



Minutes of the Financial Services User Group (FSUG) meeting

5-6 November 2018

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

The minutes of the previous meeting were approved, and the agenda of the meeting was adopted. Members asked to put the names of European Commission speakers in the minutes.

Tour de table

Members gave an update on issues and risks for consumers in Member States and presented activities of FSUG interest. They also informed the FSUG of upcoming conferences¹ they are organising.

- In BE, an ESG pension fund for independent professionals will be launched next year.
- In DK, following the Danske Bank scandal, a debate is ongoing on the tightening of anti-money laundering laws.
- In the UK, a debate is taking place on regulating payday lending and its abuses (e.g. Wonga's extortionate interests), which is a big challenge because the sector is very dynamic and moves fast. Some countries such as BE and FR managed to prevent payday lending, for instance by imposing interest caps. Irresponsible lending needs to be tackled, but so is access to credit for vulnerable consumers. Those issues are linked to the broader question of exploiting employment

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14/11	Impact of European trade policy on financial regulation, Brussels	Finance Watch
22-23/11	Economics at the service of society , Brussels	COFACE
27/11	CMU - Update & Future , Wiesbaden (DE)	DSW & Better Finance
6-7/12	#ChangeFinance Forum 2nd edition , Brussels	Finance Watch

practices (e.g. zero-hour contracts in the UK). Another problem rising in the UK is shadow banking. Moreover, fintechs and big data introduce risks for some consumers. The FCA published a paper on the overdraft charges market in the UK proving that people living in deprived areas are financially discriminated, but did not take action to fight such discrimination. FCA is also performing a strategic review of the UK banking market: consumer organisations should promote a societal debate on the future of banking. The number of complaints to the Financial Ombudsman Service, especially about payment protection insurance (PPI) increased a lot.

- In FR, some banks impose inappropriate fixed fees for overdrafts. In fact, when accounts are overdraft at the end of the day, all transactions for that day are subject to a fixed fee, including those that occurred when the account was not overdraft. 60 millions de consommateurs and UNAF are currently campaigning against this practice.
- In BG, a voucher scheme to support SMEs listing on the stock exchange has been launched. The developments on the euro adoption debate are quite chaotic.
- In IT, the political situation leads to confusion. According to the EBA stress test, the Italian banks are in good shape, but the spread between Italian and German bonds is growing and growing.
- In PT, coercive selling of debts by banks affects consumers and especially investors.
- In DE, on 1 November, a new legislation enabling model declaratory actions on behalf of consumers against companies came into force. This legislation might be helpful for consumers affected by the Dieselgate scandal but not for others, such as those investors heavily impacted by the collapse of the P&R group - a global shipping-container manager whose business model had turned into fraud – which caused the biggest investment scandal in the last years. The legislation has severe weaknesses and incompatibilities with the EC proposal on collective redress actions.

The EBA stress test covered eight German banks, and six of them failed it.

- As regards pensions in the EU, the pension gap is rising and there is no improvement for the pension savers. It is quite difficult to get data on this topic. The September EP ECON committee vote on the EC proposal for a regulation on a Pan European Personal Pension product (PEPP) is quite disappointing.
- FairFin, together with Hart boven Hard and Greenpeace, has relaunched the "[Move your Money](#)" campaign to help Belgian consumers scoring and comparing banks based on sustainability criteria.
- In October, the European Shadow Financial Regulatory Committee (ESFRC) has issued a statement on "[10 Years after Lehman: Is Europe heading towards a New Financial Crisis?](#)". The statement addresses macro financial imbalances, NPLs, levels of national concentration of sovereign debt in banks' portfolio, lack of credible bank rehabilitation, risk of contagion. It recommends that the European Stability Mechanism play a more active role in mitigating the risk of a new financial crisis in Europe.
- Finance Watch recently published a report on "[Ten Years After: Back to Business as Usual](#)".
- The Financial Inclusion Centre is working on a report on green finance and social impact investment from the retail point of view.
- Responsible lending remains a key topic for BEUC, which has published a [position paper](#) on the issue. As regards NPLs, banks should offer consumers the right to pay back their loans at the same price they would sell it to third parties.

Finalisation of the FSUG 2018 Annual Report, including recommendations to Commission (and other sections)

The Commission clarified that it is up to the FSUG to decide which topics to cover in the Annual Report, irrespectively of whether these mirror the ones already put forward by relevant consumer organisations or they emerge as priorities shared by all FSUG members. A combination of the two is also possible. The proposed structure of the Annual Report was approved. Regarding the recommendations to be included in the Report, the Vice-Chair has sent a draft to the FSUG members. On one item, eliminating tax discrimination, there was a discussion among members, which agreed this is not a subject to be included in the Annual Report.

The Vice-Chair asked FSUG members to deliver their contributions to the Annual Report by 20 November. The first draft should be finalised by the end of November so that the FSUG Secretariat can have it published by the end of the year.

Risk Outlook

The Risk Outlook is a document produced every three years by the FSUG to outline major risks faced by consumers that should be monitored by European Institutions and ESAs.

For the 2018 Risk Outlook, it was agreed to work on the basis of the last Risk Outlook, with in addition a chapter on Brexit. Members should send their comments and inputs to the Rapporteur by 22 November. The Risk Outlook will be included in the 2018 Annual Report.

Irresponsible lending

The FSUG position paper on irresponsible lending, which follows up to the study delivered in the first half of 2018, will aim at informing the upcoming evaluation of the Consumer Credit Directive (CCD). Members discussed and reshaped the structure of the paper. It was suggested to add a 'background' chapter including elements of macro-prudential regulation.

The Rapporteur will circulate the reworked structure of the draft FSUG paper on irresponsible lending in the coming weeks to start then working on the content. The paper is to be finalised by the first half of 2019.

Update on blockchain (Pēteris Zilgalvis, DG CNECT unit F.3)

DG CNECT gave an update on the most recent blockchain developments at the Commission. A European blockchain partnership has been set-up between - as of today - 26 EU Member States and Norway. The Partnership cooperates on the development of a European blockchain services infrastructure, that can support the delivery of cross-border digital public services by public authorities, and in the future will enable start-ups and innovators to develop and explore new blockchain-based applications.

The infrastructure will:

- be fully compliant with the EU acquis (privacy, security and others),
- leverage relevant EU tools such as eID, e-authentication etc.,
- support interoperability and "open source",

- be built through innovation procurement (stimulating innovative start-ups to play a role).

Use cases that are currently being worked on are RegTech cases on VAT, AML/KYC and customs regulation, and furthermore on the notification and acceptance of diplomas. The Commission is also looking into possible barriers for the use of blockchain in EU areas where blockchain can have added value for the society as a whole.

FSUG members expressed some concerns about the use of services based on blockchain technology. Will services and possible transactions be understandable and transparent for consumers? Moreover, is there a back-up if the system is not working? FSUG members also mentioned benefits, such as the possibility for consumers to have full control over their personal data the access to them, and the possibility of creating a more harmonised KYC framework across Members States.

Besides the Partnership, the Commission has also set-up an [EU Blockchain Observatory and Forum](#), which was launched on 1 February 2018. It is an expertise hub to access, share, produce and disseminate knowledge on blockchain technologies.

DG CNECT will share a presentation on the blockchain topic with FSUG members.

Crypto-assets

The first draft of the paper on crypto-assets has been send to the FSUG-members and has been discussed in the meeting. Regarding the note in general, different FSUG members think more research is necessary before the FSUG can publish an opinion with recommendations on different elements of the crypto-asset market. The first step should be to explain the concept of crypto-assets and provide an overview of the risks and opportunities. Then, as a second step, an opinion can be provided with recommendations.

Regarding the different elements of the note, not all FSUG members agree that ICO's should be included in crowdfunding regulation. Someone pointed out that the scope of the note should not be broader than financial services, and someone else that it might be too early to propose new legislation. Further research should be done to see how current legislation might help in mitigating certain risks for consumers.

The FSUG concluded that comments on the paper should be sent to the Rapporteur by mid-December. After that, the subgroup will work on a scoping paper which first will focus on explaining the concept and giving an overview of risks and opportunities.

Presentation on the General Data Protection Regulation (Olivier Micol and David Ciliberti, DG JUST unit C.3)

DG JUST representatives presented the main features of the General Data Protection Regulation (GDPR) with a focus on provisions relevant to financial services. Data protection in financial services is of outmost importance in the new digital environment that surrounds financial services providers. GDPR goal was to adapt data protection to the digital economy and to solve the fragmentation of national provisions by providing a thorough regulatory framework. GDPR has a broad scope and applies to all the activities processing personal data.

DG JUST presented the six principles in GDPR, which constitute the legal basis to process personal data: lawfulness, fairness and transparency; purpose limitation; data minimisation; accuracy; storage limitation; and integrity and confidentiality. It also

explained that for their personal data to be processed needs consumer need to give an active consent (either an informed consent or a strengthened consent for sensitive data).

FSUG members expressed their concerns about several issues: the use of credit registers, data portability, the impact of GDPR on blockchain, the question of explicit consent, enforcement, and the role of intermediaries. They agreed that there are still many issues to be solved as regards data protection in financial services.

DG JUST suggested referring to the [guidelines](#) produced by the Article 29 Working Party on several topics (consent, automated individual decision-making and Profiling, data portability...).

Update on the Retail Financial Services Action Plan (Nicolò Brignoli, DG FISMA unit D.3)

The Commission updated the FSUG members on the vote that took place in the European Parliament ECON committee on 5 November on Action 1 (lower charges on non-euro transactions) and 2 (transparency in currency conversion) of the Retail Financial Services Action Plan. All compromised amendments have been agreed upon. The ECON Committee voted so that all cross-border transactions from euro to non-euro currencies (and vice-versa) in the EU should cost the same as domestic transactions. The Commission had proposed that cost for transactions in euros should have been the same as for domestic transaction, but the ECON Committee went further.

Furthermore, the ECON Committee opinion requires all currency conversion providers to express their costs in a uniform way, but foresees no role for the European Banking Authority to develop Regulatory Technical Standards related to currency conversion transparency. Trilogues will start on the 19 November; hence, there is a risk that co-legislators will not find an agreement before elections.

Wrap up from subgroups meetings

- Helping consumers understand how money is being invested: the subgroup will prepare an overview of allocation mechanisms by the end of the year, to be able to work on a set of research questions after Christmas.
- ADR: the subgroup asked for an update on the timeline of the ADR legislation review. DG JUST will provide the information by the end of the week. The subgroup will be working on a questionnaire to be sent to national ADR bodies to gather information on issues at national level. A broader discussion will take place in the January 2019 meeting.
- Financial/investment advice subgroup: the meeting of this subgroup will take place via teleconference later this week.

Annual elections: debate and vote

Since it was agreed to have annual elections for the position of Chair and Vice-Chair of the FSUG, the Secretariat called for candidatures from members. One candidature was received for the position of Chair from current Chairwoman Anne-Sophie Parent, and two candidatures were received for the positions of Vice-Chairs from current Vice-Chairs Christiane Hölz and Farid Aliyev.

FSUG members agreed to reappoint Anne-Sophie, Christane and Farid respectively as Chair and Vice-Chairs of the FSUG for 2019.

Presentation of the Better Finance “Pension Savings: The Real Return” study

The preliminary results of the Pension Savings: The Real Return study were presented to the FSUG members. It was highlighted that it is difficult to find data and to get information from national regulators on this topic. The main finding is that pension product returns are improving but that they are still not comparable to capital market returns. The study includes several recommendations for EU institutions.

Non-performing loans and consumer perspective (Michael Thiel, DG FISMA unit E.1)

The Commission gave a presentation on the NPL Package and the Directive on Credit Servicers, Credit Purchasers and Collateral Recovery.

NPL's impede bank lending and economic recovery and therefore remain a risk for financial stability in the EU. The Commission put forward a package of measures that will speed up the reduction of NPLs in Europe. It will create an environment for dealing with current NPL's and reduce the risk of future NPL accumulation. The package consists of two legislative proposals and a staff working document providing non-binding technical guidance (a blueprint) for how national Asset Management Companies (AMCs) can be set up by Member States.

The first legislative proposal is to amend the Capital Requirements Regulation (CRR) and introduce common minimum coverage levels for newly originated loans that become non-performing. The second legislative proposal is a proposal for a new Directive in Credit Servicers, Credit Purchasers and Collateral Recovery, which defines the activities of credit servicers, sets common standards for authorisation and supervision, and imposes conduct rules across the EU. As such, the proposal facilitates cross-border activities. Safeguards for borrowers include:

- all legal protections applied to the bank loan remain in place;
- proportionate supervision incentivises credit purchasers and servicers to treat borrowers fairly;
- authorisation of credit servicers based on fit-and-proper criteria;
- third-country purchasers of consumer loans to have them serviced by an authorised EU credit servicer or by a bank.

Several FSUG members expressed concerns about the supervision on third party companies who purchase the debt from the banks, which seems to differ a lot at national level. In some Member States these companies are seen as a 'light bank' and are supervised accordingly, while in other Member States there is no supervision at all. FSUG members asked if there was a mandate or guideline on how these companies should conduct, and if it was mandatory for them to provide data to national authorities. In practise today, the most profitable companies are those that are most aggressive in retrieving debt.

Furthermore, a FSUG member expressed also concerns about the impact of a bank's risk assessment if it became relatively easy to get rid of NPL's and asked if there was a link in the Directive with responsible lending.

AOB

- Update on information on investment funds: FSUG members requested to receive an update on the Commission request for guidance from the ESAs on the

production and distribution of information on investment funds as of 1 January 2020, for the next day. Considering the tight deadline, the update will be provided by DG FISMA in writing and circulated to the group as soon as available.

- Presentation of 2018 Consumer Market Scoreboard: FSUG members requested to receive an update by the Commission on the 2018 Consumer Market Scoreboard which was published in October 2018. DG JUST is likely to present it at the next meeting.
- Presentation of the Evaluation of the Distance Marketing of Financial Services Directive (including update on CCD Evaluation): at the next meeting, DG JUST is likely to present a state of play on the evaluation of the Distance Marketing of Financial Services Directive and update them on the CCD evaluation.