FSUG Annual Report 2014

TABLE OF CONTENTS

FOREWORD

We have the privilege of introducing the fourth annual report of the Financial Services User Group (FSUG). The FSUG was set up by the European Commission to improve the level of user representation at the heart of the EU policymaking process. This report describes the activities of the FSUG from November 2013 to October 2014.

The arrival of the new European Commission and creation of the powerful new financial services brief provides an ideal opportunity to learn lessons but importantly look forward to describe what we see as the main challenges facing policymakers and regulators – and, of course, financial users – in the EU's financial services over the coming years. Our work shows that post financial crisis, there is still much work to be done to restore and maintain financial stability, ensure EU's financial institutions are prudently run and, critically, make financial markets work for the citizens of the EU and the real economy.

FSUG activities

As the FSUG website shows, we have had another busy year to date producing nine opinions in response to the Commission's requests for advice as well as a range of proactive opinions, initiatives, communications and engagement with a range of policymakers and opinion formers.

Our work covered the whole spectrum of financial services from retail financial services to institutional and wholesale markets and financial markets infrastructure. The range of issues included: consumer and investor protection, better regulation, financial stability and prudential regulation, financial intermediation and innovations such as crowdfunding, access to financial advice, supporting efforts to ensure EU citizens have a legal right of access to a basic bank account, and asset management. This ability to contribute to and influence reforms at depth and across such a broad range of issues, not just retail consumer issues, is a reminder of the unusual strength and depth of the FSUG.

Major research projects

The FSUG has its own research budget. During the year, we finalised two major own initiative research reports on the EU asset management industry and the remuneration structures of financial services intermediaries and conflicts of interest.

It is vital that the EU asset management industry, given its size and importance to citizens and the real economy, is efficient and offers real value (in terms of charges and performance), and has the confidence and trust of financial users. The results of the study were very disappointing with poor performance across many EU member states resulting in a theoretical welfare loss of some €277 billion over ten years for investors. Moreover, the investment products, private pensions and securities sector consistently ranks at the bottom amongst the all products and services markets analysed in the EU Consumer Market Scoreboard. This industry is clearly a priority for reform. It is unwise to expect citizens to make increased use of this industry to save for the future and for retirement without first improving the efficiency of the industry and consumer confidence and trust.

Conflicts of interest created by remuneration structures involved in the provision of advice and distribution of products to consumers is a major concern. In this study, we: evaluated the current status of existing remuneration models in 10 selected EU member states; described the existing regulation relating to intermediaries selling life insurance products; and mapped

possible steps that could be taken to improve remuneration schemes that would reduce potential conflicts of interest.

We have also identified two further research studies to be undertaken in the coming year – crowdfunding and access to comprehensive financial guidance.

Crowdfunding is an emerging area of financial intermediation that has shown impressive growth rates after the financial crisis. It is important that policymakers and financial representatives understand the potential benefits and risks associated with this innovation. The study will seek to understand consumer awareness of crowdfunding and their understanding of risks involved with this innovation. We will then make recommendations based on the findings.

Consumers across Europe are facing an increasingly difficult task in managing their personal finances. Therefore, it is critical that they have access to suitable and appropriate financial guidance if they need it. The study on financial guidance will seek to: identify the approximate number and profiles of potential consumers at EU level, who could benefit from comprehensive financial guidance, and at what life stages; identify and investigate examples of best practices of financial guidance both in the EU and worldwide including how these are funded and which business models are used; and potential incentives which could encourage consumers to take up financial guidance.

FSUG priorities

In addition to research projects, we also produce papers to prompt awareness of important issues. This year we embarked on two major pieces of work on Simple Financial Products and Consumer data and practises of creditworthiness and produced a new version of the FSUG Risk Outlook.

As we have explained before, the usual approach to financial regulation has not been very effective at protecting consumers and making financial markets work for EU financial users[1]. Different strategies need to be considered including direct product intervention such as developing a range of Simple Financial Products for consumers. The forthcoming discussion paper will consider how Simple Financial Products can: improve access to suitable products; promote real competition, innovation and efficient markets; promote fairness and market integrity; and improve the effectiveness of financial regulation. The paper will identify specific policy goals and product areas for which product intervention is most appropriate and assessed the potential for EU level interventions.

The FSUG, after the consultation with the Commission, identified the issue of credit data and practices of creditworthiness assessment as a priority for consumer protection that requires in-depth analysis, discussion, and action at policy and regulatory level.

A key challenge for policymakers and regulators – if they want to protect financial users and make markets work – is to identify risks to their objectives, understand why those risks occur and be willing and ready to intervene to pre-empt this detriment emerging without constraining genuinely beneficial market activity and innovation. The second Risk Outlook

[1] The reasons are complex but the primary intellectual failure was the over-reliance on conventional models of regulation which assumed that the role of regulators is to create the conditions for markets in the expectation that competition and market forces would then ensure that markets met consumers' needs and preferences. The approach adopted by financial regulators was an 'article of faith' rather than based on objective, rational analysis of market failure from the consumer perspective.

identifies new or emerging risks facing financial users and provides a commentary on whether we believe that the previous risks we identified have been dealt with. We hope also that this Risk Outlook will be particularly helpful for the new Commission taking over this year. We describe how policymakers need to deal with three categories of risk:

Legacy risks: the failure of many EU Member States to clean up legacy problems and ensure consumers obtain redress means a significant '***redress deficit***' exists across the EU.

Existing/ current risks: we have identified many examples of detriment and market failure currently happening across the EU – one of the main causes if is the failure to enforce existing regulation.

Emerging/ future risks: new risks will emerge as a result of major socio-economic, demographic, market, and commercial trends affecting firm and consumer behaviour. Regulators need to be aware of the underlying causes of market failure and intervene to pre-empt and prevent detriment. Prevention is more cost effective and efficient than cleaning up market failure after the event occurs.

Wider engagement

FSUG meetings are usually held in Brussels. However, as part of our wider engagement approach, we make a point of holding one of our meetings in a Member State to listen directly to public interest representatives. This year we held our meeting in Warsaw where we learned about the Polish mortgage market, collective redress, enforcement of consumer credit, and the threats from the growth in payday lending. A more detailed account of the lessons learned from Warsaw can be found on page 13. We are very grateful to our hosts in Warsaw for a very informative session.

Special features

On page 26, we have a special feature from our colleague, Marcin Kawinski, on the implementation and enforcement of existing legislation and regulation. This is a very important issue as efforts to introduce appropriate legislation and regulation can be seriously undermined by the failure to implement and enforce.

And last but not least

We would like to thank the staff from the Internal Market and Services DG, and the Health and Consumers DG who took the time to present initiatives to us. We would especially like to thank Malgorzata Feluch from Internal Market and Services DG, and Alessandro Giannini from Health and Consumers DG for their invaluable guidance and support throughout the year. Finally, we would like to thank the team who provide much needed administrative support to the FSUG – especially Ann Van Mello, Donna McKillion, Tessa De Roock-Dierickx and Monika Taxer. Without their support the FSUG would not function.

Mick McAteer Anne Fily Guillaume Prache

Chair, FSUG Vice-Chair, FSUG, Vice-Chair, FSUG

ABOUT THE FSUG

In its White Paper on Financial Services Policy 2005–2010, the Commission stated that it attached great importance to ensuring proportionate user representation in the policy making. In the Communication for the European Council – *Driving European Recovery* – the Commission put the interests of European investors, consumers and SMEs at the centre of the financial market reform.

As a measure to achieve these targets, the Commission set up a Financial Services User Group (FSUG). The Group's task is to:

- advise the Commission in the preparation of legislation and policy initiatives which affect the users of financial services
- provide insight, opinion and advice concerning the practical implementation of such policies
- proactively seek to identify key financial services issues which affect users of financial services
- liaise with and provide information to financial services user representatives and representative bodies at the European Union and national level.

FSUG has up to 20 members, who are individuals appointed to represent the interests of consumers, retail investors or micro enterprises, and individual experts with expertise in financial services from the perspective of the financial services user.

FSUG meets eight times a year in Brussels and its Chair is elected from amongst the group members. The Commission (jointly Internal Market and Services DG and DG Health and Consumers) provides secretarial services for the Group.

The Group works on a consensus basis and tries to ensure that it arrives at a collective opinion on issues it considers. However, from time to time, individual members may register a minority opinion.

FSUG RESPONSES TO EUROPEAN COMMISSION REQUESTS FOR OPINIONS

From the start of the year to the end of October, FSUG produced nine responses to requests for opinions from the Commission and other authorities plus a range of own opinions and communications.

Public consultation on crowdfunding

FSUG finds crowdfunding very interesting and promising, however there are issues connected with consumer protection which should be solved in spite of the early stage of development. There are some features in the crowd funding campaign is to meet. It should be open call to the public through the internet to collect funds during a specified time period for a specific project in the form of small contributions from a large number of individuals not dedicated to small project only. Lending or investment campaign for profits should be treated differently.

We find out many benefits of crowdfunding, like: growth of economy and jobs creation, additional resources for (social) entrepreneurs and SMEs, financing of research and development (R&D) additional opportunity for small retail investors. We are also aware of specific risks which need special attention, like fraud, project failure, misleading advertising, contributors do not get back the money. Additional issues could arise from overvaluation of the project, inability to exercise shareholder rights or no exit option.

For the above reason and having in mind early stage of development of crowdfunding it is very important to provide regulation which protect consumers but at the same time will not be a burden for further growth of socially beneficial initiatives. That is why FSUG decided to initiate a research on crowdfunding, which could help addressing critical issues.

Public consultation on the review of the Consumer Protection Cooperation (CPC) Regulation (2006/2004/EC)

Enforcement in financial services area is lacking. At national level, the authorities responsible for enforcement in the area of financial services often do not place enough emphasis on consumer protection. Their first task being financial supervision, they might have limited staff or limited powers for consumer enforcement, or even no statutory powers at all. This results in different responses to similar or identical infringements (or no response at all), therefore leaving consumers in countries with weaker enforcement on an unequal footing. In addition the EU legislation in financial services area is not included in the CPC annex, with the exception of the Directive on consumer credit, so the CPC cooperation rules do not apply. This further weakens the enforcement in financial services area. Moreover, the three European supervision authorities have specific powers relating to consumer protection which they have so far used poorly.

This has to be remedied either adding EU legislation on financial consumer services in the CPC annex and including the enforcers of financial area under the CPC network, or creating a similar mechanism for cooperation in financial services enforcement area, or improving the functioning of the European Supervision Authorities.

The FSUG is on the opinion that the best solution would be to set up a European authority in charge of consumer protection working in close cooperation with national authorities in order to ensure a high equal level of enforcement throughout the Single Market. The 3 ESA regulations should be revised and a new regulation which creates a new authority adopted; the new regulation would merge the existing competences of the 3 existing ESAs and cover all EU legislation dealing with consumer protection in the financial services area.

The powers provided by the CPC regulation should be made available to all national authorities in order to carry out their national supervision activities and cover all EU legislation related to consumer protection in the financial services area. In particular, they should be included in the next revised version of the 3 ESA regulations or in a regulation creating a new EU authority in charge of consumer protection. In addition, this list of powers should include the use of mystery shopping which is often the only way to demonstrate that a seller does not comply with the legal rules (e.g.: 'botched 'interviews to establish the MiFID profile of the retail investor in accordance with MiFID; non delivery of pre-contractual information in due time before signature of the contract; non-disclosure of conflicts of interest).

It is crucial that it is made easier for consumers to claim compensation following an enforcement decision and the public enforcers are perfectly placed to facilitate this task.
Redress opportunities are often scarce and difficult to pursue for individual consumers, particularly in legal systems where the legal advice and representation is very costly or court cases take a long time. Therefore national authorities have to facilitate redress and compensation for the consumers harmed by infringements, and consumer harm should be taken into account in the investigation procedure. Authorities must have powers to order compensation from the infringing party to be paid to the victims if known. If this is not possible, CPC authorities and all national authorities dealing with consumer protection have to facilitate access to justice for victims by making their files accessible in order to allow the victims, or their representatives, have evidence about the infringement and the harm caused by it.

Last but not least, the authorities' decisions should be available for the victims to use in courts, also in a cross border context and to check whether national authorities actually apply the legislation protecting consumers. This can have a powerful impact on market practices.

FSUG response to Joint Committee Consultation Paper on draft guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors

FSUG finds the topic of the consultation very important, as the complaints-handling needs to be under further supervisory convergence. There are differences in the regulatory provisions for complaints-handling between the securities and banking sectors, and also among the Member States. The unified regulatory view should help to ensure a consistent approach to complaints-handling (especially for customers) across the banking and investment sectors and should strengthen consumer protection which has key importance in terms of feedback for the prudential operation.

FSUG has only minor remarks to the guidelines as such, however we would like to underline that first of all consumer should know about this special procedure. It means that information should be spread widely and deliver effectively to make it a part of general knowledge of consumers. Furthermore an access to the internal complaints-handling procedure should be

as easy as possible with special attention paid to vulnerable people who could need some assistance or special way of communication

Internal complaints handling should be monitored by supervisors regularly. Internal complaints-handling cannot be used to lengthen period of pay-out or provision of services. For example in Germany consumers address their complaints to their relevant branch which are then tend to be send on to a central complaints handling department where the consumers looses touch with his or her complaint. Timely responses are usually only available if the consumer decides to use a lawyer or gets assistance from a local consumer advice centre.

Firms should be required then to operate central complaints handling centres which are in direct contact with the consumer and accountable to them. There should also be clear rules regarding timelines and firms should be required to refer to the existence of an ombudsman service in their correspondence with the consumers.

Complaints relating to systemic consumer issues should not be left without reaction and should meet special attention of supervisory authorities. From this perspective an internal complaints-handling should be considered as early warning system for financial institutions, supervisors and regulators.

Reply form for the ESMA MiFID II/MiFIR Consultation Paper

The FSUG responded to this consultation paper on the possible content of the delegated acts required by several provisions of MiFID II (the new Markets in Financial Instruments Directive) and MiFIR (the Markets in Financial Instruments Regulation), which have been both approved by the European Parliament on 15 April 2014 and by the European Council on 13 May 2014.

This is a very important consultation for individual investors and other financial services users. However, the size (311 pages) of the consultation, the exceptionally high number of questions (243) raised by ESMA, and the short deadline do not make it a very retail user friendly consultation. FSUG was able to reply only to selected questions it believed are the most crucial for financial services users.

There are two main problems which need to be addressed:

1. The sale and distribution of unsuitable, inappropriate or toxic products to retail investors and pension funds etc.
2. Serious market inefficiencies – that is, high charges and underperformance by fund, insurance and pension managers.

- Fair, clear and not misleading information

ESMA requirements to ensure fair, clear and not misleading information are not sufficient.

- Inducements for non independent advice

FSUG recommends to ESMA to propose to the EC standards and guidelines that: do not favor further consumer detriment by favoring again the big banks , i.e. the dominant “closed architecture” and on average underperforming distribution networks, but, on the contrary, at last ensure MiFID provisions on the prevention of conflicts of interests in the distribution of investment products also fully apply to the dominant salaried networks in Continental Europe; and concentrate on ensuring the actual implementation of the MiFID provisions

preventing conflicts of interests in distribution by drafting much clearer and plain English easy to enforce standards and guidelines on how to enforce article 29 of MiFID II.

- Suitability

FSUG believes the suitability assessment to be made whether there is an alternative instrument with lower costs is crucial and we congratulate ESMA for including this requirement in its draft TA. Indeed, ample evidence shows the dramatic impact of costs on the performance – and therefore on the "suitability" - of retail investment products. It needs however to be further clarified in our view.

- Product intervention

FSUG does not agree with ESMA's proposed criteria and factors for product intervention. Product intervention (like it is the case for physical health products) should concentrate first and foremost on toxic products. For us, toxic investment products are the ones where the ex ante probability of achieving either the stated investment objective and/or a real positive return is low.

Draft of the effective approaches to support the implementation of the remaining G20 High-level principles of financial consumer protection

FSUG supports the high level principles of consumer protection set out by the G20. However, we have some general and specific suggestions to further strengthen the principles.

Transparency, information and education: more must be done to prevent 'confusion marketing' and misleading use of terms; independent financial education programmes for consumers should be included in curriculums; widespread failure of competition and market forces requires more direct interventions such as the development of simple, fair and transparent benchmark financial products to help consumers identify good value and make more effective decisions; transparency and fairness relating to charges and terms must apply at each stage of the relationship between consumer, intermediary, and provider – pre-sale, point of sale, post-sale and ongoing relationship.

Responsible conduct, responsible lending: lenders should have a duty to act in the best interests of borrowers; credit should only be advanced following a realistic assessment of the borrower's ability to meet obligations; criteria for responsible lending must be set independently, be transparent and exclude unfair terms; for mortgage loans there should be a proper assessment of the value of security held as collateral; contractual terms, marketing and promotions must also be clear, fair and not misleading and developed in conjunction with consumer associations; the principle of responsible credit should apply not only to pre-contractual information and assessment of affordability but to situations where borrowers get into financial difficulty and must include minimum standards of protection for consumers against foreclosures, allow the option of renegotiating debt and halting enforcement procedures where appropriate to allow for assessment of the abusiveness of contractual clauses[2].

Complaint mechanisms and collective redress: effective redress mechanisms are critical for financial consumer protection and can be faster and less expensive than judicial alternatives; alternative dispute resolution (ADR) mechanisms should be independent and well-resourced; collective redress mechanisms that provide additional opportunities to seek compensation for losses suffered as a result of actions, services or products of financial providers and / or their authorized agents should be established; ADR mechanisms should not preclude or restrict the ability of consumers to use judicial alternatives particularly on group claims.

Proposals to implement the Principles: we advocate the permanent establishment of an international agency to represent consumer in financial services to identify and assess specific problems common to consumers in each country and develop joint proposals for reform. This agency would be made up from permanent representatives of legitimate consumer associations, members of Consumers International and consumer finance specialists who are members of different consultative bodies. Representatives of the agency would attend meetings of the G20 and other international events on behalf of consumers; the OECD should organize an International Forum of Representatives and Experts on Consumer Financial Protection to support effective financial consumer protection across the world.

Competition: it is critical that the OECD and other agencies revise their general approach to competition and innovation in financial markets. In ***theory***, competition should lead to the market innovating and operating more efficiently. However, in ***reality***, we see that competition can actually result in major inefficiencies in the financial supply chain and destroy value for consumers – for example, if competition is for distribution or results in additional unnecessary layers being introduced into the supply chain. Similarly, much of the innovation seen in financial markets has been of little value to consumers or indeed

[2] details of FSUG recommendations on the fair treatment this can be found in our study: "Study on means to protect consumers in financial difficulty: personal bankruptcy, datio in solutum of mortgages, and restrictions on debt collection abusive practices'

downright toxic. The OECD and others should adopt a more pragmatic, sensible view of competition and innovation. We must move away from an approach based on creating the conditions for competition in the assumption that this will result in the right consumer outcomes. This approach does not have a good track record in financial services. What matters is that markets produce the right outcomes for consumers. Competition, if harnessed properly, has a role to play in producing the right outcomes. But, equally, good regulatory interventions can produce the right outcomes where market dynamics fail to do so. Making financial markets work for consumers requires a different regulatory philosophy, culture and approach. Complex markets such as financial services ***have to be made to work*** in the consumer interest.

FSUG reaction to Public consultation on modalities for investment protection and ISDS in TTIP

FSUG reacted to the EU Public Consultation on modalities for investment protection and Investor-to-State dispute settlement (ISDS) within the (upcoming) Transatlantic Trade and Investment Partnership (TTIP). FSUG underlines the need of an adequate redress system in case the rights of local and foreign investors under TTIP are abused. FSUG is of the opinion that in principle local court systems in most countries offer such adequate redress and the exhaustion requirement is essential. Only when local judicial systems do not comply with basic procedural rules of law or access of investors to such local judicial system is denied, an alternative dispute settlement system would come into consideration. However, such alternative dispute settlement system cannot replace existing and functioning national possibilities for relief. It should only be of an exceptional and alternative nature. For FSUG, ISDS would not be the first option for such alternative settlement system. FSUG could imagine that a state-to-state dispute settlement system could straighten any (legal) barriers of investors via specific provisions that allow an investor whose rights under TTIP are abused to request its home state to initiate a claim towards another state in order to settle the investment barrier.

Only in case that such state-to-state settlement wouldn't lead to adequate redress, FSUG could agree to ISDS, however in a far amended form. So far ISDS does not comply with basic procedural principles of law. Principles such as transparency must be laid down in general rules for ISDS. The availability of documentation to the public, public hearings and the possibility of intervention and participation by third parties are logical conditions to be met. In the interest of transparency claims should no longer be handled behind closed doors. Costs, awards, decisions and documents related to the proceedings, including names and information on claimants, attorneys and arbitrators must be made public. FSUG refers to the recent released Uncitral rules on transparency in treaty based investor-to-state arbitration which includes that hearings should be public. In order to protect the consistent interpretation of TTIP FSUG agrees to the introduction of an intervention possibility for non-disputing parties for interpreting the relevant provisions. This supports and results into consistent case law. Furthermore FSUG strongly promotes the introduction of an appeal mechanism into ISDS. This will increase the quality of the judgments and will improve the consistency of interpretations.

FSUG response to the European Ombudsman's public consultation concerning the composition of European Commission expert groups

The FSUG responded to the public consultation of the European Ombudsman on the measures necessary for achieving a more balanced composition of Commission expert groups. The composition of expert groups is of key importance for ensuring a balanced policy making process. While the FSUG recognized that notable progress has been made in ensuring a more balanced composition of expert groups, it provided evidence on continuing imbalances and concrete proposals for improvement.

FSUG emphasized in its response that the issue of balanced representation cannot be resolved only with ensuring the numerical balance of participants. Because organizations representing users' interests have lower capacities for dedicating experts and resources towards work in expert groups, European Commission should urgently look into ways of providing these experts and the organizations they stem from with sufficient resources for meaningful participation in the expert groups.

However, FSUG noted, user organizations often cannot afford to assign the limited number of experts they dispose of to an expert group because such diversion of resources would seriously limit the capacities in their core activities. Moreover, the situation is even more serious in some member states (particularly in new member states and southern member states) where the civil society is less developed. There, the retail user association often cannot afford at all to employ experts in the field of financial services. This lack of user representation results in seriously unbalanced policies at the national level and translates into underrepresentation of retail user input from these member states on the EU level, in the Commission expert groups. Establishing a mechanism to support national civil society groups representing financial services users is therefore essential.

FSUG provided the Ombudsman with a list of expert groups where user interest is still underrepresented. However, a key message here was that the Ombudsman should not only focus on expert groups working at the European Commission, but also on expert groups at other EU level institutions, such as the European Supervisory Authorities, the European Central Bank and the European Economic and Social Committee. Without this, the Ombudsman's efforts to promote balanced policy input and better policy making on the EU level will remain insulated and limited.

The final message of the FSUG was that expert groups with balanced stakeholder representation are not always suitable for providing timely and high-quality input for policy decisions. Particularly in the field of financial services, the input on risks and harmful market practices for consumers and users can be "balanced" by contrary reports of the industry representatives. This is especially the case when new market practices or products appear that can be detrimental for the consumers but very profitable for the industry. Consultative groups such as the European Consumer Consultative Group ECCG or the FSUG are thus crucial for providing high-quality response from the user's perspective on EU policy initiatives, warnings on harmful market practices and expertise input for market reforms. All EU institutions should establish such consultative organs for retail user input with adequate means for expert engagement, while at the same moment strive for balanced representation in mixed expert groups that deal with more specific and ad-hoc policy issues.

FSUG's response to ESMA's public consultation on draft technical standards on the Market Abuse Regulation (MAR)

FSUG responded to the draft technical standards on the Market Abuse Regulation. Generally, FSUG welcomed the proposed standards which are likely to increase and enhance the quality of information being made available both to investors and to competent authorities, which should in turn enable investors to make improved investment decisions.

Regarding **market sounding**, FSUG considered it important that disclosing market participants meet certain standards prior to conducting a market sounding but, more importantly, it needs to be ensured that they provide sufficient information to potential investors in the event that these investors are sounded out. This will not only enable investors to assess whether or not they should take part in the market sounding, but also whether the information they received is price-sensitive.

With a view to **OTC transactions**, FSUG was of the opinion that the national competent authorities should include OTC trading in their assessments of market practices by looking very carefully at the transparency criterion being met.

FSUG furthermore supported ESMA's approach with regard to the **disclosure of insider information and managers' transactions** and underlined the necessity of information being readable, understandable and reliable for investors and the public.

Last but not least, FSUG strongly supported ESMA's consideration to include potential conflicts of interest resulting from remuneration tied to the instruments covered by the recommendation produced. Conflicts of interest arising from monetary but also from non-monetary inducements are by far the most relevant with respect to potential harm for investors (since these could form a perverse incentive, resulting in a conflict of interest that is potentially detrimental to investors/not in the best interests of investors) and should therefore be clearly flagged in the **investment recommendation**.

OTHER RESPONSES, INITIATIVES AND COMMUNICATIONS

As well as responding to requests from the Commission, FSUG:

- responds to consultations from other policymakers
- proactively seeks to identify key financial services issues which affect users of financial services and
- liaises with and provides information to financial services user representatives and representative bodies at the European Union and national level.

2014 Risk outlook

A key challenge for policymakers and regulators – if they want to protect financial users and make markets work – is to identify risks to their objectives, understand why those risks occur and be willing and ready to intervene to pre-empt this detriment emerging without constraining genuinely beneficial market activity and innovation. But policymakers and regulators are seriously under-resourced and face difficulties supervising the vast, complex EU financial markets. Two years ago, the FSUG produced its first Risk Outlook to help policymakers, financial regulators at EU and national level, and other stakeholders such as consumer organisations recognise the key risks facing EU financial users in the post financial crisis environment.

This second Risk Outlook report updates that report and identifies new or emerging risks facing financial users. It also provides a commentary on whether we believe that the previous risks we identified have been dealt with. We hope also that this Risk Outlook will be helpful for the new Commission taking over this year.

Policymakers need to deal with three categories of risk:

Legacy risks: relates to consumer detriment and market failure that has occurred in the past. The priority here is to clean up the market after the event has occurred and ensure that consumers affected obtain due redress and wrongdoers held to account. Unless and until consumers obtain redress and wrongdoers held to account, these historic risks have not been dealt with. The failure of many EU Member States to do this means a significant '***redress deficit***' exists across the EU (see lessons from Warsaw, below).

Existing/ current risks: this relates to consumer detriment and market failure that is happening in the market now. Regulators should be aware of and be taking action to deal with this type of risk before the scale of market failure and consumer detriment increases. The Risk Outlook lists many examples of detriment that we know are currently happening across the EU. One of the main risks to financial users is the failure to enforce existing regulation.

Emerging/ future risks: this relates to risks that are likely to emerge as a result of major trends and changes in the market affecting firm or consumer behaviour. Regulators need to be aware of the underlying causes of market failure and intervene to pre-empt and prevent detriment. Prevention is more cost effective and efficient than cleaning up market failure after the event occurs.

In the first Risk Outlook, we highlighted that following the financial crisis, policymakers, regulators, civil society representatives and other opinion formers faced three major challenges: restoring and maintaining financial stability; making sure major financial institutions are prudently and safely run; and making financial markets work for society.

Policymakers and regulators understandably had focused on the first two challenges. Recently we have seen much activity relating to the third challenge at EU level with the reform of MIFID, IMD, initiatives to improve long term investment and so on. However, there does not seem to be much evidence that this activity has been translated into major improvements for financial users. Enough time has now passed. Policymakers must now ensure that making markets work for EU citizens is given the same priority.

As the most recent Consumer Markets Scoreboard [3] shows, FSUG representatives are right to be very concerned about the failure of financial services to work effectively for financial users. The Consumer Markets Scoreboard is a very powerful tool as it evaluates markets from the user perspective – not from the industry perspective. Despite the claims of industry lobbies that the financial services industry has learnt its lesson and has the interests of financial users at its heart, the research shows quite clearly that financial services continues to be amongst the very worst performing markets in the EU.

Lessons from Warsaw

This year's FSUG 'out of Brussels' meeting was in Poland at the Warsaw School of Economics. The meeting was informative and extremely interesting with the focus on the financial services sector and consumer issues. As a starting point a presentation was made on the Polish economy which gave emphasis to demography and consumer's needs. An inevitably issue in this context was pensions and the reforms necessary to take account of the aging population and the pressure on the public purse.

This was followed by a presentation on the Polish mortgage market. In Poland, home ownership is very high and the mortgage market has positively benefited recently from moving away from mortgages based on foreign currency to the Polish zloty. The National Bank has also taken positions to lessen the risk of a real estate bubble.

An important issue was raised concerning banks selling insurance. We were informed that some of the bigger banks, additional to their traditional banking services, sell insurance products. The Polish Ombudsman in 2013 had received 1,604 complaints relating to problems of selling these insurance products including mis-selling and denial of refunds. Another problem was identified with unit linked life assurance products in Poland. FSUG members expressed their concern as to the high level of fees paid by consumers for such products, transparency, the complexity and multi-layered structure of fees. Similar detrimental aspects of these products are experienced in other Central Eastern countries. Members of the FSUG agreed to carry out a comparison of typical unit linked life insurance contract fee structures to increase awareness of this issue.

A new system of collective redress has been introduced in Poland. However, there still appears to be a redress gap. The FSUG noted the useful development of a database of

[3] http://ec.europa.eu/consumers/consumer_research/editions/docs/6th_edition_scoreboard_en.pdf

abusive clauses in contracts but understood there are still problems in consumers seeking a resolution where such clauses exist.

Enforcement of EU Consumer Credit Directive was implemented in Poland in 2011.Three main issues were highlighted and discussed as problems had been identified in the process of enforcement: advertising, mandatory information and the wording of contracts.

Lastly, the growth of payday lending and the resulting consumer detriment was discussed and it was agreed to share a research report with the Polish Office of Competition and Consumer Protection that highlights the business model of these schemes and the determent they cause.

FSUG RESEARCH PROGRAMME

The FSUG has its own research budget which it can use to commission research on issues it thinks are important to users. We decided to focus on investigating areas in which the position of consumers is weak or there is a lack of transparency. After a prioritisation process, we selected and suggested contracting research studies on the following two new important issues:

- crowdfunding
- financial guidance

Crowdfunding

Crowdfunding is an emerging area of financial intermediation that has shown impressive growth rates after the financial crisis. Specifically, according to EC data[4,5], in 2012 crowdfunding in Europe saw an estimated 65% growth compared to 2011 and reached €735m; the predicted figure for 2013 was around €1bn. Other sources report that in Europe, the number of active crowdfunding platforms at the beginning of 2012 was estimated at around 200, expecting to rise by another 50% by the end of 2012[6]. Global funding via crowdfunding was forecast at $5.1 bn for 2013, of which $2.1bn lending-based, $166m equity-based and the remaining $2.8 without financial return[7]. The global market grew 81% in 2012, accelerating from a rate at 64% in 2011.

There are two areas of interest of crowdfunding users in terms of future prospects, namely. exploring awareness about the crowdfunding industry in general (i.e. percentages of people that are aware of crowdfunding in total population, strategies and obstacles in raising awareness etc.), and b. exploring risk awareness for active users of crowdfunding (i.e. how much do users diversify their portfolios, what is the average amount spent by users, what is the platforms' strategies to raise awareness about potential risks etc.). To scale down the scope of our research we focus on investors (not fundraisers) in platforms with financial returns (lending and equity). The objective of this research is to shed some light in these areas that have not been explored so far. The study will cover the following 6 (six) Member States: Germany, the UK, Spain, Poland, the Netherlands, Estonia.

FSUG members have prepared the Terms of Reference in line on what mentioned above and we are anticipating the finalization of the process in the context of the framework contract procedure.

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[4] http://ec.europa.eu/internal_market/consultations/2013/crowdfunding/docs/consultation-document_en.pdf

[5] http://ec.europa.eu/internal_market/finances/docs/crowdfunding/140327-communication_en.pdf

[6] http://web.spaincrowdfunding.org/wp-content/uploads/2014/03/European_Crowdfunding_Framework_Oct_2012.pdf

[7] Massolution 2013 "Crowdfunding Industry Report" available at: http://research.crowdsourcing.org/2013cfcrowdfunding-industry-report.

Financial guidance

Access to comprehensive financial guidance for consumers

Consumers across Europe are facing an increasingly difficult task in managing their personal finances. Various life events, like planning for retirement, buying a house or making an investment require a good assessment of one's overall financial situation, so that informed decisions can be made suited to one's specific needs.

Consumers generally choose financial products piecemeal, frequently without an overall view of their financial situation and of how these various products (e.g. insurance, investments and pension products) would fit together. Many consumers would benefit from personal financial guidance (financial planning) that would include recommendations about what they might do (start saving in a pension; reduce their spending) or even what type of product they might buy (life insurance in order to protect their family) without recommending a particular product from a particular provider; but such services are not accessible to average consumers throughout Europe.

There is a need to explore what type of 'advisers' are capable of providing such services. An investigation of best practices in this field would contribute to understanding the possible key success factors involved.

The scope of this study will cover comprehensive financial guidance understood as a process of determining an individual's financial goals, purposes in life and life's priorities, and after considering his resources, risk profile and current lifestyle, to detail a balanced and realistic plan to meet those goals. Financial guidance provides a detailed strategy tailored to a client's specific situation, for meeting a client's specific goals covering various aspects of personal finance which includes cash flow management, education planning, retirement planning, investment planning, risk management and insurance planning, tax planning, estate planning and business succession planning but excludes the recommendation to purchase a particular financial product.

The objective of this research is threefold.

First, research will focus on the target group and identify the approximate number and profiles of potential consumers at EU level, who could benefit from comprehensive financial guidance, and at what life stages.

In a second part, it will identify and investigate examples of best practices of financial guidance both in the EU and worldwide and describe their functioning, including who gives guidance, financing and business models.

Finally, the research will focus on potential incentives which could encourage consumers to take up financial guidance.

The results of this study will feed into the FSUG report that envisages making recommendations to the EU institutions. Ultimately this could lead to initiatives facilitating the access of all consumers to financial guidance when they plan or intend to take major financial decisions.

The assignment will be governed by a contract managed by DG Internal Market and Services.

Study on how to promote access to and use of appropriate savings products for European financial services users

One aspect of financial exclusion is the lack of access to and use of appropriate savings products. The lack of savings is indeed a major cause of financial insecurity which makes households extremely vulnerable, in particular when faced with life's difficulties, but also for any purchase which exceeds the household's monthly resources. Therefore, access to and use of appropriate savings products is a concern to consumers and other stakeholders. The contractor was commissioned to carry out a study to analyse the reasons why consumers do not save and map and analyse the initiatives which can encourage or promote savings among consumers, both vulnerable ones as well as consumers who could afford to save but have not been doing so. The study sought in particular to analyse whether simple savings products could promote savings.

The specific objectives of the study were the following ones:

- Firstly, analyse the levels of savings of the different categories of consumers, with a special focus on vulnerable or financially excluded consumers, in 17 Member States and analyse the reasons why certain groups of consumers do not save, in particular the vulnerable ones.
- Secondly, map and analyse the initiatives aiming at promoting savings for vulnerable or financially excluded consumers, especially the legal and self-regulatory frameworks as well as the best practises and on-going initiatives.
- Thirdly, map and analyse the initiatives aiming at promoting savings among all groups of consumers, in particular the UK initiative on simple financial products, check if simple savings products are developed in the 16 other Member States and analyse to what extent simple savings products could promote savings.

The interim report of the study contained:

- a definition of the problem, its origin and consequences but that was not fully completed,
- an initial analysis of potential initiatives that could encourage saving, mainly
    - Diverting earnings directly into savings;
    - Simple savings products (not only focused at vulnerable people);
    - Special targeted savings products (sometimes incentivised products).
- preliminary conclusions

After the submission of the interim report, the contractor asked to terminate the contract so this study has not yet been finalised. The FSUG is now exploring various options to:

- complete the definition of the problem, its origin and consequences
- analyse potential solutions and existing best practices
- publish a position paper on appropriate saving products.

Research studies contracted in 2013 and finalised in 2014:

Asset management

In December 2013, FSUG commissioned a major research study into the performance and efficiency of the EU asset management industry. The EU asset management industry is huge. Around EURO 10TRN of household assets is managed professionally – 15% of which are investment funds with the bulk, 85%, in pension funds or life insurance contracts. It is vital that the asset management industry is efficient and offers EU financial users real value (in terms of charges and performance), is transparent, and has the confidence and trust of financial users. This is particularly important given that policymakers intend that EU citizens should make increasing use of financial markets to provide for core financial needs such as saving for retirement.

The research focused on investment funds covering 15 EU member states. To understand how well the EU asset management industry performs from the perspective of financial users, we commissioned the contractors to investigate seven research issues:

- Investment performance of investment funds;
- Fees charged by portfolio managers;
- Correlation between charges and performance;
- Performance of asset allocation;
- Disclosure of costs and transparency;
- Consumer confidence;
- Market structures.

We also asked the contractors to estimate the welfare gain/ loss resulting from the performance of the asset management industry. Over the ten-year period (2003-2012), the average underperformance of EU equity funds weighted by Total Net Assets was 23.6%. Applied to the total net assets of equity funds at the end of 2003 (assumed to be €1,173 bn), the theoretical loss suffered by investors is €277 bn. The welfare loss is probably even greater once actual investor behaviour is taken into account. Investors tend to switch funds around every five years or less incurring new sets of charges when they switch. This further increases the level of underperformance against a benchmark fund.

The study found a small reduction in average annual management charges but subscription and redemption charges have actually risen.

The study confirms other research studies that found no correlation between high charges and performance, and that past performance is no guide to future performance.

We also asked the contractors to evaluate how good asset managers are at resource and asset allocation. They found that flexible funds (which gave managers discretion over asset allocation) actually underperformed balanced funds (which constrained the freedom of asset managers).

Looking at the EU Consumer Market Scoreboard, in eight countries, the Market for investment products, private pensions and securities is ranked in last position among all products and services markets.

The findings raise serious questions for poilicymakers and regulators. The underpeformance of the asset management industry produces a major welfare loss for EU investors. Moreover, the consistently poor performance of the sector in the EU Consumer Market Scoreboard raises serious concerns about the fair treatment of investors and behaviours within the industry. We hope this new research encourages policymakers and regulators to develop an action plan for this hugely important sector. It is illogical to continue to expect financial users to make increased use of this industry to save for the future and for retirement without first improving the efficiency of the industry and consumer confidence and trust.

Study on the remuneration structures of financial services intermediaries and conflicts of interest

Remuneration structures of financial services intermediaries and conflicts interest in providing advice to consumers is a concern to consumers and other stakeholders. The FSUG commissioned The Institute for Financial Services (*iff* – Hamburg) to carry out a study to investigate this matter focusing on various sales commissions and other inducements to insurance intermediaries selling life insurance products to consumers. The three objectives of the study were to:

- evaluate the current status of existing remuneration models in 10 selected EU member states.
- describe the nature of existing regulation on intermediaries selling life insurance products
- map possible steps that could be taken to improve remuneration schemes that would reduce potential conflicts of interest

From the results of the study the FSUG made the following recommendations:

- Regulatory activity should focus on the actual product causing harm and potential conflicts in the distribution of the product.
- Impose clear liability rules on producers for mis-selling.
- Work to improve access to independent and affordable advice.
- Mandate financial supervisors to investigate business models and remuneration structures where potential conflicts exist
- The Regulator to collect data from industry on premature cancellations of contracts and reasons for the cancellation.
- Special monitoring of channels of distribution that have been identified as a source of problems (e.g. bancassurance)
- Target consumers by enhancing information and education. FSUG stress the importance of public campaigns to promote the acceptance of fee based advice.

FSUG PRIORITIES 2014

Simple financial products

As FSUG set out in its position paper, *Making financial services work for financial users: New model financial regulation*[8], the usual approach to financial regulation has failed to protect consumers and make financial markets work for EU financial users[9]. We proposed a new model for financial regulation based on identifying root causes of market failure and, critically, identifying effective interventions to correct market failure including product intervention. Product intervention is a direct form of intervention and can take many forms including national authorities developing simple financial products with mandated features.

This paper focuses on the potential role of a simple financial products regime. We assess the contribution a simple financial products regime could make to: improving access to suitable products; promoting real competition, innovation and efficient markets; promote fairness and market integrity; and improving the effectiveness of financial regulation. We identified specific policy goals and product areas for which product intervention is most appropriate and assessed the potential for EU level interventions.

Considering the available research on consumer needs and detriment in financial services, FSUG proposes that consumers would benefit from a simple products regime. We have not yet agreed which product areas are a priority. But, we think that the following product areas should be considered:

- simple payment product[10]
- short term savings product
- medium term investment product/ personal pension product
- core income protection insurance product
- basic life insurance product
- fair unsecured loan product
- mortgage product
- complementary health insurance product

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[8] http://ec.europa.eu/internal_market/finservices-retail/docs/fsug/papers/new_model_fin_regulation-2012_09_en.pdf

[9] The reasons are complex but the primary intellectual failure was the over-reliance on conventional models of regulation which assumed that the role of regulators is to create the conditions for markets in the expectation that competition and market forces would then ensure that markets met consumers' needs and preferences. The approach adopted by financial regulators was an 'article of faith' rather than based on objective, rational analysis of market failure from the consumer perspective.

[10] The decision to provide EU citizens with a legal right of access to a basic bank account provides an ideal opportunity to create a simple payment product

- simple intra EU travel insurance

A simple products regime should cover the following aspects of the relevant products:

- costs and fees including penalty charges
- access terms
- transparency and disclosure of key benefits and risks
- quality and value – in terms of service standards

There are a number of potential barriers which could hinder the success of simple financial products primarily the lack of a commercial imperative for financial firms to manufacture and distribute simple financial products. Therefore, more work needs to be done to develop an alternative regime which allows simple financial products to be distributed efficiently and safely. The work FSUG is doing on Access to Comprehensive Financial Guidance will support this – see above.

Note that simple financial products are primarily intended to make markets work better for financial users who are excluded because of market inefficiency. They are not intended to help financial users whose financial needs are not being met because they are not commercially viable for market based provision or other socio-economic factors. Alternative solutions are needed for these vulnerable citizens including mandated provision (eg. basic bank accounts) or alternative provision of financial products.

Consumer data and practises of creditworthiness

The FSUG, after the consultation with the Commission, identified the issue of credit data and practices of creditworthiness assessment as a priority for consumer protection that requires in-depth analysis, discussion, and action at policy and regulatory level.

The sharing and use of financial data of consumers for the assessment of their creditworthiness raise concerns and conflicting debates over the respect of fundamental rights, the ability to reflect individual circumstances, the function and design of databases vis-à-vis defined policy objectives, as well as the ensuring importance of the legal form of the controllers of databases (credit bureaus) as a juridical and institutional guarantee for the pursuit of the general interest under the rule of law against private interests of the credit industry. Moreover, credit data have become the gateway for consumers to access to mainstream financial and non-financial services, introducing debates over economic and social exclusion or inclusion, discrimination, and sorting.

In light of the controversies raised by credit data sharing as a practice of creditworthiness assessment and their expanding uses, the FSUG has produced a Discussion Paper which aims to highlight issues that need attention and discussion at policy and legislative level. The FSUG has analysed the policy and legal context against which credit data and creditworthiness assessment find a possible justification, i.e. responsible lending, over-indebtedness, and prudential supervision. Against this framework, it has looked at the type of data used by the industry, the legal form and function of credit bureaus vis-à-vis the objectives to be pursued, the reliability and proportionality of data to achieve defined policy goals, and the transparency and security in the use of data. Also, it has studied how the absence of common standards within the EU Member States and the different practices affect the cross-border exchange of data, the provision of services, and the integration of credit markets pursued by the Consumer Credit Directive and the Mortgage Credit Directive.

Ultimately, the FSUG Discussion Paper asks to what extent the current use of data and practices are in the general interest or rather in the private interest of the credit industry. It raises the issue as to what extent there is the need to reformulate the policy and law on the role of information in credit markets, advancing the proposition that well-defined policy goals to be achieved must inform both the institutional/legal form of credit bureaus (institutions play a fundamental role as guardians of liberty, democracy, and the fundamental values of societies) and the design and use of databases (under the principles of necessity and proportionality to achieve defined goals under the rule of law). Provocatively, without neglecting that the fundamental right of data protection is also at stake, a major question asked is who should take duty and care to pursue the goal of monitoring consumer over-indebtedness, sound creditworthiness assessment in the interest of consumers, and prudential supervision: third-party private companies in the pursuit of profit, private entities set-up by the credit industry to manage their risks, or public institutions operating under the rule of law? The debate is open.

OTHER OUTPUTS AND EXTERNAL EVENTS

Communication:	COFACE Newsletter
Date:	February 2014
Title:	Financial Services Users Expert Group meeting
Key message:	*Information about the priorities for the next FSUG mandate and updates on EU Directives.* http://www.coface-eu.org/en/News/e-Newsletter-02-Feb-2014/?sw=FSUG
FSUG member:	Martin Schmalzried

Event:	European Parliamentary Financial Services Forum on the reform of banking structures
Date:	19. March 2014, Brussels, Belgium
Title:	Proposal for Pension Saver Protection
Key message:	*"In order to avoid offering poor value products, the proposal aims at systemic changes of the sector and regulation"*
FSUG member:	Guillaume Prache

Event:	VULNERABLE FAMILIES EXPERT GROUP
Date:	12-13 May 2014, Brussels, Belgium
Title:	VULNERABLE FAMILIES WORKING GROUP: „Livelihood of Families."
Key message:	*Presentation of the work of FSUG to COFACE members.*
FSUG member:	Martin Schmalzried

Event:	EIOPA Public Event on Personal Pensions
Date:	15. April 2014, Bratislava, Slovakia
Title:	Proposal for Pension Saver Protection
Key message:	*"In order to avoid offering poor value products, the proposal aims at systemic changes of the sector and regulation"*
FSUG member:	Guillaume Prache

Event:	EIOPA Public Event on Personal Pensions
Date:	15. April 2014, Bratislava, Slovakia
Title:	CONSUMER PROTECTION IN PRIVATE PENSION PRODUCTS - „The Simpler the Better?“
Key message:	*“Providers don’t need a regulator to fix their business models. SAVERs need REGULATORs to help them fix the PRODUCTs.”*
FSUG member:	Ján Šebo

Event:	Euro Retail Payment Board (European Central Bank)
Date:	16 May 2014, Frankfurt, Germany
Title:	Intervention on unconditional refund right for direct debit transactions in the Payment Services Directive (PSD2)
Key message:	*“To build confidence in the SEPA direct debit scheme, consumers must be granted an unconditional refund right for retail direct debit transactions.”*
FSUG member:	Anne-Sophie Parent

Event:	Second ECRI TASK FORCE Meeting
Date:	29 September 2014, Brussels, Belgium
Title:	“The future of household credit in the European Union”
Key message:	*“There are additional measures that are essential to protect consumers such as a better creditworthiness check, simpler financial products and quality, independent financial guidance”. (Reference to FSUG’s work)*
FSUG member:	Martin Schmalzried

Letter to MEP Jürgen Klute on the Payment Accounts Directive (PAD)

The FSUG has been very supportive of efforts to ensure the banking market works for all citizens – including much neglected financially excluded and marginalised citizens. One of the most important aspects of the PAD is the provision to ensure citizens have a right of access to a basic bank account. We have long argued on social justice grounds and market failure grounds that a right of access to a properly functional transactional bank account is fundamentally important in a modern economy.

However, during the negotiations in the Council we became aware that the UK was seeking to allow the provisions on the right of access to be met through existing measures either established in national law or ***otherwise*** [our emphasis]. This wording, if adopted in the final text, would have enabled the UK to maintain the self-regulation approach, based around a code of conduct, promoted by the BBA (the trade body for the banking industry in the UK). This would have been very damaging to the financial well-being of vulnerable UK and EU citizens. The self-regulation approach in the UK, in our view, has not been effective.

Large numbers of vulnerable citizens in the UK would be left without the protection provided by a legal right of access. But, if the UK had been successful, this would have also given other Member States an excuse to adopt the self-regulation approach.

We wrote to MEP Jürgen Klute, the rapporteur for the PAD, to reaffirm our support for his efforts, to express our concerns and provide evidence on the failure of self-regulation to work in the UK.

Brussels, 5 March 2014
FSUG / MARKT/H3 D(2014)

Mr Jürgen Klute
Member of the European Parliament
email:
juergen.klute@europarl.europa.eu

Dear Mr Klute,

As you know, the FSUG has been very supportive of your efforts as rapporteur on the Payment Accounts Directive (PAD) which seeks to ensure the banking market works for EU citizens – including much neglected financially excluded and marginalised citizens.

The provisions which would provide citizens with a right of access to a basic bank account are a critical part of the PAD. We have argued before, on social justice grounds and market failure grounds[1], that a right of access to a properly functional transactional bank account is fundamentally important in a modern economy.

But, we understand that, during the negotiations in Council, the UK is seeking to allow the provisions on the right of access to be met through existing measures either established in national law ***or otherwise*** [our emphasis][2].

Our concern is that this wording, if adopted in the final text, would enable the UK to maintain the self-regulation approach, based around a code of conduct, promoted by the BBA (the trade body for the banking industry in the UK). This could be very damaging to the financial well-being of vulnerable UK *and* EU citizens.

The self-regulation approach in the UK, in our view, has not been effective. Large numbers of vulnerable citizens in the UK would be left without the protection provided by a legal right of access.

But, if the UK is successful, this would also give other Member States an excuse to adopt the self-regulation approach. The UK has a comparatively powerful consumer movement and consumer media. However, even with this significant amount of scrutiny and consumer pressure the self-regulation approach has failed large numbers of vulnerable UK citizens. There must be a significant risk that in other Member States, which do not have well-established and well-resourced consumer organisations to pressure banks into complying with a code, the self-regulation approach will fail even greater numbers of citizens.

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[1] See our response to the Consultation on Bank accounts http://ec.europa.eu/internal_market/finservices-retail/docs/fsug/opinions/bank_accounts-2012_06_12_en.pdf

[2] This concerns Article 15 '*Right of access to a payment account with basic features*'. In the attachment (the so-called 4 column table used for trilogue negotations), this provision is line 229, page 75 – Article 15 para 7:
7. Member States may choose to ensure that the provisions of paragraphs 1 to 5 are met through existing measures either established in national law or otherwise, provided that the other provisions of Chapter IV are met.

Furthermore, more generally, we fear that if the UK is successful, this could create a precedent for the transposition of other EU legislation.

We can see no real justification for the UK's approach on this issue. If self-regulation is as successful as claimed by supporters, then an additional legal protection measure does not represent a major additional responsibility for the UK banks. However, as we argue, self-regulation has not been successful therefore there is a real need for the additional protection provided by a right of access.

We have taken the opportunity to include evidence on the experience of financially vulnerable citizens in the UK banking market (see Annex I) to demonstrate why we think a right of access is needed. This shows that large numbers of the most vulnerable citizens have so far been failed by the UK banking sector. Moreover, the behaviour of the UK banks is very mixed and there is strong evidence of a 'free rider' effect where certain banks do not cooperate with 'self-regulation', offer less inclusive services and rely on more socially responsible banks to accept a disproportionate share of basic bank accounts.

A right of access will become even more important in future. Changes to the method of paying welfare benefits in the UK means citizens in receipt of welfare benefits will become even more reliant on access to a properly functioning transactional bank account. The less socially responsible banks will have a greater incentive to prevent 'benefits' customers from opening a basic bank account. Moreover, new legislation on terrorism and money laundering will provide the banks with even more excuses to refuse to open a basic bank account especially amongst migrant or minority ethnic communities.

Less socially responsible banks will look for opportunities to row back on voluntary commitments – which in turn will undermine the commitment of socially responsible banks. The UK banking sector needs constant monitoring and pressure but, unfortunately, the UK government appears to have stopped even basic monitoring of bank's behaviours[3].

FSUG remains convinced that it is imperative that consumers have a legal right of access to a basic bank account. If we can offer any further support please do not hesitate to ask.

Yours sincerely,

Mick McAteer
Chairman of the FSUG

Cc: Erik Nooteboom, Philippe Pellé, Malgorzata Feluch, Alessandro Gianini

[3] Sajid Javid, a UK Treasury Minister was asked on 29th January this year in the UK Parliament the following question:

Bank Services

Robert Halfon: To ask the Chancellor of the Exchequer what estimate he has made of how many adults in the UK are not able to open a fully functioning bank account. [183990]

Sajid Javid : The Government has made no such estimate.

The Government is committed to improving access to financial services. To this end the major UK banks voluntarily offer basic bank accounts alongside their other retail current accounts. As recommended by the Parliamentary Commission on Banking Standards, the Government is currently taking forward discussions with the banking sector to seek a voluntary agreement on renewed minimum standards for basic bank accounts

ANNEX 1: WHY A RIGHT OF ACCESS TO A BASIC BANK ACCOUNT IS NEEDED – KEY DATA ON FINANCIAL EXCLUSION IN THE UK

The following analysis summarises the key available data on the experience of financially excluded consumers in the UK banking market- with a focus on basic bank accounts.

Overall, we think that around 2 million adults (1.3 million households) are without access to bank account –while a further 4 million use accounts infrequently. However, the problem with the available data on bank accounts (including access to basic bank accounts) is that it does not tell us anything about account usage, the benefits or detriment that arises from using these accounts, or the performance of individual banks.

What we do know is that, of the 16 basic bank accounts available, nine do not have a free buffer zone, four do not offer a debit card and five only allow free access to ATMs from their own cash machines. There is also a wide range of charges for unpaid direct debits – up to £60 in a charging period. Seventeen banks offering basic bank accounts can deny application to open an account if the person is an 'undischarged bankrupt'[1]. However, this data is not published on a bank-by-bank basis so we cannot determine what percentage of those with basic bank accounts are facing detriment in terms of incurring high penalty charges, restricted access to free ATM withdrawals etc.

Moreover, a major consumer group warned that a number of the UK's major banks had been attempting to cut back on services offered through their basic bank accounts [2]. The Treasury Select Committee was forced to intervene and received letters from the major banks stating that they would not introduce restrictions. However, as the Chairman of the TSC stated, these letters make clear that this might change[3].

In a worrying development, the free rider effect has led to one of the more responsible banks in the UK seriously limiting access to their basic bank account[4].

Consumers with low incomes or low savings are at greater risk of being hit by charges. The OFT's Market Study into Personal Current Accounts[5] found that:

- Consumers with less than £1,000 in household savings were significantly more likely to have been charged in the past 12 months for going into their unarranged overdraft (48% compared to 18% of those with at least £1,000 of savings).
- Consumers on low incomes or with less than £1,000 in household savings were significantly more likely to have been charged in the past 12 months for a refused payment (15% and 31% respectively, compared with 11% and 8% of those with higher incomes or more savings). The most common reason for refusal amongst low-income consumers was insufficient funds (48% compared with 45% for all consumers who had a payment refused).
- Nearly one in five (18%) of basic bank account holders had been charged in the previous 12 months for having a payment refused (compared with less than one in ten (9%) of standard current account holders). The most common reason for refusal among basic bank account holders was insufficient funds (52% compared with 41% for standard current account holders).

In line with current account holders generally, 66% of basic bank account holders had never switched (compared with 64% for all respondents), and 24% had switched only once.

Furthermore, 80%of those with low incomes who had never switched had never even considered switching (compared with 74% for all respondents). This means that 55% of consumers on low income had never considered switching their accounts.

Moreover, it is important not to overlook the detriment faced by different groups using 'mainstream' bank accounts. Of course, matters have improved since the OFT's interventions but research by Which? found that even after the unauthorised charges case banks were still charging £6 per day for unauthorised overdrafts, with some charging between £25-35 for rejected transactions[6].

Households on lower incomes or with low savings are still more at risk of being affected by penalty-type charges. It is difficult to estimate with certainty given the lack of public data but it is evident that higher bank charges have a disproportionate impact on lower income households or those with no savings to dip into in the event of a short-term financial emergency. So, even though we are not able to estimate how worse off these groups are in terms of high bank charges (due to lack of specific data), we are confident in saying that these groups are at higher risk of incurring higher or unplanned/unexpected charges, which will then possibly exacerbate existing detriment.

Risk of being unbanked

Perhaps unsurprisingly, there is a strong link between disability[7] and risk of being unbanked. Seven per cent of disabled adults do not have a transactional bank account compared to 3% of non-disabled adults[8]. What is striking is that the Institute for Public Policy research (ippr) estimates that almost half of adults who are unbanked (some 900,000 people) have a disability[9].

However, it is also important to note that the type of disability seems to make a significant difference to the risk of being unbanked. Adults with learning difficulties appear to considerably more likely to be unbanked (11%) than, for example, those who face mobility problems (around 6%) or communication problems (around 5%).

There is no noticeable difference between the proportion of disabled men and women who are unbanked.

Financial inclusion is not just about access per se – it incorporates the ability to use products and services effectively. A number of studies have found that disabled people can face problems using bank accounts, including the need for assistance to use ATMs, difficulty using chip and pin keypads, or the difficulty blind and partially sighted individuals have when using ATMs[10].

Pakistani or Bangladeshi households were 4.5 times more likely than White households *not* to have a bank account (based on regression analysis after taking other factors into account) and Black households were 2.4 times more likely than White households not to have an account[11].

Household type

As we can see from Table 3, single households (single without children and single pensioner households) are easily the largest group without a bank account.

Table 1: Bank accounts and household type

Number of households (thousands)	Without 000s	With 000s	Did not state 000s	% Without	% Inc. not state
Single without children	330	7,220	120	4.6%	6.2%
Pensioner single	390	3,640	120	10.7%	14.0%
Lone parent	140	1,500	30	9.3%	11.3%
Couple without children	90	4,920	110	1.8%	4.1%
Pensioner couple	110	2,710	100	4.1%	7.7%
Couple with children	80	4,700	90	1.7%	3.6%
All households	**1140**	**24,690**	**580**	**4.6%**	**7.0%**

Source: Statistical Release, Households without access to bank accounts 2009-09, HM Treasury 2010

Single pensioner households and lone parents are at the highest risk of being unbanked.

Housing status

As the table below shows, households that rent in the council or social landlord sector are considerably more likely to not have a bank account. Those that rent in the private sector are also less likely to have a bank account than households generally but this is not as marked.

Table 2: Bank accounts and tenure

Number of households (thousands)	Without	With	Did not state	% without	% Inc. not state
Rented: Council	330	1,980	40	16.7%	18.7%
Rented: Housing Association	280	1,970	40	14.2%	16.2%
Rented: Private landlord	170	3,310	70	5.1%	7.3%
Owned outright	250	8,180	290	3.1%	6.6%
Owned with mortgage	100	9,250	130	1.1%	2.5%
All households	**1140**	**24690**	**580**	**4.6%**	**7.0%**

Source: Table 8: Statistical Release, Households without access to bank accounts 2009-09, HM Treasury 2010

Income level

Unsurprisingly, there is a strong link between low income and the likelihood of not having a bank account.

Table 3: Bank accounts and income

Income Deciles (thousands)	Without	With	Did not state	% without	% Inc. not state
Bottom	200	2,400	100	8.3%	12.5%
2nd	210	2,280	70	9.2%	12.3%
3rd	180	2,340	70	7.7%	10.7%
4th	170	2,440	50	7.0%	9.0%
5th	110	2,440	50	4.5%	6.6%
6th	100	2,440	60	4.1%	6.6%
7th	79	2,500	60	3.2%	5.6%
8th	40	2,540	50	1.6%	3.5%
9th	30	2,610	30	1.1%	2.3%
Top	30	2,690	40	1.1%	2.6%
All households	**1,140**	**24,690**	**580**	**4.6%**	**7.0%**

Source: Table 3: Statistical Release, Households without access to bank accounts 2009-09, HM Treasury 2010

Households in the bottom 3 income deciles are the most likely not to have an account.

Looking across the range of household categories, one of the strongest risk indicators of banking exclusion is whether households are in receipt of benefits.

Table 4: Bank accounts and benefits received by households

Number of households (thousands)	Without	With	Did not state	% without	% Inc. not state
Council tax benefit	710	4,090	90	17.4%	19.6%
Housing Benefit	640	2,800	50	22.9%	24.6%
Retirement pension	500	7,290	220	6.9%	9.9%
Income support	490	2,710	60	18.1%	20.3%
Child Benefit	220	6,830	120	3.2%	5.0%
Disability Living Allowance (Mobility)	170	1,660	30	10.2%	12.0%
Disability Living Allowance (Self care)	160	1,680	40	9.5%	11.9%
Child Tax Credit	140	4,220	60	3.3%	4.7%
Incapacity benefits	110	1,070	20	10.3%	12.1%
Attendance allowance	70	810	30	8.6%	12.3%
Job seekers Allowance	60	700	10	8.6%	10.0%
Working tax credit	30	1,700	30	1.8%	3.5%
Invalid care allowance	20	420	-	4.8%	n/a
Severe Disability Allowance	20	200	-	10.0%	n/a
Industrial injuries disablement benefit	10	160	-	6.3%	n/a
Household received at least one benefit	1,020	17,190	410	5.9%	8.3%
All households	**1,140**	**24,690**	**580**	**4.6%**	**7.0%**

Source: Table 10: Statistical Release, Households without access to bank accounts 2009-09, HM Treasury 2010

(Note: Some households receive more than one benefit so the numbers do not add up).

Households in receipt of council tax benefit, housing benefit, and income support are three times more likely than the general population not to have a bank account. These benefit groups, along with the temporary or long-term sick (see below), stand out as being at greatest risk of exclusion.

Employment status

In terms of employment status, it is clear which are the vulnerable groups. Those who are temporary or long-term sick are around three times more likely than households generally not to have a bank account.

Table 5: Bank accounts and employment status

Number of households (thousands)	Without	With	Did not state	% without	% Inc. not state
Full-time employee	160	13,000	250	1.2%	3.2%
Part-time employee	20	390	10	5.1%	7.7%
Self-employed	40	2,030	40	2.0%	3.9%
Unoccupied, under pension age	130	1,220	30	10.7%	13.1%
Unemployed	60	600	10	10.0%	11.7%
Retired	490	5,970	210	8.2%	11.7%
Temporary or long-term sick	230	1,190	30	19.3%	21.8%
Student or work related training	10	280	0	3.6%	3.6%
All households	**1,140**	**24,690**	**580**	**4.6%**	**7.0%**

Source: FIC calculations based on Table 5: Statistical Release, Households without access to bank accounts 2009-09, HM Treasury 2010

The unemployed, 'unoccupied', and retired are also at high risk. Each group appears to be more than twice as likely not to have an account compared with 'All households'.

[1] http://www.moneyadviceservice.org.uk/_assets/downloads/pdfs/your_money/a5_guides/basic_bank_accounts.pdf
[2] http://www.telegraph.co.uk/finance/personalfinance/consumertips/banking/9650538/Warning-over-basic-bank-accounts.html
[3] http://www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/news/basic-bank-accounts-treasury-committee-obtains-confirmation-from-providers-that-they-have-no-current-plans-to-restrict-access-to-cash-machines/
[4] **Industry failure on financial inclusion forces The Co-operative Bank to review its basic bank account,** http://www.co-operativebank.co.uk/customerservices/announcements/recentannouncements/industry-failure-financial-inclusion
[5] OFT, Personal Current Accounts in the UK, A Market Study, 2008, paras 4.111, 5.66
[6] http://www.which.co.uk/about-which/press/press-releases/campaign-press-releases/personal-finance/2011/11/banks-need-to-prove-theyre-serious-about-improving-overdraft-charges-says-which/
[7] Disability in this case is based on adults self-reporting using the Disability and Discrimination Act (DDA) definition
[8] Source: EHRC Triennial review, undertaken by IPPR
[9] Source: calculations undertaken ippr for EHRC Triennial review
[10] Leonard Cheshire (2007) 'Spending Power? Disabled people's experiences of accessing and spending their money London': Leonard Cheshire
[11] Finney A and Kempson E (2009) *Regression Analysis of the Unbanked Using the 2006/07 Family Resources Survey* Bristol: Personal Finance Research Centre

SPECIAL FEATURE

Mind the implementation gap

Financialization is a trend that is spreading in developed countries. In many areas states are stepping down, shifting more and more responsibility on households. There is an expectation that financial market will provide services and products supporting social security. However as the state narrow the scope and decrease level of social security financial market is becoming rather a substitution than an assistance. Without judging rationale of this trend it is important to raise concerns about the features which should be met like, accessibility, fairness, cost effectiveness of financial services, as factually participation in financial market is becoming quasi-mandatory due to lack of alternatives. Many financial institutions and financial products work for good of consumers, providing add value and security for households. However unfortunately there are still so many examples of detriment practices that undermine trust and financial security of citizens

After financial crises the number of regulations of financial services has increased tremendously. Furthermore, consumer protection has become a slogan which justifies almost all legislative action on European level. Unfortunately consumer protection is determined mostly from macroeconomic perspective (macroprudential) and not microeconomic (conduct of business). That is why there is little progress in consumer protection as such, and more regulations does not necessary solve the issues.

Another quite alarming tendency is related to the introduction of amendments of existing regulations without checking grounds for low effectiveness. Very often the reason is poor implementation and a new regulation does not help at all. According to the Lamfalussy process Commission checks how Member State compliance with EU legislation and can take legal action against Member State suspected of breach of Community law. But this procedure assesses only the fact of transposition not implementation and in reality quite often the outcome of regulation is far from the ideas presented in the transitioned text. This issue is however very similar in case of regulations which are own initiative of the Member States. Furthermore the transition is quite often late and the number of intervention taken by the European Commission against Member States is surprisingly high. European Supervisory Authorities (ESAs) are admittedly responsible for harmonized application but not really for implementation as direct action against particular financial institution is a unique and contingent procedure.[11] Not mentioning the fact there is an internal conflict of interest between authority and boards of supervisors that “supervises” ESAs.

Every year FSUG organizes one meeting in one of the Member States to look through issues faced in particular markets, and we have revealed that there is a tendency to spread bad practices among countries, and they are scattering much faster than good practices. Too often it looks like playing cat and mouse, however the cat is flabby and flabbiness of supervision only encourage this approach. That is why very important question arises: to what extent it is just a mistake or omission rather than business strategy. For example in Poland after issuing recommendations on bancassurance by Polish Financial Services Authority workshops were organized by some lawyers for the industry, how to obey them. While it is true that industry takes also self-regulations to reduce detriment of consumers in certain areas; their effectiveness is inversely proportional to amount of possible profits.

[11] Article 8, 17 and 18 of regulation (EU) no 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending decision no 716/2009/EC and repealing Commission Decision 2009/79/EC

The institution responsible for implementation and enforcement on national level is mainly local supervisory authority or and consumer protection office. Unfortunately financial supervisory authorities are mostly focusing on macro-prudential issues and often deal with conduct of business only when it becomes a systemic risk. Consumer protection offices are mostly under-resourced or/and have little expertise in financial services. At the same time ADR systems are ineffective, due to dispersion and/or lack of power (non-binding decisions), and for those reasons does not provide real protection for consumers. Altogether it leads to massive detriment of end users.

Probably there is no single solution, that solves the problem. A multi-layer mechanism is needed to assure proper implementation. First of all the supervisory authority or/and consumer protection offices should constantly monitor implementation. Too often supervision practices focus too much on achieving legal certainty for both sides, supervisory authority and financial services provider. Control of contract wording, advertisement and procedure taken by the financial services provider are necessary but they are not enough. Especially the last one, control of procedures dedicated to particular services, are habitually a kind of box ticking exercise which provides only an illusion of assessment. There is a need for checking all actions undertaken by the firm, like steps taken up during a design phase (testing products), incentives within remuneration scheme, adequacy of training programme, data from claims management process etc. Furthermore there is a need to include mystery shopping technique as a standard supervisory tool, as it could reveal on early stage problems caused not only by inappropriate implementation, but also faulty transition or unintentional side effects.

Together with supervisory actions effective ADR scheme should be in place. Operational ADR scheme, which means unbiased, free of charge for consumers and providing binding decisions, reveal and solves many of the problems raised by ineffective implementation. It gives also the ground for more systemic action of supervisory authority and early enforcement. The work done by ADR could be strengthen by watch dog and consumer organisations, by testing and monitoring financial services. However both ADRs and consumer organisations need stable, long-term and adequate financing, that should be guaranteed by the state.

Only a proper implementation gives a chance to meet consumers' needs. Having in mind that financialization forces citizens to use financial market, replacing social security, the lack or faulty implementation and late or no enforcement in financial services are becoming like a violation of civil rights. Detriment hitting consumer in financial market is a social issue and not just sectorial problem. The state contribute to financialization and as regulator and supervisor should assure that financial market provides properly adequate financial security. As the problem is common, it would be wise to bring implementation gap into European agenda.

SUMMARY OF MINUTES: FSUG MEETINGS FROM NOVEMBER 2013 TO OCTOBER 2014

The following provides a brief summary of the issues discussed at the FSUG meetings.

16-17 December 2013

- Opening remarks by Mario Nava, Director "Financial Institutions", Internal Market and Services Directorate-General
- Short presentation by members of the group,
- Members' activities of FSUG interest, including participation in events on behalf of FSUG
- Update on identified consumers' risks or detriments as early warnings which could potentially be reported to the Commission and ESAs
- Finalisation of FSUG position papers on:
    - The study on ownership of the EU economy
    - The study on remuneration of financial intermediaries
- Feedback from the consultation on the review of the European System of financial supervision, by Kathrin Blanck-Putz (Internal Market and Services DG/O2)
- Up-date on the Single Market Month conclusions by Bruno Franchetti (Internal Market and Services DG/A4) and Delphine Leroy (Internal Market and Services DG/H3)
- Public consultation on the review of the Regulation on Consumer Protection Cooperation – presentation by Marie-Paul Benassi (Health and Consumers DG, B5)
- FSUG contribution to the on-going consultations:
    - Public consultation on crowd-funding in the EU
    - ESAs Joint Committee Consultation Paper on complaints-handling guidelines
- Up-date on the Consumer Credit Directive by Maria Lissowska (Health and Consumers DG, B4)
- Update of the Payment Account Directive by Maciej Berestecki (Internal Market and Services DG/H3)
- FSUG Chair and vice-chair election
- Up-date on the Transatlantic Trade and Investment Partnership (TTIP) negotiation by Almoro Rubin De Cervin (Internal Market and Services DG/O2)

- Address of Mrs Paola Testori-Coggi, Director General of Health and Consumers Directorate-General

- Consumer credit campaign in Spain, Ireland, Malta and Cyprus - presentation by Eleni Tampaki (Health and Consumers DG, B4)

- Follow-up to the discussion on problems of financial users which could be tackled by the policy of the European Commission in close future – follow up to the exchange of views and discussion with Mr Erik Nooteboom and Philippe Pelle (Internal Market and Services DG/H3)

10-11 February 2014

- Adoption of the agenda and approval of the minutes of the last FSUG meeting (16-17 December) – Tour de table

- Members' activities of FSUG interest, including participation in events on behalf of FSUG

- Update on identified consumers' risks or detriments as early warnings which could potentially be reported to the Commission and ESAs

- FSUG work programme – follow-up to the discussion on priorities, identification of rapporteurs and creation of sub-groups, and identification of possible topics for research studies.

- Study on the asset management – kick-off meeting with the contractor, Didier Davydoff, IODS

- Enhancing contacts between the FSUG and EIOPA – discussion with David Cowan, Principal Expert on Consumer Protection, EIOPA

- Mortgage Credit Directive – presentation by Emilie Truchet and Adrian Steiner (DG MARKT H3)

- Transatlantic Trade and Investment Partnership (TTIP) negotiation – update by Agnete Philipson and Petr Wagner (DG MARKT B4/O2)

- FSUG work programme - Discussion with Erik Nooteboom (DG MARKT H3) and Olivier Micol (DG SANCO B4)

- SEPA migration – update by Pierre-Yves Esclapez (DG MARKT H3)

- Study on how to promote access and use of appropriate savings products for all European financial services users, in particular vulnerable people – presentation and discussion with the contractor, Roelof-Jan Molemaker and Jakub Gloser, ECORYS.

- MiFID2 – presentation by Lucia Marin (DG MARKT G3)

- Proposal on the reform of the structure of the EU banking sector- presentation by Javier Arribas Quintana (DG MARKT H2)

- Ongoing study on *comparison tools and related third-party verification schemes* - presentation by Julien Brugerolle (DG SANCO B6)

- 2nd Vice-Chair election.

- Review of the Deposit Guarantee Schemes Directive – presentation by Konrad Szelag (DG MARKT H1)

- EPFSF lunch discussion on “Review of the European Supervisory Authorities" - report by Alin-Eugen Iacob.

- FSUG reporting to Mr Mario Nava, Director “Financial Institutions”, Internal Market and Services Directorate-General and Ms Despina Spanou, Director "Consumer Affairs", Health and Consumers Directorate-General, followed by discussion.

3-4 April 2014

- Adoption of the agenda and approval of the minutes of the last FSUG meeting.

- Terms of Reference of the FSUG subgroup on Access to independent financial advice for consumers – presentation by FSUG member followed by discussion.

- Terms of Reference of the FSUG subgroups on over-indebtedness – presentation by FSUG member followed by discussion.

- Up-date on crowdfunding – by Barbara Gabor (Internal Market DG/G3)

- Terms of Reference of the FSUG subgroup on financial innovation: the case of crowdfunding – presentation by FSUG member followed by discussion

- Proposal for the revision of the Directive on Institutions for Occupational Retirement Provision– presentation by Jung-Duk Lichtenberger (Internal Market DG/H5)

- Directive on Supplementary Pension Rights – presentation by Valdis Zagorski (DG Employment D3)

- Terms of Reference of the FSUG subgroup on private pensions (decumulation phase) – presentation by FSUG member followed by discussion.

- Follow-up to the previous meeting:

    - terms of Reference of the FSUG subgroup on Consumer data and practices of creditworthiness assessment – presentation by FSUG member followed by discussion.

    - up-date of the FSUG Risk Outlook.

    - discussion about David Cowan's proposal on enhancing cooperation with EIOPA:

- Report of the Commission Expert Group on European Insurance Contract Law – presentation by Mr Dirk Staudenmayer (Justice DG/A2)

- Feedback statement on third-pillar retirement products – presentation by Francesco Gaetano (Health and Consumer DG/B4)

- Terms of Reference of the FSUG subgroups on the design of simple financial products – presentation by FSUG member Mick McAteer followed by discussion.

- Omnibus II and Solvency II – presentation by Andreas Viljoen (Internal Market DG/H5)

- Study on the asset management – presentation of the interim report by the contractor, Didier Davydoff, IODS.

- Study on how to promote access and use of appropriate savings products for all European financial services users, in particular vulnerable people – up-date by the contractor, Roelof-Jan Molemaker and Jakub Gloser, ECORYS.

- Reporting to Mr Mario Nava, Director “Financial Institutions”, Internal Market and Services Directorate-General and Ms Despina Spanou, Director "Consumer Affairs", Health and Consumers Directorate-General, followed by discussion.

15-16 May 2014

- Adoption of the agenda and approval of the minutes of the last FSUG meeting

- Presentation of the *pension study* conducted by Oxera and *FSUG position paper on pensions* to DG EMPL, JUST, MARKT and SANCO by Jan Sebo, followed by discussion;

- Discussion on FSUG draft paper on *simple financial product* – report on the progress since the last meeting.

- Discussion on FSUG revised terms of reference on *consumer data and creditworthiness assessment* – report on the progress since the last meeting.

- Crowdfunding -Discussion on revised terms of reference on *crowd-funding* and the proposal for the research study -– report on the progress since the last meeting.

- Financial advice:

    - presentation of MiFID2 and IMD2 framework on financial advice by Lucia Marin, Anna Kadar (MARKT);

    - discussion on revised terms of reference on financial advice and the proposal for the research study.

- Meeting with Mr Jonathan Faull, Director–General of Internal Market and Services Directorate-General and Mr Mario Nava, Director, Financial Institutions, Internal Market and Services DG.

- Decision on research studies to be contracted from 2014 research budget.

- Finalisation of the FSUG position paper on the remuneration and conflicts of interest.

- Discussion on the update of the FSUG 2012 *Risk Outlook* – division of tasks

- The corporate governance package: a proposal to revise the Shareholder Rights Directive, a Recommendation on corporate governance and a proposal for a Directive on single-member private limited liability companies – presentation by Zsofia Kerecsen, Joanna Sikora-Wittnebel and Dorota Lyszkowska-Becher (DG MARKT F2), followed by discussion.

- Interim report of the Study on how to promote access and use of appropriate savings products for all European financial services users, in particular vulnerable people – presentation by the contractor.

- Reporting to Ms Despina Spanou, Director "Consumer Affairs", Health and Consumers Directorate-General, followed by discussion.

- Report on Consumer Policy 2012-2013 - presentation by Georgios Kiriazis (DG SANCO B6)

- Terms of Reference of the SANCO *study on consumer vulnerability across key markets in the European Union* - presentation by Joke Wiercx (DG SANCO B1).

16-17 June 2014 (Warsaw)

- Polish economy and retrospective analysis of consumer protection in Poland – Marcin Kawiński

- Pension reforms in Poland and interest of pensioners – Agnieszka Domińczak Chłoń (Warsaw School of Economics)

- Polish market of mortgage credit – systemic and consumer issues - Piotr Szpunar (National Bank of Poland)

- Abusive clauses – Piotr Czublun (CZUBLUN TRĘBICKI Law Office Professional Partnership)

- Contribution to the on-going consultations:

    - ESMA – the MiFID II/MiFIR Consultation Paper (technical advice for delegated acts) and Discussion Paper (for future technical standards):

    - European Ombudsman: composition of European Commission expert groups:

    - TTIP - Investor protection and investor-to-state dispute settlement (ISDS) in

- Bancassurance from consumer perspective – Małgorzata Więcko-Tułowiecka (Insurance Ombudsman)

- Key information document for investment insurance – Piotr Zadrożny (Polish Insurance Association)

- Collective redress in Poland – Iwo Gabrysiak (Wierzbicki Eversheds)

- Enforcement of Consumer Credit Directive – Bartosz Kostur (Office of Competition and Consumer Protection)
- Consumer protection: retrospective analysis – Marcin Kawiński
- FSUG internal works:
    - Finalisation of the FSUG position paper on the remuneration and conflicts of interest
    - up-date on the on-going research projects, new projects, long-term planning of the research budget, lessons learnt so far.

7-8 July 2014

- Lessons learnt from the meeting in Warsaw.
- Finalisation of the Risk Outlook.
- Draft final report of the study on the performance of the asset management industry presentation by Didier Davydoff and Michael Klages, IODS, followed by discussion.
- Draft position paper on Simple financial products.
- Presentation of the report on the Consumer Credit Directive and the related studies – Maria Lissowska (Health and Consumers DG, B.4):
- Study on the consumer credit market.
- Study on regulatory choices and their impact on the internal market and consumer protection.
- Presentation of the draft position paper on consumer data and practices of creditworthiness assessment – report on the progress since the last meeting by Martin Schmalzried
- Reply to the TTIP consultation.
- Reporting to Mario Nava, Director, DG MARKT on the outcome of the first day discussions.
- Sub-group meetings.
- Discussion on revised terms of reference on financial planning and the proposal for the research study.
- Study on how to promote access and use of appropriate savings products for all European financial services users, in particular vulnerable people – revised Interim Report, presentation by the contractor.
- Draft reply to the European Ombudsman consultation on composition of European Commission expert groups.

- Presentation of the 10th edition of the Consumer Market Scoreboard - Dan Dionisie (Health and Consumers DG, B.4)
- Draft reply to ESMA MiFID II/MiFIR consultation paper (technical advice for delegated acts) and discussion paper (for future technical standards):
- Presentation of the DG SANCO study on over-indebtedness by Francesco Gaetano (Health and Consumers DG, B.4)
- Discussion on revised terms of reference on crowd-funding and the proposal for the research study - report on the progress since the last meeting by Nikos Daskalakis and Robin Jarvis
- Discussion on revised terms of reference on private pensions (de-cumulation phase) - Anne-Sophie Parent.
- Reporting to the Commission on the progress of FSUG work programme.

11-12 September 2014

- Finalisation of the Risk Outlook.
- Tour de table on Members' activities of FSUG interest, including participation in events on behalf of FSUG, update on identified consumers' risks or detriments as early warnings which could potentially be reported to the Commission and ESAs.
- Presentation of UCITS V – published in OJ on 28.08.2014 (Rostislav ROZSYPAL,G4, DG Internal Market,)
- Discussion on Draft position paper on consumer data and practices of creditworthiness assessment.
- Lessons learnt from the Warsaw meeting – finalisation.
- Update on the retail conference on 18 November - Maciej Berestecki, DG MARKT.
- Final adoptions of the terms of reference of the study on Access to comprehensive financial guidance for consumers;
- Sub-group meetings: meeting of the sub-group on financial advice/guidance - discussion on the work programme.
- Discussion about contributions to the on-going consultations:
    - ESMA public consultation on Market Abuse Regulation
    - Consultation on International Financial Reporting Standards (IFRS)
    - Consultation on the Review of the Insurance Block Exemption Regulation
- Crowd-funding - progresses since the last meeting, by Nikos Daskalakis.

- Position paper on Simple financial products – progress version by Mick McAteer followed by discussion.
- FSUG Annual Report – division of tasks.
- Research budget: lessons learnt from studies carried out in 2014, planning for 2015 – please submit proposals for research studies for 2015.
- Council Regulation on the Statute for a European Cooperative Society (SCE) and possible proposal for a European Mutual Society, by Ioakimidis Apostolos (DG Enterprise and Industry, D.1)
- Reporting to Ms Despina Spanou, Director "Consumer Affairs", Health and Consumers Directorate-General, and Mr Erik Nooteboom, Head of Unit "Retail financial services and consumer policy" Internal Market and Services DG followed by discussion.

23-24 October 2014

- Tour de table on Members' activities of FSUG interest, including participation in events on behalf of FSUG, update on identified consumers' risks or detriments as early warnings which could potentially be reported to the Commission and ESAs
- Finalisation of the Risk Outlook – Mick McAteer
- Approval of the 2014 FSUG Annual Report
- Progress on the draft paper on consumer data and practices of creditworthiness assessment – Federico Ferretti, followed by discussion
- Progress on the paper on Simple financial products – Mick McAteer followed by discussion
- State of the play on Access to comprehensive financial guidance for consumers
- Draft position paper on the study on the efficiency and performance of the asset management industry – Mick McAteer)
- Edition of "Pension Savings: The Real Return" - presentation by Guillaume Prache, Better Finance for All
- Research budget for 2015: discussion on FSUG proposals
- Discussion about possible contributions to the on-going consultations:
    - Cross border mergers and divisions / company law
    - Conflicts of Interest in direct and intermediated sales of insurance-based investment products
    - Consultation on the Review of the Insurance Block Exemption Regulation
    - Contribution to the ESMA consultation on UCITS

  - Consultation on International Financial Reporting Standards (IFRS).

- Crowd-funding - progresses since the first meeting of the European Crowd-funding Stakeholder Forum - Nikos Daskalakis

- Update on the conference on retail financial services - Maciej Berestecki (DG Internal Market, G4

- Update on PRIPs – presentation by Katarina Melichercikova (DG Internal Market, G4)

- EBA's work on consumer protection and financial innovation – presentation by Prof David Llewellyn, Chairman of EBA Banking Stakeholder Group, and Dr Dirk Haubrich, Head of Unit, Consumer Protection and Financial Innovation, EBA - followed by discussion.

- Reporting to Ms Despina Spanou, Director "Consumer Affairs", and Mr Erik Nooteboom, Head of Unit "Retail financial services and consumer policy", Internal Market and Services, followed by discussion.

FSUG MEMBERS

In 2014 FSUG had 19 members, who are individuals appointed to represent the interests of consumers, retail investors or micro-enterprises, and individual experts with expertise in financial services from the perspective of the financial services user.

Name	Nat	Title
McATEER Mick – Chairman	UK	Founder-Director, The Financial Inclusion Centre Non-executive Director FCA
PRACHE Guillaume – Vice Chair	FR	Managing Director, European Federation of Financial Services Users (EuroFinUse)
FILY Anne – Vice Chair	FR	Director of the Economic and Legal Department, European Consumers' Organisation BEUC
BAYOT Bernard	BE	Managing Director, Réseau Financement Altérnatif
BRUUN PEDERSEN Morten	DK	Senior Economist, Danish Consumer Council
COENEN Paul	NL	Head of Legal Affairs, Dutch Investors Association VEB
COTTRELL Vera	UK	Federation of German Consumer Organisations
DASKALAKIS Nikolaos	EL	Head of Market and Entrepreneurship Discipline, Hellenic Confederation of Professionals, Craftsmen and Merchants
FARRÉS ROSELLÓ Jofre	ES	Head of Savings and Investments, ADICAE (Spanish Association of Users of Banks, Savings Banks and Insurances)
FERRETTI Federico	IT	Lecturer in Law, Brunel Law School
HÖLZ Christiane	DE	Managing Director Deutsche Schutzvereinigung für Wertpapierbesitz e.V. (DSW) Member of ESMA'S IPISC CWG
IACOB Alin-Eugen	RO	Chairman - Association of Romanian Financial Services Users Editor in Chief and Managing Partner – Conso.ro financial website
JARVIS Robin	UK	Head of SME Affairs, Association of Chartered Certified Accountants Professor, Brunel University
KAWIŃSKI Marcin	PL	Lecturer, Warsaw School of Economics
KRISPER Bostjan	SL	Head of Department for Financial Services, Slovene Consumers' Association
LEWIS Sue	UK	Chair, Financial Services Consumer Panel
PARENT Anne-Sophie	BE	Secretary General, AGE Platform Europe
SCHMALZRIED Martin	CZ	Policy Officer, Confederation of Family Organisation in the EU
ŠEBO Ján	SK	Associate Professor, Matej Bej University Consultant, Independent Traders Club

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http://ec.europa.eu/internal_market/finservices-retail/fsug/index_en.htm