



## Meeting of the Financial Services User Group

### Minutes

27 April 2023, online

#### **Adoption of the agenda, approval of the minutes of the February meeting**

The agenda for the meeting was adopted and the minutes of the last meeting were approved.

#### **Exchange of views with the Commission regarding ongoing initiatives on retail financial services (Eric Ducoulombier, Head of Unit DG FISMA)**

DG FISMA provided an overview of the ongoing legislative initiatives on retail financial services and answered FSUG members' questions in this regard.

DG FISMA updated on its files on payments, open finance, and digital euro. Specifically, DG FISMA noted that the adoption of the Retail Investment Strategy – where, *inter alia*, the issue of financial influencers is being tackled – was scheduled for 24 May 2023.

Regarding the Payment Account Directive (PAD), DG FISMA informed that PAD reports were about to be published, which would conclude that, based on the collected data, the PAD achieved its objectives, e.g., it enabled many to access a basic bank account, improved the level of inclusion. However, the conditions under which bank accounts are opened and/or managed need to be revised and improved as, for example, discriminatory pricing between different types of consumers is sometimes applied. DG FISMA considered launching a public consultation on the PAD under the new Commission, likely at the end of 2024.

Lastly, fraud prevention is number one priority for FISMA in the discussion of the PSD2 review. DG FISMA is working towards issuing a proposal to amend PSD2 by end June.

#### **Digital euro: presentation of the research results by The Veblen Institute for Economic Reforms**

The Veblen Institute for Economic Reforms presented the results of their research, commissioned by the Left of the European Parliament, on the digital euro, which should be an alternative to bank account offering payment options for people who do not have a bank account. Now, the research is at the investigation phase and is planned to be completed by October.

#### **Banking crisis in the US and the Credit Suisse situation**

DG FISMA gave a presentation on the ongoing banking crisis in the US and informed about the government facilitated takeover of Credit Suisse by UBS.

DG FISMA highlighted the root problems that Signature Bank and Silvergate Bank were subject to before the crisis. Such problems were i) the banks' internal management (e.g., the balance sheets were mismanaged); ii) supervisory shortcomings (e.g., stress testing was not required for failed banks); and iii) Basel III applied only to major banks, thus important provisions such as those on liquidity requirements did not apply to the failed banks. After explaining how the US bank failures were managed and resolved, DG FISMA informed about the developments surrounding the Credit

Suisse failure, which registered significant losses in the past and expected more in the future years. The bank also had serious governance and risk management issues. The main shareholder did not want to bring fresh capital to the bank and depositors started abandoning the bank.

According to DG FISMA representatives, the key takeaways from these bank failures are that the main lines of defence to reduce the risk of such crises are the effective banks' own risk management and governance practices, the organisational culture and business model viability and a strong, demanding, and effective supervision. The bank failures may also give rise to regulatory considerations, for example on the scope of application of the Basel standards, the prudential treatment of interest rate risk in the banking book, the appropriate design and calibration of liquidity risk standards and the role of regulatory capital (AT1 and the treatment of unrealised losses).

### **Over-indebtedness and debt-advice on-going initiatives**

DG JUST summarised the main results of an ongoing study on over-indebtedness which should be published in the course of this year.

The distribution of over-indebtedness is not homogeneous amongst countries as well as in different parts of the same country. Usually, over-indebtedness is associated with poverty and unemployment and people in this situation say they experience extreme pain and stress, some of them becoming over-indebted to merely face daily expenditures. Moreover, the forthcoming removal of measures introduced to face COVID-19 will very likely have a negative impact, especially on vulnerable consumers.

In the field of credit, precontractual information provided to consumers is an important tool to prevent over-indebtedness. In this regard, providing information in a standardised format helps consumers understanding them.

In this context, responsible lending, improvement of financial literacy, debt advice, and thorough creditworthiness assessment are the main ways one could use to tackle over-indebtedness.

### **Study on the Application of the Shareholder Rights Directives**

The Commission representatives explained the issues at stake, the relevant action (Action 12) on facilitating shareholder engagement in the CMU action plan and the applicable legislation (SRD 1 and 2 and Implementing Regulation) as well as the objectives of the study.

The Contractor (Tetrattech) presented the subject matters of the study on application of SDR2: smooth and effective exercise of voting rights at general meetings of shareholders (SRD), identification of shareholders; transmission of information, facilitation of the exercise of rights of shareholders; non-discrimination/ transparency and proportionality of costs; third country intermediaries and transparency of proxy advisors. At the same time, the Contractor noted that the study investigates topics covered by Action 12 of the 2020 CMU Action Plan: the potential need for a harmonised definition of 'shareholder', continued problems with interactions on voting rights and corporate action processing, potential regulatory barriers to the use of new digital technologies.

Tetrattech asked FSUG members' views on data findings on CMUs, general meetings and fees charged for services. Tetrattech also enquired about the cost charged by intermediaries both in domestic and cross-border situations, enforcement mechanism, major barriers to identification of shareholders and the exercise of their rights, current supervisory / enforcement mechanism. Regulatory barriers to the uptake of new technologies, voting rights and corporate action processing as well as the potentials to go forward were also discussed by the participants.

### **Tour de table: updates from members on their activities of FSUG interest and on newly identified risks to consumers in financial services**

The members shared updates on their activities of FSUG interest. The main issues addressed are over-indebtedness, debt advice, inflation, interest rates, open banking, finance inclusion, fraud, bankruptcy of financial services providers (e.g. Romanian insurances), supervisory authorities, financial influencers, and consumer education.

### **Foreign exchange loans: presentation by Professor László Marcingós and Marta Rovo on the developments in Hungary**

Marta Rovo explained that in the view of the Hungarian Supreme Court, national law can override EU law. Indeed, the Hungarian Supreme Court created a source of law against EU law with case law decisions and materials of mere “inter-judicial board consultation”, and, in some instances, forced the national legislator to override the UCPD and CJEU rulings.

DG JUST noted that DG JUST is aware of such issues and that these are being tackled in the dialogue with HU authorities.

Lastly, a member of the FSUG suggested establishing a task force and launching an investigation on this topic.

### **Work in the FSUG subgroups: update from the leaders of each subgroup on the progress achieved**

The head of the over-indebtedness and personal insolvency subgroup informed other FSUG members that they are drafting an FSUG opinion, which is almost ready. Overall, they are trying to urge the Commission to table a legislative proposal on an EU harmonised personal insolvency framework in the next Commission mandate.

### **FSUG studies: discussion**

The members discussed on the possible future studies and the relative budget allocation. During the meeting, two proposals were made:

- Proposal for a study on the effects of variable rate mortgages on consumers; and
- Proposal for a study on fintech companies which are now marketing products on the financial market without being regulated.

DG JUST asked to share a written paragraph on each study proposal with the group, which will then decide which study to carry out.