

Meeting of the Financial Services User Group Minutes

9-10 February 2023 Thierry Stoll Room DG FISMA

Adoption of the agenda, approval of the minutes of the previous meeting

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

Tour de table: update from members on their activities of FSUG interest and on newly identified risks to consumers in financial services

Members shared an update on their activities which might be of interest for the FSUG's work on newly identified risks to consumers in financial services.

Because of the **cost-of-living crisis**, figures on **over-indebtedness** are worsening in many EU countries. In DE, more than one in five consumers define their financial situation as bad or very bad, and this is the worst figure since 2014. In FR the number of people registered in the payment incidents database increased.

Many consumers have or are expected to have difficulties in repaying their variable rate mortgages, since those indexed on EURBOR now are becoming more costly. In some countries such as PT, RO and ES those mortgages are extremely common. Voluntary moratoria measures were adopted by some lenders in ES, but the requirements to qualify are quite strict. In RO, there was an increase in non-performing loans, especially for young consumers.

Moreover, **unemployment** rate is increasing in several countries including ES and PL, and in other countries such as HR qualified workers are moving to other EU countries. According to the perception of consumers the current cost of living crisis is worse that the COVID-19 one.

Another horizontal issue is the question of **very high banking sector profits**, because of the increase of ECB rate while interest rates on deposits are still insignificant. In LT, the Central Bank is taking part of the banking sector profits, because they are unexpectedly high.

The website "Follow The Money" published an investigation on investment **greenwashing**, which is a big problem for retail investors: https://www.ftm.eu/green-investments. Furthermore, a recent mystery shopping exercise showed that in ES only 1 in 12 banks are proposing green questionnaires to investors as required by EU law. Better Finance is going to launch a consumer education initiative with a focus on sustainability. ESAs launched a joint

call for evidence on greenwashing in November 2022 to gather input from stakeholders on how to understand the key features, drivers and risks associated with greenwashing and to collect examples of potential greenwashing practices.

Accessibility for the elderly and vulnerable categories of consumers remain an issue as well, e.g. access to cash for consumers who are not able to use online banking.

As regards **shareholders' rights**, after COVID-19 rules are changing, and large corporations are now more and more holding their general meetings online (half of large corporations in DE).

At EU level, the negotiations on the Consumer Credit Directive are being finalised and those on the Distance Marketing of Financial Services Directive review are ongoing. It will be key not to create loopholes, and in the context of the distance selling of financial services to address new phenomena such as fin-fluencers. The Retail Investment Strategy is also being finalised and a ban on inducements is being considered as an option, but industry seems to be very opposed to it.

Fraud online through phishing, sms-ishing and other techniques is increasing, e.g. in IT. To solve consumers' problems in the financial services sector, an independent authority is being launched in ES to help financial services consumers, including those that have an issue with FinTechs.

Exchange of views with the Commission services: possibility of payment for consumer organisations' contribution to studies contracted by the Commission and conducted by external consultants; 2023 budget and practical arrangements for FSUG studies

Head of Unit for DG FISMA Resources unit explained the process for the FSUG to propose to the Commission topics for studies and pointed out that these would be in competition with studies proposed by DG FISMA units. He further specified that proposals should be made by early September so that they can be considered in October when DG FISMA directors allocate the studies budget for the following year. The Head of Unit invited the FSUG to set out the objectives and tasks of the study on two or three pages, while the tender specifications would then be prepared by the operational unit responsible in DG FISMA, provided the study has been agreed by DG FISMA. There would be no FSUG involvement in the procurement and management of the contract but the final report (or the draft final report if the unit considers this useful) should be presented to and discussed with the FSUG.

Regarding the reimbursement of civil society organisations for their input to Commission studies, DG FISMA representative reassured that DG FISMA would in the future and where relevant include a sentence or two in the tender specifications inviting the contractor to involve civil society organisations and consider reimbursing them for the costs they incur. This was welcomed by the FSUG as a step in the right direction. The debate then was more generally on the funding of civil society organisations in the EU.

Insurance services: (i) update from the Commission on on-going initiatives; (ii) presentation by an invited expert on the developments on insurance regulation in non-EU jurisdictions

An invited expert provided a short update on the international regulatory developments. DG FISMA services gave an update on the most relevant insurance issues, on which a number of comments were made. With regards PEPP, it was noted by the FSUG member that Slovakian operations want to expand their operations to Poland, however they are facing obstacles as the Polish authorities require them to open a physical brand. Ahead of the upcoming review of the PEPP regulation, the fee cap should not be considered as the main potential obstacle for the take-up of PEPPs, but also obstacles such as the one in the example, which show much deeper issues of market fragmentation.

The representative of DECO (Portuguese consumer association) commented that, with regards the Right To Be Forgotten, a new law from 2022 provides for such RTBF to patient survivors of cancer and other diseases when accessing loans and insurance products. He believes the work within the Commission should have too a broader scope and include other diseases.

The representative of FinanceWatch pointed that that the Commission's work on the RTBF should go further than a code. Given that a code is voluntary after all, such a RTBF should be enshrined in EU Legislation. The Chair agreed and reiterated this point. On the Climate Resilience Dialogue, he noted there is one consumer representative only (BEUC), suggesting FinanceWatch, which is also active on sustainable topics, could be part of the Dialogue. The FSUG may decide to create a sub-group on sustainable finance, which could in turn discuss also how to protect the environment from the financial sector.

Another FSUG member invited the Commission to consider a recent ECJ (C 154/21) ruling from 12 January 2023 which refers to Article 17 of the GDPR on the 'Right to erasure' ("right to be forgotten"), as well as the need for a data subject to be informed of the recipients to whom the personal data have been disclosed so as to enable the data subject to exercise their right to erasure/be forgotten.

Discussion on the possible update of the previous FSUG work regarding the prices of various retail financial services in different Member States

FSUG Vice-Chair gave a presentation on changes to bank charges and fees over the last decade. The FSUG members discussed to which extent regulatory changes, new legislations, possible anti-competitive behaviour, low interest rate environment has contributed to the increase of banking fees and charges over the last decade. FSUG members informed about the difficulties the NGOs are facing to keep their accounts due to de-risking actions taken by banks. Another member considered there are more issues on securities accounts than on basic payment account.

Update regarding FSUG external meeting in Helsinki in June 2023.

The FSUG member from Finland provided further details regarding the external FSUG meeting in Finland. She suggested for an FSUG meeting to take place on 21 and 22 June 2023, which received unanimous support by the FSUG members. The FSUG members proposed possible agenda points which were well received.

Discussion on the possible future studies

The Chair invited FSUG members to consider possible studies for which the FSUG will need to prepare clear objectives, tasks and deliverables by September so that DG FISMA and JUST could take those suggestions into account for the 2024 budget.

The Commission services further clarified the conditions, responsibilities and tasks of the FSUG and Commission, respectively, regarding the procurement and management of any possible future studies by DG FISMA.

Positive Money Europe views on the proposal for the Directive on the energy performance of buildings, including on mortgage portfolio standards: (i) presentation; (ii) discussion

Positive Money Europe presented their views on the proposal for a Directive on the energy performance of buildings, and in particular on mortgage portfolio standards, i.e. "a mechanism requiring any mortgage lenders to define a path to increase the median energy performance of the portfolio of buildings covered by their mortgages". They explained that private funding is needed to meet the renovation of building objectives, but the investment gap is very high. Mortgage portfolio standards will allow to hardwire energy efficiency into banks' business lending strategies. Banks will have to analyse their portfolio, develop financing solutions, and raise awareness to their consumers. Under ESG disclosure requirement of Pillar 3 (CRD/CRR) banks will already start disclosing energy performance levels of their mortgage loan book in 2024 (for data of end-2023).

FSUG members stressed that consumer protection and inclusiveness of lower-income consumers should be ensured also in this context. Positive Money Europe explained that it will be key to define well transition paths and that for certain categories of consumers (e.g. low-income families) subsidised renovation is the solution.

Local advice to consumers, including on financial services: (i) presentation by the contractors preparing a new study for DG JUST; (ii) discussion

A study on local advice to consumers, who for structural or personal reasons do not have access to support and information provided online or at central information offices, funded by the Commission, was published in January 2023. The study identified four success factors based on good practices: i) Tailoring the initiatives to the specific needs and problems encountered by the targeted consumer group; ii) Collaboration and partnership with other local actors; iii) Advice given at the relevant place and moment (place and time) in a proactive manner; and iv) Focus on digital ways of providing information and advice to consumers. The results of the study will be presented during an online seminar on 25 April 2023.

Update from subgroups leaders on the work done in their subgroups Wrap up of subgroups' work and way forward

Regarding the themes on which FSUG already provided their opinions (PSD2 review, Retail Investment Strategy), FSUG members expressed their interest to obtain feedback from the Commission that could show usefulness of consumer's views and of the work performed by the FSUG in the Commission policy making. Commission services suggested that the best

timing would be to interact with relevant Com services/colleagues once the proposals are made by the Commission.

Regarding other themes, on which FSUG consider important to focus its activity:

- -mortgage credit: the FSUG members look forward to the publication of the MCD study which will be the basis to discuss which further work of the FSUG could be useful to the Commission, and indicated the possible areas of work, which may be specifically important in the current increased cost-of-living and high interest environment, such as forbearance measures and credit worthiness assessment.
- -digital euro: the FSUG members are waiting for the proposal to be issued before considering to undertake further work.
- -on over-indebtedness, the FSUG looks forward to the finalisation of DG JUST studies and to further interaction with the Commission services; specifically, with regard to personal insolvency, which FSUG considers very important for the EU consumers, the FSUG members looks forward for the Commission to undertake further work.
- -one FSUG member volunteered to be the leader of the subgroup Access to cash, which will allow the start of work on this very important issue for EU consumers
- -a new sub-group was created (Sustainable Finance), the PSD2 one was renamed in Payments and all members expressed their view about the sub-groups in which they want to activate.

AOB and closing remarks

The FSUG members have shared ideas on the possible ways to increase the visibility and usefulness of the FSUG to the Commission. Specifically, it was proposed to prepare an article on the FSUG to be included in the FISMA newsletter, on which Commission services expressed their willingness to follow up on this idea.