



Minutes FSUG meeting of 27 January 2011

1. Welcoming words

Mr Jean-Yves Muylle welcomed all FSUG members to the first meeting of the group. He reminded that the idea of the Financial Services User Group was to build on former FIN-USE Forum and the Financial Services Consumer Group, creating a single group of experts and financial services users which could benefit from better financial and human resources. Users will be able to better contribute to the policy making and policy decision of the Commission. FSUG will have a very important role to play in restoring the balance between industry and user stakeholders input to the work of the Commission. The group will have the opportunity to carry research in the framework of a research budget up to EUR 150 000 per year. He indicated that Commissioners Barnier and Dalli are very interested in user issues and in the input of the group to all Commission proposals, and their own-initiative topics.

It was decided that the election of the President and Vice-president of the group will take place at the beginning of the second meeting on 22-23 February. A list of members with contact details as well as the slides of the presentations made during the day will be provided to members.

Ms Maria Cristina Russo highlighted the importance of the FSUG to have a perspective, both from the side of the financial services users and consumers, on the main issues to be tackled at EU level. She indicated that the Commission would fully benefit of the FSUG expertise when taking political decisions. In particular, Commissioner Dalli is very keen at ensuring that consumers get more confident in using financial services. Ms Russo also underlined that the purpose of this meeting was to familiarise members with the work carried out by the Commission services on retail financial services issues, and ensured that future meetings will have a different approach with more time for discussion and members' input.

Each member and Commission staff member present presented him/herself.

Mr Muylle announced that FSUG has been invited to be a permanent observer in the debates of the European Parliamentary Financial Services Forum (EPFSF) where 4 places have been reserved for user/consumer representatives. The group showed interest in participating in the Forum events. It was decided that participation will be decided on a case by case basis, depending on members' availability and interests. At the moment travel costs will not be reimbursed. The first event will take place on the 9 February regarding 'Measures taken by the industry as a response to the financial crisis'.

An FSUG member asked if common FSUG position should be agreed before the meeting of the EPFSF. Mr Muylle responded that where a position had been previously adopted, it should be presented at the event. Otherwise, a more personal approach could be followed. The representative should bear in mind that he/she is primarily representing the FSUG. Mr Muylle underlined that the FSUG would participate primarily as an observer. An FSUG member, however, highlighted that it was important to communicate consumer position at these events, as the majority of Forum participants represent the industry. In the beginning of each meeting a member who has participated in an outside activity will give feedback to the group.

2. Adoption of the Rules of Procedure

A few questions were asked regarding the rules of procedure. Concerning Article 10, Mr Muylle explained that the written procedure allows members to adopt a report without waiting for the next meeting for an opinion with a tight deadline. Regarding Article 12, Mr Muylle asked whether minutes of the group meeting could be posted on the group website after agreement of all members. The group accepted but refused to disclose individual votes, opinions and names of members except if a member asked for his name to be mentioned.

The Rules of Procedure will be amended accordingly.

3. Retail financial services and payments issues

Mr Muylle and Mr Bohr made a presentation of several initiatives adopted over the last 6 months in the field of retail financial services and payments.

Initiatives on Deposit Guarantee Schemes and Insurance Guarantee Schemes are currently in negotiations in the European Parliament and the Council. In December 2010, the Commission adopted a regulation setting up a SEPA migration end-date.

Responsible lending and borrowing for mortgage credit proposal is planned to be adopted by the Commission in March 2011. The proposal concentrates on the pre-contractual phase and includes provisions on credit intermediaries and a framework for non-banking institutions providing mortgage credit.

On access to a basic payment account, a proposal will be adopted in May 2011 granting universal access to an account with basic features. The nature of the proposal is still under discussion.

Member States have set up Alternative Dispute Resolution bodies in financial services but some are still not part of FIN-NET, a network of ADR bodies handling cross-border disputes. These ADR schemes should be encouraged to join, to make the network as complete as possible and assure that providers adhere to it. In parallel, DG Health and Consumers is working on a proposal on consumer ADR which will include, among other sectors, financial services. The proposal will be adopted by the end of 2011. DG Health and Consumers has carried out a study on existing ADR mechanisms – there are 750 such schemes in 27 Member States and they are not well known among citizens. A hearing will be organised in the European Parliament on 16 March. The ADR consultation is open until mid-March – FSUG views are welcome.

On the self-regulatory front, Internal Market and Services DG is closely monitoring the implementation of the Common Principles for Bank Account Switching implemented in 2009. A review of monitoring and evaluation of the Common Principles by the industry will be discussed with the industry and consumer representatives in February.

In financial education, the Commission adopted in 2007 a Communication which contains a series of initiatives (website, creation of an expert group, DOLCETA). On the basis of an ongoing evaluation of this Communication, the Commission will decide whether further action at EU level is necessary.

A European Parliament project aiming at finding non-profit organisations which could provide financial advice to consumers is also ongoing. This study will first identify these entities before providing them with training.

Commissioners Barnier and Dalli mandated EBIC to come forward with self-regulation in order to improve the transparency and comparability of bank account fees. The industry has to finalise it by June 2011 and implement it by end-2011.

The Commission is currently checking the Consumer Credit Directive, which was to be transposed by 12 June 2010. Almost all Member States transposed the Directive. Those which did not do it in the agreed timeline, or failed to transpose individual parts into national legislation, are facing an infringement procedure. There will be workshops organised with Member States in order to see if the technical aspects related to the annual percentage rate of charge (APRC) need to be adjusted.

On collective redress, the Commission has taken preparatory work both in the competition and in the consumer protection field. The Commission will soon launch a public consultation.

Q&A: An FSUG member mentioned several international instruments, such as the UN resolution for inclusion of disabled persons, and a dialogue group on financial services. A possible need for coordination between the different DGs was then suggested.

One member also emphasised the need for collective redress in financial services as it is the only means available for important cases. According to another member, the Netherlands is the only Member State which offers collective redress for retail investors.

Lack of transparency among the banks in the UK, and need for further measures on transparency were mentioned, and it was asked whether there has been an Impact Assessment on the responsible lending initiative as it could be useful to the UK FSA which received a lot of criticism on their proposal.

Mr Muylle replied that an Impact Assessment at European level is a much more difficult exercise than a purely domestic one as it has to take into account the diversity of situations in EU27. It has been carried out and will be disclosed together with the proposal.

A FSUG member commented on the ADR proposal and disclosed that there are currently no ADR schemes for consumers in Romania in the financial services sector; this is not in compliance with the Consumer Credit and Payment Services Directives. He also mentioned the issue of the application of the Consumer Credit Directive to contracts concluded before the entry into force of the Directive. DG Health and Consumers ensured him that there was an ongoing discussion with the Romanian authorities.

4. Discussion of the priorities of the FSUG

The priorities of the FSUG will be decided at the next meeting. The work methodology of the group is to be proactive and to conduct research.

Two FSUG members underlined that the group may need more information on the work that the Commission is preparing in March-April. The Commission agreed to pass on the information needed.

One FSUG member suggested sending to the other members a paper from the World Bank on good practices in consumer protection in financial services in Europe and Central Asia.

An FSUG member asked for a timetable for the transposition check of the Consumer Credit Directive. Mr Bohr replied that the implementation of the Directive will be checked during 2011. It will be followed by the impact monitoring and if needed, by a revision of the Directive.

5. Public consultation on Packaged Retail Investment Products

The Commission gave a presentation on the consultation on PRIPs which would be closing in January. Taking into account the importance of FSUG input, it was agreed to extend the deadline for the group until 15 February.

Q&A: One FSUG member asked which products were covered by PRIPs. The Commission replied that it was indeed one of the questions of the consultation (at the beginning, under section on scope). Internal Market and Services DG opted for an economic approach in the consultation, to try and keep the scope wide.

Another member asked why the Commission did not opt for an 'omnibus directive' instead of several separate directives (MiFID, IMD, PRIPs disclosure etc.). The Commission responded that for distribution rules, because both IMD and MiFID were new instruments (and subject to reviews at the same time), it would not be practical to create a parallel process at the same time for a separate PRIPs regime, but better to deliver PRIPs via these IMD and MiFID reviews. This was a technical issue – the outcomes being sought remained the same. For product disclosure rules, a new PRIPs regime remained probably the most sensible way forwards.

A third member stated that MiFID only covered 1/5 of retail investments or savings (no long-term savings, no bank savings products, no pension products) and feared that MiFID was too narrow and objectives would not be met.

The Commission replied that the consultation also asked whether pensions should be dealt within the MiFID or at a later stage, but in the same regime that applies to PRIPs should apply to pensions (indeed, the regime for pensions might need to be developed further, with additional standards being applied). The member who asked this question gave a clear opinion, opting for immediate action. The Commission noted questions on scope were central to the consultation, and invited input from the FSUG members, collectively or individually.

The group decided to create a sub-group who will identify areas of interest and send a response to the Commission by 15 February.

6. Review of Markets in Financial Instruments Directive and the Consumer market study on advice

The Commission presented the MiFID which is currently under review. A consultation was launched in December 2010. Among the amendments suggested, Internal Market and Services DG would like to introduce a rule for consumer protection to counter-balance the exception contained in Article 3 of the Directive. The Commission agreed to provide members with questions that strictly concern consumers.

FSUG decided to create a sub-group and send a response to the Commission by the end of February.

The Commission gave preliminary figures of the consumer market study on advice which will be published in two weeks. This exercise is a mystery shopping (1 200 mystery shops in 27 Member States) which will reveal if and how MiFID rules are applied in practice. The results will feed into the MiFID review.

Q&A: One FSUG member asked for more details on how the information is perceived by consumers.

From the study, geographical differences have been highlighted but more developed countries did not have per se better information as they offered more products and thus more risks.

A survey done in Austria in 2010, which underlined that almost nobody disclosed conflict of interests, was mentioned.

7. Public consultation on legislative changes to the UCITS depositary function and to the UCITS managers' remuneration

The Commission presented the consultation to the FSUG. It was agreed that the Commission would highlight potential questions for the FSUG to answer.

The FSUG agreed to respond to the consultation by 22 February. The same sub-group as the one for MiFID will answer the consultation. Members who have already replied to the consultation offered to send the group their reply.

8. Work in the area of behavioural economics

Mr Trusca presented research in behavioural economics applied to retail investment services. Financial services are among the markets consumers are the least satisfied with (low switching rate, high number of complaints, low level of consumer satisfaction). Moreover, complex products, misalignments of incentives and over reliance of consumers on experts' advice were identified as characteristics of the sector and may create difficulties for consumers in choosing the best products for them. The study revealed that simplification and standardisation are appropriate means to help consumers make optimal choices, whereas financial education and information have less impact and the impact of disclosing that there may be a conflict of interest is ambiguous.

An FSUG member underlined that standardisation is an option but it may be better to help consumers to make the correct choice instead of limiting their choices.

Another member suggested that a combination of such variables, such as consumer's income, education and previous experience with the product, would give a more accurate picture of consumer's decision making.

The study will soon be published on the DG Health and Consumers website and can be sent to members by emailing to emanuele.ciriolo@ec.europa.eu.

9. Bank fees transparency initiative

Ms Black and Ms Lynch provided a presentation of the self-regulatory bank fees transparency initiative which aims at finding how to improve the transparency and comparability of bank fees for consumers. The industry should deliver a draft by summer 2011 and implementation is due by the end of the year 2011.

An FSUG member added that bank fees were an important issue and stressed the need for an efficient initiative of the Commission.

Another member mentioned a problem that overdraft UK citizens face: they cannot pay back their debts since they get charged for everything and they cannot shop around since no new bank will accept them. The Commission said that this problem was unlikely to be tackled at European level since it was mainly a UK problem.

A third member suggested a closer relationship between consumers and the banking industry. He also suggested that the Commission could support members of the group in contacting national banking associations. It was then suggested that BEUC will forward to the group the paper it sent to the banking industry.

10. Mystery shopping study on switching bank accounts

Ms Black presented current mystery shopping in the area of switching bank accounts. This study's objective is to make sure banks apply the Switching Code since administrative burdens, lack of information, etc. have been observed.

11. Public consultation on the level 2 implementing measures for Solvency II

The Commission informed the group about the public consultation on the Solvency II level 2 implementing measures that had recently closed. It was stressed that FSUG input would still be appreciated but would need to be provided as soon as possible and at the latest by the end of February.

The Commission presented the ongoing work on level 2 implementing measures for Solvency II. It was explained that the level 2 implementing measures would be accompanied by an impact assessment. There are several inputs into this impact assessment including a quantitative impact study, advice from CEIOPS, the results of the public consultation and an independent external study carried out by Deloitte. It was confirmed that the Deloitte study would be published at the same time as the impact assessment as an annex.

Q&A: An FSUG member questioned the impact of Solvency II on consumers particularly on life products. Here the concern was raised that the cost of products may increase in some markets (e.g. UK annuities business or life products in France) and greater risks may be transferred to consumers. The impact on corporate diversity, including the potential reduced choice in the market was also questioned. Finally, a FSUG member asked whether the impact on complementary health business had been analysed.

The Commission clarified that Solvency II was a maximum harmonising Directive and that one of the objectives was to improve competition within the European insurance industry, which should prove beneficial for consumers. It was also confirmed that Solvency II seeks to introduce requirements that are proportionate to the risks inherent in insurers' business (proportionality principle) and that this was intended to ensure the ongoing viability of small and medium-size players in the market. It was explained that Solvency II was a risk-based regime so insurers would be expected to hold capital commensurate with risk. The new risk-based regime is expected to improve policyholder protection as a whole. The Commission's impact assessment will carefully evaluate the impacts that the policy decisions at level 2 will have on specific insurance products, including life products and health business.

FSUG agreed to respond to the consultation by 22 February. A sub-group was formed to look into this issue.

12. Commission Communication: Reinforcing sanctioning regimes in the financial sector

The new initiative was presented by Ms Assetta who said that a consultation on the communication is open until 19 February. There are currently no sanctions at European level and those at national level are quite divergent.

FSUG agreed to give input by 19 February. A sub-group was formed to look into this issue.

13. Conclusions

Mr Bohr concluded the meeting of the FSUG.

The next meeting will take place on 22-23 February 2011. The President and Vice-president will then be elected and the priorities of the FSUG will be discussed. The participation in the consultation on ADR will also be discussed at the next meeting.

The FSUG members formed six sub-groups in order to contribute to the consultations on PRIPs, MIFID, UCITS, IMD, Solvency II and Sanctioning Regimes.

14. Dates of meetings

22-23 February 2011

12-13 April 2011

11-12 May 2011

6-7 July 2011

20-21 September 2011

18-19 October 2011

16-17 November 2011

List of participants

FSUG: all members

Commission:

Internal Market and Services DG: Jean-Yves Muylle (H3), Philippe Pellé (H3), Maris Ilves (H3), Timothy Shakesby (G4), Esther Wandel (G4), Federico Cupelli (G4), Sarah Lynch (H3), Charlotte Paterson (H2) and Raffaella Assetta (G1)

DG Health and Consumers: Maria Cristina Russo (B4), Sebastian Bohr (B4), Jelisaveta Stankovic-Banka (B4), Agate Esch (B4), Angela Black (B4), Dragos Trusca (B1)