



Draft Minutes of the Financial Services User Group meeting

5-6 February 2018

It was agreed that minutes of the previous meeting will be approved in the written procedure.

Distribution of retail investment products

The Commission representative updated members on the state of play of the study on the distribution of retail investment products which is part of the CMU Action Plan. He informed that prior to the publication of the study report some data collected by the contractor and findings will be being cross-checked with Member States concerned. As the next step, the Commission plans to organise a public hearing on 29 June 2018 in Brussels. The group has been asked to collect examples of what has worked or could work in practise, what type of supply or demand side interventions could address the shortcomings of the existing models of distribution of retail investment products and come up with its own position, if possible before the summer. The Commission also intends, as also part of the FINTECH Action Plan, to examine the current landscape of technology-driven digital interfaces that help individuals to find suitable and cost-effective retail investment products across the EU's capital markets.

Some FSUG members questioned the rationale behind the demand side interventions, cautioned Fin-Tech firms would actually bring more intermediation in the chain of distribution, and not necessary drive away bad products, they raised the issue of the over-supply of retail investment products, which raises the costs of distribution and advice and in the end search costs. They also pointed out the high levels of retrocessions, lack of benchmarks for measuring the performance of investment products or missing centralised information systems. Members agreed to work on their position paper within the sub-group on the financial/investment advice.

FSUG WorkPlan: short presentation of different proposals

Members presented each proposal, in order of priority, for the FSUG Work Plan, helping out the Chair and the Secretariat to draft a GANTT Chart including all items scheduled for discussion for 2018 and 2019, together with the relevant deliverables.

The specific timing for each action was agreed and all the subgroups formed. Some edits were introduced to the content of the actions on cryptocurrencies, how money is being invested, tied selling, shareholders' rights, enforcement (PAD review), electronic order instructions and ADR schemes.

Injunctions and collective redress

JUST.E2 provided a presentation on the upcoming revision of the Injunctions Directive in the framework of the New Deal for Consumers. A Report on the implementation of the Recommendation on Collective Redress was published in January, showing insufficient implementation in many Member States. A legislative initiative to address gaps and see

whether to provide for collective redress in case of mass harms is likely to be soon adopted (currently finalising the Impact Assessment) to extend the scope of the Injunctions Directive, refine criteria and powers of “qualified entities” and maybe include collective redress as a tool. FISMA underlined that it is important to update the list of legislation covered and to make sure that such measures would not be retroactive.

The Group agreed to draft a contribution within two weeks on the topic.

Update on Retail Financial Services Action Plan

Action 11 – Digital Identity Checks

DG FISMA updated the FSUG on the state-of-play of implementation of Action 11, primarily with respect to progress in setting up a multi-disciplinary expert group. Further to a call for applications, over 80 cvs were received. The three DGs in charge (FISMA, JUST, CNECT) were meeting later in the week to select 15 members representing financial institutions and consumer associations. In addition, 21 Member State experts would be part of the group, mainly covering anti-money laundering and eIDAS policies. The selection of Member State experts is being carried out by the EBA, JUST and CNECT drawing from existing expert groups. A good discussion ensured contributing insights from a technical, policy and academic perspective. Given the interest and evident synergies with ongoing FSUG activities, DG FISMA offered to provide a follow up.

Action 7b – Debt Advice

The Commission is considering various options and consulted with the Group on the importance of debt advice as a tool to tackle over-indebtedness. Members agreed with JUST.E1 on the issue, but signalled the need to raise awareness among consumers and the necessity to have lenders referring consumers to debt advice as an early intervention. Harmonising debt advice across the EU may, in their opinion, prove difficult due to different bankruptcy rules, but there is potential for some high-level standards.

A specific set of questions will be sent to Members, for reply within a month.

Action 12 – Online selling of financial services

JUST.E1 informed the Group about its intention to soon launch a study on practices used in an online environment, testing them from a consumer perspective. Findings will feed into the evaluation of the Consumer Credit and the Distance Marketing of Financial Services Directives. It was agreed that the Group will be regularly updated and consulted at a later stage. Members wanting to flag specific practices to be addressed are welcome to take contact with the Commission.

Action 9 – Better creditworthiness assessment

JUST.E1 informed the Group about its intention to work on credit-worthiness and credit databases. The FSUG had already drafted a position paper on the functioning of credit databases, but this did not address their content since practices in Member States differ. Members acknowledged that there are different rules in place, while also raised that behavioural analysis is replacing credit scoring.

A specific set of questions will be sent to Members, for reply within a month.

Role of non-bank purchasers and loan servicers on secondary market for non-performing loans

The representative of FISMA reminded that Action Plan to tackle non-performing loans was adopted by the ECOFIN Council in July 2017. The plan called upon various institutions – including the Commission – to take appropriate measures to address the challenges of high NPL ratios in Europe. The Commission has provided its first stock-take for the ECOFIN Council on 16 January in the form of a Commission Communication, accompanied by a Staff

Working Document. The document highlights recent developments of NPLs and provides an overview of the progress in implementing the Action Plan (based on contributions by Commission, ECB, EBA and ESRB).

The Council has asked the Commission to develop, by summer 2018, a European approach to foster the development of secondary markets for NPLs, in particular to remove impediments to the transfer of NPLs by banks to non-banks and to their ownership by non-banks, while safeguarding consumers' rights, as well as to simplify and potentially harmonise the licensing requirements for third-party loan servicers and to take legislative initiative in this respect, as appropriate.

The Commission has gathered information and evidence from analytical reports and papers of IMF, ECB, EBA, ESRB, FSC, Bruegel, questionnaire circulated to Member States, Public Consultation as well as data gathering exercise and discussions with the consultancies and market players.

The FSUG members raised many concerns related to this initiative, including that the Commission should consider alternatives to market-based solutions and not build the market on anomalies. Members pointed out that it is usually big financial firms that buy NPLs in Member States in which consumer protection is weaker, and thus exploit vulnerable consumers. Members stressed that only a very strong and rigid authorisation process and strong supervision could ensure that vulnerable consumers are not exploited. However, in a number of Member States concerned by high volumes of NPLs the enforcement is not strong enough and its strengthening would be very costly. Members argued that instead of selling NPLs, there should be more done to reduce the risk of NPLs by ensuring that lenders support borrowers who are showing signs of financial difficulty. Lenders should also be incentivised to behave reasonably in the future. FSUG members decided to send the letter with their reservations and objections to both Commissioners.

Consultation on the Consumer Programme

JUST.E provided a presentation of the mid-term evaluation of the 2014-2020 Consumer Programme and the ex-post evaluation of the 2007-2013 Consumer Programme. The interim results of such exercise will be out in two weeks and it is crucial to ensure the involvement of consumer organisations. The Group was guided through the most important objectives and touched upon different actions undertaken under the Programme (namely, ECCs, CPN and CPC). The issue of financial education was also dealt with.

Initiative on cash restrictions

ECFIN.C5 presented the Group with its initiative on cash restrictions, kick-started two years ago after the terrorist attacks in France. Member States practices were analysed, national authorities consulted and, as a result, a study was carried out in 2017 on possible restrictions to high value payments. Findings show low deterring effect of possible relevant measures and the same goes for tax evasion. However, there would be a significant impact in terms of money laundering. At the moment no legislative proposal on the issue is foreseen, but the dossier will need to be analysed by the next Commission as well before further steps are taken.

Sustainable Finance

DG FISMA presented 8 key recommendations of the High Level Expert Group on Sustainable Finance:

1. Develop a sustainability taxonomy at the EU level by 2020, starting with climate change;
2. Clarify investor duties regarding sustainability in selected number of provisions (on a case-by-case basis),
3. Upgrade disclosure rules to make sustainability risks fully transparent

4. Enable retail investors to invest and benefit from sustainable finance opportunities,
5. Develop and implement official European sustainability standards, starting with green bonds. Introduce during 2018 an official European standard for green bonds.
6. Establish a ‘Sustainable Infrastructure Europe’ facility to expand the size and quality of the EU pipeline of sustainable assets.
7. Encourage sustainable finance excellence by reforming the governance, financial culture and leadership of corporations
8. Include sustainability in the supervisory mandate of the ESAs and extend the horizon of risk monitoring

DG FISMA has explained that as regards actions that would enable retail investors to invest in sustainable finance, the HLEG recommended to:

- Require investment advisors to ask about, and then respond to, retail investors’ preferences regarding the sustainable impact of their investments, as a routine component of financial advice.
- Facilitate retail investor choice by increasing transparency on the sustainability impact and processes of retail funds.
- Establish minimum standards for sustainably denominated funds (most commonly referred to as 'SRI funds')
- Establish a voluntary European green label for green-themed funds.

FSUG members raised concerns about short-termism of capital markets, which in the search for yield do not favour long-term projects and sustainable finance projects would need to be long-term with no quick yields. They also inquired about how to ensure that funds are truly green.

The Commission representative referred members to the Action Plan on Sustainable Finance due to be adopted and published in March.

Research Studies

The FSUG Secretariat informed the Group about the progress on the two research studies to be outsourced:

- On irresponsible lending, members of the subgroup have to decide whether to accept the offer as put forward by the possible contractor or to choose another contractor.
- On accessibility of digitalised financial services, the Commission is waiting for an offer by a possible contractor.

External meeting

The June meeting is likely to take place in Porto, on 19 June, preceded by a conference. Other options, like Lisbon and Rome, might be considered for 2019.