



## Minutes FSUG meeting of 2-3 July 2012

### Monday 2 July

#### **Adoption of the agenda and approval of the minutes of the last meeting (22-23 May 2012)**

The Commission apologised for the delay in sending the minutes of the May meeting and informed that they would be provided the next day at the latest.

A member of the FSUG informed that he had participated in the forum on investment funds, in the panel on pensions being the only consumer representative as a speaker. He also criticised the *OECD pensions' outlook 2012* for advocating an expansion of private pensions which fail to perform. He also reminded that on that day the Commission adopted its proposals on IMD, PRIPs and UCITS5, and that the European Parliament will soon be voting on MiFID2.

A Romanian representative of the group informed about the fines imposed by the Insurance Regulator in Romania on some insurance companies for unfair business practices.

A German member of the FSUG highlighted the adoption of a new law on closed funds in the country which will allow for supervision of these funds. However, it will only apply to new products.

In the Netherlands, the Financial Sector Monitor will investigate switching of mortgage and insurance products. It was also reported, based on another study, that Dutch students are excessively indebted.

Another FSUG member pointed out that consumer organisations do not agree with one the SEPA objective which is to have a more cashless society in the EU. In the opinion this proposal is in favour of companies providing payment cards and in addition there are many vulnerable consumers who are hardly able to use other means of payment than cash.

An FSUG member raised the problem of consumers' credit histories which are used inappropriately by banks and other organisations, for instance, to take a decision on whether to employ or not a given candidate. He suggested that this problem should be looked into more closely by the Commission.

An Irish member of the group informed about the reform of credit unions in the country, and recommended a study on how they could be facilitated in the Member States where they do not exist. As community lenders they could be of great help in provision of credit.

Another member raised concerns of Spanish consumer organisations about the impact that the bail-out of Spanish banks could have on consumers and taxpayers. Spanish consumer organisation, ADICAE specialised in financial services, created an observatory to monitor closely this problem and to report abuses to authorities.

A Czech representative informed about a meeting (held a week before) of the National Council for Implementation of SEPA, where he represents Czech consumers. Czech Republic must fully implement SEPA by October 2016 according to the SEPA Regulation (260/2012). The Czech banking sector seems to be prepared but some doubts remain with regards to the awareness campaign which should be coordinated at central level. The members of the National Council seem to prefer that each bank communicates separately with its clients. He also asked for this issue to be discussed during the agenda point on SEPA later that morning.

An FSUG member informed about the Financial Inclusion Conference, held on 25 May in Brussels, which discussed the issue of access with regard to basic banking services, affordable credit and good saving products.

Concerning the European Commission study on overindebtedness, a member of the FSUG pointed to the fact that the contractor should make better use of experts whose contacts were provided by the FSUG. He also reminded that the following day the European Parliament was going to adopt a *Report with recommendations to the Commission on Access to Basic Banking Services* where it invites the Commission to take binding measures.

A member of the group reported about extremely poor results of private pension products in Slovakia which will not be able to recover in the next years.

Another member informed about serious difficulties of many Austrian consumers to repay credits taken in Swiss franc whose price increased substantially in the last 2-3 years.

An FSUG member proposed to have a presentation of the Pensions Adequacy Report issued recently by DG Employment at one of the upcoming meetings and mentioned that the OECD is planning to publish a report on the impact of pensions on women.

Finally, another member of the group referred to the Libor/Euribor manipulation by major financial institutions. He criticised financial authorities for overlooking this scandal having very negative consequences for consumers.

**State of play of the implementation of SEPA** – presentation by Mr Jean-Yves Muylle (Internal Market and Services DG/H3)

Mr Muylle informed that the SEPA Regulation, which was published last March, sets 1 February 2014 as the end-date for the migration to SEPA credit transfers and direct debits. Commission is closely cooperating with national committees to coordinate the preparation to SEPA and it is necessary to stress two important issues in this context:

1. SEPA Communication campaigns should ideally be organised at national level which will allow to better reach all the concerned stakeholders. They can be coordinated by central banks or the industry and best practices from these campaigns are exchanged at EU level.
2. The state of preparation of SMEs to SEPA is very low and there is a need for improvement in this area.

Mr Muylle also referred to the governance of the SEPA which is to be reviewed and improved with the objective to involve more non-industry stakeholders who would be better consulted on the rules governing SEPA and technical standards. He clarified that the volumes of migration to SEPA differ substantially between Member States where an EU average for credit transfers is ca. 30 % and for direct debits 0.05 %. He also informed about the planned follow-up to the Green Paper on payments and revision of the Payment Services Directive. There is an ongoing study carried out by an external contractor on the impact of the PSD on different stakeholders and it will be ready by the summer. Based on the study results, the Commission will decide on the scope of the PSD revision.

FSUG members complained that the awareness of consumers of SEPA is very low and that in some cases (e.g. Romania), consumer representatives are not even invited to participate in national SEPA committees.

**Inception report: study on the position of savers in private pension products – presentation by Oxera**

Oxera made a presentation summarising the inception report, which it had submitted at an earlier stage. The presentation was also an opportunity to have an exchange on key questions regarding the study and to determine the way forward as fieldwork progresses.

The study aims to build a methodological framework to support the development of answers to the questions in the terms of reference. The methodology is based on a literature review but also draws input from surveys to regulators. Oxera's aim in the inception report was to design an approach on how to collect data for the purposes of the study.

The inception report highlights elements such as costs associated with private pension systems and uses a value chain approach to capture all such costs. This analytical framework is designed to produce a comparison between 14 countries, where differences exist both at the level of pensions systems and the products themselves.

The inception report contains four broad sections. It starts by identifying the overall set up of pension systems; analyses risks, such as overall systemic risk and investment/funding risks; the adequacy of systems as well as charges, costs and yields on investments; and finally, information available to savers and behavioural aspects.

Oxera indicated that a significant amount of material covering these aspects is found through desk research (sources: OECD, national regulators). This can be substantiated and corroborated through interviews with national regulators.

Oxera requested the group's feedback on whether it was preferable to provide detailed country assessments of the overall pension set up or whether it would not be preferable to cluster or segment countries to add more value to the report and present results in a more effective way.

A question and answer session followed the presentation. A summary of the comments made during the session is provided below:

- An FSUG member asked for a soft copy of interim and final reports to provide comments in tracked changes.
- Highlight the fact that the OECD and Commission policies point towards encouraging the rise of private pension systems notwithstanding the current risks associated with low yields.

- Clarify the scope of the assignment with respect to the definition of pillar 1, 2 and 3 pension systems. The study mentions that pillars 2 and 3 are within the scope of the assignment. However at times there is no clear-cut distinction for some kinds of pension plans having for example, partially mandatory contributions etc.
- Ensure that definitions in the report are clear. e.g. pure occupational pensions could also entirely be private (like IRAs in the US).
- Regarding the scope of the assignment, the reference to France is not clear (p. 10). There are pension funds in France but they mostly fall under insurance regulations.
- The section on net returns (p. 43) should express amounts in real terms rather than nominal terms to take account of inflation.
- An FSUG member offered to provide input into the survey for the French regulator.
- An FSUG member asked Oxera how it intended to compare defined benefit with defined contribution schemes in its assessment of how adequate minimum returns are.
- One member asked Oxera to address the potential risk that citizens who reach pensionable age would fall below the poverty rate due to deficiencies in the pension systems. This could be part of the adequacy assessment.
- When dealing with the level of charges and charge structures the report should also address certain hidden costs, such as back-loaded charges in life assurance products.
- An FSUG member asked whether Oxera expected also to be able to cover gender issues as part of the assignment.
- Another FSUG member pointed out that the adequacy assessment will depend on the definition given to determine minimum benchmark requirements.
- Finally, the issue of how to define a dominant product in a domestic market was brought up. The question focussed on whether the report would also include life insurance products as well as pension products.

### **First discussion on the content of the 2012 FSUG priorities reports**

- Financial supervision and sanctions (Mr Mick McAteer)
- Alternative providers of financial services (Mr Bernard Bayot)

In the context of 2012 FSUG priorities, a member of the FSUG presented the ongoing draft concerning 'Alternative providers of financial services', and thanked the subgroup members for their contributions to the draft paper.

A discussion ensued where group members expressed different views. There were a number of suggestions, including to write a rationale of what the paper will be, a typology of alternative providers of financial services, and a definition of profit-oriented and social-oriented providers. The paper should cover all potential providers of financial services paying special attention to marginal segments, including for instance peer-to-peer websites, SMS banking, insurance.

**State of play of the Mortgage Credit Directive** – presentation by Ms Jennifer Robertson (Internal Market and Services DG/H3)

Ms Robertson presented the state of play of the Mortgage Credit Directive. She reminded that the proposal for a *Directive on Credit Agreements relating to residential property* (mortgage credit) had been adopted by the Commission on 31 March 2012. The proposal has two objectives: 1) to create a single market for mortgage credit with a high level of consumer protection, and 2) to promote financial stability by ensuring that creditors, intermediaries and borrowers act in a responsible manner to prevent overindebtedness, defaults and foreclosures.

She informed that a general approach had already been reached in the Council in May, and that the ECON Committee of the European Parliament had adopted its report at the beginning of June. Following that, a trilogue involving the Council, the Parliament and the Commission, is planned to start in July with the objective to negotiate the scope of the proposal.

She explained that the Council introduced several amendments to the Commission proposal. For instance, it extended the Commission proposal to equity release loans, and introduced exemptions from certain articles for Member States which, according to the Commission, should only be allowed when justified.

On the other hand, the European Parliament has proposed new articles concerning, e.g. ban on tying, financial education, foreign currency loans, portability of credit agreement from one property to another, foreclosure harmonisation, etc. It supported the Commission with regards to the proposed measures on early repayment, however, favouring creditors' right to fair and objective compensation.

**Reviewed FSUG strategy paper** – discussion based on the comments collected by Mr Nikolaos Daskalakis (FSUG member)

The lead member within the group presented a second draft of the FSUG strategy paper that was amended to take account of suggestions made by group members in the first round of consultation. The paper described the core objectives of the group, inspired by the FSUG's terms of reference. It then developed ideas within the context of the objectives of the group, falling within three pillars. These comprised: 1) ensure institutional sustainability of user representation; 2) enhance the recognition of the group's work, and 3) ensure feedback loops with Commission policy-making.

A member of the group noted that the paper proposes a proactive agenda as opposed to the Commission's request to contribute opinions. As a result, it would be wise to have some timeframe within which to develop some of these ideas and set some targets. Other members noted that the current work of the group already uses up a significant amount of time and furthering the scope of the group's activities may prove to be difficult to handle. On the other hand, there were a number of members of the group that considered it essential for the work of the group to last and be available in the future. For this purpose, many members of the group agreed that it was necessary to have a proper communication strategy.

A member of the group noted significant improvement in the second draft of the paper when compared to the first version. The member disagreed with the idea brought forward by a number of members to set up a compendium of papers authored by the FSUG including, opinions or contributions to Commission requests. He noted that while some of these papers that had a longer-term perspective could add value to future policy-making, other contributions were more time-bound and are obsolete.

Another member argued that an FSUG strategy should focus on areas where dissemination is more essential, such as in the case of studies carried out on behalf of the FSUG. This would be the most effective way for the FSUG to gain recognition outside the Commission.

Other members noted that as part of its remit, the FSUG's work could be provided to national organisations.

The lead member of the group agreed to integrate any further written comments to the paper in order to finalise it and submit it to the Commission for comments.

**Follow-up on the state of play of the 2012 FSUG research studies** – by Mr Maciej Berestecki (Internal Market and Services DG/H3)

Mr Berestecki informed that the tender procedure for the FSUG research study on remuneration structures of financial intermediaries had been launched recently, and the Commission is currently awaiting proposals from potential contractors. The deadline for submission is beginning of September. Following that, the proposals will be duly evaluated and the contract will be signed with the selected contractor before the end of 2012.

The Commission has also accepted another FSUG proposal for the research study to be launched before the end of 2012, on the ownership of the EU-domiciliated listed companies. The terms of reference are to be drafted by the FSUG, and sent to the Commission in the second part of July. It is planned that they will be finalised in the first part of September, and the negotiated procedure launched immediately after.

### **Tuesday 3 July**

**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 started her oral presentation by providing an update of the state of play of negotiations in the Council and Parliament with respect to the ADR and ODR proposals. While discussions in the Council progressed under the Danish Presidency concluding on a general approach, discussions within Parliament were still ongoing at the time the meeting took place, and a vote in the IMCO committee was due the following week.

She described the main elements of the Council's general approach. The Council's position would exclude some (industrial) sectors from the scope of the ADR proposal. It would also modify the provisions aimed at ensuring the independence of ADR entities and disclosure requirements for traders.

Regarding the ODR proposal, Ms Russo noted that the discussion in Council had been helpful in clarifying the functioning of the ODR platform, and improved the Commission's proposals. Discussions in Parliament touched on the more fundamental issue as to whether the scope of the ODR platform should be extended to cover domestic transactions, while the Commission proposal covered only cross-border transactions.

Ms Russo concluded by recalling the procedural sequence of events in Council and Parliament that would lead to adoption of the proposals.

**Feedback on the FSUG response to the consultation on bank accounts** – presentation by Mr Christopher Gauci (DG Health and Consumers/B4) and Mr Maciej Berestecki (Internal Market and Services DG/H3)

The Commission staff opened the session by thanking the FSUG for a very comprehensive reply to the public consultation. The oral presentation aimed to provide initial feedback from the responses to the consultation, and link it to the issues raised by the FSUG in its own response. Since the analysis of replies had not yet been completed, it was not possible to provide a comprehensive view of the content of replies at that stage.

The consultation did not focus on the area of access to basic bank services given prior public consultations. In addition, the follow-up to the Commission Recommendation was being carried out concurrently with the public consultation. The opinions expressed by different stakeholder groups to the questions dealing with access were generally quite polarised; either indicating that existing arrangements in Member States were appropriate to provide adequate access to basic banking services or that the right to a basic account should be inscribed in legislation.

On actions to facilitate comparison and set up presentation requirements for bank fees, the Commission highlighted the scepticism shown by different stakeholder groups on the effectiveness of representative examples and personalised cost simulations as tools to improve fee transparency. This was mainly due to the inherent limitations in standardised usage profiles, whether as a result of bias in their setup or due to possible divergence with actual usage patterns of consumers.

Another issue that was brought up by several stakeholders was the risk of overburdening consumers with information, which may then limit its effectiveness. As noted in the FSUG's response indicated that the burden of transparency should be placed on consumers' ability to acquire financial skills.

The Commission staff indicated that interesting input was being considered in further detail, in particular, the links between ex-ante and ex-post information disclosures, and the standardisation of terminology for core fee terms.

Regarding bank account switching, stakeholders expressed divergent views on some main issues, including the extent to which the domestic switching services based on the Common Principles operate as intended, whether they should remain voluntary or, would better be implemented through legislation and how relevant the issue of cross-border switching is.

**Draft chapter on the lessons learnt from the FSUG meeting in Madrid** – presentation by Mr Nikolaos Daskalakis (FSUG member)

Mr Daskalakis presented a summary of the paper, the main lessons learnt during the meeting held in Spain. He pointed out that the paper is the result of contributions made by several members and thanked them.

The paper refers general agreement among the group that external meetings are invaluable opportunities to deepen the group's and the Commission's understanding of links between domestic issues for users of financial services, and a broader European perspective. In particular, the meeting in Madrid highlighted the mortgage credit crisis and difficulties faced by public authorities in responding adequately to the crisis, taking account of end-users of financial services. The meeting was also an opportunity to make relevant comparisons with similar situations in other Member States, given the broad country experience within the FSUG.

The group agreed to attach the paper in annex to the FSUG's annual report for 2012. The title should change to 'Consumer perspective on the financial crisis in Spain'. The group also suggested publishing the paper on the FSUG website.

**European Commission proposal on bank recovery and resolution** – presentation by Mr Hannes Huhtaniemi (Internal Market and Services DG/H4)

Mr Huhtaniemi explained that the EU framework on bank recovery and resolution is necessary to ensure effectiveness and coherence in how Member States deal with failing banks and to strengthen the Single Market. A specific resolution regime is required in particular to maintain financial stability by ensuring the continuity of critical banking functions which are in the public interest, minimise costs for taxpayers, and ensure losses borne by bank shareholders and creditors, as well as to avoid disorderly insolvency.

Therefore, a comprehensive framework has been proposed based on three pillars of preparation and intervention: 1) prevention (banks and authorities to anticipate problems before they occur), 2) early intervention (authorities to act before problems compromise bank's viability), and 3) resolution (authorities to restructure failing banks and preserve critical functions). The proposed framework is also flexible enough to allow for a range of tools and powers to be applied by national resolution authorities proportionately depending on different types and sizes of banks and in different types of crises.

The proposal defines when a bank's resolution can be triggered, and provides for key resolution principles, such as minimise use of taxpayers' resources, managers must be replaced, essential functions should be safeguarded, no forbearance, market/fair value as a driver to all actions to be taken by the authorities (independent valuation), recognition of losses at the point of intervention, right of compensation on the basis of liquidation value, etc. It also proposes four main resolution tools: sale of business, bridge bank, asset separation and bail in.

In all phases of preparation, recovery and resolution of a bank, extensive cooperation between national authorities facilitated by the EBA, has been foreseen. Further, the framework has been prepared in synergy with deposit guarantee schemes. It is to achieve a balance for a healthy banking sector with robust oversight, and it is also a critical component towards the banking union. Following the adoption of the proposal by the Commission in June, the Council and the Parliament will now start working on the text.

**High-level Expert Group on reforming the structure of the EU banking sector** – presentation of the Group's objectives and feedback on the FSUG response to the consultation by Mr Mattias Levin (Internal Market and Services DG/H1)

Mr Levin informed the FSUG that the Commission received a high number of responses to the public consultation and indicated that they were still being analysed. He also mentioned that, given that the group's conclusions were only due to be issued after summer, it was too early to determine what the final outcomes would be, or to provide any indications thereof.

As a result, the presentation focussed on the group's activities since inception in February 2012. Firstly, it was necessary to obtain an understanding of aspects, such as banks' business models or their funding structures, in order to establish how the banking system operates in the 27 Member States, and to that effect the group met with a number of different stakeholders (e.g. banks, users, investors, academics and policymakers). Mr Levin also referred to the group's composition and to a number of meetings it held since its creation.



A discussion ensued within the FSUG which focussed on the balance of different stakeholder groups within the group's composition. Some members of the FSUG raised concerns about the transparency in the appointment process of groups of experts set up by the Commission. Generally, the FSUG felt that the group may lack sufficient representation from users of financial services.

**Feedback on the overall results of the consultation of the Green Paper on card, internet and mobile payments** – presentation by Mr Gerd Heinen (Internal Market and Services DG/H3)

Mr Heinen informed that the feedback summary statement as well as individual responses to the consultation, including the one from the FSUG, had been published on the Commission website. Altogether more than 300 responses were received from stakeholders with ca. 50 % coming from providers of payment services, 30 % from users of payment services, and the rest from other contributors, such as public authorities, consultants or academics.

The respondents commented on a broad variety of issues referred to in the Green Paper. On the basis of the consultation feedback and a public hearing held on 4 May, the Commission plans to announce next steps, including those areas where further action is required as a priority, in the course of September 2012. Legislative proposals, if applicable, would be adopted in the first half of 2013.

An FSUG member raised the issue of accessibility of certain society groups (e.g. elderly) to different means of payment. She stressed that all payment instruments must be designed and developed in an appropriate way so that everybody is able to use them.

**Consumer Agenda** – presentation by Mr Olivier Micol (DG Health and Consumers/B6)

Mr Micol explained that the Consumer Agenda is a joint initiative of Commissioners Reading and Dalli, but it also includes the contributions from other Directorates-General, such as Internal Market and Services DG. It is a horizontal policy paper where the EU policy is looked at from the consumer perspective. It outlines four principal pillars of the consumer policy:

- safety – product safety
- knowledge, information and education of consumers – how can consumers navigate in new markets
- public and private enforcement
- putting consumers' rights in social and technological developments.

The document also refers to two key challenges running through the four pillars: sustainable consumption (food, energy, transport), and vulnerable consumers (also in financial services). The Consumer Agenda is the Commission Communication presenting its activities in the area of consumer policy from now until 2014.

The FSUG members were disappointed that the Consumer Agenda does not dedicate sufficient attention to retail financial services, which is one of the most important and detrimental sectors for consumers.