



Minutes FSUG meeting of 13–14 March 2012

Tuesday 13 January

Adoption of the agenda and approval of the minutes of the last meeting (18-19 January 2012), members' activities of FSUG interest, including participation in events on behalf of FSUG

No changes to the agenda were proposed. The minutes of the previous meeting held in January were approved.

A number of members of the group contributed to the tour-de-table session. An FSUG member reported recent Greek data indicating that non-performing consumer loans stand at 25 %, and make up a significant portion of overall outstanding loans.

A number of FSUG members reported data on the performance of pension scheme, and convened that management fees weighed heavily on yields, which were under great pressure due to low performance of pension funds. The participants also cited behavioural work being carried out to understand the perception of consumers purchasing pension products and their understanding thereof.

A member of the group reported enquiries into the Greek bond exchange, which may have been detrimental to a large number of private investors.

Another FSUG member mentioned that a survey targeting senior citizens will be launched to collect information about access citizens' experiences when opening an account in an EU country other than their country of origin, due to retirement abroad or for other reasons leading to mobility. She also informed the group about a European Parliament (EP) hearing on access to financial services on 20 March 2012, which may deal with areas of interest to senior citizens.

One member of the group reported that the financial services monitor under the responsibility of the Dutch Competition Authorities launched a survey on the quality of comparison sites for bank savings accounts. The survey analysed 21 comparison sites, looking into their characteristics and levels of disclosure on savings rates and transparency of information. The survey resulted in proposals to set up a code of conduct to be followed by comparison site operators.

A member of the group highlighted a number of upcoming events including a breakfast meeting in the EP to discuss the review of the Markets in Financial Instruments Directive as well as a workshop on the proposed Directive on mortgage credit. It was mentioned that the FSUG should follow up the event with a letter highlighting specific areas of the directive that need to be strengthened.

One member stressed the need for the FSUG to write to the newly established High-Level Group set up to assess possible reforms of the EU banking sector.

Another FSUG member informed about the change of the Romanian deposit law which introduced several provisions enhancing consumer protection.

Election of the FSUG chair and vice-chair

The Chair and Vice-chair of the FSUG were both elected by the FSUG members for the second term of one year.

Eurobarometer on retail financial services – presentation by Jennifer Robertson (DG Internal Market and Services/H3)

Jennifer Robertson presented the results of the Eurobarometer survey which reflects consumers' perception of various aspects of retail financial services. The study covered all EU Member States. In each country, 1 000 consumers were surveyed with the exception of LU, MT and CY where 500 citizens were interviewed. In general, consumers in EU15 have more financial products than those in new Member States. Also men and more educated consumers tend to buy more of them. Nowadays people have more financial products than in 2005, with exception of investment funds. Still very few consumers engage in the direct cross-border purchase of financial products (the study does not provide information on indirect cross-border activity, through e.g. intermediaries or branches) and bank accounts remain the most popular product to buy from another Member State. Regarding sales channels, a face-to-face purchase from a provider remains the most common channel amongst consumers; however the distribution of shares and bonds is also popular through intermediaries and advisers. The survey also confirmed very low levels of switching for all the products and demonstrated that consumers most often complain to product providers if something goes wrong. Jennifer Robertson also explained that people above the age of 15 were surveyed by the Eurobarometer and invited the FSUG members to take a look at the complete report which is available at: http://ec.europa.eu/internal_market/finances-retail/docs/policy/eb_special_373-report_en.pdf.

The FSUG members had some critical remarks and expressed reservations with regards to the methodology of the study.

Presentation and discussion on the inception report of the Study on personal bankruptcy – by London Economics

Mr Richard Heys from London Economics (LE) presented the inception report to the FSUG and took comments from the group. The main matters discussed are summarised in the sections below.

- LE recalled the study objectives and provided a summary of information that would be included in the country mapping reports, covering debt elimination measures and the legal framework.
- The project timetable foresees fieldwork to be completed by 11 June, information analysis and verification by 13 August and study conclusions by 20 August. Key reporting dates are: 21 May (mid-term report), 27 August (draft final report) and 22 October (final report).
- They suggested tailoring survey questions to countries as a means to shorten surveys, which were considered too long and may impact response rates negatively.

- In order to encourage high response rates, LE indicated that they seek to highlight positive aspects such as how replies could influence policy making and provide a means for stakeholders to express their interest and points of view.
- LE described their initial understanding of the criteria to benchmark debt solutions and identified three typologies of solutions.
- After illustrating their approach using the UK as an example, LE put some questions to the floor.

LE sought the FSUG's input on the following points:

- It asked the group to indicate any possible selling points for them to use to encourage stakeholders participating in the survey to dedicate time and provide good quality contributions.
- On the methodology, LE asked the group to provide feedback about how to categorise typologies of measures/frameworks based on a number of variables (flexible or structured regimes/interest – principal dimensions for debt relief/eligibility timescales/judicially and non-judicially led processes).

Questions and comments from FSUG members are summarised below:

- With reference to Datio in solution, one member asked LE to include a chapter on the US in the study.
- One member of the group questioned whether the study should not provide a comparative analysis of the merits of different approaches to debt relief rather than just map the situation in the countries selected.
- The lead group member on the assignment reminded LE that the scope of the study was to provide the group with factual data on the regulatory framework in the countries within the sample to enable the FSUG to draw its own policy conclusions, rather than asking the contractor to do so as part of its work.
- However, he argued that the study should provide insight into different practices within the countries selected, against the legal/regulatory framework in the backdrop. This includes comparing different perceptions of equivalent provisions in the countries selected.
- One member suggested that the survey questions would be tailored depending on whether the relevant country has a legal framework covering debt solutions or not.

Follow-up on the preparation of the 2012 FSUG research studies – finalisation of Terms of Reference and discussion on potential contractors for the pensions study

The Commission explained that the FSUG could still make use of EUR 100 000 which had been available in the FSUG research budget in 2011 for the study on position of savers in private pension products. However, in order to use the budget, the Framework Contract of DG Internal Market and Services would have to be applied, and in addition the contract for the study would have to be signed before the end of March 2012.

Based on this possibility, the Terms of Reference for the study on position of savers in private pension products had been submitted for the proposal of the third contractor under the Framework Contract. The contractor's proposal was provided several days before the FSUG meeting which allowed the FSUG members to propose comments during the meeting. They were collected by the leader of the subgroup responsible for the study who was designated to provide the contractor with the comments. It was decided that if the comments

are accepted by the contractor, the FSUG would support the signature of the contract for the study with this company.

In addition, the Commission informed that additional EUR 60 000 is available in the FSUG research budget in 2012 and invited the FSUG members to come up with proposals of the topics for the study which will be further discussed at the FSUG meeting in April.

Introductory discussion on the Commission's study on over-indebtedness – presentation by Mr Francesco Gaetano (DG Health and Consumers/B4)

Mr Gaetano introduced the purpose of the discussion by seeking the FSUG's input to identify relevant experts for contractors to interview as part of the fieldwork for the Commission study on over-indebtedness.

He noted that the study will cover all 27 Member States. The number of experts to interview will vary according to the size of the Member States as follows:

Population (M) / N° of experts

1<>4 5

4<>30 10

>30 15

and, in addition, 15 more experts at European level.

Experts would be selected to cover representatives from industry, civil society, public authorities as well as academics/other.

FSUG members asked to clarify the scope of the study to help them select the most appropriate contacts.

Mr Gaetano provided a brief description of the tasks in the contract comprising; providing an update to the over-indebtedness situation across Europe; investigate the possible causes and relationships with lending patterns; identifying the effects on consumers; identify measures (other than responsible lending and borrowing) to alleviate over-indebtedness and the bodies carrying out these measures.

A summary of comments from FSUG members following the oral presentation is provided in the following paragraph. One FSUG member pointed out that a number of group members had indicated over-indebtedness as a priority area of focus for the FSUG in 2012. A decision on priority areas would be taken in the following meeting. Another member asked for further details of the study in writing to facilitate the group's contribution. A group member mentioned the relationship between over-indebtedness and poverty with reference to the task dealing with the alleviation measures. The discussion concluded that a clear relationship existed but data identifying poverty thresholds would mainly feed into the part of the study dealing with the relationship between over-indebtedness and consequences.

Mr Gaetano agreed to attend an upcoming FSUG meeting to update the group and seek their feedback. He also encouraged the group to send written contributions to him directly by email.

Introductory discussion on the Commission studies in preparation for the revision of the Consumer Credit Directive – presentation by Ms Maria Lissowska (DG Health and Consumers/B4)

Ms Lissowska opened her oral presentation by clarifying that she would inform the group about a legal study that is being launched in support of the Consumer Credit Directive (CCD), while her attendance to the previous meeting in January focused on a market study that is now ongoing.

She first updated the group on the status of the market study, which focuses on the impact of the directive on the internal market and the effectiveness of consumer protection provisions. The kick-off meeting for this study was held and dealt principally with methodological issues. The final report is due in October this year. Ms Lissowska then highlighted a number of constraints that will weigh on the study's ability to pin down lending practices that do not follow the spirit of the directive.

The legal study will be conducted to assess the effects of regulatory choices made by Member States in transposing the CCD on the internal market. This covers mainly the way the provisions in the directive were adopted into national legislation. Another aspect to be studied is the interpretation given to provisions in the CCD that were vague or deliberately allowed for flexibility. Examples include the use of terms such as 'adequate explanations', 'provision of information in good time' or 'insignificant changes'.

In addition the study will analyse how legal provisions relate to Member States' culture and practices. This will look into issues such as how strong were enforcement provisions or how often/whether authorities have charged penalties.

Ms Lissowska went on to explain how the market study and the legal study will come together to support the review process of the CCD, as part of the Directive's analysis of impact on the internal market.

Following the presentation, one FSUG member mentioned an EP study conducted by the IMCO committee, which seemed to overlap with the legal study. Another member of the group asked, whether the group could contribute to the study by providing some insight on lending practices in their country. He also raised the issue of loans contracted prior to the entry into force of legislation transposing the CCD and the extent to which the Commission could ensure the Directive's effective application.

Discussion on the FSUG draft response to the consultation of the Green Paper concerning the integrated European market for card, internet and mobile payments

An FSUG member in charge of the subgroup preparing the FSUG response to the consultation presented the most important aspects of the Green Paper. She also asked the other members for their views and proposals of the FSUG response to each of the issues which were the following: Multilateral Interchange Fees (MIF); cross-border acquiring; co-badging; separation of card schemes and card payment processing; access to settlement systems; compliance with the SEPA Cards Framework (SCF); information on availability of funds; dependence on payment card transactions; transparency and cost-effective pricing; standardisation of processes for card, e- and m-payments; interoperability between different service providers; payment security; and governance of SEPA.

She explained that the FSUG response should include national evidence of identified problems and informed that the first draft, covering data from the UK, will be circulated to the group in the coming days.

Wednesday 14 March

Status of inter-institutional negotiations on the Alternative Dispute Resolution and Online Dispute Resolution legislative proposals – presentation by Ms Maria-Cristina Russo (DG Health and Consumers/B4)

Ms Russo recalled that the Commission adopted the ADR/ODR proposals in November 2011 as well as political context of the initiatives, being one of the twelve priority areas in the Single Market Act.

In brief, the ADR proposal sought to fill the gaps in existing ADR entities either at national or sectoral level to cover all contractual disputes. The proposal also foresees minimum quality requirements, which are partially inspired by prior Commission Recommendations. It also set out provisions regarding the provision of information regarding the existence and use of ADR, building on existing structures within Member States.

The ODR platform refers to online trade and aims to fulfil commitments taken as part of Europe 2020's Digital Agenda. The ODR Regulation addresses cross-border commerce and hopes to raise consumer confidence making it possible to have an online instrument redress. It sets out to achieve this by providing a single point of entry for all disputes arising from online cross-border purchases and redirects disputes to the competent ADR entity. The ODR platform will provide standard form information in all EU official languages as well as ODR facilitators whose role will be to ensure a smooth treatment of incoming disputes through European Consumer Centres.

Ms Russo replied to a number of questions and agreed to provide a presentation describing the ODR platform together with other related documentation to brief the FSUG further.

Collective redress: information point on the state of play – presentation by Ms Maria-Cristina Russo (DG Health and Consumers/B4)

Ms Russo informed the group about the status of actions in the area of collective redress which have not progressed significantly since the end of the public consultation in April 2011. The EP voted an own initiative report and requested the Commission to await the EP's opinion before proceeding with the work on its announced Communication.

It was adopted in February 2012 and recognised the need for EU action on collective redress. It is now to the Commission to discuss at very high technical level the follow up to the EP's own initiative report.

Debrief and feedback on the event held on 7 February 2012 on “Alternative financial advice to consumers” organised by the Commission and the European Parliament – presentation by Ms Maria-Cristina Russo (DG Health and Consumers/B4)

Ms Russo explained that the objective of the event on financial advice organised by DG Health and Consumers, and European Parliament, was to launch their joint project of 2-day training courses to be provided in each Member State to NGOs offering financial advice to consumers. The training courses, coordinated by IFF and BEUC, aim to provide basic skills and knowledge related to financial advice and, above all, to incentivise NGOs to further learn and improve their capacity in this area. She said that participants in their interventions tended to agree that greater trust in financial markets is needed among consumers and that this can be achieved, among others, by reliable advice as well as consumer information and education.

Ms Russo promised to circulate to the FSUG members a more detailed report from the event and to meet the group again to report on the project development once its implementation has been more advanced.

EC Guidelines on the application of Council Directive 2004/113/EC to insurance – presentation by Ms Christine Tomboy (DG Justice/D1)

Ms Tomboy informed about the most important aspects of the Test-Achats ruling and presented the EC Guidelines on the application of Council Directive 2004/113/EC to insurance. In the judgement the Court ruled that charging of different premium to men and women was incompatible with the unisex principle contained in Directive. According to the

ruling, the insurance companies will have to treat individual male and female customers on equal basis with regards to premiums and benefits as of 21 December 2012.

The European Commission published the Guidelines to facilitate the implementation of the judgement in Member States and to assist insurance companies to meet their obligations regarding the unisex pricing. Following the Test-Achats ruling all Member States will have to adapt their legislation, and insurance companies their practices as of 21 December 2012.

The guidelines clarify that the new rules will only apply to new contracts concluded as from 21 December 2012 and provide examples of what can be considered a 'new contract'.

The guidelines also provide examples of gender-related insurance practices which are not in conflict with the new rules and therefore will not need to be changed following the ruling. They clarify that the Directive does not prohibit the use of gender as a factor in the calculation of premiums and benefits for the purposes of insurance and related financial services in general as long as it does not lead to differentiation at individual level.

A member of FSUG asked about the impact of the new rules on life insurance as well as on the cost and performance of insurance products. He pointed out that the new rules may result in higher prices of male premiums and suggested monitoring the practices of the industry in order to prevent unjustified and unfair increase of prices.

Ms Tomboy explained that some adjustments, notably at the individual level, will result from the ruling, but that the Commission will remain vigilant in following the evolution of the insurance market in order to detect unjustified impacts on the overall price level, in light of the tools available under competition law.

Bank accounts package – public consultation and follow-up on the request for evidence from FSUG – Ms María Dolores Montesinos Trigo (DG Internal Market and Services/H3) and Mr Christopher Gauci (DG Health and Consumers/B4)

This proposal follows on from prior policy initiatives involving a Recommendation on access to a basic payment account and self-regulatory initiatives led by the European Banking Industry Committee (EBIC) in the areas of bank account switching and bank fee transparency. The latter initiative was not adopted. This is a joint initiative from DG Internal Market and Services, and DG Health and Consumers.

Any further action with respect to access to banking services will depend to a large extent on the results of the Commission's assessment of Member States' responses to the 2011 Recommendation. The Recommendation foresaw that Member States would report their actions to the Commission by January 2012. This time limit was extended and a final report on the implementation is expected early in summer.

Bank fees cover mainly comparison and presentation requirements for fee information and complement the disclosure requirements in the current Payment Services Directive. Prior Commission studies have found a positive correlation between complex fee structures and high fees. The issue of non-transparent fees is also cited in several other sources. In addition EBIC's efforts to set up an industry code regulating fee transparency and comparability have not come to a positive conclusion.

On bank account switching, the Commission published a mystery shopping study that found that 8 out of 10 consumers were not able to switch bank accounts according to the provisions in the industry code, Common Principles for bank account switching. The main reason for failure to switch (change account and transfer one standing order according to the study tasks), was a lack of compliance by banks visited as part of the study. The study covered 27 Member States, with statistically representative samples.

The current status is that the Commission has launched a public consultation, which will end in June 2012. The services are currently working on the proposals, which are planned for adoption by the Commission in November 2012. This is quite a tight deadline as it means that the proposals will need to go through the review process within the Commission services by the end of summer before being presented to the College for adoption.

European Supervisory Authorities (ESAs): Discussion on the ESMA proposal to nominate an FSUG member for the ESMA's Investor Protection and Intermediaries Standing Committee's (IPSIC) Consultative Working Group (CWG)

In response to the ESMA proposal, the FSUG decided to nominate one of its members as an FSUG representative for the ESMA's Investor Protection and Intermediaries Standing Committee's (IPSIC) Consultative Working Group (CWG). It was agreed that the FSUG Chair will prepare a response to ESMA informing about the nomination which will be sent from the FSUG mailbox.

'Principles and practices of financial services regulation' and 'Impact of the new economic paradigm on EU financial services users' – presentation of the final version of the FSUG papers

The FSUG chair recalled the main elements in the paper named 'Impact of the new economic paradigm on EU financial services users', which brings together a reflection of the impact of the financial and sovereign debt crises on financial services, citing examples from the retail credit and investment markets. The purpose of the paper is to support policy-making in financial services by highlighting potential relationships between industry responses to changes in the markets for financial services and their impact on users of financial services. A brief discussion about the second, 'Principles and practices' paper took place.

He sought the group's agreement to disseminate the papers to the European Supervisory Authorities and other organisations as a means to raise their awareness of the FSUG as well as to the content of the paper.

One FSUG member suggested circulating a summary of the paper rather than the full text. Another member suggested that the paper make emphasise the need for banks to return to traditional activities such as loans and deposit taking, rely less on wholesale markets for funding and investment trading for raise profitability. There was general agreement among the group to circulate both papers to the list of stakeholder organisations set up by the FSUG for the purpose of raising awareness about its activities during 2011. One member suggested that the papers would be circulated separately.

Members agreed to provide any further comments to the 'new economic paradigm' paper by Monday, 19 March, and within 2 weeks following the FSUG meeting for the 'Principles and practices' paper.

White Paper: an Agenda for Adequate, Safe and Sustainable Pensions – presentation by Mr Fritz Von Nordheim (DG Employment, Social Affairs and Inclusion/D3)

Mr Von Nordheim explained that the White Paper looks at how the EU and the Member States can work to tackle the major challenges confronting our pension systems. It proposes a series of initiatives to help create adequate conditions so that those who are able can continue working thus leading to a better time balance between work and retirement. It aims to ensure that people who move to another country can keep their pension rights and to help people save more so that they can get what they expect in retirement.

The White Paper calls for better opportunities for older workers by encouraging social partners to adapt work place and labour market practices to allow for older workers to work. It also proposes to develop complementary private retirement schemes and to enhance the safety of supplementary pension schemes, including through a revision of the directive on Institutions for Occupational Retirement Provision (IORP) and better information for consumers.

The White Paper encourages Member States to promote longer working lives, by making a link between retirement age and life expectancy, restricting access to early retirement and closing the pension gap between men and women. Finally it recommends monitoring the adequacy, sustainability and safety of pensions and supports pension reforms in the Member States.

One of the major challenges underlined by the FSUG was the widespread value destruction of pension savings, which the FSUG feels is not being adequately addressed.

An FSUG member pointed out that the most efficient are public pension schemes and they should be supported by Member States.

Mr Von Nordheim clarified that this is not the objective of the White Paper or of the Commission to promote private pension products.

FSUG meeting in Madrid on 23-24 April – discussion on the draft agenda and preparation of FSUG members

The Commission presented draft agenda of the meeting which is prepared in cooperation with ADICAE. The following topics were proposed for the discussion in Madrid:

- the reform of the Spanish financial system
- causes and consequences of the financial crisis in Spain: its impact on citizens and household savings
- the role of small shareholders in listed companies in Spain
- slow pace of justice in the resolution of consumer disputes in Spain.

An FSUG member suggested that the first topic should not only refer to saving banks but also to cooperative banks. In addition it was proposed to invite to the meeting the head of the Consumer Protection Unit in the European Banking Authority.

The FSUG members also agreed that each topic should be followed by a substantial discussion with conclusions proposed by FSUG members.