



Minutes of the Financial Services User Group (FSUG) meeting

23 June 2022

Welcome remarks, adoption of the agenda, approval of the minutes of the February meeting (Marcel Haag, Director FISMA B)

The agenda for the meeting was adopted and the minutes of the last meeting were approved.

The Commission welcomed the new members and thanked them for their commitment. The work of the FSUG has always been important for Commission services and the FSUG input will be critical in the next years to help identifying issues affecting financial services users around the EU and to advise the Commission in its policymaking.

Individual presentation by the members – tour de table

New FSUG members appointed for a four-year mandate in May 2022 ([here](#) the full list) introduced themselves, their experience related to the protection of retail users of financial services and the organisations they work for.

Role of the FSUG (Jana Hoskova, Acting Head of Unit JUST E1; Eric Ducoulombier, Head of Unit FISMA B3)

The Commission set up the FSUG in 2010 with a Decision renewed in 2017¹ in order to secure expert input from users of financial services into policy making at EU level, . The secretariat is ensured jointly by DG JUST and DG FISMA services working on consumer protection in the financial sector.

The group consists of 20 members, either representing the interests of consumers, retail investors or micro-enterprises e.g. BEUC, Better Finance, Finance Watch, Age Platform Europe, or individuals experts e.g. academics.

The group meets approximately five times a year. Before the COVID-19 outbreak, we used to have two-day meetings in-person, while during the health crisis one-day meetings taking place online. Now we will see how the situation evolves, but we will try to have at least some in-person or hybrid meetings every year. The next meeting should take place in person or hybrid format, in September.

¹ Commission Decision C(2017) 359.

The group may ask for external research to be carried out to enable it to fulfil its tasks. If the Commission considers such requests justified, it may decide to make available up to a maximum of EUR 150 000 per year (managed by Commission services).

According to Article 2 of the Decision, the group's tasks shall be:

- to advise the Commission in the context of the preparation of legislative acts or other policy initiatives;
- to provide the Commission with insight, opinion and advice concerning the practical implementation of such policies;
- to proactively seek to identify key issues which affect users of financial services;
- where appropriate, and in agreement with the Commission, to liaise with and provide information to financial services user representatives and representative bodies at EU and national level, as well as to other consultative groups.

The group's opinion can be sought on all topics relevant to financial services users.

[Here](#) the FSUG rules of procedures. Some of the main points:

- The FSUG elects a Chair and up to three vice Chair(s) from its members by simple majority.
- The Commission (DG FISMA and DG JUST) provides secretarial support for the Group.
- The secretariat draws up each meeting's agenda in agreement with the Chair and vice Chairs.
- The Group should adopt its opinions, recommendations or reports by consensus.
- Sub-groups examining specific questions can be set up.
- Minutes of the meetings are drafted by the secretariat under the responsibility of the Chair, and are published on the FSUG website.
- The Group produces an annual report of its activities.

The ongoing work on key files relevant to consumers in the field of financial services

Commission representatives from DG JUST and DG FISMA presented their ongoing work on key files and replied to FSUG members questions:

- Distance Marketing of Financial Services (DMFSD) review (David Ciliberti, JUST E1). New proposal published in May, repealing the current DMFSD and amending the Consumer Rights Directive to introduce the relevant parts of the DMFSD in horizontal consumer legislation. The proposal is now being discussed by the co-legislators.
- Payment Accounts Directive (PAD) review (Elena Barrado Fernandez FISMA B3; David Ciliberti, JUST E1). FSUG members highlighted problems with the lack of some definitions in the Directive (e.g. "reasonable fee"), leading to unfair fees charged to consumers, with requirements for comparison websites and with the implementation of the basic account (mainly de-risking practices due to AML requirements). The Commission replied that two reports will be published in the framework of the PAD

review. Article 27 of PAD requires the Commission to prepare a report providing specific information received from Member States (e.g. the number of payment accounts that have been switched and the number of payment account with basic features that have been opened). Article 28 of PAD requires a report on the application of the Directive. This report is based on two external studies, data provided by Member States and additional data gathered. Follow up actions will depend on their results.

- Retail Investment Strategy (Filip Krsteski, FISMA B3): announced in the 2020 Capital Markets Union action plan. The background of the strategy is low participation of retail investors in capital markets in the context of current trends towards digitalisation, interest for sustainable investment, issues with the quality of advice and conflicts of interest, disclosures. In addition to a broad public consultation, targeted consultation on the suitability assessment, the recently published ESA advices, a supporting study looking at disclosure, suitability and appropriateness, and quality of advice and inducements will be published soon. This will serve as evidence as work on the strategy progresses.
- Instant payments (Audrius Pranckevicius, FISMA B3): this is an initiative with the possible outcome of a legislation by the end of the year. The legislative initiative would focus on instant payments denominated in euro (SEPA IPs) in all EU MS and on the basic conditions for instant payments (e.g. priced reasonably, confidence). FSUG members asked about the lack of standardisation for QR codes, the risk of fraud and the applicability of new rules to non-euro countries. The Commission replied that the QR code standardisation issue is being worked on by the industry on the mandate from the ERPB. As regards fraud, the Commission is looking at tools which have proved successful in Member States, such as the IBAN verification method. And some measures that might be proposed, could be also leveraged by industry to non-euro countries.
- Debt advice and over-indebtedness (Francesco Gaetano, JUST E1): The Commission is working in three areas, namely on improving knowledge bases, building events and helping to develop tools useful to remedy the problem. In 2012-2013, the Commission published a fully-fledged study on causes and possible remedies to over-indebtedness. A new study is under preparation including a behavioural experiment, roundtables with consumers and legal research. This study will include an assessment of the wider challenges of private over-indebtedness directly linked to credit activity as required by the Mortgage Credit Directive. Concerning the second area, several events have been organised: in 2018 a stakeholder forum on debt advice, exchange of best practices and capacity building events in 2020-2021 as well as in the context of the “Project on debt-advice” which also included a study on the funding of debt-advice. Concerning the third area, specific grants are being awarded to debt advice providers of 13 EU Member States to put in place stable structures for the delivery of this service. FSUG members flagged that there are risks linked to the fact that in some countries, the information collected by non-banks is insufficient for an adequate creditworthiness assessment. The Commission replied that in the new proposal on consumer credits (CCD2) risky products often offered by non-banks are covered by EU rules. The issue of the personal insolvency and the current work of the Commission in this area was also raised. The Commission promised to consult colleagues working on the file and to come back with further information.

- Review of the Second Payment Services Directive (PSD2) (Juergen Rieg, FISMA B3). The review is ongoing and based on an external study, the EBA's response which was published in June to the Commission's call for advice, and ongoing general and targeted public consultations. The investigated key areas are: scope, supervision, open banking, infrastructure, and consumer protection. As a result, the legal text and RTS might be modified. The main consumer issues identified are strong consumer authentication (SCA) and transparency requirements. FSUG members highlighted that for instance in Portugal the implementation of SCA, for which the use of an app is necessary would exclude many consumers. Members also flagged that the targeted consultations' deadline was too tight and that public consultation questions are too technical for consumers. The Commission replied that it is also working on tight timelines this is why the deadlines are not longer, but that ad hoc input is also welcome. Some citizens have already replied to the public consultation. As part of the external study, stakeholders are being consulted as well.
- Mortgage Credit Directive (MCD) review (Simona Bularca, FISMA B3): Evaluation study was the basis for the adoption in 2021 of a [Report on the review](#) looking at the effectiveness and application of the MCD. It shows that the MCD was effective in improving consumer protection but had a limited impact on creating a single market for mortgages. Now the data gathering is continuing: a public consultation was carried out in the beginning of the year (results are upcoming), an external study supporting the impact assessment is ongoing (results will be available by the end of 2022). An EBA advice on the MCD review will be available by the summer. FSUG members stressed that information should be simplified and it is often provided too late (e.g. in the same time with the contract). The issue of misleading advertising (e.g. small text) was also raised. On foreign exchange loans, a lot of issues with Swiss francs loans were identified before the MCD entered into force in Romania, Bulgaria and other countries. A single market for mortgages could be very beneficial for consumers because they could shop around. There is also a need for a definition of green mortgages and consumers should be made aware of the availability of green mortgages. The Commission replied that it is aware of FX loans issues and looking at the effectiveness of disclosures requirements (at pre-contractual and advertising stages). The EBA advice will look at ways to encourage uptake of green mortgages.
- Consumer Credit Directive 2 (CCD2) proposal (Elena Brolis, Bénédicte Van Ormelingen, JUST E1): the proposal repealing and replacing the current Consumer Credit Directive was adopted in June 2021 to introduce rules to improve consumer protection and foster harmonisation, e.g. through the extension of the scope of application of the Directive. The Council adopted its General Approach in June 2022 and the Parliament is about to vote on its opinion. FSUG members flagged that the Council General Approach weakens consumer protection by restricting the scope (e.g. exclusion of deferred debit cards and deferred payments, opening a loophole for big providers such as GAFAs to provide BNPLs) and reinforcing the proportionality in creditworthiness assessments. Crowdfunding should be addressed within the Crowdfunding Regulation, but it should be stressed that the logic of protection is different from consumer legislation. Interests of

investors and borrowers in crowdfunding are not opposed. Commission services took good note of members' concerns.

Overview of the DG FISMA and DG JUST consumers-related 2022 work programs
(Irina Adamescu, Francesco Tuzi, FISMA A1; Bénédicte Van Ormelingen, JUST E1)

Commission services presented ongoing initiatives with a consumer focus.

DG FISMA gave an overview of the main priorities of the DG and a state of play of the files currently being negotiated with co-legislators stressing the link with consumers. DG FISMA highlighted that the DG is also responsible for sanctions and how due to Russia's invasion of Ukraine there has been a priority shift with a strong focus on sanctions.

DG JUST presented the New Consumer Agenda, a communication adopted in November 2020 putting forward priorities and key action points to be taken in the next 5 years to empower European consumers to play an active role in the green and digital transitions.

Getting to the next milestones: election of the Chair and Vice Chairs; development of the work programme; introduction by the Commission services on the way forward followed by a discussion

Commission services explained that at the next meeting members will discuss which topics they want to include in their work programme and they will elect the FSUG Chair and vice Chairs. Applications will be sent by email to the Secretariat ahead of the meeting.