



MINUTES

FIN-NET (VIRTUAL) PLENARY MEETING

26 APRIL 2022

1. Welcome by the Commission and approval of agenda and minutes

The chairperson welcomed the participants. She also welcomed two new members, Evripides Hadjinestoros from the Cyprus Consumer Center for Alternative Dispute Resolution and Jennifer Lygren from the Swiss Financial Services Ombudsman (FINSOM). The assembly tacitly approved the draft agenda of the ongoing meeting and the minutes of the previous one.

2. Nature of the meeting

Meeting restricted to FIN-NET members and affiliates.

3. List of points discussed

3.1. Fraud prevention in the sale of crypto-assets

A representative of the European Commission (EC) presented the main aspects of the Market in Crypto-Assets (MiCA) legislative proposal. He introduced the context, he explained the scope and he outlined the main policy choices of the Commission, knowing that the proposal is currently under negotiation between the co-legislators. A representative of the Austrian Financial Markets Authority reported the experience with such frauds in Austria, and the initiatives taken to prevent them. The mediator of the French Authority for Financial Markets reported her experience and the solutions she could adopt following the French legislation on this matter. All presentations sparked interesting questions aimed at better understanding the replicability of certain decisions and provisions in other jurisdictions, hoping to block this issue from becoming a mass phenomenon.

3.2. Presentation by the Maltese ADR of recent decisions on pensions and responsibilities of pension trustees

A representative of the Maltese Arbiter for Financial Services presented a decision taken recently on the responsibility of trustees of private pension schemes. The Arbiter had joined 39 out of the 55 complaints raised against the same provider, and attributed to the trustee, more than to the retirement scheme administrator the responsibility for the facts that had given rise to the complaints. It was a difficult decision due to the nature of the investment decisions taken by the fund. After the appeal, the decision of the Arbiter was confirmed.

3.3. Presentation of initiatives to enhance transparency and understanding of published decisions of ADR bodies

The Italian Arbitro Bancario e Finanziario (Banking and Financial Arbiter) shared an initiative taken to better comply with the effectiveness and transparency requirement of the ADR directive. They selected some decisions to identify the principle of law and published them on the website, classing them by subject matter. The idea was to make such decisions more transparent and enhance their understanding.

3.4. Issues related to payment accounts with basic features

The Finnish Financial Ombudsman Bureau reported the issues found in applying the provisions of the Payment Account Directive regarding the payment account with basic feature, combined with lists of people subject to international sanctions (notably the US Office of Foreign Asset Control – OFAC - Specially Designated Nationals – SDN list). While the opinion of the Bureau was that the PAD provision should prevail, a minority in the Board argued that it would be a very high risk for the banks, who indeed exceptionally refused to comply. A court is still deciding on such cases.

4. Next meeting and AOB

The next meeting is scheduled to take place on the 24 November.