



Minutes of the FSUG meeting 10-11 September 2013

Tuesday, 10 September

Adoption of the agenda and approval of the minutes of the last FSUG meeting (3-4 July 2013) – Tour de table

The Chairman will draft thank-you notes to the speakers of the meeting held in Romania. The deputy Chairman referred to the FSUG response to a public consultation of the European Supervisory Authorities, which raised the issue of under-representation of retail investors on the supervisory committees.

A member of the group who also sits on the Supervisory Board of the European Financial Reporting Advisory Group gave an update in International Financial Reporting Standards and the potential for closer ties between the account standards setter and the European Securities and Markets Authority.

The Romanian Financial User Association was officially created. Its founding members include a member of the FSUG, consumer representatives and academics. As one of its initial activities the Association has concluded an investigation into banks' compliance with SEPA requirements. The findings indicate that a major bank in Romania consistently passed on SWIFT commissions to customer charges for electronic money transfers. The bank has committed to review its charging practices, attributing over-charging to a misinterpretation of SEPA requirements.

A recent law in Italy restricts the right of the state to seize a primary residence in the event that a citizen is found guilty of tax irregularities. However the law does not cover other types of creditors such as mortgage lenders.

Personal insolvency regulation in Ireland may place significant pressure on unsecured creditors in favour of banks and other secured creditors. The term to accede to personal debt relief has been shortened from 12 to 3 years. Credit Unions are considering the possible impact on their solvency positions, given the highly leveraged households.

In recent years the Czech authorities have stepped up actions to improve financial literacy. Efforts have focussed on target consumer groups, such as the elderly who suffer most from aggressive doorstep selling, which include credit products. Other vulnerable consumers include persons with hearing or other types of impairment.

Slovakia has enacted legislation that would ban fees on consumer credit arrangements, linked to the keeping, recording or administration of an account or closing an account. The legislation also requires more disclosures by credit institutions to the National Bank of Slovakia regarding the structure of fees and revenues. Work is also proceeding on fresh legislation covering private pension schemes. The FSUG study is being used as a reference document.

In addition, initial analysis carried out by a number of Slovak universities indicate that unit linked insurance products are a losing game for the investor/saver. These products are starting to attract the attention of legislators.

The Financial Conduct Authority will launch shortly an enquiry into the UK savings market. The enquiry will target a number of practices, including teaser rates.

A member informed the group that her organisation has applied for a seat on the Pension Forum sub-group working on codes of conduct for pension funds (occupational). The first meeting will take place on 16 September 2013. The objective of the sub-group is to try to establish a European code of conduct. The FSUG study on pension savings may be used by the group.

In Austria, a study that assessed the effectiveness Key Investor Information Documents (KIID), in the sale of UCITs has been published recently. A summary of the study is available in English. The Study analysed a sample of forty KIIDs issues by ten key market players.

The main objectives of the study were to determine whether the KIIDs comply with EU legislation and whether they can be adequately understood by retail investors. It concluded that KIIDs often omitted required standard information and the risk information was too generic.

The Chairman and a member of the group both reported that they made contributions to the European Parliament for the Payment Accounts Directive, through their organisations.

Single Resolution Mechanism for the Banking Union – presentation by Mr Emiliano Tornese (Internal Market and Services DG/H4)

Mr Tornese opened his presentation by recalling why the Commission has proposed a Banking Union, mentioning the single market and the integration of European financial markets particularly in the Euro area.

The focus of the presentation was the Single Resolution Mechanism (SRM), which has the single market as a legal basis. The current proposal does not include the Single Deposit Guarantee Scheme since the Deposit Guarantee Scheme in force is currently still under review. The proposal was preceded by the Single Supervisory Mechanism (SSM).

The SRM has attracted support from major stakeholders such as the ECB and the IMF. It will safeguard Europe against future bail-outs and their impact on sovereign risks. Reducing regulatory fragmentation is important to diminish the link between bank failures and sovereign risks. It will apply within the Euro area and other participating Member States and will include all banks.

Mr Tornese also provided some detail about the key transition dates and events towards a full Banking Union. SRM complements the SSM and resolution and funding as well as supervision must be aligned at EU level. The SRM is composed of a Resolution Board, a Fund and the Commission. The Commission is given the authority to decide to resolve a bank. It acts upon the recommendation of the Resolution Board, which would require an administration to support its operation. It would operate through an Executive Board and a General Board where all Member States are represented. The national resolution authorities also have a role to play when a resolution decision is triggered. A Single Resolution Fund will help fund a resolved bank. It is financed by levies on banks and can borrow funds on financial markets.

Revised Payments Services Directive (PSD2) and a Regulation on Multilateral Interchange Fees (MIFs) – presentation by Ms Silvia Kersemakers (Internal Market and Services DG/H3)

Ms Silvia Kersemakers presented the Payments Package, namely revised Payments Services Directive and a Regulation on Multilateral Interchange Fees (MIFs), adopted by the Commission on 24 July. Presentation was followed by discussion. One member remarked that although the Commission already proposed the revision of the PSD, in Romania some banks still do not apply PSD1 or the Regulation 924/2009 on cross-border payments. The Commission representatives asked for concrete evidence of such cases. Members inquired about different solutions to caps examined by the Commission as well as whether the cap on multilateral interchange fees could lead to the increase by banks of the annual fees for cards.

The Commission representative briefly described the evidence and results of their analysis, which can be found in the Impact Assessment accompanying the proposals.

Small claims procedures – the way forward – presentation by Mr Jacek Garstka (JUST DG/A1)

Mr Garstka presented the Regulation on small claims procedure: a written procedure applicable in cross-border cases (e.g. when one party is domiciled or has a seat in another Member State) for claims up to 2.000 EUR. He explained that the aim of the procedure is to simplify and speed-up litigation concerning small claims in cross-border cases and to reduce costs. He also explained that the Commission services are currently reviewing the Regulation and consider:

- extending the application of the Regulation to claims of a value up to 10.000 euro;
- extending the application of the Regulation to all cases having a cross-border element (e.g. when the contract is performed or the harmful event takes place in another Member State);
- modernising the procedure by making greater use of electronic and distance communication means (e.g. hearing by the teleconference) in order to remove the need to travel to another member State;
- placing a cap on disproportionate court fees, namely those which are above 10% of the value of claim;
- ensuring transparency of information on court fees, methods of payment of court fees and availability of assistance to citizens (e.g. assistance in filling-in forms).

Members noted that it is difficult for consumers/users to establish the competent jurisdiction and the competent court. Indeed Brussels I is complex and quite often only lawyers are able to establish the competent jurisdiction and court. Mr Garstka remarked that in 90% of cases it will be jurisdiction of the domicile of consumers. Nonetheless it is still litigation under the international private law and may become complex.

2013 FSUG research studies:

- Finalization of the terms of reference for the study on the performance and efficiency of the EU asset management industry
- Update on the tender procedure for the study on how to promote access and use of appropriate saving products for all European financial services users

Members had the last discussion on the scope of the study on the performance of the asset management. They were asked for suggestions of the economic operators which could be invited to take part in the low-value negotiated procedure for the study on the asset management.

Members were informed the tender documentation for the study on how to promote access and use of appropriate saving products was published at the end of July with the deadline of the submission on 26 September.

2013 FSUG Annual Report – discussion on the work progress

The group discussed the actions necessary to complete the annual report, including outstanding contributions. A number of members made drafting recommendations. Selected members should provide the Chairman with the final summaries of initiatives they led in 2013 by 16 September. A member agreed to draft a 'special feature' article by 20 September.

Position paper of the European Mortgage Federation on the FSUG study on personal bankruptcy – discussion

The lead member for the study briefly outlined the arguments presented in the letter from the European Mortgage Federation. Following a discussion, the group agreed to provide a response to the letter.

Administrative issues – discussion on the FSUG mandate

Commission representative informed that the candidates who applied to become members of the FSUG under the new term of office as of November 2013, should be informed about the results of the selection procedure by the end of September.

Wednesday, 11 September

Professional Standards Board initiative of the Chartered Banker Institute – presentation by Mr Simon Thompson, Chief Executive Chartered Banker Institute

Launched in October 2011, the CB: PSB is a joint, voluntary initiative by eight UK banks and the oldest banking institute in the world, the Chartered Banker Institute. The rationale behind its creation was very low and decreasing confidence of the UK society in banks and in bankers. Together CB: PSB members serve more than 70 million UK customers and employ more than 350,000 or 77% of individuals working in banking in the UK.

Mr Thompson explained that the overall objective of the Professional Standards Board initiative of the Chartered Banker Institute (CB: PSB) is to restore public confidence and trust in the sector and promote a culture of professionalism amongst individual bankers, by creating industry-wide standards which enshrine the very best ethical, technical and behavioural qualities.

In order to fulfil this aim, the CB: PSB:

- develops a series of professional standards to support the ethical awareness, customer focus and competence of those working in the banking industry;
- facilitates industry and public awareness and recognition of the standards;
- establishes mechanisms for the implementation, monitoring and enforcement of the standards; and
- helps build, over time, greater public confidence and trust in individuals, institutions and the banking industry overall, and enhance pride in the banking profession.

Among others, the CB: PSB developed the Chartered Banker Code of Conduct and the bankers which subscribed to it, demonstrate their personal commitment to professionalism in banking. In fact all CB: PSB member banks subscribed to the Code (350,000 UK bank employees).

Acting as the voice of the consumer, the CB: PSB Advisory Panel supports the development of professional standards ensuring they are designed with a strong focus on customer outcomes. Members represent the 'end users' of CB: PSB professional standards which are the retail, business and institutional customers and stakeholders of member banks.

The CB: PSB Professional Standards are developed at three levels:

Foundation	Basic standards of professional and technical competence required by all those working in the banking industry.
Intermediate	Standards covering specialist roles.
Advanced	Standards for experienced and senior bankers committed to demonstrating ethical and professional leadership.

The Foundation Standard for Professional Bankers was published on in July 2012. To date, more than 70,000 individuals have achieved the standard. Work is currently underway to develop the Advanced level standard. The standards are constantly monitored and reviewed which is needed for their further development and improvement.

Market Abuse Regulation – presentation by Mr Jasper Jorritsma (Internal Market and Services DG/G3)

Mr Jorritsma delivered an oral presentation to the group. He recalled that negotiations for the Market Abuse Regulation (MAR) have been on-going for 2 years, and are nearing

completion. Following the Council's general approach the EP passed a first reading vote in plenary. The text is currently undergoing legal linguistic checks.

To be implemented, the new MAR needs negotiations on MiFID II to be completed. The Criminal Sanctions on Market Abuse Directive is a separate file, and negotiations on that are expected to recommence soon.

It is unclear when negotiations will come to an end for MiFID II, although trilogue meetings are aiming for completion by the end of the year. There is political consensus that these negotiations will need to be completed by February 2014 before the breakup of the EP.

The new MAR extends its scope to multilateral trading facilities and to the new organised trading facilities. Market abuse will apply to any form of organised trading in Europe.

MAR also changes the approach toward insider information. The Regulation will harmonise approaches in the Member States and broaden the scope of what constitutes insider information.

It also renders illegal attempts at market manipulation. Certain types of behaviour carried out by algorithmic and high speed trading are explicitly considered to be manipulative under MAR. In relation to the Libor scandal, MAR includes an explicit prohibition linked to the manipulation of benchmarks that determine the value of a financial instrument.

These specific prohibitions facilitate enforcement, which the new MAR also harmonises together with administrative fines. The approach taken to fines is to allow Member States to establish higher maximum fines than required by the Regulation, which establishes a minimum level of maximum amounts of fines at €5 million.

The value of sanctions is determined at a level at least three times the size of damages caused. For a legal person sanctions can rise to up to 15% of annual turnover.

Criminal charges are addressed through the Criminal Sanctions on Market Abuse Directive. MAR harmonises the definition of what is considered market abuse for the purposes of criminal offenses.

A question and answer session followed the presentation.

Single Market Month – update on the project by Ms Delphine Leroy (Internal Market and Services DG/H3) and Mr Bruno Franchetti (Internal Market and Services DG/A4)

Mr. Franchetti informed that the Single Market Month (SMM) web-platform was already active and that the topics for the debates could be submitted. He invited the FSUG members to provide their ideas and explained that they could be uploaded in several languages. In order for them to obtain more support, he invited the FSUG members to contact local organisations and consumers and encourage them to vote on these ideas. He also explained that the ideas with the greatest support have a chance to be selected for the debate with the Commissioner. Ms Leroy pointed out that even though the SMM web-platform was at that moment available only in 7 languages, she confirmed that it would be very soon available in all 24 languages. She also repeated that active debate on ideas would take place between 7-10 October and informed that there had already been submitted ca. 240 ideas for the whole month, out of which about 60 concerned banks and financial services. She mentioned some of the subjects which were proposed: financial education, access to banking services, portability of bank accounts, and availability of finance for SMEs.

Single Market Month – discussion on the topics proposed by the FSUG

Before the meeting, one of the FSUG members had circulated his proposal of topics that could be submitted by the FSUG members in the framework of the Single Market Month. They were:

- Establishing a European Authority for Consumer Protection in Financial Services
- Encouraging whistle-blowers in financial industry
- Proper representation of depositors into the Boards of European banks

The topics were thoroughly discussed by the group and the first one gained the greatest support of the FSUG members. It was agreed that the FSUG members would submit this

topic through their national websites and would intend to seek for its support at national level. It was left up to the FSUG members if they wanted to propose one or more of the two remaining topics via national SMM websites.

Consumer Credit Directive – enforcement – presentation by Ms Maria Lissowska (SANCO DG/B4)

Ms Lissowska reported on a meeting with the Member States held earlier that week that dealt with the enforcement of the Consumer Credit Directive (CCD).

She recalled that the Commission is in the process of finalising two studies that feed into the review of the CCD. Both of these studies have been presented to the group in previous meetings. The initial findings from these studies indicate that the CCD has suffered from weak enforcement and that financial education should be stepped up.

The meeting with Member States provided some useful insights into national issues with enforcement. In Finland instant loan have attracted the attention of enforcers. These are small value loans, often credited on mobile phones. The number of these loans has grown in recent years. They target young people and there has been an increase in judgements related to non-performance.

The Finnish authorities have adopted measures to regulate these loans. APR disclosures are obligatory and lenders must be licenced. They also require credit worthiness checks and have placed a ban on paying out credits during night-time. In July this year, they have also imposed a cap on APR for loans below €2000 of 51%.

The UK has undergone a similar experience with payday lending. These are short-term, low-value loans, (falling below the CCD threshold), paid on a given date and sold mostly online. The APR of payday loans is extremely high, reaching between 300 % and 600 %. Also, there is a dangerous practice of rolling-over loans when debtors are unable to pay. On average loans are rolled over at least once for 28% of loans.

The market for payday loans is growing, in particular due to loose credit worthiness checks. The market for short-term, low value loans is mostly not served by traditional credit institutions and therefore payday lenders have moved into a lucrative market to filling in a gap. The UK Office of Fair Trading initiated a compliance review in line with UK legislation, the CCD and guidelines on irresponsible lending. The methodology used comprised compliance inspections; mystery shopping; advertisement sweeps and analysis of complaints registers.

The final results were issued in March 2013. Fifty lenders either received letters requiring an audit of their activities or were considered non-compliant. Only 23% of creditors were assessing affordability of loans upon rollover. Only half of the lenders were limiting rollovers, with some loans being extended over a period of one year at extremely high rates of interest. Some payday lenders had recourse to aggressive debt collection practices and systematically refused the involvement of debt collection advisors.

As a result of these findings the report recommends to subject all payday lenders to licencing requirements. The Office of Fair Trading has the authority to revoke or suspend a licence. So far the licences of three operators were revoked and another seven lenders surrendered their licences. Fifteen lenders left the market. An on-going market investigation by the Competition Commission is due to be concluded by 2014. It will address market concentration, entry barriers, deficiencies in price competition and market transparency. The UK opted against capping the total cost of credit, as the authorities believed that this would encourage the development of black market lending.

Some members of the FSUG commented that there was no evidence that caps on the cost of lending would encourage a parallel, unofficial lending.

Commission proposal for a Regulation on European Long-term Investment Funds – presentation by Mr James Hopegood (Internal Market and Services DG/G4)

The objective of the Commission proposal for European Long Term Investment Funds is to create a new investment fund framework designed for investors who want to put money into companies and projects for the long term. These private European Long-Term Investment Funds (ELTIFs) would only invest in businesses that need money to be committed to them for long periods of time.

Mr Hopegood explained that the new Funds would be available to all types of investor across Europe subject to certain requirements set out in EU law. These requirements include the types of long-term assets and firms that the ELTIFs are allowed to invest in, for example infrastructure, transport and sustainable energy projects, how they have to spread their money to reduce risks and the information they have to give to investors. Any ELTIF manager would also have to comply with all of the stringent requirements of the Alternative Investment Fund Managers Directive to provide adequate protection for its investors.

The reasoning behind the proposal is the need for a secure long-term financing for Europe's real economy given that currently financing is often scarce and where it exists is too focused on short-term goals. Therefore, as pointed out by Mr Hopegood, the European Long-Term Investment Fund is an investment vehicle that will allow professional investors and individuals to invest long-term in European non-listed companies and in long-term assets.

ELTIFs would invest in illiquid assets which are difficult to buy and sell. In addition, firms need to be confident the money invested in them will be there for as long as they have told investors they will need it. Therefore investors will not be able to withdraw money until the specified end date of their investment and this will be disclosed clearly up front.

Finally, Mr Hopegood explained that the proposal has already been transferred to the Council and the Parliament but the timetable of negotiations in both institutions as well as final adoption date are not clear yet.

2012 FSUG research studies – discussion on the reports:

- Draft final report for the study on remuneration structures and conflicts of interest
- Final report for the study “Who owns the EU Economy? Evolution of the ownership of EU-listed companies between 1970 and 2012

The lead member of the group outlined his main comments on the draft final report of the study on remuneration structures and thanked the members of the group for their contributions.

The group discussed what main improvements were needed before the report could be accepted. The discussion touched upon various aspects of the report including the evidence base, the reference to relevant literature and the report's recommendations.

Regarding the final report on the study named 'Who owns the EU Economy?', the lead member explained his view of how the report could be improved. However the report is close to completion and should be published shortly. The lead member invited the group to provide any further comments as soon as possible to accelerate the completion stage of the study.