



Minutes of the Financial Services User Group meeting

24 and 25 September 2018

The minutes of the previous meeting were approved and the agenda of the meeting adopted.

FSUG Work Programme

FSUG members discussed the internal work programme to monitor the state of play of different actions. In certain cases, deliverables for specific topics were advanced or postponed, depending on the developments on related EC dossiers or on internal workload. As a result, the FSUG Workplan was updated accordingly.

Members also put forward ideas for new projects: segmentation linked to profiling (everyone should pay the same only depending on the risk and not being discriminated because of certain characteristics, topics to be maybe extended to access to capital markets), consumer-centered approach to passporting (especially when it comes to redress), aligning consumer protection irrespectively of the payment means (why reimbursements are possible for direct debits but not for other means, why there is no obligation to verify correspondence between name and IBAN before processing a payment), non mutualisation of risks for certain categories, unfair practices in the field of consumer credit, improve the CMU, improve the Banking Union, advice and inducements.

Research projects were also discussed, with advice highlighted as a possible big study for 2019 and helping consumer knowing how money is being invested put forward as a possible (small) study for the same year. No research projects are to be outsourced by end 2018.

Study on digitalisation and access to financial services

The contractor presented the draft final report as well as latest replies received after submission of the report. The contractors explained that they had carried a wider research than those presented in the report, but did not get many responses from such groups as refugees, homeless or people with cognitive problems. FSUG members raised questions in relation to the scope of the study being very narrow, focusing only on disabled, whereas other vulnerable groups are also likely to be affected by digitalisation. FSUG members pointed out that more demographic data should be used to demonstrate scale of the problem. The Chair of the group explained that the departing point for the study was to provide input to the discussions about the European Accessibility Act. Other members enquired whether the contractor could look at the costs for individuals of not having access to digital financial services when they need to pay for transportation to go to a far branch or need to pay for being served at a branch. Some mistakes in statistics were also pointed out. It was agreed that the contractor will revise the final report, add more research on other vulnerable groups, add comments and replies received since the submission of the report, as well as look at the statistics.

Follow-up to the study on irresponsible lending

The FSUG discussed the follow-up to be given to the study on irresponsible lending, delivered in the first half of 2018. The Rapporteur intends to publish the study together with the FSUG position paper – to be developed soon. After mentioning the newly adopted UK FCA rules on creditworthiness assessment (distinguishing between risk and affordability), the Rapporteur introduced the proposed structure of this position paper: introduction (role of consumer credit), key drivers of irresponsible and predatory lending (poor product design, foreign currency loans, cross-selling, incentives, supervision and enforcement) and then recommendations (on scope, usury rates, product design, incentives, responsible lending and alignment with MCD – including on forbearance measures). It was made clear that such position paper would not deal with macro-economic issues, while some members suggested to insert in the Directive indicators useful to tackle misspelling, or proposed to take into account models for conducting creditworthiness assessment. The Rapporteur will circulate a stable structure in the coming days/weeks to gather comments, to start then working on the content. The paper is to be finalised by first half 2019.

Annual Report

Members discussed the structure and content of the Annual Report. While not being a precondition anymore for the payment of the annual remuneration, members are still keen on drafting a lighter version of the Annual Report. This will include the minutes of FSUG meetings, a summary of activities and position papers (including Risk Outlook), lessons learnt from the external meeting and an introduction on changes of rules for the Group (and influence on FSUG work).

Presentation on risk-free rates

DG FISMA representatives provided background of the work on risk-free rates: reform of interest rate benchmarks, requirements of the Benchmark Regulation for benchmarks, the new ECB rate ESTER (Euro Short Term Rate), situation regarding EONIA as well as EURIBOR. Then she explained that the Commission, the ECB, the ESMA and the FSMA (the Belgian securities regulator), have convened an industry working group tasked with, among other things, identifying and recommending alternative risk-free rates. Such rates could serve as a basis for an alternative to current benchmarks used in a variety of financial instruments and contracts in the euro area. The group put forward three risk-free rate candidates. It then sought feedback from the market via a public consultation on which of the three would be the most suitable. Based on discussion and the feedback received, the group announced its recommendation on 13 September 2018 that ESTER be used as the risk-free rate for the euro area.

The group is now exploring possible approaches for ensuring a smooth transition to this rate. Members have been invited to participate in the Roundtable taking place on 9 November 2018.

They have been also invited to consider applying for the membership in sub-groups, more information can be found on the ECB website: https://www.ecb.europa.eu/paym/initiatives/interest_rate_benchmarks/WG_euro_risk-free_rates/html/index.en.html

Presentation on eco-labels

DG FISMA representative up-dated members on the ongoing work regarding EU Eco-labels, and specifically on extending the EU Ecolabel scheme to financial products. Regarding development of criteria for financial products, she explained that the project is led jointly by DG Environment and DG FISMA, and development of criteria will be conducted the Joint Research Centre (JRC). JRC will be reaching out to interested stakeholders in the framework of the criteria development process. Interested members have been asked for providing explicit consent for sharing their contact details with the JRC.

Members have been also informed that the call for applications for the selection of members of the EU Ecolabelling Board will be launched in the autumn, and the board in its new composition will most probably meet in February 2019.

Subgroups

Subgroups on the following topics separately met to discuss their issues:

- Consumers unable to choose the right financial product: the title of this subgroup will be slightly amended, while the initial brainstorming will be conducted ahead of next meeting via email
- Financial/investment advice: a (big) study on the quality of advice across the EU might be conducted in 2019
- Digitalisation of financial services - conduct of business and big data: members will now analyse data storage, lifecycle of data and types of data used in the field of financial services before producing an FSUG paper.

Presentation on Cross-border payments and Dynamic Currency Conversion

DG FISMA representatives provided an oral update on the state of play of the legislative procedure on the Cross-border Payments Regulation. Further to outlining the main amendments introduced in the Council negotiating stance, the European Commission hinted on the ongoing discussions in the ECON Committee. One FSUG member supported the idea of enlarging the scope to all EU currencies insofar as the payments is carried out through payment cards. With regard to foreign currency conversion transparency, he suggested investigating the possibility for consumers to disable dynamic currency conversion services for their payment cards, as a way to empower consumers. The Commission took note of this proposal. The issue of “remittances” - money transfers from EU country to extra EU country - was raised by members and discussed.

Presentation on PSD2 and Open-Banking

DG FISMA up-dated members on changes introduced by PSD2 and transition from screen scraping to API. Members discussed challenges of transition into open banking and more specifically of risks raised by account information services. They raised such issues as increased risk of scams and fraud from introduction of more intermediaries and longer supply chains, problems of the lack of transparency of costs of new business models, risk of use of the behavioral data for targeting consumers and mis-selling of services. They also pointed out to a higher risk of financial exclusion due to the fact that providers will get more precise information about consumers which could be used to exclude unwanted ones. In addition, categories of data (including metadata) to which third party providers will have access is not very clear. Members were also concerned about who will be able to monitor business models which are changing very quickly. The problems of establishing the liability in the long chain of providers was also pointed out. Members stressed that it is crucial to control who has access to payment accounts. Commission explained that the processing of personal data by an AISP will be done for specific purposes defined on the contract concluded between the user and third party provider. This means that in line with both PSD2 and the GDPR, AISPs can only process data which are strictly necessary for providing the service(s) and not further process them for other purposes. Members pointed out that consent is not sufficient tool for the protection of consumers; consumers do not have powers to negotiate, so they give consent in order to get service, not mentioning that it will not be easy for them to understand the whole open banking structure. Commission explained that the processing of data for the provision of account information services is based on a contract and not on consent. Commission also noted that, under Article 7(4) of GDPR, when assessing whether consent is freely given, utmost account has to be taken of whether, inter alia, the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary for the performance of that contract. In addition, PSD2 has

increased protection of consumers. API will need to provide their business models to Competent Authorities. PSD2 regulates which information third party providers can extract from payment accounts. It was agreed that open banking goes beyond payment services. Commission noted that several points referred to by Members, including on exploitation of behavioral patterns of consumers are rather related to the enforcement of existing rules, in particular data protection rules. It was agreed that further discussion on GDPR is needed.

Presentation of the Debt-Advice Stakeholder Forum

DG JUST presented the group with the agenda of the upcoming Debt-Advice Stakeholder Forum (10 October 2018) and invited members to attend. It also provided an overview of the history of the file, starting from the negotiations of the Consumer Credit Directive in 2002, touching on the 2013 Study on Overindebtedness and also mentioning the 2016 Retail Financial Services Action Plan (Action 7). A debate followed on causes of over-indebtedness (and whether life events are direct causes or just a trigger on pre-existing vulnerabilities), role of non-credit providers, different models of advice and EC Non-Performing Loans' proposal.

Risk Outlook

The Risk Outlook is a document produced every 3 years by the FSUG, outlining major risks faced by consumers. It is meant for European Institutions and ESAs, so that they are aware of the financial services' risks landscape and they can monitor them. The Rapporteur produced a first outline and illustrated it to the group. Members were asked for their contribution, both on risks faced by consumers in the different EU countries and on overall EU risks. It was also decided to have a separate stand-alone document, on Brexit and its impact on consumers (both EU and UK ones).

Summary of the outcome of subgroup meetings (reporting), final adjustments to the work programme

Rapporteurs for the different subgroups updated the Commission and the other members on the discussions of their respective subgroup meetings. Some minor tweaks were done to the internal FSUG workplan to update the timing of the respective deliverables.

AOB

At the November FSUG meeting, following topics are likely going to be in the agenda:

- Vote for the Chair and Vice-Chair(s) position
- Tour de table
- GDPR
- Fintech Action Plan – update on blockchain
- Risk Outlook
- Consumer protection aspects of EC Non-Performing Loans proposal
- Irresponsible lending
- Digitalisation
- EU-Sil survey and over-indebtedness related questions