



# **FSUG Annual Report 2012**

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## FOREWORD

We have the privilege of introducing the second report of the Financial Services User Group (FSUG). The FSUG was set up by the European Commission to improve the level of user representation at the heart of the EU policymaking process. This report describes the activities of the FSUG from November 2011 to October 2012.

As the report shows, the FSUG has had a busy year to date producing nine opinions in response to the Commission's request for advice as well as a range of own proactive opinions and initiatives, and communication and engagement with a range of policymakers and opinion formers.

FSUG opinions covered a wide range of issues across the whole spectrum of financial services from financial stability and prudential regulation through to consumer and investor protection including: alternative dispute resolution (ADR); FSB principles for sound residential mortgage underwriting practices; the green paper on progress towards an integrated European market for card, internet and mobile payments; the green paper on shadow banking; reform of EU banking sector structures; bank accounts; insolvency law; market manipulation and lessons from the manipulation of LIBOR/EURIBOR; and UCITS VI/long-term investments. We would like to express our thanks to my colleagues who led, and participated in, the various sub-groups who prepared the opinions for the FSUG.

Furthermore, as set out in last year's report we began major research projects on: the position of savers in private pensions; protecting consumers in financial difficulty: mortgages, repossessions and personal bankruptcy; and remuneration structures of financial services intermediaries and conflicts of interest. The final reports are due to be published in 2013.

Moreover, we would like to mention two new FSUG initiatives – the *FSUG Risk Outlook*, and a series of papers entitled *Making Financial Markets Work*.

The Risk Outlook is intended to alert policymakers and regulators at EU and national level to the potential detriment financial users face in the new economic reality defined by the confluence of damaging, post-financial crisis economic, commercial, and financial market trends. Dealing with the new economic reality needs a new regulatory paradigm. Policymakers and regulators at EU and national level must move away from the old, permissive, reactive response to market failure and adopt a new early interventionist approach based on anticipating and pre-empting risks and detriments. We hope to make this a regular publication which we will use to challenge the relevant Commission departments and European Supervisory Authorities (ESAs) to take action to protect the interests of financial users. We also hope that financial user representatives and civil society groups at EU level and in Member States will find this risk outlook useful for their own activities. Quite often a detrimental practice in one Member State will be copied in other Member States so we hope this risk outlook will be helpful as an 'early warning system' for representatives.

The Making Markets Work initiative sets out an alternative model for creating fair, efficient, accountable, and transparent financial services. The ultimate goal of any reform should be to create a system that penalises detrimental market behaviours and practices and rewards positive behaviours and socially useful innovations. This requires a new approach to regulation, improved standards of corporate governance and ethics within financial institutions, and market forces that align the interests of owners, managers/employees, and customers of financial services – this in turn requires effective competition that works for financial service users and the owners of financial institutions acting more responsibly and taking a more active interest in the behaviours of the financial institutions they own. The first

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paper in the series called *New Model Regulation* argues for a new regulatory paradigm, a profound change in regulatory philosophy and proposes a new regulatory model which we believe would be more effective at understanding why markets fail and identifying effective policy interventions to make markets work. This will be followed by a second paper called *Financial Supervision and Sanctions* which focuses on the practical implementation of regulation. The third paper, *Financial Regulation, Innovation, and Competition*, challenges the view that regulation stifles financial innovation to the detriment of financial users and shows that regulation can be used to reward positive behaviours and real competition.

We want to start a new debate on how to regulate financial services so we hope this series of papers will be of interest to policymakers and regulators at EU and national level including relevant European Commission (EC) policymakers, the European Supervisory Authorities (ESAs)<sup>1</sup>, and national regulators. The reports will also be of interest to stakeholders such as consumer and investor groups, civil society groups, think-tanks and academics who have a stake in making financial markets work for financial users and society.

FSUG meetings are usually held in Brussels. However, as part of our wider engagement approach, we make a point of holding one of our meetings in a Member State to listen directly to public interest representatives. Last year we held the meeting in Athens, this year in Madrid, and we heard about the experiences of ordinary citizens and businesses affected by the devastating social and economic crisis that has followed the financial crisis. These visits provided a salutary lesson on how failures in the financial system can wreak havoc on the real economy and why financial services need to be properly regulated.

Over the next year, we will be producing a number of challenging new pieces of work on rights led regulation, the plight of smaller shareholders, and democratic finance.

The issue of rights led regulation is introduced in a special feature entitled *FSUG charter of financial users' rights in financial services: a case for a framework of fundamental right-led approach and co-governance* by Catherine Garcia Porras, Federico Ferretti, Bernard Bayot. This is a very important feature as it discusses the rationales and objectives of the regulation of retail financial markets and challenges the current rationale for regulation which is based on market failure. The authors propose an alternative approach based on the concept of respect for the fundamental rights of consumers as individuals, and a right to regulatory inclusion and protection of users of financial services. It is critical that we (policymakers and civil society representatives) engage in fundamental debates such as this as well as respond to specific issues.

Finally, we would like to thank the staff from the Internal Market and Services DG, and the Health and Consumers DG who presented initiatives to us. We would especially like to thank Maciej Berestecki from Internal Market and Services DG, and Christopher Gauci from Health and Consumers DG for their invaluable guidance and support throughout the year.

**Mick McAteer**  
Chair, FSUG

**Guillaume Prache**  
Vice Chair, FSUG

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<sup>1</sup> European Banking Authority (EBA), European Securities and Market Authority (ESMA), and European Insurance and Occupational Pensions Authority (EIOPA).

### ABOUT THE FSUG

In its White Paper on Financial Services Policy 2005–2010, the Commission stated that it attached great importance to ensuring proportionate user representation in the policy making. In the Communication for the European Council – *Driving European Recovery* – the Commission put the interests of European investors, consumers and SMEs at the centre of the financial market reform.

As a measure to achieve these targets, the Commission set up a Financial Services User Group (FSUG). The Group's task is to:

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

FSUG has 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.

FSUG meets eight times a year in Brussels and its Chair is elected from amongst the group members. The Commission (jointly Internal Market and Services DG and DG Health and Consumers) provides secretarial services for the Group.

The Group 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, individual members may register a minority opinion.

## FSUG RESPONSES TO EUROPEAN COMMISSION REQUESTS FOR OPINIONS

From the start of the year to the end of October, FSUG produced 14 responses to Commission requests for opinions plus a range of own opinions and communications.

### *Use of ADR*

At the end of 2011 the European Commission adopted a proposal of regulation and a proposal of framework directive on the use of ODR and ADR schemes. To ensure that the interests of consumers of financial services are taken into account in these legislative proposals, FSUG had previously formulated a number of recommendations:

The independence, transparency and quality of ADR schemes will be strong incentives for consumers to make use of them.

Main principles for ADR schemes must be:

- Taking part in an ADR scheme should be mandatory for providers.
- Having as few ADR schemes as possible in the financial services area in order to reduce confusion among consumers and allow for an easier, more direct 'one stop' access.
- Guaranteeing independence and neutrality of ADR schemes and involving consumers' representatives including at board level; each ADR scheme should be obliged to issue a comprehensive periodical report on its activities.
- Procedure: consumer complaints must be decided without undue delay; limitation period has to be suspended; ADR decisions should be binding on provider but not on consumers who must be able to court action at any time; sanctions have to be foreseen if providers do not follow the binding Ombudsman decisions; ADR should be free of costs to consumers.
- Information: consumers should not only be informed generally by an information campaign and by pre-contractual information about the possibilities, the procedure and the financial and judicial consequences of a complaint, but also by the provider in the case of a bilateral dispute.

There should also be ODR complaint procedures, mainly for cross-border e-commerce complaints, by setting up a European platform operating as a single entry point for consumers.

ADR initiative should not be a substitute for a European initiative on collective redress.

### ***FSB principles for sound residential mortgage underwriting practices***

FSUG response to the Financial Stability Board (FSB) Principles for Sound Residential Mortgage Underwriting Practices

For most consumers a mortgage constitutes the largest financial commitment they will ever make. Therefore, flawed mortgage underwriting practices and irresponsible lending have the potential to cause significant consumer harm. The FSUG therefore considers mortgage lending as a priority area for its work and in its response to the FSB consultation called for underwriting principles that not only protect financial markets but also individual consumers.

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The FSUG proposed the introduction of a new principle covering consumer protection to achieve this goal. The new principle should be based on proactive regulation, product intervention and the fair treatment of existing customers.

Furthermore the individual proposed principles need to take greater account of the consumer perspective. Income verification is an important part of the underwriting process. However, currently too much reliance is placed on credit scoring which has limited use in predicting future failure to repay the mortgage. Consumers also need to be given comparable information about mortgages including the impact of future interest rate rises and fees being added to the mortgage.

The treatment of existing customers also requires greater attention. This is particularly relevant with regard to the possible introduction of loan-to-value restrictions for existing customers which can create mortgage prisoners. The principles should therefore set out protections for such customers.

Further improvement to the principles should be made by introducing a requirement for independence of surveyors as well as restrictions around the impact of the pricing of mortgage insurance on the overall cost of the mortgage. In addition, the consumer interest should be protected by the introduction of limits on mortgage arrears and default charges and the requirement to offer appropriate forbearance options. Finally, supervisors should be given tools to take action against inappropriate compensation and incentive structures.

### ***Green Paper 'Towards an integrated European market for card, internet and mobile payments'***

Access to cheap, efficient, accessible and user-friendly, reliable, easy-to-use and secure payment methods is an absolute necessity for consumers. The advent of the internet has necessitated the development of new e-payment methods as alternatives to cash payments. There are now several areas in the payments market where intervention by the European Commission would be welcomed by user groups.

EU legislation would be the most appropriate way of achieving legal clarity on interchange fees. Access restrictions for new entrants into the market for payment methods is another area that should be the focus of Commission attention. An investigation into the possible separation of card schemes and card payment processing to evaluate the effects the current practice has on the end-user of the service would be of interest to users.

Consumers should be given clear information on the cost of using payment services. However, more transparent information is not going to deal with the consumer detriment caused by excessive surcharges. Instead the Commission should directly regulate fees and retailers should always have to offer one widely available means of payment free of charge.

The development of standards has been highlighted as a potential threat to innovation. However, in order to avoid infringements of important consumer principles like right to information, fair access and prices, some rules should be established in a standard as a guideline of general principles that the providers need to follow. Portability of applications and interoperability are areas where standardisation is crucial for end-users. Security is a key issue raised by both consumers and small enterprises. Payment security should therefore be harmonised across the EU at a minimum harmonisation level through a regulatory framework governing all actors involved in the provision of payment services.

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The SEPA initiative plays an important part in the integration of payment markets but the current governance procedures are failing consumers. SEPA governance should be fully revised to ensure that the expectations and requests of all stakeholders are taken into account. Given the general public interest of the SEPA project, only the European authorities should be its driver.

Financial inclusion needs to be considered when the package of measures for the payments market is decided.

### ***Shadow banking***

FSUG in responding to the Consultation on Shadow Banking in May 2012 expressed support for the Commission's endeavours to frame legislative proposals for the regulation of all types of investment and credit intermediation activities operating outside existing regulated banking activity.

While much consumer detriment, economic and societal damage can be attributed to the activities of this parallel, largely unregulated banking system we concur that benefits also accrue by the provision of alternative means of funding provision to the real economy. However we recommend that proactive systems of regulation must be put in place to identify risks, reduce excessive leverage, curtail contamination of the regulated sector through interconnectedness and contagion and to eliminate regulatory arbitrage.

Not only should there be similar levels of oversight, regulation, and compliance requirements across the whole spectrum of both regulated and shadow banking activity in the EU but we also support a drive to 'internationalise' reporting systems and the coordination of standards of regulation in all major markets. There should be established permanent EU processes of monitoring and data collection to identify emerging risks, to quickly understand new activity and to enable the sharing and regular exchange of such information among all EU supervisors, the Commission, ECB, and Member States' central banks and with relevant international regulatory entities.

FSUG is in favour of all necessary policy enactments and follow up actions to eliminate the risks of the shadow banking system subverting orthodox, regulated banking activity. Regulators must also be proactively alert in identifying the emergence of future detrimental trends.

### ***Reforming the structure of EU banking sector***

The FSUG believes that the current and on-going regulatory reforms are necessary to protect the financial system from future turbulence and to minimise the probability of systemic risk. However, the FSUG recognises that regulation does not come without a cost. Invariably it is a trade-off between higher consumer protection and the higher cost to the consumer for services. FSUG believes that at this point in time higher protection should be seen as a priority.

The Central Banks hold public money and their support of the real economy is legitimate and essential to a well-functioning economy. The Central Bank funds, however, should not be utilised to fund other activities of Commercial Banks which include trading in securities, currencies, derivatives, investment banking, asset management and insurance.



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FSUG favours ring-fencing of the retail banking function. This should mean that a retail bank has its own balance sheet, liquidity and funding mechanisms and is governed by an independent board which can be effectively scrutinised and be monitored by the market and regulators.

Consumers rely on the banking system to meet their economic needs. In this context it is essential that the banking system is stable so that deposits are secure and there are efficient ways to transfer money. Consumers have an expectation they should be able to access loans and interest paid on borrowings and savings should be set at a fair level. Unfortunately, there is evidence across Europe currently indicating that consumers are finding accessing funds from banks problematic and at a high cost.

### **Bank accounts**

The key priorities for this consultation were: transparency and comparability of bank account fees; switching between payments account providers; and access to a basic payment account.

#### **Transparency and comparability of bank account fees**

FSUG welcomes the reference to standardised pre-contractual disclosures. However, standardised information disclosure requirements should not be used to shift responsibility from firms to consumers. While standardised disclosure is still in a process of development and experimentation, it should be taken into account the need to reduce the number of elements disclosed, to make the disclosures easier to read, to offer the disclosures at times when they are most useful and reduce the cognitive costs of information processing.

FSUG consider that in general the information provided by banks on bank account fees is not presented to consumers in a sufficiently clear manner and easy to compare between banks. FSUG is of the opinion that two cumulated tools are necessary to further increase bank account fee transparency and comparability: standardised cost simulations to be provided by banks and comparison websites managed by public authorities. All aspects of harmonisation of the tariff brochure, both at European and national level, must be compulsory for banks. They should not be allowed to levy any fees and charges not stated in the brochure.

#### **Switching between payments account providers**

As for any other product and service, a bank or payment account must meet consumer needs both in terms of price and quality of services provided. For these reasons, each time a consumer is dissatisfied with his current provider or wants to make a better deal, he should be able to easily switch to another bank. This is not the case in reality. In order to assess how banks assist consumers with bank account switching and to what extent they offer the switching service as defined in the Common Principles for Bank Account Switching developed in 2008 by the European Banking Industry (EBIC), the Commission contracted a mystery shopping study in 2011. The study concluded that 8 out of 10 shoppers faced difficulties when switching a bank account.

FSUG consider that making the Common Principles compulsory at EU level will ensure more commitments and behavioural changes from the banks. If the Commission ultimate goal is to build a single market for financial services, promote competition, offer wider choice, better quality and more competitive prices to consumers, if basic payment accounts become available to all consumers at cross-border level, cross-border switching should also become possible. FSUG recommend also the following measures: provide better training of bank

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staff, set up account number portability and set a deadline for the closure of the 'former' account.

### **Access to a basic payment account**

Access is the primary consumer principle. Unless consumers have the opportunity to access products and services in the first place then other principles such as choice, fairness, quality, and security do not come into play. Access is particularly important when evaluating the degree of financial exclusion in a market or the consequences of forcing market solutions on consumers. FSUG is of the opinion that, in certain cases, the provision of certain financial services are so important to the financial well-being of consumers that terms of access and provision should be mandated by society. Access to a transactional bank account is a case in point.

FSUG recommend to adopt a legislation which should ensure that any consumer, legally resident in the Union has the right to open and use a basic bank account with a payment service provider operating in a Member State provided that the consumer does not already hold a basic bank account meeting the requirements of Union legislation as specified in these Recommendations in the territory of that Member State. The legislation should ensure also that it is not unduly burdensome for consumers to demonstrate that they do not already hold a basic bank account, and provide for a declaration by the consumer to that effect during the application process.

### ***Future of European Insolvency Law***

The FSUG considers European Insolvency Law to be an important part of future European legislation. The questionnaire accompanying the consultation suggests respondents to express further opinions and gives just a choice between 'Yes' and 'No' and little space for further explanations. Furthermore, there is only one question that is strictly connected with financial services users.

Insolvency law in many European countries gives priority to tax administrations and places them in the most favourable position to recover outstanding taxation liabilities. Individuals, without an expertise and support, are often unable to receive appropriate compensation. That is why European regulations should give priority to the natural person.

There are already examples that there is an arbitrage when it comes to insolvency law. So called 'bankruptcy tourism' is a sign that people move to other countries just to wipe out their debts. There is evidence that some Irish citizens use British courts to write off debt in Ireland just because the British law is more consumer-oriented. On the one hand, it shows that people could find more favourable solutions thanks to freedom of movement while on the other hand, they are forced to leave their country of origin just because it does not provide adequate solution to their financial problems. That is why it is worth seeking to achieve minimum harmonisation also in the area of consumer insolvencies.

### ***Review of UCITS, long-term investments***

This wide ranging consultation covered a number of specific issues including: review of UCITS, product rules, liquidity management, depositary, money market funds; and measures to promote long-term investments and infrastructure funds. FSUG focused its response on the issue of long-term investments and the need for a fit-for-purpose regulatory model to allow regulators to assess eligibility of assets for inclusion in UCITS funds and, more

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generally, the need for the Commission to adopt a more pragmatic, precautionary approach to financial innovation.

### Review of UCITS

We agreed there is a need to review the scope of assets and exposures eligible for UCITS funds. However, we raised serious concerns about the lack of a robust 'ex-ante' regulatory model that allows reviews such as this to be undertaken in a coherent, systematic, objective way. FSUG wants to see successful, innovative markets that operate in the interests of financial users. However, it is important for regulators to understand that not all innovations are necessarily beneficial for financial users – even if these innovations are commercially advantageous for product manufacturers and distributors.

Regulators should not approve additional assets as eligible for UCITS unless there are clear reasons to believe that this decision would produce real benefits for financial users. The Commission (or the market) has not produced any evidence to justify allowing the products, instruments and techniques outlined in the consultation to be included in the UCITS brand. Therefore, we would urge the Commission to evaluate products according to the following model.

Innovation that is economically or socially useful must fulfil certain qualifying conditions:

- It should meet the needs and preferences of financial users more effectively, result in improved functionality/social utility for users, enhance market efficiency and productivity thereby improving the economic or social welfare of financial users.
- It should improve financial security for consumers.
- The externalities and negative outcomes should not outweigh the benefits.
- It should be sold and used appropriately under properly regulated conditions.

Economic history provides numerous examples of how the creative energy of free markets resulted in progressive, economically or socially useful innovations. However, sadly, too many innovations in financial services have not met these qualifying conditions leading to major detriments for financial users and wider society. UCITS has been one of the few genuinely successful innovations in financial services of recent times – successful that is from the financial user perspective. It is critical that the Commission takes extreme care not to: i) damage the interests of financial users by allowing complex, risky, limited value/utility financial products/instruments to achieve a 'halo' effect by being included within the UCITS brand; and ii) in doing so, damage the UCITS 'brand'.

### Long-term investments

The promotion of effective long-term investment markets is crucial for the financial and economic welfare of EU citizens whether in terms of retirement incomes, allocating capital to the most productive economic resources, or creating jobs. However, we expressed our disappointment at the solutions envisaged by the Commission in this consultation. The solutions are not of the magnitude required given the scale of the challenge, and we proposed measures which we believe would be more effective at promoting the long-term markets society needs.

If the Commission wants to promote mutually beneficial long-term behaviours, this requires a range of interventions to: i) discourage destructive short term behaviours and conflicts of interest and ii) promote long-term, mutually beneficial behaviours in the investment supply chain. Unfortunately, most of these important interventions are not addressed in the consultation paper. Therefore, FSUG recommends that the Commission should draw up a coherent reform plan covering the following issues:

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- Efficiency, utility and effectiveness: the investment supply chain and capital markets must become more efficient – the optimum amount of resources (in the form of investors' capital) must find its way to the real economy, investors capital must be allocated to the most productive and sustainable economic uses.
- Improved information: investors need the right information to evaluate and trade off different short, medium and long-term investment decisions.
- Level playing field: end the discrimination of direct long-term investments such as shares (especially small and mid caps) and bonds at the point of sale.
- Agents/intermediaries: the role and effectiveness of the various layers of agents and intermediaries in the investment supply chain must be addressed especially the potential for conflicts of interest and value extraction/destruction.
- Alignment of interests/behaviours: the behaviours of markets must be aligned to long-term public policy goals – this means creating a system of incentives that promote long-term sustainable investment behaviours and deterrents to discourage destructive short term behaviours; a necessary overhaul of the incentives of manufactures (asset managers) and of distributors of 'packaged' long-term products and provision of long-term value protection.
- Governance and accountability: investment managers are in a position of responsibility as they generally look after 'other people's money'. Yet there are unacceptably poor levels of governance, accountability and transparency relating to their operations.
- Investor engagement: creating sustainable, socially responsible, accountable investment markets requires genuine investor engagement with the ultimate owners of capital (whether ordinary shareholders, retail investors, pension fund members, or insurance company policyholders). If the Commission intervened to strip out the unnecessary oversupply, over- intermediation, and over-complexity in the investment supply chain this would result in more transparent and efficient markets leading to a significant reduction in investment supply chain costs. This would then free up resources for enhanced governance and investor engagement.
- 'Fit-for-purpose' infrastructure and investment vehicles: we are unclear as to why the Commission appears to be actively promoting the greater use of private funding for public policy areas without producing the necessary evidence that this would enhance the economic welfare of citizens. However, despite these serious reservations, we do think there is merit in creating long-term social purpose investment vehicles.

### OTHER RESPONSES, INITIATIVES AND COMMUNICATIONS

As well as responding to requests from the Commission, FSUG:

- responds to consultations from other 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.

#### ***European Parliament (ECON) consultation on market manipulation***

The critical role LIBOR/EURIBOR and other benchmark rates play in financial markets and economic activity means that the governance structures and regulation relating to the setting and publishing of these rates needs to conform to the highest standards. The estimates of the value of contracts linked to LIBOR alone ranges from \$300 TRN to \$800 TRN. However, recent events show that the governance and regulation of these benchmark rates is flawed and needs to be fundamentally reformed. A range of reforms are needed to tackle market abuse, minimise the risk of manipulation recurring, and restore confidence in the market. Reforms should cover the following issues:

- **Governance and independence:** our key recommendation is that for the key European reference rates a new, independent Market Rates Oversight Committee should be established under the auspices of the European Supervisory Authorities (ESAs) or relevant national supervisor. This committee should be responsible for oversight of the rate setting process including: the eligibility of participating financial institutions and instruments; the submissions process; the methodology used for rate setting; and the process for the publication of rates. This committee should have a proper balance of representation with a majority of independent, public interest representatives to ensure independence. Clearly, it would not be appropriate for any financial institutions with a commercial interest in rate setting to be involved.
- **Transparency:** as part of the governance reforms, the transparency of the rate setting process needs to be improved. This can be achieved by publicising names of the Committee members and publishing minutes of meetings in keeping with the process followed, for example, by the UK's Bank of England Monetary Policy Committee (MPC). The minutes could be suitably redacted to protect genuine commercial confidentiality.
- **Revised process:** the submission process is flawed and open to abuse. Moreover, rates do not necessarily reflect true market conditions as the submissions are based on the judgment and inference of those making submissions not actual transactions – this can leave the process open to manipulation. Therefore, a standardised, transparent, independently monitored process is needed for overseeing and verifying individual submissions by participating financial institutions. The new committee outlined above should develop and publish a new submission process setting out clear rules for participating institutions with regards to: the responsibilities of employees involved in submitting constituent data; the process for submitting constituent data to the committee; the methodology for calculating the benchmarks; and verification and corroboration of constituent data. There are two possible options for improving the existing system. One approach would be to use actual money market transactions data with the new committee establishing and overseeing a trade reporting mechanism. This would deal with many of the concerns around governance and quality of submitter's judgment. Alternatively, a hybrid system could be introduced.

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The current system – which is vulnerable to manipulation – could be enhanced through the use of market transactions data to corroborate submissions. However, it may be that, following consultation and review, policymakers conclude that LIBOR/EURIBOR are not ‘fit-for-purpose’ and that alternative benchmarks are needed. There are a number of potential alternative rates that could be used including: central bank rates; overnight cash lending rates such as SONIA or EONIA; certificates of deposit (CDs) or commercial paper (CP); overnight index swaps; short term government debt securities; or repo rates. Clearly, each potential alternative would need to be fully evaluated to establish the pros and cons. Moreover, managing the transition to new benchmarks would be difficult given the potential for disruption and the need to renegotiate contracts.

- Internal conduct standards and behaviours: the current system is vulnerable to manipulation and poor judgment. If some form of ‘hybrid’ system is to be adopted then policymakers need to introduce new standards of behaviour for financial institutions and individual employees involved in the submission process (and for other employees such as traders who may stand to benefit from manipulation). These new standards of behaviour should cover: internal governance structures; the submissions mechanism; record keeping and audit trails; compliance and disciplinary procedures. Further consideration is needed on whether ‘Chinese walls’ within financial institutions could ever be made strong enough to prevent manipulation – policymakers may have to accept that Chinese walls may never be good enough in the real financial world and a trade reporting system may be necessary.
- Regulation, oversight, and sanctions: as mentioned above, the oversight of critical benchmark rates should come under the authority of the relevant ESA or national supervisory authority. Moreover, the actual activity of submitting rates to the oversight committee should become a regulated activity meaning that participating financial institutions and employees would be subject to appropriate supervision and be covered by a relevant criminal sanctions regime.

### **2012 Risk outlook**

The purpose of the Risk Outlook is to alert policymakers and regulators at EU and national level to the risks and potential detriment financial users face in the new economic reality caused by the confluence of damaging, post-financial crisis economic, commercial, and financial market trends. Dealing with the new economic reality needs a new regulatory paradigm. Policymakers and regulators at EU and national level must move away from the old, permissive, reactive response to market failure and adopt a new early interventionist approach based on anticipating and pre-empting risks and detriments. We hope to make this a regular publication which we will use to challenge the relevant Commission departments and European Supervisory Authorities (ESAs) to take action to protect the interests of financial users. We also hope that financial user representatives and civil society groups at EU level and in Member States will find this risk outlook useful for their own activities. Quite often a detrimental practice in one Member State will be copied in other Member States so we hope this risk outlook will be helpful as an ‘early warning system’ for representatives.

As experienced financial user advocates, we have considered the impact of the new economic reality on the financial services industry and financial users. From this assessment, we have identified a range of emerging and potential risks and consumer detriments. These are detriments that are not restricted to one sector but appear to be evident in the financial services industry across the board. Dealing with these risks at an EU level requires coordination by the Commission and ESAs if consumer detriment and market failure is to be tackled. These risks will also be evident at industry level within Member States. Details can be found in the Risk Outlook but to summarise these are: transition risks and legacy business models; market inefficiencies; board/senior management

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responsibilities and priorities; culture of regulatory circumvention; basic quality and levels of service; weak system controls; unfair contracts and practices, price gouging; conflicts of interest/mis-selling; aggressive marketing, selling and promotion of products; adviser/intermediary behaviours and competence; information providers and intermediaries; access to financial advice; product design/pricing structures; anti-competitive practices and behaviours; financial 'prisoners'/'captive consumers'; complaints and redress; regulatory pressures; financial supervision; regulatory 'capture'; prudential regulation 'overshoot'; conflicts of objectives of supervisors; increasing financial exclusion and access; technology and risk based pricing; consumer confidence and trust; and financial capability.

### ***Making markets work – New model financial regulation***

A modern economy and society needs an efficient, effective, accountable financial services industry. Policymakers often speak of 'systemically important financial institutions'. But the nature of the services provided by financial markets and institutions means they are also 'socially important financial institutions'. However, following repeated market failures, it is self-evident that financial markets are in need of major reform so they work in the interests of financial users and the wider society.

The ultimate goal of any reform should be to create a regulatory system that penalises detrimental market behaviours and practices and rewards positive behaviours and socially useful innovations. This requires a new approach to regulation, improved standards of corporate governance and ethics within financial institutions, and market forces that align the interests of owners, managers/employees, and customers of financial services – this in turn requires effective competition that works for financial service users and the owners of financial institutions acting more responsibly and taking a more active interest in the behaviours of the financial institutions they own.

Effective regulation is a critical part of the equation. The approach to regulation hitherto followed by regulators has failed on too many occasions to deliver the appropriate degree of protection for financial users or produce the fair, efficient and competitive financial markets society needs. Therefore, FSUG decided to launch its Making Markets Work initiative which sets out an alternative model for regulating the financial sector.

The first paper in the series called New Model Regulation argues for a new regulatory paradigm, a profound change in regulatory philosophy and proposes a new regulatory model which we believe would be more effective at understanding why markets fail and identifying effective policy interventions to make markets work. This will be followed by a second paper called Financial Supervision and Sanctions which focuses on the practical implementation of regulation. The third, Financial Regulation, Innovation, and Competition, challenges the widely held view that regulation stifles financial innovation to the detriment of financial users and shows that regulation can be used to reward positive behaviours and real competition.

We want to start a new debate on how to regulate financial services so we hope this series of papers will be of interest to policymakers and regulators at EU and national level including relevant European Commission (EC) policymakers, the European Supervisory Authorities (ESAs), and national regulators. The reports will also be of interest to stakeholders such as consumer and investor groups, civil society groups, think-tanks and academics who have a stake in making financial markets work.

## FSUG Annual Report 2012

### ***Lessons from Spain – Users' perspective on the Spanish crisis***

FSUG may arrange one of the total eight meetings per year to be held in another Member State, outside Brussels. This year's meeting was held in Madrid, Spain, where representatives of several Spanish bodies of users' interest participated.

FSUG members had the opportunity to listen to Spanish officials and representatives and discuss with them matters related to users of financial services. The core issues discussed refer to the mortgage credit crisis, collective redress and alternative dispute resolution, and other institutional issues. Furthermore, since FSUG members come from different countries, inevitably there were comparative conclusions drawn.

Regarding the mortgage credit crisis, Spain is one of the countries most affected by irresponsible lending practices, which confirms the inadequacy of self-regulation in the financial sector. The very high ratio of 1.55 properties per family should have been a clear warning for policymakers that there was massive oversupply in the Spanish market. Industry and government failed to make self-assessment; however one could also think about consumer associations that could play a bigger role in identifying risks and issue warnings. The Spanish case can be a very good example of the effect of unregulated markets to be used in articulation about the positive effects of regulation.

Regarding collective redress and alternative dispute resolution the implementation of the Spanish redress mechanism is very complicated and the most important ADR scheme – Consumer Arbitration System – is also inefficient for consumers, because a great majority of financial institutions refuse to participate in it.

As regards other institutional issues, FSUG members have identified that public authorities had not been in close contact with non-government organisations like ADICAE. Furthermore, rescue measures seem to concentrate on financial services industry. Thus, the perspective of consumers is underrepresented in rescue plans or even out of consideration. Finally, ADICAE efforts and activities in the benefit of financial services users could be a very good example for other consumer organisations, especially for the new Member States associations.

From a comparative perspective, there seem to be many common trends particularly among Member States that currently face a sovereign debt crisis. Slow judicial systems, low levels of trust in institutions, political paralysis, bureaucratic and expensive public administrations are some of them. On the other hand, every country presents specific characteristics that need to be taken into account. Interestingly, austerity measures on households/consumers are very similar in all countries. Whether similarities among countries outperform country specificities, justifying the application of similar sets of measures is still a question to be answered.

### ***FSUG strategy***

FSUG members have identified that there seems to be a lag regarding the provision of information to financial services user representatives and representative bodies at the European Union and national level, as well as to other consultative groups administered by the Commission.

In this context, FSUG members have created a Communication Strategy that consists of a list of initiatives that aim to efficiently fill any gaps in the group's communication procedure. The group has presented several suggestions to the European Commission that are categorised under the three following groups: 1. Web-based Communication Strategy,



## FSUG Annual Report 2012

2. Communication Strategy regarding Information Dissemination, and 3. Institutional Based Communication Strategy. Some of the group's suggestions are the following:

- The work of all user input groups (FIN-USE, FSCG and FSUG) should be gathered in a unique source of information.
- Information on users' protection for financial services should be easily and clearly available in a well-structured website.
- FSUG has already prepared lists of European and National Organisations and every piece of work that is produced by the group, should be sent to the e-mail addresses of these organisations.
- FSUG should ask for meetings with EC officials to inform them about FSUG's work.
- FSUG should give a presentation once a year to Commission officials and other stakeholders describing what has been done over the year and also setting out key concerns and priorities for the year.

Commission feedback to these suggestions is awaited.

### FSUG RESEARCH PROGRAMME

The FSUG has its own research budget which it can use to commission research on issues it thinks are important to users. We decided to focus on investigating areas in which the position of consumers is weak or there is a lack of transparency. After a prioritisation process, we selected and suggested contracting research studies on the following three important issues:

- the position of savers in private pensions
- protecting consumers in financial difficulty: mortgages, repossessions and personal bankruptcy and
- remuneration structures of financial services intermediaries and conflicts of interest
- shareholders' ownership.

#### *The position of savers in private pensions*

In 2012 the European Commission with the FSUG launched the research project oriented on the overall performance of private pension products from the users' (savers') perspective.

The study follows the statement of European Commission presented in the Green Paper towards adequate, sustainable and safe European pension systems' (EC, 2010).

Millions of Europeans are wholly dependent on pensions. The crisis has shown the importance of the European approach to pension systems. It has demonstrated the interdependence of the various pension pillars in each Member State and the importance of common EU approaches on solvency and social adequacy. It has also underlined that pension funds are an important part of the financial system. We need to ensure that pensions do the job intended of providing the maximum support to current and future pensioners, including for vulnerable groups.

This study is aimed at providing a systematic framework for the assessment of private pension systems across EU Member States, in particular from the perspective of individual savers.

The research project is organised as a two-tier quantitative and qualitative analysis covering the Member States private pension systems. The study covers 14 EU Member States and focuses not only on the organisation of private pension systems, but also on dominant pension products provided for the savers.

In addition to providing a categorisation of the systems from the saver' perspective, the key topics of investigation include the level of risk exposure and the risk management framework in place; the returns, charges and performance of the individual products; and the overall customer behaviour with regard to private pensions.

The study has been commissioned to the research company OXERA, which has submitted the interim report in September 2012. The FSUG has supervised the progress of the research study and has engaged in discussions and directed the research company, and it has submitted comments and inputs on a regular basis. FSUG is working closely with OXERA to produce a final draft, which is due by the end of 2012.

### ***Means to protect consumers in financial difficulty: personal bankruptcy, datio in solutum of mortgages, restrictions on debt collection abusive practices***

In 2011 the FSUG drafted Terms of Reference for external research to be carried out in the area of the protection of consumers in financial difficulty. The aim of the study is to identify all the different legal techniques and best practices to enhance as much as possible the protection of the consumers in financial difficulty in three selected areas – personal bankruptcy, datio in solutum of mortgages, and restrictions on debt collection abusive practice – by carrying out a detailed mapping and analysis of the legal framework and of practices in the following Member States: Germany, United Kingdom, France, Italy, Spain, Romania, Belgium, Netherlands, Czech Republic, Slovakia, Hungary, Poland, Ireland, Austria, Greece, a Scandinavian Member State, a Baltic Member State. The findings of this research are intended to be a valuable tool for the Commission to take stock of the current factual and legal situation which millions of European consumers are facing as a consequence of the on-going financial and economic crisis. The legal findings will help to determine if legal action is needed – and if so what actions are recommended – to protect consumers in financial difficulty, or at least to mitigate the microeconomic effects caused not only by the current high unemployment levels but also by the various other macroeconomic restrictive measures that have been imposed on people by different governmental bodies.

The study has been commissioned to the research company London Economics, which has submitted an interim report and provided a first draft of the final report. The FSUG has monitored closely the progress of the research study and has engaged in discussions and directed the research company, and it has submitted comments and inputs on a regular basis. It is working closely with London Economics to produce a final draft, which is due by the end of 2012.

### ***Remuneration structures of financial services intermediaries and conflicts of interest***

FSUG takes a focus on remuneration structures in financial services intermediation. Various distribution channels of financial services products (for example insurance policies aggressively offered to consumers) will be stimulated not only on the basis of cash-incentives, but also act based on non-cash incentives. Intermediaries (e.g. brokers, agents, investment advisers) and sales force may be motivated by a broad range of instruments (e.g. through positive incentives like travel offers). Apart from (high) sales commissions and aggressive sales targets in bank branches or insurance companies, sales staff positions can give rise to conflicts of interest and cause potential detriment to users. Conflicts of interest may arise from the fact that retail financial intermediary companies are owned by banks, insurance and investment companies. From the consumer's point of view fair and adequate remuneration structures are required which lead to better advice and sustainable products.

The Internal Market and Services DG launched a call for tender for a study on remuneration structures of financial services intermediaries and conflicts of interest in July 2012 (MARKT/2012/026/H). This study will analyse various sales commissions (premiums) and other inducements which are granted to financial intermediaries, banks and insurance companies staff (e.g. sales force in business premises) when selling financial services to consumers. Financial services intermediaries to be analysed in detail under the study's scope are dependent and independent insurance intermediaries as well as sales force of banks and insurance companies (with focus on variable premiums). Financial services intermediaries to be analysed not in detail are investment consultants. The study concentrates on three main objectives. The first objective focuses on the evaluation of the current status of existing remuneration models in selected Member States. It is of particular

## FSUG Annual Report 2012

interest to examine both sales commission-based systems and fee-based systems paid by consumers of retail financial services intermediaries. The second objective refers to a description of existing regulation with focus on certain types of remuneration schemes of financial services intermediaries and conflicts of interest. The third objective centres upon the finding of possible measures for improvements of remuneration schemes. Ten Member States were selected for the research (Spain, Germany, United Kingdom, France, Italy, Poland, Denmark, Finland, Lithuania and Slovenia). The contractor of the study should provide the final report in 2013.

### ***Evolution of the ownership of EU-listed companies***

In the framework of its 2012 research budget, the FSUG wants to investigate the ownership of the EU domiciled listed companies in order to better understand what shares are held by individual and institutional investors and how this evolved in the last two, three decades. The breakdown of investors could embrace households (individual investors), investment funds, pension funds, insurers as well as other institutions, and the idea would be to create a tool by which the shares of these investors could be measured regularly.

The research would also better assess the long-term evolution (over the last decades) of the ownership of the EU economy from individual ownership by EU citizens to 'agency' ownership: shareholders such as investment funds which legally own the shares for some time but are often not the 'economic' owners, i.e. the end-investors who bear the risks and rewards of owning listed shares.

It is expected that this data will be very useful for any future policy initiatives of the Commission relating to securities and investments markets, as well as corporate governance.

### FSUG PRIORITIES

#### ***Ensuring fair, affordable and safe financial products for vulnerable users***

Consumers should have access to a choice of appropriate, value-for-money products and services that meet their needs. Access is the primary consumer principle. Access is particularly important when evaluating the degree of financial exclusion in a market or the consequences of forcing market solutions on consumers.

It should be recognised that markets are amoral. This is not a criticism of the market, just a recognition of the underlying organising principle that governs market behaviour. Markets allocate value according to economic power not according to the principles of fairness or social justice. Free market providers will provide anything if the price is high enough and they can expect to make a return. A clear example of this can be seen in the sub-prime lending market in certain Member States where there is effectively no limit on the amount lenders can charge borrowers. For example, in the UK APRs of more than 200 % are not uncommon – indeed, some lenders charge more than 1,000 %.

So, in this case, in theory, consumers have access to the consumer credit market. However, many people would argue that this access is provided on terms that are unfair or predatory in the sense that consumers with a real choice acting rationally would never use this form of credit. Therefore, consumers do not have access to markets on terms that meet the access definition, above.

If objective evaluation shows that the market cannot enable access to fair, affordable, safe products for large parts of the consumer population on a voluntary basis, then policymakers have an obligation to ensure that fair market access is regulated or alternative provision is made available. Examples of alternative provision include community based lenders such as credit unions, collective pension schemes (for example, the new national pension scheme in the UK).

Therefore 'Alternative providers' may refer to organisations paying special attention to marginal segments and acting in compliance with rules and regulations, or they may refer to other providers which exploit the marginal market segments and often act on the borderline of legality.

The alternatives give opportunity to innovate in a responsible way or not. FSUG is taking the initiative and producing this report to raise awareness of the need for regulatory reform on alternative providers to promote best practices of social oriented alternative providers and to regulate predatory products and/or providers.

The report is divided into two parts.

Customers of alternative financial providers can face a number of positive or negative consequences. Part 1: Typology of alternative providers of financial services provides a comprehensive list of alternative providers with an overview of the current situation and the analysis of the consequences they have on the users. Regulation has to promote the best practices and avoid the most detrimental practices.

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In Part 2: A financial access regulation, we identify the appropriate interventions to ensure that i) social alternative provision is made available when the market cannot enable access to fair, affordable, safe products for all the consumer population and that ii) profit oriented providers do not exploit low-income people.

### ***Rights-led regulation***

FSUG believes it is critical that policymakers and civil society representatives engage in fundamental debates about regulation as well as respond to specific issues.

The issue of rights-led regulation is of paramount importance. FSUG takes the view that it is time to debate the fundamental rationales and objectives of the regulation of retail financial markets.

This work challenges the current rationale for regulation which is based on market failure and considers an alternative approach based on the concept of respect for the fundamental rights of consumers as individuals, and a right to regulatory inclusion and protection of users of financial services.

### ***Making markets work***

As outlined above, FSUG has embarked on a series of three papers entitled 'Making Markets Work'. The first paper *New Model Regulation* was published in 2012. The next two papers - *Financial Supervision and Sanctions* and *Financial Regulation, Innovation, and Competition* – will be published in 2013.

### ***Democratic finance***

FSUG's view is that the primary or root causes of the financial crisis and ongoing widespread market failure in financial services can be traced to the failure of regulation, weak corporate governance and business ethics in the sector, and distorted market forces. We are addressing each of those primary causes through our work. However, we also believe that the theme that links each of those three primary causes is the democratic deficit that exists in our financial markets and institutions, and policymaking and regulatory structures. Specifically, the interests of ordinary financial users seem to have become marginalised in the financial 'supply chain' with the result that our financial futures are increasingly being determined by largely unaccountable financial institutions and market operators. This new paper will investigate ways of making financial markets and institutions more accountable to society and improving levels of representation in the financial system.

**OTHER OUTPUTS AND COMMUNICATIONS MADE BY FSUG  
IN 2012**

Copies of the correspondence can be found below.

## FSUG Annual Report 2012

Letter to Mr Ferber



Brussels, 5 July 2012  
FSUG / MARKT/H3 D(2012)

**Mr Markus Ferber**  
Member of the European  
Parliament  
Group of the European People's  
Party (Christian Democrats)

email:  
[markus.ferber@europarl.europa.eu](mailto:markus.ferber@europarl.europa.eu)

**Subject: Conflicts of interest in investment consulting**

Dear Mr Ferber,

The European Commission published two legislative proposals (a directive, MiFID II, and a regulation, MiFIR) in order to replace the current directive on markets in financial instruments (MiFID I). You were appointed the rapporteur to develop the EP's position, and you have recently published corresponding draft reports.

It is the view of the FSUG that certain positions set out in the draft reports, if adopted, would represent not just a missed opportunity to make investment markets work for EU citizens, but an actual backward step in terms of investor protection. These proposals are unlikely to restore investors' confidence in the EU policymaking process, quite the contrary in our view.

While the UK, the Netherlands and Australia, for example, are moving to address 'head-on' the conflicts of interests in the retail distribution of investment products by – in particular – banning commissions for financial 'advisers', the MiFID II and MiFIR rapporteur is eliminating the only EC proposal in that direction.

Indeed, amendments 65 to 71 to Article 24 of MiFID II, proposed in your reports would establish:

- (1) A weaker and less precise disclosure requirement for 'inducements' than the one currently in the 2006 MiFID implementation Directive Article 26(b)(i).

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Internal Market and Services DG, Unit H3 – Retail financial services and consumer policy, SPA2 4/69  
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[http://ec.europa.eu/internal\\_market/finances-retail/fsug/index\\_en.htm](http://ec.europa.eu/internal_market/finances-retail/fsug/index_en.htm)  
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- (2) The elimination of the only and already modest EC proposal to limit inducements in the retail distribution of investment products: to ban commissions, but only for 'independent' advisers (i.e. probably for less than 5 % of the retail distribution in many Member States in Europe).
- (3) The potential elimination of the existing conditions for an intermediary to receive inducements as stated in the MiFID implementation Directive Article 26(b)(ii):
  - that he "must be designed to enhance the quality of the relevant service to the client";
  - and must "not impair compliance with the firm's duty to act in the best interest of the client";

as it is uncertain whether these provisions of the 2006 MiFID Implementation Directive would remain in force after the adoption of MiFID II.

The European Commission's Financial Services User Group (FSUG) asks again that:

- Any intermediary using the title 'independent' should conform to strict conditions including at the very least:
  - The requirement to consider the whole of market, not a limited selection, before advising on suitable financial products or instruments.
  - The remuneration paid to the adviser by the client must be determined and agreed independently by the adviser and client. The client should be offered the choice of paying the agreed fee in a lump sum or in a series of instalments<sup>1</sup>. The adviser fees should be set out in advance so that the investor can make an informed choice between different advisers.
  - The remuneration or other revenue received by the adviser cannot be determined or influenced in any way by product providers/ manufacturers (including commission or other inducements).
- Any intermediary who does not meet the conditions relating to 'independence' should be called a sales agent to make clear the relationship between the sales person and client.

We kindly ask you to take this position of the European financial services users into account when finalising the MiFID II directive.

Yours sincerely,



Mick McAteer  
Chairman of the FSUG

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<sup>1</sup> This addresses the misleading claims by defenders of commission payments that i) a commission structure is more affordable than agreed fees, and ii) insisting on fees would exclude consumers from the advice market.

## FSUG Annual Report 2012

Letter to Liikanen Group



Brussels, 29 June 2012  
FSUG / MARKT/H3 D(2012)

**Mr Erkki Liikanen**  
Chairman of the High-Level Expert  
Group on reforming the structure of  
the EU banking sector

email:  
[mattias.levin@ec.europa.eu](mailto:mattias.levin@ec.europa.eu)

**Subject: The European Commission's Financial Services User Group's position on reforming the structure of the EU banking sector**

Dear Mr Liikanen,

The Financial Services User Group (FSUG) has been set up by the European Commission to represent the interests of European consumers, retail investors or micro-enterprises, as well as individual experts with expertise in financial services from the perspective of the financial services users.

The High-Level Expert Group you chair has an extremely important responsibility, and we wish to communicate to you and the Group the views of the FSUG on bank structures.

We strongly believe that the commercial banking activities (i.e. the intermediated funding of the real economy: businesses – SMEs in particular which are net job creators in the EU – and households) should be separated as much as possible from other activities (such as trading, investment banking, asset management, insurance, etc.) that commercial banks have been diversifying into in the recent decades.

There are at least three critical reasons to ensure commercial banks get back to their core business:

- greater accountability and transparency
- risk allocation and management
- conflicts of interest.

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# FSUG Annual Report 2012

## 1. GREATER ACCOUNTABILITY AND TRANSPARENCY

First, commercial banks enjoy a unique privilege, which is the access to central banks' funding. The purpose of central bank funding is to enable commercial banks to perform their role of funding the real economy: collecting deposits and transforming them into loans. It has never been intended for anything else. Central banking funds – which is public money: belonging to the EU citizens – should not be used by banks to fund any other activities, such as trading, investment banking, asset management or insurance. As a matter of fact, today EU citizens have no clue what the almost free money (1 % interest rate on three-year loans) in the amount of EUR 1 trillion provided by the ECB to EU banks (known as 'LTROs') is used for by the banks. But all the evidence gathered by the FSUG and others shows that it does not seem to be primarily used to develop credit and/or lower the cost of credit to the real economy. This nevertheless equates to tens of billions of euros of public subsidies to European banks that should be used to strengthen economic growth and help jobs creation.

## 2. RISK ALLOCATION AND MANAGEMENT

Second, allowing commercial banks to develop non-commercial banking activities has led to significantly more financial instability, an increase of systemic risks and the rise of so-called 'too big to fail' institutions. Indeed, for example, allowing banks to massively securitise their mortgage loans portfolios and thus quickly taking them out of their balance sheets in the most recent decades, is the key enabling factor for the 'subprime' bubble: if subprime loans were to stay in the lending banks' balance sheets as it was in the past, banks would have exercised much more scrutiny and would have been much more responsible lenders. The subprime crisis was itself the trigger for the global and devastating financial crisis that is still ongoing.

In the recent decades, many commercial banks have also been adding higher margin businesses to their franchise, leveraging their distribution networks, and relying on their ability to get refinanced by central banks. This is one of the reasons for the rise of 'too big to fail' institutions. It has also resulted in an unfair transfer and allocation of risk to citizens – in other words, rewards were privatised while risk was socialised.

One quite logical solution to the 'too big to fail' and risk/reward allocation issues is to reduce the size of these institutions by spinning their non-commercial banking businesses off. This is quite easy to do: similar for example to the pharmaceutical conglomerates spinning off their upstream chemical businesses in the 1990s. This is much more logical than the current EU authorities' approach which is to bring even more capital into these already too big institutions, or to let banks downsize their credit businesses instead of spinning off non-credit businesses.

## 3. CONFLICTS OF INTEREST

Thirdly, allowing commercial banks to expand into non-commercial banking activities such as trading, asset management, insurance, etc., has led to very significant conflicts of interests, so-called 'Chinese walls' turning out to be most often Japanese (paper) ones. For example, listed companies often find themselves to have big banks at the same time as their credit provider and as a major shareholder, especially through shares owned by their asset management arm. Another example: quite a few packaged investment products created by asset managers who are affiliates of banks are built upon derivatives contracted with the parent bank's trading department.

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Also, this expansion of commercial banks into other businesses has led to the re-intermediation of capital markets (equities and bonds markets), crowding out end-investors (individual ones in particular, pushed by banks toward highly-commissioned 'packaged' investment products instead of securities in the recent decades), and thus severing the link between economic owners of listed companies and their management.

#### 4. DEALING WITH ARGUMENTS AGAINST SEPARATION

Opponents make a number of arguments against separation. These include claims that:

- The activities of retail banking would be less profitable, so the cost to retail customers would be higher.
- Banks would be restricted in their ability to offer their customers access to additional capital market products and services.
- A separated structure does not correspond to the continental model of universal banking.
- The difficulty of deciding what should be ring-fenced and what should not be.

However, these counter arguments are easily dealt with. We take each counter argument in turn.

##### **Profitability and retail costs**

On the point about profitability, there is no reason to assume that a ring fence or even a full split should lead to higher costs for retail customers. It depends entirely on how effective policymakers are at regulating banks and ensuring competition from the consumer perspective.

Moreover, retail banks (and investment banks) simply need to get used to living on lower returns on equity – especially in this new economic paradigm. Lower, more realistic returns on equity would allow more benefits to be passed onto consumers. It should be a priority for policymakers to ensure that banks adjust to lower returns on equity.

Furthermore, it is not possible to assert that splitting banks would naturally lead to lower returns for retail banks anyway. For example, if you look at the special Retail Banking supplement in the Economist (19-25 May 2012), on page 4 of the supplement includes a reference to analysis by McKinseys. This study argues that basic retail banking has been the most reliable generator of consistent profits and high returns on equity. When McKinsey ranked the world's biggest banks by return on equity, this correlates closely with the proportion of revenue made from retail banking, not from the investment banking operations.

The implication is that in fact the investment banking operations actually 'hold back' the efficiency of the retail operations. If they were separated, the retail operations on a stand-alone basis would have the opportunity to improve efficiency and, critically, structure their operations to deliver sustainable, reasonable returns on equity – not dangerous, volatile returns. Therefore, if policymakers regulate these retail banks properly and ensure effective competition, this would ensure these efficiencies were passed on the retail financial user.

Moreover, simple retail banks would be easier to regulate from a prudential perspective. Therefore, there would be a comparative regulatory 'dividend' to pass onto retail consumers, so leading to lower charges.

#### **Offering customers more financial market activities**

Regarding offering customers more activities, if this means that banks would not be able to offer complex products to retail financial users (for example derivative based products), then this is not necessarily a bad outcome. Ordinary financial users do not need any more complex products. Many of the innovations developed in the investment banking operations have not been socially useful. Moreover, the retail operations have been under pressure to 'distribute' complex financial innovations which benefit the investment banking operations but not the retail financial user.

Moreover, if the retail banking operation did need to call on investment banking operations for genuine reasons then they could still do this by buying services in the open market using their financial muscle to demand competitive terms from a range of investment banking providers. This opens up the investment supply chain and promotes much more transparent financial markets and therefore better regulation.

#### **Continental universal banking model**

Whether or not a ring-fenced or split banking model corresponds to the universal banking model, is an irrelevant point. The priority of policymaker should be to ensure they create a banking system that meets the needs of financial users and real economy, not the needs of producers with legacy business models. Some of the biggest recent banking failures or public rescues in Europe – Fortis and ING – are 'universal' banks.

#### **Difficulty of deciding the separation**

Again, this is an irrelevant point. The important point here is that, in order to regulate properly (for example to understand the risks involved in different banking operations), policymakers and regulators have to identify the different types of activities and services operated within a universal bank. Therefore, the activities and services that would need to be allocated to a retail bank and investment bank are already known. So, it is just a question of political will, not difficulty in identifying the relevant activities.

We hope these comments are helpful, and would welcome the opportunity to submit the FSUG views to your Group to provide more detailed analysis and further explain why the separation of non-commercial banking activities is so crucial for the sake of the European economy and of the European civil society.

Yours sincerely,



Mick McAteer  
Chairman of the FSUG



Guillaume Prache  
Vice-Chairman of the FSUG

Cc: Jean-Yves Muylle, Philippe Pellé, Maciej Berestecki,  
Christopher Gauci / European Commission

### **PRINCIPLES OF EXTERNAL RELATIONSHIPS OF FSUG (Financial Services User Group)**

The FSUG website is one of the most important instruments of external relationship of FSUG. FSUG-opinions as well as some letters have been published on its homepage from the beginning in 2011 up to now.

According to the terms of reference (TOR) of the Financial Services User Group, FSUG will in agreement with the Commission liaise with and provide information to financial services user representatives and representative bodies at the European Union and national level, as well as to other consultative groups administered by the Commission. Therefore the chairmen of FSUG sent out a letter to various EC-bodies in the course of February 2012 to provide general information about the mandate of the group and the possibility of finding FSUG opinions on the FSUG website.

In addition to the above mentioned FSUG letter in February, the chairman of FSUG, Mick McAteer, wrote a letter (5 July 2012) to Mr Markus Ferber, Member of European Parliament in order to inform about FSUG concerns about planned provisions regarding conflicts of interest in investment consulting in directive on markets in financial instruments (MiFID II).

In 2011, FSUG raised the idea of establishing a data basis of organisations and persons who supposedly may be important for the aims of FSUG. Therefore the members of FSUG have been continuously collecting addresses of some organisations of particular interest that might be used for information and discussion. Among these addresses are consumer organisations, associations of small and medium enterprises, national and transnational regulators and public bodies, academics, think tanks and other experts in financial services from all over Europe. This list (data base of addresses) will be constantly adapted and may be used by all members of FSUG.

The FSUG members participated in numerous events being a further important pillar of external relationship.

#### ***Meetings and events FSUG members have attended***

The Chair of FSUG attended the following meetings and events on behalf of FSUG:

- EESC Public Hearing on Role of Civil Society in Financial Crisis, November 2011
- EIOPA Strategy Day, December 2011
- Internal Market and Services DG – meeting with Head of Unit, January 2012
- European Commission Conference on Alternative Financial Advice, February 2012
- Health and Consumer DG – meeting with Head of Unit, February 2012
- BEUC meeting on MIFID, March 2012
- EBA – meeting with Head of Consumer Protection, March 2012
- Central Bank of Ireland Insurance regulation conference, April 2012
- ESMA – meeting with Chair, April 2012
- EBIC Roundtable on FSUG priorities, September 2012
- EESC Public Hearing Recovery and Resolution Schemes, October 2012
- OECD Public Hearing on Consumer Protection, October 2012
- EBA Consumer Protection Day, October 2012

### SPECIAL FEATURE

#### **FSUG charter of financial users' rights in financial services: a case for a framework of fundamental right-led approach and co-governance by Catherine Garcia Porras and Federico Ferretti**

The on-going global credit and financial crisis has raised important issues regarding the protection of consumers in financial markets, the scope, intensity and effectiveness of regulation in financial markets, and the need for additional safeguards to stem the social problems that the crisis has caused or exacerbated. Lately, the austerity measures imposed by a large number of Member States as a core strategy to overcome the current crisis resulting from the failures of the financial system, contradicted Member States' legal obligations to realize economic and social rights (i.e. non-performing personal and mortgage loans and job losses are likely to intensify<sup>2</sup>).

Concerns have been expressed among FSUG members due to the nature of the economic and social rationales for regulation of financial markets. Hence, the FSUG strongly support that an underdeveloped and neglected approach to regulation can find its rationale in the respect of the fundamental rights of individuals as internationally recognised.

The FSUG is of the opinion that the respect for the individual is at the centre of the attention of the regulator which will intervene to protect or preserve the individual rights at stake, or the means to achieve them. Accordingly, consumers are not a separate group of people, every consumer is a citizen. This vision attributes a constitutional dimension to consumers and consumer protection, where the rationale of financial regulation becomes the respect for fundamental rights and its objective is the respect for the dignity and freedom of the individual consumer<sup>3</sup>. Hence, FSUG is of the opinion that financial user rights<sup>4</sup> ought to include in particular: a) access and choice to services, including to cross-border services, throughout the territory of the Union and for all groups of the population, b) affordability of services, including special schemes for persons with low income, security and reliability, c) continuity, high quality, transparency, and access to information from providers and regulators, and d) redress and accountability to users. In this regard, FSUG feels that if financial services develop into services of general economic interest (hereafter: SGEI) will enable the access of all citizens to affordable high-quality services throughout the community. For example, access to a basic bank account becomes a fundamental right necessary to the inclusion of the individual in economic and social life and the respect of his/her dignity as a human being. Hence, granting the bank account services a status of SGEI will facilitate the implementation of the right to a basic bank account.

The implementation of these principles generally requires the existence of independent regulators with clearly defined powers and duties. FSUG therefore stresses the importance to equip these independent oversight bodies with the necessary powers, competencies,

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<sup>2</sup> For more detailed information on consumers' problems arising from the recent financial crisis see FSUG response on the OECD Draft High-level Principles on Financial Consumer Protection (31.08.2011) at: [http://ec.europa.eu/internal\\_market/finservices-retail/fsug/opinions\\_en.htm](http://ec.europa.eu/internal_market/finservices-retail/fsug/opinions_en.htm)., also FSUG Risk Outlook (June 2012) at [http://ec.europa.eu/internal\\_market/finservices-retail/fsug/papers\\_en.htm](http://ec.europa.eu/internal_market/finservices-retail/fsug/papers_en.htm)

<sup>3</sup> As FSUG has advocated for in our letters to President Barroso & Commissioner Barnier on the withdrawal of legislative proposal on access to a basic payment account (14.7.11). See [http://ec.europa.eu/internal\\_market/finservices-retail/fsug/opinions\\_en.htm](http://ec.europa.eu/internal_market/finservices-retail/fsug/opinions_en.htm)

<sup>4</sup> In this regard see previous FSUG opinions at 'FSUG response on the OECD Draft High-level Principles on Financial Consumer Protection' (31.08.2011) at: [http://ec.europa.eu/internal\\_market/finservices-retail/fsug/opinions\\_en.htm](http://ec.europa.eu/internal_market/finservices-retail/fsug/opinions_en.htm).

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resources, capabilities, governance. These include powers of sanction<sup>5</sup> (means to monitor the transposition and enforcement of universal service provisions), and should include provisions for the representation and active participation of consumers and users in the definition and the evaluation of services, the availability of appropriate redress and compensation mechanisms<sup>6</sup>, and the existence of an evolutionary clause allowing requirements to be adapted in accordance with changing user and consumer needs and concerns, and with changes in the economic and technological environment<sup>7</sup>.

The FSUG regrets that a democratic deficit exists in the EU system of financial governance, given that the financial services industry exerts far too much influence over the policymaking process. As we demonstrated in the FSUG Risk Outlook<sup>8</sup> we are entering a new, difficult economic paradigm which makes it even more important that the EU financial services industry is efficient and structured to meet the needs of financial users. Therefore, policymakers have a duty to ensure (on an ex-ante basis) that financial markets are fit to meet the needs of citizens and that any transfer of risk and responsibility can be achieved fairly, efficiently, sustainably, safely and responsibly. FSUG's lessons learnt at Madrid meeting (April 2012) showed that the consequences of the recent financial crisis have reinforced the notion that there is a lack of political control and accountability over financial issues, in particular, the lack of citizen's rights to participate in economic affairs. Hence regulation addressing problems affecting financial users should have a bottom up approach, namely, taking the needs of consumers as starting point and allowing consumers to actively participate in the design of regulation, namely co-governance<sup>9</sup>. In this regard, FSUG therefore advocates that this form of regulation should be further developed, strengthened, and fully promoted under two dimensions: a) citizenship and political participation, consumer/user involvement and; b) monitoring, performance problems and operational redress.

Consequently, FSUG strongly support that a right-led approach to regulation and fully promoted co-governance mechanisms will offer the necessary pre-condition for individuals to participate in the economic and social life of their community. Where inclusion and access to financial services become such a pre-condition.

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<sup>5</sup> Robust, effective financial and regulatory sanctions including: fines, civil sanctions. The joint use of regulation and liability should be advanced by imposition of punitive damages and confiscation of unlawful profits), anti-fraud rules, deferred prosecution agreements. The main purpose to impose punitive damages has been assumed to give an incentive to those injurers who might strategically choose to breach the law to take a more appropriate level of care.

<sup>6</sup> See Article 6 of the European convention on Human rights: <http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/EnglishAnglais.pdf>. The right to compensation and the right to access to justice (recognized at EU level) should not remain theoretical. In practice, many consumers are unable to exercise these rights because of the inadequacy of existing means of redress to mass claim situations. Support to these initiatives has been also stressed by the **European Economic and Social Committee**, see OJ C 162, 25.6.2008, pp.1-19 and OJ C 175, 28.7.2009, pp.20-25.

<sup>7</sup> Erika Szyszczak, Jim Davies, Mads Andenæs, Tarjei Bekkedal, *Developments in Services of General Interest*, 1st Edition., 2011, XVIII, 266 p. 2 illus., ISBN 978-90-6704-733-3, p. 29.

<sup>8</sup> Published on June 2012. See: [http://ec.europa.eu/internal\\_market/finservices-retail/fsug/papers\\_en.htm](http://ec.europa.eu/internal_market/finservices-retail/fsug/papers_en.htm)

<sup>9</sup> Including co-production, a type of co-governance based in the idea of sharing the design of services with users **by recognising the resources that citizens already have, and delivering services *with* rather than *for* service users.**



## SUMMARY OF MINUTES: FSUG MEETINGS FROM NOVEMBER 2011 TO OCTOBER 2012

The following provides a brief summary of the issues discussed at the FSUG meetings.

### **16–17 November 2011**

- Follow-up on the public consultation on an EU corporate governance framework – presentation by Mr Matthias Schmidt-Gerdt (Internal Market and Services DG/F2)
- Revision of the IORP Directive – presentation by Mr Eelke Postema (Internal Market and Services DG/H2)
- Update on the Review of the Market Abuse Directive (MAD) – presentation by Mr Philip Tod (Internal Market and Services DG/G3)
- Reform of the data protection legislation in the EU – presentation by Mr Jose Manuel de Frutos Gomez (Justice DG/C3)
- Discussion over the offers for the FSUG research studies from the contractor(s)
- Presentation of the Commission Communication on the Gender Directive/Test-Achats – presentation by Mr Lukas Bortel (Internal Market and Services DG/H2)
- Update on the Review of the Markets in Financial Instruments Directive (MiFID) – presentation by Mr Salvatore Gnoni (Internal Market and Services DG/G3)
- FSB Consultation on Mortgage Underwriting Principles – discussion over FSUG response
- ADR schemes – discussion over FSUG draft paper
- FSUG external relations – follow-up on the FSUG initiative
- Principles and practices of financial market regulation – discussion over FSUG draft paper
- Collective redress – discussion over FSUG draft position
- State of play of the Basel III implementation projects – presentation by Mr Mario Nava (Internal Market and Services DG/H1)
- Corporate governance in financial institutions (chapter covered by CRD IV) – presentation by Ms Natalia Radichevskaia (Internal Market and Services DG/F2)
- Preliminary debate on the EU country where the FSUG could hold the 2012 meeting outside Brussels

### **18–19 January 2012**

- Opening remarks by Mr Jonathan Faull (Director General of Internal Market and Services DG) and Ms Paola Testori Coggi (Director General of Health and Consumers DG) – overview and conclusions on the work carried out by FSUG in 2011
- Pilot project regarding the organisation of training for non-profit entities in the EU which provide financial advice to consumers – presentation by Ms Eleni Tampaki (Health and Consumers DG/B4)
- Findings of the 6<sup>th</sup> Consumer markets scoreboard (October 2011) and follow-up of the market study on consumer credit in view of the 2013 revision of the Consumer Credit Directive – joint presentation by Ms Anna Jassem-Staniecka (Health and Consumers DG/B1) and Ms Maria Lissowska (Health and Consumers DG/B4)
- Meeting and discussion with Mr Sony Kapoor, Chair of the European Banking Authority Stakeholder Group:
  - 2012 EBA work programme – FSUG priorities and possible involvement of the group
  - Presentation and discussion over FSUG papers – presentation by Mr Mick McAteer

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- Principles and practices of financial market regulation
- Impact of high debt, low growth, low interest rate, and higher inflation on EU consumers
- Discussion over the note “Consumer protection issues for the EBA Banking Stakeholder Group” prepared by a member of the group, Mr David T Llewellyn
- Commission plans for an initiative on bank accounts (access, fee transparency & switching) – presentation by Ms Maria-Cristina Russo (Health and Consumers DG/B4) and Mr Jean-Yves Muylle (Internal Market and Services DG/H3)
- Discussion over the FSUG statement for the event on ‘alternative’ financial advice to consumers (organised by the European Commission and the European Parliament on 7 February)
- Green Paper concerning the integrated European market for card, internet and mobile payments – presentation by Mr Gerd Heinen (Internal Market and Services DG/H3)
- Results of the 2011 Internet Sweep on consumer credit – presentation by Mr Tamas Molnar (Health and Consumers DG)
- Study on the means to protect consumers in financial difficulty; personal bankruptcy, ratio in solutum of mortgages, restrictions on debt collections abusive practices – kick-off meeting with London Economics
- Status of the Consumer Agenda initiative – presentation by Mr Olivier Micol (Health and Consumers DG/B6)
- Discussion over the FSUG’s external meeting in Spain (date, draft programme and objectives to be presented for Commission approval) – Mr Carlos J Zarco Pleguezuelos (member of FSUG/member of the legal team of ADICAE)
- Analysis of MiFID – Arrangements and procedures on the sales of financial products: good practices (to follow) and poor practices (to avoid) to strengthen social dialogue and industrial relations at European and company level – presentation by Mr Luciano Malvolti from Uni Europa
- Consumer Rights Directive and the impact on financial services – presentation by Ms Sabine Tuerck (Justice DG/A3)
- Discussion and selection of the topic for the 2012 FSUG research study

### **13–14 February 2012**

- Election of the FSUG chair and vice-chair
- Eurobarometer on retail financial services – presentation by Jennifer Robertson (Internal Market and Services DG/H3)
- Presentation and discussion on the inception report of the Study on personal bankruptcy – by London Economics
- 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
- Introductory discussion on the Commission’s study on overindebtedness – presentation by Mr Francesco Gaetano (Health and Consumers DG/B4)
- Introductory discussion on the Commission studies in preparation for the revision of the Consumer Credit Directive – presentation by Ms Maria Lissowska (Health and Consumers DG/B4)
- Discussion on the FSUG draft response to the consultation of the Green Paper concerning the integrated European market for card, internet and mobile payments
- Status of inter-institutional negotiations on the Alternative Dispute Resolution and Online Dispute Resolution legislative proposals – presentation by Ms Maria-Cristina Russo (Health and Consumers DG/B4)
- Collective redress: information point on the state of play – presentation by Ms Maria-Cristina Russo (Health and Consumers DG/B4)

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- 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 (Health and Consumers DG/B4)
- EC Guidelines on the application of Council Directive 2004/113/EC to insurance – presentation by Ms Christine Tomboy (Justice DG/D1)
- Bank accounts package – public consultation and follow-up on the request for evidence from FSUG – Ms María Dolores Montesinos Trigo (Internal Market and Services DG/H3) and Mr Christopher Gauci (Health and Consumers DG/B4)
- European Supervisory Authorities (ESAs)
  - Overview of the objectives and work of the EBA’s Standing Committee on Financial Innovation (SCFI) in 2011-2012 in the area of consumer protection and financial innovation. – discussion over the EBA paper
  - 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)
- ‘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
- White Paper: an agenda for adequate, safe and sustainable pensions – presentation by Mr Fritz Von Nordheim (Employment, Social Affairs and Inclusion DG/D3)
- FSUG meeting in Madrid on 23-24 April – discussion on the draft agenda and preparation of FSUG members

### **23–24 April 2012 (Madrid)**

- The reform of the Spanish financial system – presentations and discussion with FSUG members
  - Mr Juan Luis Díez Gibson, Strategic Analysis and Internal Financial System Department, Treasury and Financial Policy General Secretariat, Spanish Ministry of Economy and Competitiveness
  - Ms Ana Solanas, Lawyer, Vice-President of ADICAE and member of the initiative: Different saving banks are still possible
- Causes and consequences of the financial crisis in Spain – presentations and discussion with FSUG members
- Causes of the crisis and impact on Spanish citizens
  - Mr Fernando Herrero, economist, Secretary General of ADICAE
  - Ms Zulima Sánchez, Faculty of Law of the University of Salamanca
- Impact of the crisis on household savings
  - Mr Julio Fernández Garrido, expert in consumer policy, lecturer at the Faculty of Psychology of the Complutense University
  - Mr Jorge Daniel Mora, lawyer, member of the legal services of ADICAE, expert in saving and investment products
- The objectives and tasks of the European Banking Authority in the area of financial innovation and consumer protection – presentation by Mr Carlos Zarco Pleguezuelos, head of Consumer Protection Unit in the European Banking Authority
- Position of savers in private pension products – kick-off meeting of the research study with Oxera
- Discussion on the FSUG response to the Commission’s public consultations on the green paper on shadow banking
- The EU’s citizens’ initiative to propose new legislation to the European Commission – presentation by Mr Alin Iacob (member of FSUG)
- The role of small shareholders in listed companies in Spain – presentations and discussion with FSUG members

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- Mr Jofre Farres, member of the Consultative Board at the Spanish Share Markets Authority (CNMV) and member of the Payment Systems Market Expert Group of the European Commission
- Slow pace of justice in the resolution of consumer disputes in Spain – presentations and discussion with FSUG members
  - Mr Miguel Ángel Andrés Llamas, lawyer, member of the legal services of ADICAE
- Discussion on the FSUG response to the Commission's public consultations on bank accounts
- European Commission study on over-indebtedness – presentation by Mr Francesco Gaetano (Health and Consumers DG/B4)
- Selection of the FSUG priorities/own reports in 2012 – subgroups definition and timing for deliverables
- Follow-up on the state of play of the 2012 FSUG research studies – Mr Maciej Berestecki (Internal Market and Services DG/H3)

### **22–23 May 2012**

- Update on the OECD High-Level Principles on Financial Consumer Protection – presentation by Mr Maciej Berestecki (Internal Market and Services DG/H3)
- Update on the Commission initiatives in the area of Microcredit – presentation by Mr Philippe Pellé (Internal Market and Services DG/H3)
- Update on the state of play of MiFID 2 – presentation Mr Salvatore Gnoni (Internal Market and Services DG/G3)
- Feedback on the FSUG response to the consultation of the Green Paper on card, internet and mobile payments – presentation by Mr Gerd Heinen (Internal Market and Services DG/H3)
- Finalisation of the FSUG response to the Commission's public consultations on bank accounts
- FSUG strategy paper – discussion based on the received comments
- Follow-up on the state of play of the 2012 FSUG research studies – by Mr Maciej Berestecki
- Revision of the Insolvency Regulation – presentation by Mr Jerome Carriat (Justice DG/A1)
- Finalisation of the FSUG response to the Commission's public consultations on the Green Paper on shadow banking
- European Financial Stability and Integration Report 2011, Chapter 5: EU Households and the Financial Crisis – presentation by Mr Jonathan Carr (Internal Market and Services DG/G1)
- Conclusions and lessons to be drawn from the FSUG meeting in Madrid (23-24 April)
- Presentation and discussion on the interim report of the Study on personal bankruptcy – presentation by London Economics
- Update and discussion on the ongoing FSUG activities
  - 2012 FSUG priorities: Financial supervision and sanctions and Alternative financial provision – proposal of timelines for draft deliverables by coordinators
  - The FSUG European Citizens' Initiative – list of subgroup members and next steps
  - FSUG database of national contact points (regulators, consumer organisations, academics, experts)
- Debriefing of the 1<sup>st</sup> workshop of common activity on the Consumer Credit Directive – presentation by Mr Sebastian Bohr (Health and Consumers DG/B5)
- Guidelines on the application of the CCD in relation to costs and the annual percentage rate of charge – presentation by Ms Maria Lissowska (Health and Consumers DG/B4)

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### **2–3 July 2012**

- State of play of the implementation of SEPA – presentation by Mr Jean-Yves Muylle (Internal Market and Services DG/H3)
- Inception report: study on the position of savers in private pension products – presentation by Oxera
- 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)
- State of play of the Mortgage Credit Directive – presentation by Ms Jennifer Robertson (Internal Market and Services DG/H3)
- Reviewed FSUG strategy paper – discussion based on the comments collected by Mr Nikolaos Daskalakis (FSUG member)
- Follow-up on the state of play of the 2012 FSUG research studies – by Mr Maciej Berestecki (Internal Market and Services DG/H3)
- Status of inter-institutional negotiations on the Alternative Dispute Resolution and Online Dispute Resolution legislative proposals – presentation by Ms Maria-Cristina Russo (Health and Consumers DG/B4)
- Feedback on the FSUG response to the consultation on bank accounts – presentation by Mr Chris Gauci (Health and Consumers DG/B4) and Mr Maciej Berestecki (Internal Market and Services DG/H3)
- Draft chapter on the lessons learnt from the FSUG meeting in Madrid – presentation by Mr Nikolaos Daskalakis (FSUG member)
- European Commission proposal on bank recovery and resolution – presentation by Mr Hannes Huhtaniemi (Internal Market and Services DG/H4)
- 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)
- 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)
- Consumer Agenda – presentation by Mr Olivier Micol (DG Health and Consumers/B6)

### **18–19 September 2012**

- Follow-up on the state of play of the 2012 FSUG research studies – by Mr Maciej Berestecki (Internal Market and Services DG/H3)
- Final report: FSUG study on personal bankruptcy – presentation by London Economics
- European Commission proposal on Insurance Mediation Directive – presentation by Ms Agnes Fridely (Internal Market and Services DG/H2)
- Summary of responses of the bank accounts consultation – presentation by Mr Paolo Fucile (Internal Market and Services DG/H3) and Mr Stefano Paci (DG Health and Consumers/B4)
- Report on the Pension Adequacy in the European Union 2010-2050 – presentation by Mr Fritz Von Nordheim (Employment DG/D3)
- Report on Barriers to Shareholder Engagement in Cross-Border Voting – brief update by Ms Christiane Hölz
- Dinner offered by the Commission at Martin's Central Park hotel
- European Commission proposal on PRIPs – presentation by Mr Timothy Shakesby (Internal Market and Services DG/G4)
- Report on the implementation of the Recommendation on access to basic payment account – presentation by Mr Francesco Tuzi (Internal Market and Services DG/H3)

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- European Parliament report with recommendations to the Commission on Access to Basic Banking Services – discussion
- European Commission proposal on UCITS V – presentation by Mr Piotr Świstun (Internal Market and Services DG/G4)
- 2012 FSUG Annual Report – discussion on contributions from members and deadlines (to be completed by 31 October)
- Mid-term report: study on the position of savers in private pension products – presentation by Oxera
- State of play of the 2012 FSUG priorities reports
  - Financial supervision and sanctions
  - Alternative providers of financial services
- Update and discussion on the FSUG responses to the ongoing/recently closed consultations
  - UCITS V
  - Public consultation of the European Parliament ECON Committee on the LIBOR manipulation
  - EC Consultation for the Impact Assessment on the continued issuance of 1 and 2 euro cent coins
- First discussion on the FSUG external meeting in 2013

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### FSUG MEMBERS

FSUG has 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.

Name	Nationality	Title
McATEER Mick Chairman	UK	Founder-Director, The Financial Inclusion Centre Non-executive Director, The Financial Services Authority (FSA)
PRACHE Guillaume Vice Chairman	FR	Managing Director, European Federation of Investors (EuroInvestors)
BAYOT Bernard	BE	Managing Director, Réseau Financement Alternatif (RFA)
BREHONY Maeve until March 2012	IE	Representative, Unite the Union & Uni Global
COTTRELL Vera	UK	Principal Policy Advisor, Which? Consumer Association
DASKALAKIS Nikolaos	EL	Head of Market and Entrepreneurship, Hellenic Confederation of Professional, Craftsmen and Merchants (GSEVEE)
DUPAL Libor	CZ	Chairman, Czech Consumer Association
FARRES Jofre as of April 2012	ES	Head of Savings and Investments, Spanish Association of Users of Banks, Savings Banks and Insurances (ADICAE)
FAY Patrick J	IE	Credit Union Expert, Director Irish League of Credit Unions
FERRETTI Federico	IT	Lecturer in Law, Brunel University West London
FILY Anne	FR	Head of the Economic and Legal Department, European Consumers' Organisation (BEUC)
GARCÍA PORRAS Catherine Ivonne	NL	Lecturer in European Consumer Protection, European and International Law Programme, The Hague University of Applied Sciences

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HÖLZ Christiane	DE	Member of Legal Committee, Euroshareholders
IACOB Alin-Eugen	RO	Editor in Chief, Conso Media Group Srl
JARVIS Robin	UK	Professor, Accounting Brunel University Head of SME Affairs, Association of Chartered Certified Accountants (ACCA)
KAWIŃSKI Marcin	PL	Lecturer, Warsaw School of Economics Member, IRSG and OPSG of EIOPA, BSG of EBA
PARENT Anne-Sophie	BE	Secretary General, AGE Platform Europe
PRANTNER Christian	AT	Expert of financial services, Federal Chamber of Labour
ŠEBO Ján	SK	Associate Professor, Matej Bej University Consultant, Independent Traders Club
ŠMEJKAL David <i>as of April 2012</i>	CZ	Director, Debt Advisory Centre
WESTPHAL Manfred	DE	Head of Financial Services Department and Member of Management, vzbv (Federation of German Consumer Organisations)
ZARCO PLEGUEZUELOS Carlos Javier <i>until March 2012</i>	ES	Lawyer, Spanish Association of Users of Banks, Savings Banks and Insurances (ADICAE)





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