with, and provides information to, financial services user representatives and representative bodies at the European Union and national level.

Following a call for interests launched in April 2017, the Financial Services Users' Group was officially relaunched by the European Commission end of June 2017 for a *new* period ending in June 2021 and with new Terms of Reference. As in previous FSUGs, the group is composed of a mix of representatives of consumers' organisations working at EU level and individual experts working at national level.

This report covers 2020 and the first semester of 2021 and includes some recommendations for the next FSUG.

FOREWORD

This report covers the whole year 2020 and first semester 2021, a period that coincides with the emergence of the COVID-19 pandemic that has affected everyone's life and national economies worldwide. The FSUG had to adapt its working methods and react to rapid developments and initiatives introduced to protect consumers and economic actors from the consequences of lockdowns and economic stillstand. The report provides a summary of the FSUG activities in the last eighteen months of its mandate, as well as recommendations for the next FSUG.

During that period, the FSUG continued to monitor closely the European Parliament's work on key dossiers and sought to provide input to the European Commission's relevant initiatives, through open discussions with Commission's representatives during FSUG meetings, answering relevant open consultations or drafting letters.

The FSUG met seven times over these eighteen months: in Brussels in February 2020, then remotely in March, June, September and November 2020, February and April 2021. Due to travel restrictions imposed by the pandemic situation, the annual FSUG visit to a EU member state was replaced by an afternoon session devoted to a discussion with Bulgarian consumer organisations on consumers' protection issues which took place in November 2020 (see Special Feature on p. 14).

In the report, you will find more information about the FSUG submissions to the EC open consultations on:

- The revision of the non-financial reporting
- The Sustainable finance strategy

and the following own initiative opinions/letters:

- FSUG reflection paper on crypto-assets
- FSUG position paper on COVID-19, household financial fragility and NPLs
- FSUG position paper on financial exclusion linked to broader accessibility issues

Finally, in 2020 the FSUG received and commented the final report on the outcomes of the large-scale study on "NPLs in the EU: Impacts on regulation and consumer protection".

More detailed information on the FSUG work and composition can be found on the FSUG website.

This report is the last of the FSUG in its current composition. The FSUG would like to thank the secretariat, especially Elena Brolis and Roxane Romme, for their constant and valuable support throughout our mandate and the colleagues from the EU Commission for participating in our discussions.

Anne-Sophie Parent	Christiane Hölz	Daniela Vandone
Chair	Vice-Chair	Vice-Chair

FSUG RESPONSES TO EUROPEAN COMMISSION CONSULTATIONS

FSUG submission to the European Commission open consultation on the review of the MiFID II/MiFIR regulatory framework – May 2020

The FSUG considers that certain areas of the new MiFID II/MiFIR investor protection rules have improved the investor protection regime. On the other hand, market developments and gaps in regulation have created a dire and urgent need for the revision of this framework. We do especially believe that the different components of the framework, in particular the rules on investment advice, suitability assessment, inducements – on the advice side – and the disclosure rules, coupled with the qualification of "retail" clients and toxic products – on the client side – need to be revised in order to clarify and strengthen the investor protection regime.

Further, we see an urgent need for a harmonization of the different legal frameworks, esp. MiFID II, PRIIPs and IDD.

Last, we firmly support the statement that "more investor protection corresponds to the needs and problems in EU financial markets", particularly in light of two important considerations:

1/ The CMU project aims to build stronger, more resilient and integrated capital markets in the EU. To achieve the latter, both the Next CMU Report, the CMU Action Plan (2015) and the Interim Report of the HLF CMU have identified EU savers as a central piece to achieving these goals. Indeed, the largest source of long-term financing and risk capital, are European citizens, who dispose of large amounts of savings – both financial and non-financial – that could be used to support the growth of the economy and, in return, generate adequate investment returns for their savings goals. However, there remain significant differences between local markets, and attracting more retail investments into transferable securities therefore creates many challenges to investor protection.

2/ The EU single market for financial services will not be created without restoring users' trust in this sector. The European Commission's Consumer Markets Scoreboard(s) have, for several editions in a row, ranked financial services and investment products among the lowest in terms of consumer trust. A first step to restore users' trust is transparency and proper disclosure of relevant and meaningful information. Trust can however not only be gained through transparency and disclosure. Adequate protection against breaches of their rights and fair rules to counterbalance the lack of negotiating power of consumers with the financial professionals are also part of the same holistic approach needed to build an integrated single market.

- **Effective implementation of MiFID II/MiFIR in national markets**

In certain Member States, e.g. in Germany, we note a restrictive interpretation of the target market for retail clients at distribution level wherever rules leave room for interpretation. Distributors seem to be afraid of liability claims or administrative fines and therefore interpret the target market stricter than necessary to the detriment of retail clients (self-censoring). Consequently, many products are not considered suitable and are therefore not available for retail clients, especially in the execution-only area. In addition, distributors seem to be not able or willing to devote sufficient resources to provide target market descriptions for numerous products from manufacturers not subject to MiFID II. In order to reduce their compliance burden, product distributors consequently limit the number of products they offer. This has resulted in a reduction of the product offer for investors, without a corresponding increase in investor protection.

- **Barriers to accessing the widest possible range of products**

Certain MiFID II rules have limited access to products for “retail” clients. In addition, “retail” clients have slowly been “advised” away from investing directly in capital markets to packaged products, mainly unit-linked life insurances and pension funds. Main reason for this shifting is that individual, non-professional savers are “sold” financial products, not advised to buy them. This is because investment advice has not developed more as it is still conflicted by monetary (or other types) of benefits advisers receive, coupled with an uncompetitive market between non-independent and independent financial advice.

MiFID II is also a key tool to help consumers make more sustainable investment choices. But the mechanism introduced through the MiFID II and delegated legislation, which requires "financial advisors" to assess the sustainability preferences of their retail clients, cannot fully work in practice. Advisors continue to be biased in their product sustainability advice due to variation in remuneration (inducements), and the amount of rather "light" ESG products on the market, leading to tick-the-box exercises. The implementation of the Taxonomy Regulation is a good first step, but financial advisors cannot be expected to give correct sustainability advice without a full framework to assess the sustainability of financial investment products and their underlying investments.

Digitalisation of financial services, combined with a further disentanglement of the links between product origination and sales (e.g. through a full-scale inducements ban) could help consumers access the best products both from a perspective of financial appropriateness (financial literacy, risk appetite, investment horizon) as well as from a sustainability perspective (impact on society).

- **MiFiD II/ MiFIR effects on trading venues and systematic internalisers**

The reforms in MiFID I already “liberalized” the market for equity trading venues and led to the registration of many new such venues in Europe. With the removal of barriers to competition, new trading venues emerged and grew rapidly and the European market for trading equities became substantially more fragmented. With less than 50% lit trading and over 170 equity and equity-like venues, Europe today is the most fragmented and opaque market, far behind the US and Asia. Next to opacity and the negative impact on price formation processes, all these dark trading venues are hardly, if at all, accessible to “retail” clients.

Any action at EU level needs to ensure that a stable price formation is being maintained and in no case is further weakened in order to ensure properly functioning equity markets. Market data is generated during the submission of bids and offers and the execution of trades on a trading venue. The current landscape in EU markets shows a rise in market data cost at least since 2010. The FSUG considers that prices for standardized market data should be set at marginal cost plus a reasonable profit margin equal for all users using the same kind of service and independent of the differences between them. FSUG further considers that the current delay in receiving data free of charge is far too long. In times of increasingly automated trades, AI and high frequency trading, market data should be made available to all market participants free of charge at a delay of up to max. 2 min.

- **Consolidated tape**

The FSUG considers that the inconsistent trade reporting behaviours of systematic internalisers (SIs) and dark venues must be fully considered in the consolidated tape debate to ensure a level playing field. A consolidated tape can only be meaningful where it will ensure high quality, reliable and consistent off-venue data including flagging of SI and OTC trades. The FSUG is truly supportive of the introduction of a publicly enforced and controlled consolidated tape and supports a publicly enforced and controlled “consolidated tape” which would be easily and quickly accessible by all investors in the market. A public tape would remove asymmetric information advantages and enable retail investors and consumer

organizations to scrutinize whether "retail" investors are truly getting the best deal available (e.g. in the context of best execution).

- **Database for comparison of investment products**

The FSUG strongly supports the establishment of publicly available and free of charge databases for cost, risk and past performance comparison of retail investment products in the EU, which could take the form of web-comparison tools, “fund supermarkets” etc. We would strongly prefer that such a database would cover all investment products available to “retail” clients. The more transferable securities are included the more ESMA seems to be well placed to develop and manage such a tool. As we are arguing for including the widest possible range of products in such a database, we consider that also EIOPA should be involved in developing such a database. The two other ESAs should establish weblinks on their websites and give additional explanations on this database. NCAs could supply data from existing national databases.

- **Digitization**

In the ongoing environment of low capital market returns, FinTech using artificial intelligence for investment advice and portfolio management could make a real difference on the actual performance of financial advice and investment management. However, there are risks related to the algorithms used to generate the investment advice, as well in relation to transparency. In the area of shareholder engagement, DLT technology has the potential to improve governance as it can safely connect issuers and investors and by that circumvent the intermediation chain, at least for voting purposes. Digital services have a great potential to break the selection barrier created by the sales of financial products through financial intermediaries. Instead of choosing for a pre-selected group of financial instruments biased by the advisor's interests, digitalisation allows consumers to choose from an unlimited number of products matching their investment preferences in terms of holding period, liquidity, risk appetite, and sustainability impact.

- **FSUG recommendations for amendments to MiFID II/MiFIR**

1/ Transparency provisions should also cover non-financial risks and impacts (double materiality), which should apply to all MiFID-distributed products and not only those subject to product-specific legislation. The regime could be modelled after the recently adopted Disclosure Regulation.

2/ Review the product governance rules that are too paternalistic and exclude “retail” investors from accessing the widest range of financial products.

3/ A third client categorisation, that of “qualified investors” should be added to MIFID II, similar to the regime for Alternative Investment Funds (AIFs) the access to which is guarded by strong safeguards.

4/ In addition, MiFID should include an additional chapter on toxic products, easing the role of the European Supervisory Authorities (ESAs) and national competent authorities (NCAs) to suspend or prohibit the distribution of such products to the retail sector.

5/ MiFID II should introduce a complete ban on inducements received by non-independent investment advisors. The investment market works best when product providers compete on the price and quality of their products to secure distribution, rather than the commission those providers can pay out.

6/ The definition of "investor protection" should be widened to include sustainability preferences; consumers have a right to know what their money is invested in, and their sustainability investment preferences should be honoured throughout the investment chain.

FSUG submission to EC Open consultation on the revision of the revision of the non-financial reporting Directive – June 2020

The FSUG strongly welcomes the Commission's revision of "non-financial" reporting rules, as they are currently not fit for purpose given the increased impact of sustainability factors on corporate performance and the increased consumer interest in corporate impact on sustainability ("double materiality"). In our consultation response, we provide additional considerations in the context of the legislative proposal to transform the NFRD into a Corporate Sustainability Reporting Directive, which was published by the European Commission at the time of writing of this report.

- ### Quality and scope of non-financial information to be disclosed

The FSUG reminds the Commission that if regulation relating to disclosure of information is to have the desired effects, a number of conditions must be met:

- The relevant information must be gathered and processed in a meaningful, 'usable' way

- There must be meaningful transparency and disclosure of information in a usable format

- That information must be trustworthy and validated by agents acting with integrity in the public interest

- The governance relating to the use of such information must be robust to manage conflicts of interest

- It should be possible to hold decision makers to account for making poor decisions while in possession that information, for failing to ensure they obtained the appropriate information, or failing to disclose relevant information to stakeholders

- Most importantly, that information should result in behavioural change amongst those who run corporations. Therefore, there needs to be a mechanism that ensures that relevant information causes behavioural change. Some would argue that public disclosure will result in behavioural change as executives and boards come under public pressure to improve practices. The experience of FSUG members shows that relying on public disclosure has limited effect. There still needs to be a mechanism that directly changes the behaviour of those who really matter - that is, the boards and senior executives.

- ### Standardisation and scope

In the view of the FSUG, simplified and proportional standards should not only apply to large companies. Such standards for SMEs would be also useful as long as the reporting of materiality to stakeholders and the impact on society is ensured, and mandatory. The FUSG suggests that proportionality should not just depend on the company size, but also on the risk-sensitivity and the salience of societal impact of a company's sector.

SMEs are currently completely exempt from nonfinancial reporting legislation, although they can also have a major negative impact on human rights and the environment - overall more than the big companies. The scope should therefore be enlarged beyond the threshold of 250 staff including to smaller companies in sensitive sectors (based on NACE codes to be determined at Level 2). Proportionality can be introduced by considering the UN and OECD guidelines, which set different requirements for action depending on the size of the companies.

Standardisation will help companies of any size to better understand what data is useful and streamline the data collection process internally, which can improve company performance by allowing for better integration of sustainability risks and opportunities.

- **Materiality**

Financial materiality is too often considered in terms of short-term shareholder value only, which should be revised; disclosure of potential impacts and considerations should be made public to allow shareholders to make their own assessment as to financial materiality (open question). Political decisions taken in response to the Covid-19 pandemic show how external shocks can suddenly render ESG risks that were thought to be only material in the long-term, material on a short-term basis, e.g. in the airline and oil industry. Sometimes these issues have actually been flagged by shareholders in AGMs and resolutions, but dismissed at the time by company management as non-material. This is particularly problematic in Member States where thresholds for submitting or passing shareholder resolutions are high, where even well organised (retail) shareholders find it hard to present resolutions to AGMs to challenge boards. Moreover, even if they do, corporate boards are typically dismissive of such shareholder activism on important sustainability issues. Public reporting of sustainability information allows civil society organisations to build up public support and make their case for engagement with corporate boards. Provided the time horizon is long enough, all ESG risks and opportunities can be financially material, and as such should be integrated in financial decision-making.

The FSUG recommends that EU policy should ensure that not just policies are disclosed and audited, but also the *impacts* of those policies. In general, the FSUG is concerned that the difficult competition situation in the field of financial auditing is likely to be replicated in the field of non-financial auditing. Non-financial/sustainability auditing will involve more complex information, competing standards, confusing claims about corporate behaviours, and significant greenwashing opportunities. The risk of the public being misled is clearly higher. Moreover, if auditors are being squeezed in the traditional financial audit business, they will be under pressure to expand revenues in non-financial audit market. Therefore, it is important to have the highest standards of disclosure, transparency, independence of audit, etc.

- **Assurance**

Non-financial information is increasingly important to investors and other users. An independent auditing of such information plays a key role for investors/users as it provides assurance that the information is correct and reliable.

Therefore, the assurance requirements (audit) of non-financial information should have the same professional standard as the financial auditing, and an alignment is desirable. This means that stronger assurance requirements than currently exist are needed.

Reasonable assurance should therefore be considered as standard in the long term. Only as a start, limited assurance seems sufficiently feasible (taking into account the principle of proportionality)

The audit alone is however not sufficient. Comparable to financial reporting, the key engagement risks should be published to investors/users: disclosure should be based on the key audit matters disclosure for financial information combined with an (independent) auditor's report.

Those who set auditing standards for non-financial information disclosure, the audit practices and their employees must have the required skills and knowledge to carry out an audit of disclosures required under the NRFD.

- **Digitisation**

Tagging of non-financial information is necessary but needs to be done against standards and should be available through a single access point (preferably ESMA). Non-industry stakeholders such as consumers and civil society have limited resources to pay for access to commercial databases or to spend time manually aggregating non-financial data.

FSUG submission to the EC open consultation on the renewed sustainable finance strategy – July 2020

- **Barriers and challenges**

FSUG supported the view of the need for a sustainable finance strategy. However, there are a range of barriers and challenges that hinder that necessary transformation. These include:

Poor disclosure and reporting

There is a lack of transparency on the extent to which financial market activities (and financial institutions) make positive or negative contributions to environmental and social impact objectives. The available information is confusing, partial, and inconsistent. Reporting standards are weak. Critical information is not objectively reported or independently verified or can be withheld from the public domain.

Data and research on sustainability is fragmented, underdeveloped, and inaccessible compared to mainstream financial activities. There are very few independent auditors with sufficient resources to analyse data and information and present it in a usable format to investors.

Information does not properly consolidate the activities of the underlying investee companies along commercial supply chains and does not reveal the total detrimental impact of investee company activities. These problems apply at each stage of the investment supply chain regardless of which channel investors use to invest in markets – through pension schemes, insurance funds, retail individual investment funds or whether investing directly, using a financial intermediary, or via comparative information websites.

Misalignment/ conflicts of interests

Climate risks are not properly integrated into financial institutions and the wider financial system. The interests of financial markets and institutions are not properly aligned with environmental and social impact objectives. The remuneration policies used to reward key decision makers in financial institutions and real economy firms are not aligned to sustainable finance goals.

The history of financial services shows that detriment 'follows the money'. ESG has risen up the agenda and we have seen a significant growth in the assets classified as ESG. This brings with it a significant risk of greenwashing and impact washing. This could undermine confidence and trust.

The regulation of providers of ESG ratings is a particular concern. The conflicts of interest inherent in the relationship between financial institutions and credit ratings agencies played a major role in the 2008 financial crisis. We must avoid making the same mistake with the sustainable finance. There is a risk that financial institutions and corporates will select to have their activities and products rated by agencies operating to less onerous standards.

Market short-termism

Sustainable and responsible finance requires a long-term perspective. Payback periods on sustainable or responsible finance projects can be long. But, linked to the above point, market short termism constrains financial institutions and individuals who want to take a long term perspective and 'real economy' firms who wish to 'green' their operations or spend resources on research and development. The imperative to rebuild revenues and profits post COVID-19 will reinforce this short termism.

Limited availability of suitable projects

The long payback periods and perceived risk of green ventures can be unattractive to risk averse, short-termist financial institutions. ESG activities are attracting a growing level of financial resources which, combined with limited availability of suitable projects, risks creating price bubbles in ESG assets perceived to be of higher 'quality'.

Limited market infrastructure

The market infrastructure to allow early stage green ventures to raise capital (and secondary market trading) is very underdeveloped. Similarly, there are few collective vehicles to allow investors to share risk when providing long term funding of small-scale projects.

Role of 'gatekeepers'

Index funds automatically include securities from energy-intensive sectors. Fund managers do not seek out unlisted green opportunities. Investment consultants significantly influence investment decisions. A high proportion of money managed for individual investors is done on an advised basis.

Poorly designed and coordinated regulation and supervision

Misconceptions remain about whether ESG objectives are in conflict with fiduciary duties. Investors are vulnerable to misselling and 'greenwashing'. Sustainability is not fully recognised in remits of EU and member state regulators. Regulation fails to provide clear criteria for assessing compliance with climate friendly goals. It is difficult for investors to identify trustworthy benchmarks and ratings. Not all investment advisers work in the best interest of clients, as MiFID II rules do not sufficiently address the issue of biased advice by allowing Member States to maintain inducement-based advice. The sustainable finance strategy of the Commission, and therefore the approach of ESAs, is fragmented.

- ## What is needed to deliver the sustainable finance strategy?

The EU will need to address each of the barriers outlined above not just focus on information and disclosure. Improved disclosure is necessary but not sufficient. Policy and regulations are needed to compel financial institutions and intermediaries to behave responsibly, fully integrate sustainability, and to create a common understanding of climate, environmental and social risks. Without common standards and definitions, policy and regulation will be far less effective.

The Commission must resist disingenuous arguments from the finance lobby that regulation is a barrier to sustainable finance. We recommend further work in three areas:

- consistency and usability of information;
- reporting and risk assessment; and
- tackling failures of institutions to exercise due diligence and short-termist financial behaviours.

There is still too much confusion as what constitutes sustainable and unsustainable. EC sustainability taxonomy regulation will help – if regulated properly. But, we need an 'unsustainability' taxonomy for coherent, full spectrum coverage. There is still too much focus on E in the taxonomy and ecolabel project: environmentally friendly products should not come with concessions on social and governance aspects.

Lack of consistency and standardisation on corporate and non-financial reporting, and risk assessment remains a major problem. Mandatory sector specific KPIs on ESG issues for corporates should be incorporated into the NFRD review, to complement mandatory reporting and risk assessment by corporates.

The Commission should revise the Credit Rating Agency Regulation to require CRAs to: adequately disclose their methodologies; have the necessary skills and competence for undertaking analysis and ratings in this field; properly integrate ESG risks into their credit risk analysis and ratings; and integrate mid-term issues in separate 'rating outlooks' to provide longer-term analysis as recommended by the HLEG.

The Commission should also develop methods of regulate the independence, integrity, and quality of *third party* service providers and the data they produce. Of course, there are different ways of doing this. It does not necessarily involve direct regulation of the third party service providers (although they must be subject to minimum standards of conduct). Regulation of third parties might be done by imposing rigorous duties of care on the lead providers of data, information, and research to ensure that any component data is valid and not corrupted.

The Commission should develop a regulatory framework for ESG rating providers and a common standard to measure and disclose materiality in both directions ('double materiality), and standard methodology for assessing and rating companies on ESG issues.

More generally, rigorous duties of care should be placed on i) financial institutions to ensure they make decisions based on trustworthy data, and ii) on the primary source of data – that is the boards and senior management of the underlying companies issuing bonds. It is important that the Commission sends a message to all the actors involved in producing and disseminating sustainability data that this should be taken as seriously as the production and disseminating financial data included, for example in statutory company accounts.

Separate pieces of legislation – UCITS, IORPS, and AIFMD - should be revised to integrate sustainability duties as part of investors' duty of care, due diligence requirements, and obligations. Similarly, accounting rules that promote short-termism or unsustainable corporate behaviours must be reviewed

FSUG OWN INITIATIVE OPINIONS AND LETTERS TO EU OFFICIALS

During the second half of its mandate, the FSUG produced the following own initiative opinions/letters addressed to EU officials on key topics to stress issues of importance for financial services users:

FSUG Opinion on crypto-assets – February 2020

The Financial Services Users Group has a mandate limited to the protection of users of financial services. Therefore, it is important to determine why the FSUG is examining the use of blockchain and crypto-assets within its remit. While many users have undeniably suffered detriment due to various reasons (see below, the section on the consumer perspective), the FSUG is not necessarily the relevant body to address these, unless crypto-assets and blockchain can fall under the definition of "financial services", financial instruments or financial products. In this regard, the FSUG takes a broader view, consistent with the EBA and other European institutions. Crypto-assets are used by natural or legal persons as various types of financial services/investments depending on their specifications: either used as an alternative means of payment (Bitcoin, Litecoin, Ethereum,…), a means of payment for a specific decentralized service (utility tokens), or an asset which could be qualified as a financial product (a security). As such, all of them may fall under the scope of existing or forthcoming "financial services" regulation or anyhow their use may be more and more relevant from the point of view of protecting the users of financial services and so fall under the remit of the FSUG.

Crypto-assets have been around for just over a decade. While the underlying technology is still in its infancy, consumers can finally find tangible and concrete applications in the public blockchain space, be it for international cross border payments/remittances, or for running dapps (decentralized applications). Nevertheless, the risks of investing in crypto-assets remains high, which means that only the most technically and financially savvy consumers can take full advantage of the opportunities of crypto-assets at this time. The emergence of "user friendly" third party services among which we find centralized exchanges is held back mostly by the technical limitations and problems on existing public blockchain projects and by legal uncertainty or ill-suited regulation.

The FSUG does not see a mainstream adoption of crypto-assets in the short term at the level of retail users and recommends that consumers be properly informed about the risks of engaging with crypto-assets. Consumers should possibly be inhibited from trading in crypto-assets, or at least in crypto-assets that do not comply with certain regulatory standards and criteria. The FSUG recommends that European regulators adopt sensible and enforceable ad-hoc regulation. Regulation should be adapted to the specificities of public decentralized blockchains, in line with the recommendations above, which mixes regulatory measures, especially targeting centralized entities or clearly identifiable third parties/intermediaries, and self-regulatory/co-regulatory measures encouraging crypto-assets projects to adopt internal governance rules and development standards that take into consideration consumer protection.

The full text of this FSUG opinion paper is available on the FSUG website.

FSUG letter to the European Commission on raising concerns the appointment of Blackrock Investment Management - April 2020

The Financial Services Users' Group expressed serious concern with the decision of the EU Commission to award Blackrock Investment Management (Blackrock) with a contract to provide DG FISMA with input to facilitate the achievement of the following objectives:

- integrating environmental, social and governance (ESG) risks into EU banks' risks management processes,
- integrating ESG risks into EU prudential supervision,
- integrating ESG objectives into EU banks' business strategies and investment policies.

The FSUG were particularly worried because:

- Blackrock is an US asset manager with widespread financial interests in sectors that could be directly impacted by new environmental rules. Blackrock being a top-10 investor in the 12 most systemically important banks in the world, there could a strong risk of conflicts of interest on the side of Blackrock.
- BlackRock is one of the harshest critics of the EU approach to sustainable finance, and in particular of its cornerstone Taxonomy regulation and has always defended the single-materiality approach to climate change which conflicts with the EU Commission's double-materiality approach.

The FSUG felt that it was more than ever necessary to build consumers' trust in green finance, and urged the Commission to put in place additional checks and balances to ensure that Blackrock is not allowed to influence the development of this particular policy In such a way

that it would serve the sector interests and its own. We suggested to set up a monitoring committee composed of independent academics and stakeholder representatives including financial services users, to oversee the work performed by Blackrock and to validate ex ante the methodology used for this study and/or the ongoing monitoring of the work.

The full text is available on the FSUG website.

FSUG letter to Commissioner Reynders on the EC Strategy on Sustainable Corporate Governance – April 2021

In October 2020, the European Commission launched a consultation to respond to alleged short-termism of shareholders and proposed potential initiatives in the area of sustainable corporate governance. The FSUG expressed concerns that a number of initiatives proposed in the consultation paper were based on arguments derived from a study by Ernst&Young that in the view of different stakeholders and academics has serious flaws. CEPS, an independent think tank and forum for debate on EU affairs, stated for example that the findings of the study should be treated cautiously as they are "highly questionable, in terms of the methodology and the measurement criteria used, the bias and reference to cherry-picking empirical studies, and the conclusions." The FSUG regretted that key users' networks in the EU, including FSUG members, were not invited to take part in this study. In addition, the study was non-transparent on which companies had been chosen, as this would have been an important factor to consider also for the public. For the FSUG, this study is based on a wrong view on shareholders and therefore offers the wrong conclusions. It first and foremost completely ignores the fact that it is the shareholders who are carrying the risk of a total loss. Wirecard is only one but a very prominent example here. As a risk premium, shareholders can receive dividends, the importance of which increased in times of negative interest rates, especially for those non-professional investors that invest in order to get repayments to finance their pensions. In most cases, private investors reinvest their dividends again in listed companies or in the economic cycle, so this money is not lost for society. Unfortunately, the study has not properly taken into account the fact that there exist different kinds of companies. Traditional industries with rather low growth rates usually pay a good dividend in order to maintain their shareholders in the company. Growth companies have a different approach. They want to invest as much as possible in their future growth and their shareholders can possibly profit from a good share price development. These growth companies usually do not pay a high dividend since they show a much higher need for future investments. Since shareholders take risks by their investment, they receive as a compensation the right to have a say as one of the owners of the company. This is an important part of their property rights.

In addition, the study does not properly take into account that there are different kinds of shareholders, among them institutional (passive, active, activist) investors, family shareholders and private shareholders with different horizons of their investments. In our views, the EY study is a clear renunciation of the EU Commission's existing assessment that the main source of funding and long-term value creation stems from the EU households' ability to finance the EU economy via more involvement in capital markets.

Most importantly however, the FSUG had serious doubts with respect to the methodology of this study. The selected Key Performance Indicators (KPIs) are not representative: The selection of the development of the net corporate funds being used for pay-outs to shareholders as the only KPI seems one-dimensional (bias) and leaves out other important

KPIs such as the development of the cash flow. In addition, the comparison of the only chosen KPI to the development of investments in Research & Development seems arbitrary. Decision to invest into R&D depends primarily on existing investment opportunities. In times of high prices, companies may tend to abstain from such investments if the pricing seems excessive. R&D expenses are also closely dependent on state tax incentives. Both aspects should have been taken into consideration. As a result, the consultation paper in many instances did not allow respondents to fully express their views.

The FSUG supports the Commission's aim to support long-term shareholder engagement of end-investors, i.e. the EU citizens as individual investors and long term and pension savers. Referring to "short-term financial interests of shareholders" is however questionable, ignores individual shareholders, and fails to consider differences among shareholders. Individual investors are bearing most of the risks (and only parts of the rewards) of share ownership, either as direct or as indirect investors. Their long-term interests and environmental and social preferences are aligned with the society at large. Not considering these aspects would miss the link with the Capital Market Union (CMU) initiative and with its objectives to foster retail investments into capital markets. Moreover, sustainable value for money and pension adequacy would be harder to reach.

The FSUG urged the Commission to carefully take its concerns into account when evaluating the consultation responses, especially to those questions influenced by the EY study for any future policy proposals in the area of sustainable corporate governance.

The full letter is available on the FSUG website.

FSUG Opinion on COVID-19, household financial fragility and NPLs – April 2021

The current pandemic is worsening the situation of many indebted consumers and small businesses, given the sharp economic downturn in the EU and worldwide and, consequently, the fact that many households are facing unemployment and a fall in income and most businesses are facing closures, disruption in supply chain, and reduction in demand. The result is a sharp increase in difficulties for the repayment of loans and situations of over-indebtedness. Besides, it is very likely that the post-crisis rebound will not be followed automatically by a sustainable recovery, and that household financial fragility will last for long.

To help indebted consumers and small businesses, Member States have implemented a set of relief measures, among which payment deferrals ('moratoria'), public guarantee schemes, and special credit lines for SMEs.

The ultimate goal of these measures is, on the one hand, to ensure that banks can continue to lend money to support the economy therefore mitigating the economic impact of the pandemic, as well as to absorb losses related to the Coronavirus. On the other end, these measures are aimed at continuing ensuring the resilience of the financial system and preventing a rise in non-performing loans (NPLs).

While there are some principles set for the treatment of consumers in arrears, such as the EBA Guidelines on management of non-performing and forborne exposures and the EBA Guidelines on Arrears and Foreclosures, the FSUG finds it would crucial that a European Union plan is urgently designed considering the need to:

- authorize for further adjustment in time to allow for income recovery and ensure that mortgage contracts for main residence are not allowed to be foreclosed within a reasonable timeframe – depending on the still unknown duration of the pandemic - adapted to the exceptional pandemic related economic and social crisis;
- ensure that financial institutions are encouraged to display flexibility towards consumers with financial difficulties in the context of COVID-19 crisis, to extend moratoria with the ultimate goal to avoid payment defaults and foreclosures. This may also reduce debt collection practice, which in some cases are proved to have strong negative externalities;
- given the exceptional circumstances brought by the COVID-19 pandemic, ensure that banks take proactive actions to early identify financially vulnerable debtors and household that remain in distress, to address the issue timely and with appropriate restructuring measures, without increasing costs;
- reinforce consumer protection, and to ensure that consumers receive all advice and information to make well-founded choices when signing for credit agreements;
- focus more on free and independent debt advice, to allow consumers to assess the best solutions for their case while ensuring a knowledgeable handling, as an effective way of helping over-indebted consumers to return to financial sustainability, while ensuring that creditors are repaid. Consumer organisations can play that role provided they are empowered with a mandate and resources to do so.

A more ambitious plan could foresee measures that are not debt based, such as the provision of liquidity with a no-refund policy.

The full text of the FSUG Opinion COVID-19, household financial fragility and NPLs can be found on the FSUG website.

FSUG position paper on financial exclusion linked to broader accessibility issues – May 2021

Across the EU, significant groups of citizens report increasing difficulties in accessing the retail financial services they need to manage their daily lives due to barriers of various nature and the rapidly shrinking availability of alternative non-digital solutions. There are also alarming reports on the disadvantage affecting large groups of citizens who, for various reasons, are missing opportunities for cheaper, better suited financial services because they are not aware of and/or have no access to information which is only available online, what could be called the “double burden of digital exclusion”.

The broader accessibility barriers, which may directly or indirectly prevent users from accessing digitalised financial services, include, for example: age limits imposed on online purchase of financial products; complex safety requirements for online operations which make ownership of a smartphone a pre-requisite; the relative high cost of mobile phones, home computers and internet connection combined with a sharp decrease in non-digital offer and increasing fees for non-digital solutions; the rapid development of cashless economies, etc. For third countries migrants, the narrow acceptance of proof of identity, obligation to have a

bank account in the EU or residence criteria in a EU member state can constitute barriers to access basic financial services.

The COVID-19 pandemic has added a layer of challenges for these groups by accelerating the trend to digital services and putting an abrupt stop to on-site support and use of non-digital services. For example, cash was refused in the first few weeks due to undue fear that it might help disseminate the virus. Bank agencies, insurance broker offices, etc. were closed and ATMs were no longer serviced. Non-digital consumers were left with no alternative options but to rely on someone else to pay for them with all the difficulties that this meant for them in terms of respect for their privacy and dignity.

The paper addresses policy recommendations to the EU and national policy makers to tackle:

- The barriers resulting from trends to move to fully digital financial services ecosystems
- The barriers resulting from gaps in the EU non-discrimination legal framework
- The indirect consequences from some EU legislation on higher priorities
- The lack of sufficient digital skills
- The lack of adequate financial literacy
- The reluctance of some consumer groups to use digital instruments for financial purposes
- The issues faced by some consumers around costs related to non-digital alternatives and the increased risk of poverty this implies for some.

These recommendations call on the EU and Member States to use the current legal and policy frameworks (European Disability Act, EU Pillar of Social Rights, the EU Retail Payments Strategy, Europe's Digital Decade and Europe Digital Compass) to take measures to tackle the barriers that some consumer groups face in enjoying equal access to the retail financial services they need to function in today's society.

The full text of this FSUG opinion is available on the FSUG website.

FSUG MEETINGS FROM JANUARY 2020 TO JUNE 2021

The FSUG met seven times over that period: in Brussels on 6-7 February 2020, then remotely on 26 March 2020, 4 June 2020, 18 September 2020, 19 November 2020, 12 February 2021 and 23 April 2021. The November 2020 meeting devoted its afternoon session to a discussion with Bulgarian consumer organisations on consumer protection issues in Bulgaria. See special section on this session, which replaced the annual FSUG meeting in an EU member state.

During these meetings, the FSUG met with various Commission representatives, including Mario Nava, Director, Horizontal policies, and Eric Ducoulombier, Head of Unit, B3 DG FISMA and was consulted/updated by DG FISMA and DG JUST colleagues on various dossiers such as:

- Sustainable corporate governance
- PAD review and related studies,
- Commission work on crypto-assets
- Work of the High Level Forum on Capital Market Union (CMU)
- MiFID II

- PRIIPs study
- Consumer Credit Directive (CCD) review
- Mortgage Credit Directive (MCD) review
- European Systemic Risk Board (ESRB) work related to the COVID-19 pandemic
- Commission study on the application of Interchange Fees Regulation
- European Central Bank digital euro proposal and related public consultation, and Commission's perspectives on the digital euro
- New EU Consumer Agenda,
- Instant Payments
- Forthcoming end of LIBOR
- European single access point (ESAP) for financial and non-financial information publicly disclosed by companies.
- Renewed Sustainable Finance Strategy public consultation
- GameStop case: impact on retail investors related to MiFID review

For more details, you can find the minutes of FSUG meetings posted on FSUG website:

Minutes of the FSUG meeting held on 6-7 February 2020 in Brussels

Minutes of the FSUG meeting held on 26 March 2020 (virtual)

Minutes of the FSUG meeting held on 4 June 2020 (virtual)

Minutes of the FSUG meeting held on 18 September 2020 (virtual)

Minutes of the FSUG meeting held on 19 November 2019 (virtual)

Minutes of the FSUG meeting held on 12 February 2021

Minutes of the FSUG meeting held on 23 April 2021

SPECIAL FEATURE : FSUG 2020 MEETING WITH BULGARIAN EXTERNAL CONSUMERS ORGANISATIONS, 19 NOVEMBER 2020

Organised virtually due to the COVID-19, the meeting started with an overview of financial services consumers' protection in Bulgaria with Bulgarian consumer organisations representatives: Bogomil Nikolov of the Aktivni potrebiteli association, and Georgi Atanasoff of the Bulgarian Financial Forum. Moderated by FSUG member Desislav Danov the discussion with FSUG members was organised around specific topics: insurance, investments, pensions, banking services and a few other issues. Initial remarks were dedicated to the unwillingness/inability of local supervisory bodies to cooperate with representatives of civil society and the absence of their representatives at the meeting. According to Bulgarian consumer organisations, inadequate enforcement steps are taken by local supervisory authorities with respect to consumer protection.

Insurance: Stage setting remarks encompassed the steadily raising premiums of the main type of insurance in Bulgaria – Motor Third Party Liability (MTPL). This increase is due to mechanical raising of the premiums, partially due to internalization of expenses, related to the failure of local insurance regulator to take protective steps onto the domestic market in order to shield consumers from the negative effects of one supervised entity's misbehaviour. Bulgarian insurance market is growing some 1% YoY and the limited effect of the COVID-19 crisis on the Bulgarian insurance sector is mainly due to dominance of the MTPL, CASCO segments. Bulgarian consumer organisations also highlighted the inadequacy of reaction of Financial Supervision Commission (SC) to certain cases involving some domestic insurance entities.

Banking: It was emphasized that the entire sector has profit of some 701 million BGN up to date (approx 350 mil EUR) thus dropping down by 270 mil BGN from the same period in 2019. At the same time, the banking industry still has much bigger and more complex problems with consumer related behaviour compared to those related to market performance. The upcoming adoption of Statute of absolute limitation (the debtor may not be legally forced to repay existing loan after 10 years of the date of default) was highlighted together with its potential impact on the consumers. Certain focus was drawn upon the report of the petition commission to the EU parliament published just a week before the meeting where findings about BG banks and consumer protection were made. It is noted that a big number of banks operating in Bulgaria are foreign owned and their reluctance, when operating in Bulgaria, to stick to the high level of consumer protection benchmarked in their home markets is worrisome.

Pensions: The upcoming and potentially devastating effect of the decumulation phase of private pension schemes in Bulgaria was discussed. Since the first wave of pensioners is on its way, it turns out that their private pensions will be insufficient to cover even basic living standard. While combined with their state-run pension scheme, their total pension may even fall beyond the amount of pension they would have received, should they used only the state-run pension scheme. The huge dispute around that topic about the actual return from private pensions funds was highlighted. Pension companies keep claiming that their pension products achieve adequate returns while Mr Lyubomir Hristov - the Bulgarian author of the BetterFinance report "Pensions savings: the real return" - voiced concerns on behalf of

consumers. Mr Hristov has even been subjected to a harassment campaign by the Bulgarian association of pension companies, who asked for punitive measures against him to be taken by the Bulgarian pensions regulator on grounds of slander.

Investments: The negligible volume of the Bulgarian Stock Exchange and its inability to fulfil its role as solid and secure marketplace for investments was highlighted. It was mentioned that due to the mentioned comment, the Bulgarian stock exchange may easily fall prey to others.

Other issues: The group also discussed the recent rise of loan sharking and the detriment it brings forth to consumers together with the unregulated activity of the collection agencies that have become one of the biggest loan holders. The detrimental effect that the practices of those debt collectors have on the social cohesion was underlined. Attention was drawn to the lax regulatory framework in which they operate where the collection agencies are entirely unregulated. Another topic of discussion was the raise of crypto currencies and Fintech companies, mushrooming within the BG jurisdiction in the last couple of years and their potential impact on consumers EU-wide.

Conclusions: The main takeaways of the discussion were that according to Bulgarian consumer organisations in many cases consumer detriment results from the inability of BG financial authorities to ensure reasonable enforcement of existing legislative and regulatory measures, while in some cases the legislation is insufficient and should be amended to enhance consumer protection and prevent market manipulations of different kinds

FSUG RESEARCH PROJECT ON NON-PERFORMING LOANS

The "Study on Non Performing Loans (NPLs) in the European Union: Impacts on Consumers" started in 2020 was outsourced in December 2019 and awarded in 2020 to LE Europe and Spark Legal Network which submitted their final report in February 2021. (The final report will become available by end 2021 on FSUG studies and papers | European Commission (europa.eu))

The FSUG had proposed this study to better understand the recovery process by banks and specialised debt collection firms of retail consumers' non-performing loans in the EU. The study had to focus on the economic, social and reputational consequences on consumers/debtors in arrears.

The research team examined current EU and national legislation on NPL recovery processes towards consumers, identifying best practices across the EU in debt collection and recovery, and assessing the potential sources of detriment and impact on consumers that result from existing debt collection practices. Collected evidence took into account the temporary measures put in place to help consumers who were facing particular difficulties in repaying their loans due to the COVID-19 crisis.

In February 2021, the research team presented and discussed with the FSUG the main findings they had gathered from the literature review, legal research, case studies and stakeholder consultations, and the conclusions and policy recommendations they were proposing:

Improved enforcement of existing laws

- Designate a supervisory body and ensure it has sufficient independence, sanctioning powers and resources to enable effective supervision, monitoring and enforcement of regulatory compliance across all activities and operations related to the sale, purchase and collection of consumer NPLs, regardless of the entity carrying out such activities (e.g. DGCCRF in France or Central Bank in Ireland). A call for an independent supervisory authority with sanctioning powers is echoed by a number of survey responses from consumer organisations, debt advisers as well as debt collectors. It also aligns with the proposed Directive's efforts to ensure that competent authorities across all Member States are able to supervise, monitor and enforce sanctions as necessary (Art. 20 and 21).
- Tighten authorisation to conduct debt recovery activities (as observed in some Member States and put forward in Art 4 of the proposed Directive). As discussed in Section 4.2.3.1, national debt collection associations play an important role in self-regulation of the sector. Membership to these entities could be encouraged by the designated national supervisory body. This could be facilitated using different tiers of membership, as observed in AIA in the Czech Republic. As such, smaller members can be included within the terms and professional standards of the organisation without necessarily having to take part in higher-level decision-making.
- Introduce rules requiring that a purchaser of consumer debt takes on the obligations of the credit originator, not only in respect of the loan agreement but also in relation to any other statutory or other obligations that the credit purchaser may have towards the debtor. For example, in Ireland, the Consumer Protection (Regulation of Credit Servicing Firms) Act 2015, as amended by the Consumer Protection (Regulation of Credit Servicing Firms) Act 2018, extends the scope of the Irish Central Bank's

regulatory oversight to those who hold legal title to credit. In other words, it brings the activities of credit purchasers within the regulatory remit. This has the effect of extending the regulatory safeguards available to debtors whose debt is held by credit originators to those debtors whose debt is held by credit purchasers.

Ensure a minimum standard of living is provided to the debtor in principle at the amicable stage and readily enforced at the judicial phase

- Ensure a minimum standard of living to the debtor, which may include the protection of a certain portion of income and certain assets, as well as the access to accommodation and utilities. For example in France, the Netherlands and Poland, in the context of debt recovery following a judicial decision or order, household items (such as bed, table and chairs, washing machine, etc.), clothes or food products are protected from seizure. In the Netherlands, a new law (which will enter into force on 1 January 2021) introduces a digital tool to calculate the amount of income protected from seizure, in order to ensure a uniform approach.
- While it is difficult to be too prescriptive in terms of the minimum requirements to be guaranteed to the debtor across the board, it may be useful to include (via legislation or soft law) a number of criteria that could be appropriate to take into account, in the context of judicial proceedings (and apply these criteria in principle prior to this at the amicable stage). This non-exhaustive list of criteria could guide the court in considering what a reasonable minimum might be in a given case.

Harmonize minimum information requirements provided to the debtor as part of the debt sale and collection process

- A lack of transparency and clarity on the incidence of the sale of the debt, the identity of the debt owner, the repayment plan and the debt collection process are often voiced by consumer organisations and debt advisers as relatively prevalent in the market and causing confusion and stress to debtors.
- Key information could be conveyed to the debtor through a simple standard form for credit originators to use when notifying the debtor that their debt is sold. This could be done via a self-regulatory or co-regulatory approach whereby credit originators fill out and send a form to the debtor which could include all the information required by law to be provided to the debtor in a simple and comprehensive way (in clear language). This could be facilitated or encouraged by the relevant competent authority. The standard form would be voluntary (as many lenders may already be using satisfactory documents for conveying such information to debtors). By using the standard form developed in this way, the credit originator can be sure of satisfying their obligations towards debtors, and the fact that they are standardised across the industry may alleviate the burden of processing such forms.
- Depending on the regulatory and legal requirements in each Member State on who is responsible for providing the information and at what stage(s) of the sale and recovery process of the consumer debt, the recommendation above could be extended to the information provided to the debtors by the credit purchasers and credit servicers.

Greater collaboration on the formation of best practice guidelines in consumer debt collection between consumer organisations/ debt advisers and national debt collection agencies

- Best practice guidelines devised by national associations are improving the professional and ethical standards and trust of the industry. In particular, collaborations with consumer organisations are proving to be successful at finding shared values and minimising conflicts of interest. This allows for guidelines on debt recovery activities and compliance tools to be implemented a realistic, fair, and transparent way for both parties. Specific examples include Italian efforts to collaborate together in writing a

code of conduct for the debt collection industry (see case study 5) as well as the Approved Housing Bodies collaborating with banks on the mortgage-to-rent scheme in Ireland (see case study 2).

- Further collaborations between consumer advocates, the debt collection industry and credit organisations could help ease the 'competition at the doorstep' (see Section 5.2.2) – although data privacy laws would likely limit the possibilities to collaborate and share relevant data between debt advisors and debt collectors/creditors.
- Any collaborations could also be facilitated by the State or the designated national supervisory authority. Moreover, policy makers could leverage on the synergy of such a collaboration to ensure that the relevant legislative and regulatory frameworks protect the consumer, whilst balancing this with an efficient debt collection market.

Credit servicers should ensure regular training of staff and create the right incentives within the industry

- All debt collection agents should be further incentivised to prioritise fair treatment of debtors as much as good debt recovery outcomes. Regular training programmes ensure debt collectors are aware of evolving financial and regulatory developments and compliance is maintained.
- Training of staff could be considered as one of the conditions to be granted an authorisation to conduct debt collection activities (see the first recommendation).
- Incentives could be in the form of remuneration and bonuses that are based on Key Performance Indicators which value positive consumer reviews or the absence of justified complaints from the debtors just as much as speed or rate of debt recovery. Award ceremonies to reward debt collection agents who demonstrated remarkably good and innovative debt collection methods are another (non-monetary) way to encourage staff to adopt best practice methods (see case study 5).

Improve consumers' knowledge and education with regards to debt collection legislation and empower consumers to exercise their rights.

- Increase consumers' knowledge about the debt collection process and their rights, and empower them to seek help and advice. Specific examples include: the broad national campaign aimed at increasing consumer awareness regarding debt collection in the Netherlands (see case study 6); the new piece of proposed legislation in Germany requiring debt collection agencies to inform debtors about the legal consequences and costs associated with concluding any payment agreement and acknowledgement of debt. The proposed legislation also requires debt collection agencies to inform debtors of the relevant supervisory authority to make it easier to raise complaints against them (see case study 4).
- Maintain visible and accessible channels through which consumers can easily raise complaints against malpractice to the appropriate authority (e.g. online platform in the Netherlands, see case study 6).
- This point ties back to the third recommendation, calling for improved information provision to the debtors, both as part of the sale and collection but also in general, for example through a website maintained by the designated supervisory authority that consolidates all relevant information.

Develop methods for debt collection agents to identify vulnerable debtors

- In order for the debt collection industry to build and maintain trust and confidence with consumers, companies should seek to provide excellent customer service to all

consumers. With regards to the treatment of vulnerable consumers, companies should look to achieving the following:

  - Using data effectively to understand all customers, and identify and support customers whose circumstances make them vulnerable;
  - Partnering with other companies and third-party organisations (e.g. consumer organisations providing financial life skills education, social housing providers, etc.) to identify and assist customers in situations of vulnerability.

- Vulnerability is a complex and multi-faceted issue and situations of vulnerability may not be permanent. Therefore, recognising which consumers are in situations of vulnerability is challenging. The industry should look to prioritise the development of tools and methods that can be utilised by credit servicers to assess whether debtors are particularly vulnerable (such as the Debt and Mental Health Evidence Form in the UK, see case study 1). One respondent in the debt collector survey suggests that the equivalent of a consumer credit rating for lending institutions should be introduced to estimate a debtor's capacity to repay his debts. This debtor rating would allow debt collectors to easily identify debtors who are in vulnerable situations and are unable to repay their debts.
- Debt collectors could also be encouraged to show more flexibility when collecting debt from vulnerable debtors. For instance, late repayment fees could be required to be dissolved/reduced for particularly vulnerable
- Debtors identified to be particularly vulnerable could be assigned a specialised debt advisor or independent mediator. Debt collectors could be required to deal with the debtor only through the advisor/mediator, i.e. no direct home visits or telephone calls to the debtor, so as to avoid incidences where the debtor feels overwhelmed by the debt collection process.

FSUG RECOMMENDATIONS FOR THE NEXT MANDATE

Enabling consumers' organisations and experts on consumers' issues to play their role fully is beneficial not only at EU but also at national level. For that purpose, the FSUG has been very useful since it was established. Not only did the group advise the Commission in the preparation and implementation of legislation or policy initiatives affecting users of financial services, it also helped raise specific issues affecting users of retail financial services and informed some policy changes at national level.

For example, the Portuguese FSUG member was able to explain in details the problem of certain tying practices in Portugal at a FSUG meeting. This triggered some action from the DG FISMA unit responsible for monitoring the implementation of the directive 2014/17/EU. In the context of its assessment of the transposition of this Directive, the European Commission addressed Portugal's questions on this topic. As a result, the Portuguese law was amended in order to comply with the Directive. The FSUG's position about the tying practice is mentioned in a lawsuit (class action) at the supreme court of justice - now the case is in the European Court of Human Rights. It is a case related with a tying practice in mortgage loans and another case related with coercive tied selling in a telecom case in Portugal.

This is one example, among many, of the impact the FSUG has had through its work. We hope that the group will be renewed and empowered to continue to voice the concerns of financial services users across the EU.

To support an economy that works for people, DG FISMA and DG JUST should also reinforce the voice of retail financial services' users in the studies they outsource. They can do so by

including a requirement to the contractors to demonstrate how consumers will be consulted/involved in the study, and how the contractor will support their contribution to the study, including financially. Including consumers' views in an external study, requires mobilisation of additional efforts and human resources, which should be acknowledged and fairly compensated as expert work in all EU calls for tender dealing with consumers' issues.

Finally, we would like to remind the European Commission that during this mandate FUSG members have provided expert input to the Commission without any compensation for the time spent working on FSUG documents and participating in meetings. To support experts who cannot include time spent on FSUG dossiers in their regular funded work priorities, we would like to recommend that the Commission reassess the possibility to compensate individual experts through special allowances in accordance with Art. 21 of Commission decision C(2016)3301 establishing horizontal rules on the creation and operation of Commission expert groups.

FSUG MEMBERS

In 2020-2021, the FSUG had up to 20 members, who are individuals appointed to represent the interests of consumers, retail investors or micro-enterprises, and individual experts with expertise in financial services from the perspective of the financial services user.

Members as of 31 May 2021:

Name	Title
Anne-Sophie PARENT (Chair)	AGE platform Europe
Christiane HÖLZ (Vice Chair)	DSW - Deutsche Schutzvereinigung für Wertpapierbesitz e.V.
Daniela Vandone (Vice-Chair)	Academic, Università degli Studi di Milano
Rym AYADI	Academic, HEC Montreal, CASS Business School in London
Morten BRUUN PEDERSEN	Danish Consumer Council
Alexandre CAGET	Union Défense des Experts d'Assuré (UDEA)
Desislav DANOV	Bulgarian financial forum
Jasper DE MEYER	BEUC – Bureau Européen des Unions de Consommateurs
Federico FERRETTI	Associate professor, University of Bologna
Robin JARVIS	Professor of accounting, Brunel University
Aleksandra MACZYNSKA	Better Finance
Mick MCATEER	Financial Inclusion Centre

Simone MEZZACAPO	Legal counsel
Joost MULDER	FairFin
Vinay PRANJIVAN	DECO - Associação Portuguesa para a Defesa do Consumidor
Edyta RUTKOWSKA-TOMASCEWSKA	Academic, Warsaw University
Martin SCHMALZRIED	COFACE – Confederation of Family Organisations in the EU
Jan SEBO	Academic, Matej Bel University
Octávio VIANA	Portuguese Investors' Association ATM

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