



## **Minutes of the Financial Services User Group meeting**

### **18 and 19 June 2018 - Porto**

The minutes of the previous meeting were sent for written comments with the deadline of one week – the Secretariat was asked (and agreed) to send minutes for comments at the earliest convenience, if possible within a couple of weeks after the meeting, to get meaningful comments from members.

#### **Day 1 - Conference:**

##### **Fintech**

###### Cryptoassets and cryptocurrencies

One FSUG member delivered a presentation on Fintech – the meaning of (distributed ledger secured by technology) blockchain was explained, as well as the division between permissionless blockchain and permissioned blockchain, depending on whether there is a central controller that can be regulated (in this case consumer protection is easier) or not. Cryptoassets were presented as incentives to maintain blockchain, with different examples existing in different areas. As far as initial coin offerings are concerned, the FSUG member stated that it is important to understand what the asset will be used for (most are for fraud purposes). The challenge is to ensure consumers receive adequate information and only adopt assets they intend to use. Regulators must be cautious (difficult to regulate).

PT panellists presented instead the history behind Bitcoin and explained the difference between utility token (service) and security token (to make profit). They also dealt with the tax aspects: the ECJ in 2015 ruled that bitcoin is tax-exempted, but in different countries different tax regimes exist (in PT, DE and UK it is taxed on capital gains, in others not, while in the US it is treated as security).

###### Robo-advisors

The FSUG member presented the results of the mystery shopping testing robo-advice. During the mystery shopping 16 robo-advice platforms were tested using two profiles – a millennial (30 years old, high risk, investment amount 10.000) and a baby boomer (50 years old, low risk, investment amount: 100.000). Assessment criteria included fees disclosure, risk disclosure, portfolio allocation disclosure, past performance disclosure. As far as the estimation of future performance, the mystery shopping revealed significant divergences of results for both profiles, in addition the forecasts were overly optimistic. The study has also revealed that all robo-advisors were licensed as financial advisors. During Q&A session the relationship between human and robo-advice was discussed, and results of Better Finance study were compared that of Deloitte carried for DG FISMA.

###### Smart contracts

The PT speaker discussed difference between smart contracts and contracts encoded by the technological means. He stressed that smart contracts are self-executing contracts with the terms of the agreement between buyer and seller being directly written into the algorithm. Another feature of smart contracts is that they are anonymous. Since smart contracts cannot not be executed (execution is automatic) they do not create any problems as far as enforcement is concerned.

The speaker provided examples of different types of smart contracts:

- vending machines
- automated order made by a computer to buy cartridge
- leased cars – when the system checks if leased has been paid, and shut the engine is it has not been paid;
- bitcoins
- stop clauses – automated sell if assets drop below set value,
- crypto-currencies, crypto-assets.

For consumer rights the speaker mentioned 2 problems:

- regret – there is no possibility to reverse the contract;
- legal requirements may prevent entering in certain contracts.

## **Financial Consumer Protection**

### The reform of PT model.

The PT panellist gave an overview of market developments from the 80s to date, with more and more credits while deposits are growing but not as much. It pointed out to many weaknesses of the system, such as inefficient supervision, asymmetry of information, lack of financial education, lack of responsible behaviour from providers, with many players acting outside rules with an economy saving itself and not serving society. There is a need for more transparent rules and for limiting financial exclusion. In Portugal, the financial sector has not sufficiently financed investment and a need for a radical change of system has emerged since there are great inequalities. Drivers of the 2008 crisis are still there.

### Brexit and risk outlook

One FSUG member presented the FSUG Risk Outlook, which is meant to sum up –every three years- major market risks and provide an assessment to EC and ESAs. Progress has been achieved on financial stability and prudential regulation, but little one on making markets work for consumers, as highlighted by the Consumer Market Scoreboard. Economic, demographic, political and regulatory challenges exist: low economic growth, low return on investments, ageing population, affordability of welfare, big data, toxic products, vulnerable consumers, regulation issues, costs for citizens, dispute resolution to name a few. As for Brexit, there are concerns on the possibility of no deal by March 2019 and on whether there will be hard or soft Brexit. There is a risk of disruption on the financial services market (26 trillion pounds contracts between EU and UK) and of continuity of contracts. A temporary regime to replace passporting might help, while EC and ESAs should perform an audit of issues at stake and make contingency plans while reassuring consumers.

### Non-performing loans.

One FSUG member explained that non-performing loans vary across the EU from <5 to 47% (EL, CY). History proves that a centralised, comprehensive, solution is best (as shown by US, SE, ES...) and state support is inevitable to deal with the legacy assets in cases of systematic

risks. Transparency and accountability are not guaranteed under the Commission proposal for a secondary market for NPLs which, in the opinion of the FSUG member, leads to a bad equilibrium as there is no central solution.

PT panellists explained that, in Portugal, NPL rose to nearly 18%, from 5%, as a result of recession and judicial issues for debt enforcement. Now NPLs are decreasing due to a decrease in corporate NPLs and due to legislative measures to speed up judicial proceedings, supervising measures on banks and practical management of NPL policies.

## **Switching**

The PT panellist present results of 2016 Eurobarometer related to the satisfaction with and switching of financial products. Then he analysed the situation in PT:

There is a lower level of satisfaction with the Top5 banks in PT, which have a +85% market share, and a higher level of satisfaction for 3 online banks.

The mystery shopping conducted in 14 PT banks has revealed that none of banks offers the switching mechanism for payment accounts, despite the fact the mechanism is obligatory following the implementation of PAD.

As far as satisfaction with the insurance products is concerned, the survey conducted in 2017 revealed that the main reason for switching of the motor insurance and home insurance was price and possibility to save. It also revealed that switching is not easy because of tying of products, especially in relation to mortgage credit which is often tied with insurance products.

The representative of the European Commission updated members on the state of implementation of PAD, and explained that many Member States have been late with the implementation of PAD. As to the next steps, the Commission will carry the evaluation of PAD, Member States need to provide the Commission with data on the number of switched current accounts and those for which switching was refused.

## **Day 2 - FSUG meeting:**

### **Distribution of investment products**

Members discussed the position paper on the distribution of retail investment products, prepared in response the findings of the Deloitte study prepared for DG FISMA. One member made comments related to robo-advisers, fund governance and conflict of interest. Members were asked for comments within one week. Main points raised in the paper will be presented by the FSUG representatives at the CMU hearing.

### **Interim report for the study on digitalisation and financial inclusion**

FSUG members discussed the interim report presented by the contractor. It seems to be too much focused on UK data. While representative (covering UK, EE and IT), there is a need to further develop the part on Italy. FSUG members were therefore asked to provide useful contacts in Italy to be interviewed for the Report. More details are needed as well on access to ATMs and there should be a focus on specific categories of vulnerable consumers.

### **Presentation of findings of the SK research on pension benefit statements**

The FSUG member presented findings of the behavioural study related to the presentation of the pension benefits to consumers. He explained that in Slovakia they took the obligation to provide the PBS for occupational pillar members as an opportunity to re-evaluate the information requirements and involve more behavioural view on the information provision. PBS implementation project run for more than a year and both the university experts as well as policy makers were involved. Integration of PBS into the pension system across providers

and pillars is still ongoing. The suggested layout of a new PBS has been tested using behavioural experiment, where it has been proven that participants were able to understand the relevant information and adjust their saving approach more precisely with the new presentation. However, it should be noted that the PBS should contain multimodal information supplemented with assurance statement from a provider on saving set-up in order to reach a comfortable level of understanding at the user level. At the same time, if information is not supplied with an assurance statement, sub-optimal decision on savings set-up and overconfidence of participants were observed.

### **Presentation of the reply to the consultation on fitness check on the EU framework for public reporting by companies**

The rapporteur presented draft replies to the public consultation document. Members were asked for input to the following parts:

- II. Reporting framework for all companies (Q8-18)
- III. Reporting framework for listed companies (Q19-29)
- IV. Reporting framework for banks and insurance companies (Q30-39)
- VI. The digitalisation challenge (Q57-66)

### **Annual Report**

Members started discussing the structure of the 2018 Annual Report, which is likely to be lighter than the last version. There will be a highlight on most important points, with details to be discussed at the September FSUG meeting.

### **AOB**

JUST presented the latest developments on Action 12 of the Retail Financial Services Action Plan (Behavioural study on the digitalisation of marketing and distance selling of retail financial services). The study has been launched in March. The objective of the study is to identify the risks faced by consumers in front of the techniques used online by retail financial services providers to market and sell their products, in particular in relation to information disclosure at the advertising and pre-contractual stages, the factors that contribute to their prevalence and the potential remedies available. As several FSUG members showed an interest in the study previously, they were invited to show their interest in case they wish to be contacted by the contractor as part of the stakeholder survey. The design of the behavioural experiments is meant to be finalised by mid-July and the experiments will be run in September. The study is then expected to be finalised in November 2018.

JUST also presented the state of play on the CCD Evaluation. JUST is finalising the Roadmap with the Secretariat-General, while drafting the Terms of Reference for an external study which will provide evidence to the evaluation. The study is likely to be launched in Autumn. FSUG members will be informed when the Roadmap is published and were also invited to provide JUST with their suggestions on main areas the evaluation should focus on.

At the September FSUG meeting, following topics are likely going to be in the agenda:

- Risk Outlook and Brexit
- Annual Report
- Follow-up to the study on irresponsible lending
- Eco-labels
- Final report for the study on digitalisation and financial inclusion