



Meeting of the Financial Services User Group

09-10 December 2015

MINUTES

1. **Tour de table on Members' activities of FSUG interest, including participation in events on behalf of FSUG, update on identified consumers' risks or detriments as early warnings which could potentially be reported to the Commission and ESAs.**

SK The new banking account at a monthly charge of 3 euro, in line with PAD requirements, was adopted and will be introduced in January 2016. However, two conditions need to be satisfied: a) consumer needs to prove that they have no additional bank accounts; and b) they don't exceed certain income threshold. Otherwise the bank account is very similar to the typical bank account. The average fee for bank account is 6,3 euros, thus the new proposal is twice cheaper.

The mystery shopping study has been finished. The conclusion is that in most cases for non-banking institutions providing consumer credit it is very hard to obtain any kind of pre-contractual information. More interestingly, the banks are adopting similar behaviour – they refuse to disclose pre-contractual information prior to signing of the contract. The results of the study should be presented at the next meeting of the FSUG.

BE Two important matters: Two of the most important banks in Belgium announced a large cut of employees. The second issue relates to the study of the Commission on the indebtedness. The results suggest that there is a risk of default of many households in Belgium. New mortgage reform introduces standardised form relating to mortgage credit and personal situation of the consumer, however, there is no indication of the moment when this form needs to be provided. In Belgium the usual practice is to pay before receiving the credit offer and in this respect being offered a comparison table afterwards is unhelpful. What is included in the APR is not very clear. There is a draft law which allows the lender to prohibit by-products which constitutes large part of the costs. And this amendment is to be welcomed from the consumer perspective. Nevertheless, it is to be seen whether it will be passed by the parliament.

PL a conference in Poland on financialization (an increase in the size and importance of a country's financial sector relative to its overall economy) which is deemed a very promising area from consumers' perspective.

There is still high activity of the Office for Competition and Consumer Protection with regards to the topic of the cancellation fee imposed by insurance companies. There are ongoing negotiations on how this can be decreased – quite successful, some companies decided to scrap the fee altogether.

RO The Parliament recently approved 100% *datio in solutum* – unconditional (unlike in Spain). The bankers are furiously against the law. It is to be seen whether the law will be passed (it can still be sent back to the Parliament for another review). The general perception is that such law is necessary. If it's not promulgated in the current state, it will be adopted

with some conditions in spring. The law will force the banks to genuinely negotiate with consumers and perhaps offer discounts for outstanding debt. Alin was also part of the mystery shopping exercise dealing with a Forex broker registered in Cyprus (exercising passporting rights in Romania) against which a warning has been recently issued by the ASF because ASF was not notified of its the activities in Romania. Lastly, ASF is trying to adopt better practices with regards to the ADR directive. It is to be seen how successful it will be.

This update triggered a discussion on exploitation of passporting rights and inability of local supervisory authorities to enforce the rules against toxic behaviour of certain entities – could be the subject of the next year's research.

SI Transposition of MCD and PAD caused many issues. It has become evident that the government is delaying the public hearings. On the MCD the hearing has started, however, the proposal is very unclear. The MCD allows for lowering of the level of consumer protection in certain areas and the government is willingly using these provisions. On the PAD, the banks opinions were taken into account before the public hearing was even launched.

SK is also adopting a new law transposing the MCD and they are trying to keep in place the 2-months notification period for early repayment, because previous national legislation provides for a higher consumer protection standards

EL Third recapitalisation of Greek banks took place last week which made their share prices plummet. The government is offering private capital, yet it is not known who the buyers could be. The whole situation translates into huge losses for the Greek consumers.

UK a recent initiative by the FCA which has published an invitation for contributions on the consultation on SMEs as users of financial services. The question is whether the FSUG should submit their contribution. Despite focusing one jurisdiction, it could be a case study for the Group. Members discussed redress mechanisms for the SMEs, misselling scandals that affected SMEs etc. It is unusual for the FSUG to participate, but it could be an important learning experience. As an alternative, it was suggested that rather than participating, the Group could use the questions in the FCA consultation to produce a framework for the European standards.

As a second point, the Parliamentary Commission on Banking Standards proposed a regime which would hold the executives liable for the activities over which they had responsibility, even though they did not have knowledge on what has been happening. The pressure from the banking lobby made the proposal return to the Parliament for discussion.

Finally a study bank lending and bank profitability in the UK was mentioned which looked at large banks and small banks and the contribution to profit from lending. Similar study was conducted in the US with similar conclusions (“Too big to care”).

NL Two weeks ago, ABN Amro was reintroduced into stock exchange, however, the prospectus is really unintelligible, despite the Prospectus Directive being currently discussed. Some statements on BP case have been made. No litigation is pending in Europe and the Dutch courts will probably rule next year that they have jurisdiction to adjudicate on the matter for non-US investors.

VW is still in the headlines. Written summons are ready and will be served by the end of the year. The prospects of success are very high.

Another member mentioned a new product being introduced in the US - stock pile which resemble a gift card – for example a 50\$ Apple stock “card”. It will be interesting to see how it will work.

FR France adopted new rules to benefit cancer survivors. Those who are cancer-free for 10 years no longer have to inform the insurers of the cancer. For others, it is limited to 5 years

following the end of the treatment. There was a debate in the Parliament to extend the rules to other diseases, but it was not eventually adopted.

IT The government is changing the regulation on equity crowdfunding. Last summer, the consultation has been launched on the possible amendments. On 3rd December, CONSOB published new draft regulation (30 days consultation period). The regulation tackles 4 issues: 1) following MiFID II, new category of *professional investor on request* is introduced; 2) there is no MiFID II exemption for crowdfunding portals from risk insurance, thus all portals need to have such insurance in place; 3) the government wants to set up paperless investment procedure. As a result, CONSOB wants to increase its supervisory control towards the platforms; 4) The draft regulation makes no reference to the Prospectus Directive. So it is not known whether the published prospectuses will need to be updated in line with the Directive. Two weaknesses: a) difficult to know how the portal can survive with so many added costs and little revenue and nothing is done in terms of criteria for setting up a portal; b) no mention of potential exit market for investment.

UK Sustainability of regulation – the industry is arguing that too much regulation negatively affects innovation and competition and the FSUG needs to be careful with its response. UK government is clamping down on immigrants and is forcing the banks to adopt very strict procedures which mean that many people will be denied access to account/loans etc. FCA published a recommendation on insurance premiums which is aimed at reminding the consumers that they can switch in order to avoid raising prices of premiums. The Regulator introduced remedy for cash savings accounts in response to the very low rates. But they did not go as far as in Belgium.

2. Update on research projects – financial guidance and pension decumulation.

The Commission representative updated the members on financial guidance and pension decumulation research projects. The tender was about to be finalised. The letters for both have been sent. In mid-January both studies will be launched and carried out in parallel. For financial guidance, Anne was put in charge of finalising the list of stakeholders to be interviewed by the contractors based on the contributions from the members.

3. 2016 Research – discussion about the objectives and tasks for the 2016 research project and preparation of the technical specification.

The work on enforcement and better regulation is on-going. The research proposal should be completed by the end of the year 2015 and submitted to the Commission. Second research project was abandoned due to time constraints.

4. Enforcement and better regulation – up-date on the survey and data gathering exercise; the first discussion about objectives and tasks for the contractor and preparation of the technical specification on the basis of.

The latest version of the paper has been distributed to the members. The paper is divided into 3 parts: drawing comparable data on consumer detriments across Members States. Two studies in this context were conducted: on mortgage credit in CHF and life insurance. In second part compares data on the supervisory capacity and mandates. Third part draws attention to the main supervisory failings in order to create the framework on how the supervisory practices could be improved.

The paper is almost finished; it requires final improvements in terms of referencing and formatting. Some contributions from the Commission would be welcomed in order to strengthen the conclusions of the study.

Some members remarked that it was important to distinguish between supervision and regulation and reflect this difference in the title. Marcin pointed out that nowadays in many

countries there are so-called “soft” regulations, issued by national regulators and non-binding, which however entail sanctions when not complied with. It needs to be noted that there are such regulations and whether they are effective or not.

Of further interest would be an examination of the passporting rights of the investment firms registered in Malta, Cyprus, Ireland and Luxembourg notified under MiFID. Two aspects could be scrutinised: a) what kind of problems did consumers encounter with such investment firms; b) how many of them are notified in the host Member State.

Example: out of 1425 foreign investment firms notified in Slovakia, 1128 are authorised in the UK, 116 authorised in Cyprus and 181 come from the rest of the world

It was suggested that the paper should be published before the launch of the research project in order to scope the extent of the problem which would be further developed by the research.

5. Discussion on the Green Paper

The Commission representative briefly summarised the development with regards to the Green Paper, its adoption and further steps. The Commission thanked FSUG members for their contributions and invited further insights on the questions asked in the GP. The Commission representative drew attention to the fact that since the attacks in Paris, the global context has changed. The EU has been pushed to take action against terrorism financing. These developments may potentially contradict some of the objectives of the GP which will need to be addressed. In this context one member recalled the limitations placed in the UK on access to bank accounts for the immigrants, which is influenced indirectly by the Paris attacks. Martin emphasised the importance of being clear what the arguments are so that any recommendation from the FSUG already provides some counterarguments.

6. Finalisation of the letter regarding the elimination of past performance disclosure of PRIIPs and their benchmark in the KID.

It was decided that the letter would be sent in its current form, with a separate document being circulated to the supervisory authorities on how to use past performance disclosure.

7. Decision about the 2016 external meeting of the FSUG

It was decided that **the external meeting would take place in June, in Berlin (specific dates tbc).**

8. Call for Evidence: EU regulatory framework for financial services

Members discussed the draft replies to the single questions of the Call for Evidence in the field of financial services. They voiced some concern over the wording of the document, as it is not balanced enough, for instance as it only contains reference to unnecessary burdens while not asking for positive examples. They fear that this might attract more stakeholders in favour of deregulation, as costs of compliance with recently adopted legislation are easy to prove while benefits are difficult to measure. Contrary to what they had decided in October, they agreed to also reply to Q5. Members are to send contributions to the replies they are interested in by the 17/12, with the Coordinator tasked to forward the draft FSUG contribution by the 23/12 (tbc – timing might be revised as the deadline was extended from 06/01 to 29/01)

9. Presentation of the consumer testing study for PRIIPs

DG FISMA presented the PRIIPs consumer testing study, conducted in 10 member States and combining both quantitative (on-line surveys) and a qualitative research (focus groups)

sequenced in two phases with the use of a pilot sample. When testing the risk presentation, simple horizontal presentation was perceived as more user-friendly than complex one, as for consumers less information seems to be more appropriate. The challenge is to convey to consumers that the level of risk might change and there is always the risk (although in some cases unlikely) to lose all the investment. Tables showing the net performance worked better than graphs in presenting performance scenarios, but still it is difficult to convey information on the likelihood of these scenarios. As for costs, single indicators are better than tables, even though such information is always a bit difficult to understand. Once again, from a consumer standpoint, less information is more.

10. New consultations

- EUVECA/EUSEF
- Covered Bonds
- Joint Consultation Paper on PRIIPs key information for EU retail investors