Minutes of the Financial Services User Group
8-9 June 2015

Time:	**8 June 2015**	**11.30-18.00**
	9 June 2015	**08.30-16.15**
Place:	**Amsterdam Stock Exchange** **Mercurius Hall**	

<u>8 June</u>

Dutch Credit Data Register

Mr. Van den Bosch, chairman of the Bureau Kredietregistratie (BKR), one of the oldest credit bureaux in the EU, independent non-for-profit foundation, illustrated the objectives of the BKR, which are to fight over-indebtedness, limit risk among creditors and increase entry level for consumers. He stressed the need to help people at an early stage and signalled that change lies ahead because people demand privacy, but also transparency and trust (need to know, control, access and decide on their data).

He summarised the content of the World Bank Guide on Credit Bureaux, which states that they are an essential part of the financial infrastructure, identify inadequate access to finance as a constraint to economic development and compares the different business models (commercial with or without ownership by creditors or non-commercial credit associations). The Guide also mentions that banks and consumers should not own credit bureaux not to hinder the exchange of information (currently, 39% owned by banks, 44% not by credit institutions and 12% by chambers of commerce or industry associations – overall 71% of them being for profit).

He then mentioned two business models for credit bureaux: the "big data" one, aimed at obtaining more information but often interfering with privacy (e.g. Chinese model spying citizens on the internet and Latin American model obtaining info from social networks) and the "society business" one, more transparent and aimed at helping people suffering from debt. He clearly advocated for the second model, explaining that BKR sends sms or emails to citizens alerting them that data has been provided/changed, release quarterly bulletins and organise debates. The BKR collects both positive and negative data (only negative on mortgages), but only to fight over-indebtedness (credit bureaux lead to greater access to credit and less arrears), not to transfer it to banks. According to the speaker, the EC should reflect on the role of credit bureaux and adapt legislation accordingly to look at the social dimension of the issue.

Collective Redress

Mr. Hermans, partner at De Brauw Attorneys, gave the FSUG an historical introduction on collective redress, starting from the 1994 when the Collective Actions Act (1st in the EU, action on behalf of the group but no damages) was introduced, passing from 2005 with the Act on Collective Mass Claims (mass damage claims introduces with the possibility to opt-out), to finish with 2011 when there was a motion to introduce class actions. He also mentioned the relevant jurisprudence, especially the DES and DEXIA cases.

The most important case at the moment concerns unit-linked insurance policies (seven million cases) where various costs had not been disclosed.

In the Dutch system, the settlement often depends on who is the plaintiff representative, on the nature of the compensation (fixed amount or fund), on publicity and settlement process. Negotiations usually take 3 to 18 months, with 5 to 30 meetings, from time to time position papers are issued. Multiple stakeholders are involved, while mediation is not often used.

When discussing bilaterally, he expressed the view that the implementation of the Recommendation on Collective Redress in the Netherlands is now on hold, due to the different system in force in the country. He also affirmed that, should the EU decide to adopt a Directive on the issue, NL authorities will probably oppose it since "the EC only takes into consideration opt-in systems while the NL system (opt-out) has proved successful and does not require any adjustment".

NIBUD

Marcel Warnaar presented the Dutch National Institute for Budget Advice (NIBUD) by explaining two main aims of NIBUD: promoting rational planning of family finance and preventing overindebtedness. He underlined the independence of NIBUD as well as its recognition by consumers and industry: 90% of consumers know NIBUD; financial institutions want to become NIBUDs partners. He explain 4 main domains of the operation of NIBUD; budgeting, provision of websites on entitlements; financial education and long-term money management (mortgage norms, adequacy of the retirement). He also referred to the ban on inducements, which resulted in new business models – issuers cannot charge commission and bill for their service is paid by the consume. His assessment was positive - advisers need to be real advisers, there is search for efficiency in the process and price of advice has been lowering. The question is whether the independent advisors will still have a business model if prices for advice will continue going down.

Crowdfunding

The draft final study was presented by Oxera. Compared to the interim report it included full results of the market study. It has also taken into account earlier comments of the group. The rapporteur for crowdfunding asked for more analysis of the market research data. I general, members expressed their satisfaction with the report. It was agreed that the written comments will be submitted in a week.

Barriers to the integration of the retail financial services

Although the compilation of data on price differences advanced, information on barriers and obstacles was very limited. Members were asked one more time for checking restrictions for cross-border shopping, e.g. they could check if products and services could be purchased by consumers without the address in their respective countries. The Commission representative underlined that input of the group is very much awaited. Members agreed to send the missing data on prices and provide information on barriers. It was agreed that at the next meeting, co-ordinators for products/services will present shortly findings.

<u>9 June</u>

Ban on inducements and supervision of asset managers

Mr. Kockelkoren, member of the Board of the Dutch Financial Authority, explained that the first ban was on mortgages and insurances, since when MiFID came, it was found out that the NL system was not meeting the criteria since 2/3 of customers were in execution only relation with the bank and faced the same price as execution-advisory and portfolio management. Therefore banks and authority jointly decided to conclude a gentlemen's agreement to implement these criteria even before the entry into force of the Directive. Price is now different for the three services, and this has led to a collapse of the price for execution-only (nearly 70% of consumers). The market is now a bit more sophisticated and it is hoped that the greater variety of products will lead to more choice for consumers.

As for products, passive investment funds were not sold very often (given that there was no commission) and now represent 16% of the market. There was an increase of competition (more differentiation led to a decrease of price) and a greater focus on products serving the market. Advice decreased (24% to 15%), portfolio management increased (6% to 11%) and execution only customers went up (from 70% to 74%). Quality of advice is a big challenge for the industry and could still be improved. There is also a need for a strong redress system (even if it is not often used by consumers).

Recent developments in the Netherlands

Mr. Hooft van Huysduynen, from the Dutch Consumer Association, stated that audit (internal and external) seemed to be the optimal way to ensure that investor invested while fully understanding what they were doing, but this tool is apparently not working as we would have liked to. Financial reporting has not helped that much, and the same goes for integrated reporting. The absence of trust among consumers is crucial. However, in his opinion, the main concern remains cybersecurity, because there are no interconnected solutions. At the same time, there is an important need for an adequate redress system and for more competition.

Recent developments for retail investors

Mr. Koster, managing director of the Dutch Investors' Association, stated that the misconduct of financial institution is damaging the whole market and that there is a lot of work to do even though the situation actually improved over the last five years. He mentioned as positive developments the 2013 ban on inducements, the introduction in 2014 of the duty of care, the fact that the AFM (Autoriteit Financiële Markten) now also has the power to review the product approval and the review process of banks/insurance companies to ensure that clients' interests are safeguarded. Other positive news are the stricter rules on loans (maximum loan now equal to 100%, and it might be further reduced).

Still to improve is the redress system, with a law currently being debated by the Parliament on the possibility to claim damages and a low budget for ADR. He also pointed at the strong lobby of the financial sector as a negative element, such as the lack of competition in certain market segments (e.g. mortgages and savings), while calling for more simple basic financial products.

Developments of pensions in the Netherlands

A very interesting presentation of PGGM and the reform of the Dutch pension system was given by the representatives of PGGM. They started by reminding that the Netherlands has very high pension savings (166% of GDP). In short the Dutch pension system is made of 3 pillars: statutory state pensions, supplementary (occupational) pensions, and private life insurance/savings arrangements. Debate about the pension system is about the change from the high degree of collectivity and risk sharing (inter-generational sharing) to a system which will meet economic and demographic challenges. The government has initiated a national dialogue on pensions, in a month results should be published.

The representative of PGGM presented also the ongoing work on TTYPE – Track and Trace your pension in Europe project, which should allow mobile workers to have an overview of their pension rights.

Lessons learnt from the Amsterdam meeting – preliminary conclusions

Very interesting discussion on the merits of collective redress, members acknowledged that the Dutch approach sets an example to follow as in many Member States there is no precedence of collective redress cases related to financial services: quality of co-operation between stakeholders, industry doesn't ignore consumers, instead is looking for general interest.

The Dutch Credit Data registry – quite consumer friendly, findings from the Netherlands could be incorporated in the FSUG internal paper on credit data.

The Dutch National Institute for Budget Advice (NIBUD) promoting a rational planning of family finances was another example to follow. Members acknowledged that the tools similar to those offered by NIBUD (for budgeting, reference budgets, entitlements and adequacy of retirement income) should be available in all Member States. It is also remarkable that this is a self-financing system.

Ban on inducements was much wider than the UK, following the Dutch example, the UK ban on inducements could be expanded onto mortgages.

Members underlined also a good co-operation between the industry and the supervisory authorities and consumers as well long-term planning regarding pensions.

Reporting to Erik Nooteeboom, EU Commission

Erik Nooteboom underlined that the results of the FSUG work on barriers/obstacles to the integration on retail financial services is very much awaited. He has asked for co-ordinators to present at the next meeting findings related to products/services. He stressed that following the input of the group, a meeting with the Commissioner could be arranged.