

Annual Report

2008/2009

FIN-USE
Forum of users





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2008/2009

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Foreword

This report describes the FIN-USE activities from July 2008 to June 2009. FIN-USE is the Forum of experts representing European financial users which the European Commission set up in 2004. Our aim is to give a new voice to the users of financial services, with the ambitions of opening up policy making and make it more accountable. The present crisis revealed serious weaknesses in the current regime. Financial regulation needs to be radically reformed if the financial system is to meet the needs of society and restore consumer confidence. The focus of the new system should be the effective functioning of markets, providing trust and confidence for savers and users.

All our opinions, reports and external interventions address these main objectives. This year we have been more active than ever before. We have approved sixteen opinions, from Micro-Credit to Solvency II, from SEPA to financial supervision and investor protection. We also have a position paper on the consumer voice in the financial system. Following this position we have written two letters to José Manuel Barroso concerning the lack user representation in the De Larosière Group. Events to which FIN-USE members have been invited, attended and made presentations have grown much higher than expected.

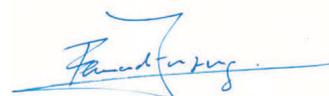
The demand for opinions is growing and members are receiving more and more invitations to events to represent FIN-USE. This raises the issue of resources that are available to carry out this important workload. How well FIN-USE meets its growing

responsibilities depends above all on the skill and dedication of our members but also on the resources to address our tasks.

In addition to summaries of our opinions, reports, meetings and events at which we were invited to participate, the Report this year contains an article by Guillaume Prache, *The silence of the lambs: The voice of European financial services users in the crisis*, addressing the important issue of consumer representation in the formulation of the financial services reform. This reflects the FIN-USE Forum's concerns of the democratic deficit in financial regulation. The direct participation of consumer representatives on the boards of financial supervisors is necessary to improve their good governance and accountability. With better governance the financial system will be more efficient.

This year FIN-USE saw some changes in members of the Forum. We had three new Members, Lorenza Pegoretti, Patrick Fay and Dieter Korczak (See Appendix 1). These changes provided us with better skills and knowledge to develop FIN-USE opinions and position papers.

Finally, I would like to thank Ms Maris Ilves and other staff of the DG Internal Market and Services for their professionalism and permanent support.



Professor Fernando Zunzunegui
Chair of FIN-USE

Consumer protection is a precondition for an effective and sustainable financial system

Terms of reference and working methodology

FIN-USE terms of reference provide for two main roles; they are:

- To respond to the Commission's requests for opinions and recommendations on initiatives affecting users of financial services in the Internal Market, and
- To proactively seek to identify key financial services which affect users in the internal market.

The Forum, in responding to consultative documents, initially works in small sub-groups normally of four to five members to formulate a draft response.

This is followed by further consultation by all members of the Forum before final submission. The meetings of these sub-groups are outside the main FIN-USE meetings.

Own initiative opinions

During the year under review, FIN-USE published three *own initiative papers: the Consumer voice; Reforming mortgage and credit markets and Solvency II*. The following briefly summarises the main theme of these papers.

REFORMING MORTGAGE AND CREDIT MARKETS (DECEMBER 2008)

The ongoing financial crisis affects the whole spectrum of financial services. However, evidence of serious consumer detriment in the mortgage and credit markets emerged. Therefore, FIN-USE decided to proactively publish a paper setting out proposals for reforming the mortgage and credit markets. FIN-USE argued that robust, pre-emptive action is needed to protect consumers who are victims of the financial crisis along

with fundamental long term reforms to the financial system to prevent crises in the lending markets recurring and ensure that consumers have access to fair, affordable credit if and when they need it. FIN-USE's recommendations anticipated many of the reforms only now being proposed by the Commission, other policymakers and regulatory authorities to improve the regulation of markets.

These proposals cover four key areas:

- Policies to help lending markets function again;
- An action plan to protect vulnerable consumers from the impact of the financial crisis;
- Fundamental reform of mortgage and lending market regulation; and
- Proposals for providing fair and

¹ http://ec.europa.eu/internal_market/fin-use_forum/index_en.htm

affordable credit to consumers who are not commercially viable for mainstream lenders.

Eight principles to guide the current and future policy developments under Solvency II

THE SOLVENCY II REGIME (MARCH 2009)

FIN-USE believes that in order to fulfil its objectives, the following principles should be adopted to guide the current and future policy developments under Solvency II:

- Principle 1 - Examine and apply lessons from the financial crisis.
- Principle 2 - Promote and maintain consumer confidence, trust and protection.
- Principle 3 - Avoid undue price increases and higher risk bearing for consumers.
- Principle 4 - Ensure flexibility to cope with the different durations and risk profiles of long term life insurance products.
- Principle 5 - Ensure a level playing field between large and small and medium insurance companies.
- Principle 6 - Avoid major distortions and discriminations between life insurance and the other pension products.
- Principle 7 - Ensure that group support regime does not mean less protection for local consumers.
- Principle 8 - Solvency II should tackle insurance guarantee scheme (IGS).

CONSUMER VOICE (MAY 2009)

The lack of consumer voice at the heart of the decision making structures at EU and Member State level is of great concern to FIN-USE members and to user representatives generally.

The Commission has made efforts to improve matters. For example, it established FIN-USE as a forum of user-experts in the area of financial services to make policy-making more accountable and improve the quality of policy making. However, there is still a huge democratic deficit at the heart of the financial regulatory system. FIN-USE therefore decided to publish this paper to make a strong case for strengthening the voice and influence of users at EU and member state level.

FIN-USE undertook new research looking at regulatory governance at EU and national level. The research produced some shocking results. We found that user representatives made up a tiny minority of the members of the governing boards of regulators in the member states we analysed, whereas the financial services industry is over-represented. The same applies at EU level. Each of the important 'level 3' committees CEBS, CESIOPS, and CESR has a consultative panel with a total of 55 members, yet only five are consumer representatives. The majority are from the financial services industry. Moreover, the influential De Larosière Group took evidence from financial services firms and trade bodies but did not seek the views of any user/consumer organisations.

This must change. Our proposals have two main objectives:

- To introduce much needed improvements in **regulatory governance and accountability** and provide users with more direct

involvement in the policymaking process. This is critical to counter the undue influence of the powerful financial services industry; and

- Significantly improve the **capacity** of user representatives to represent the interests of users at EU level.

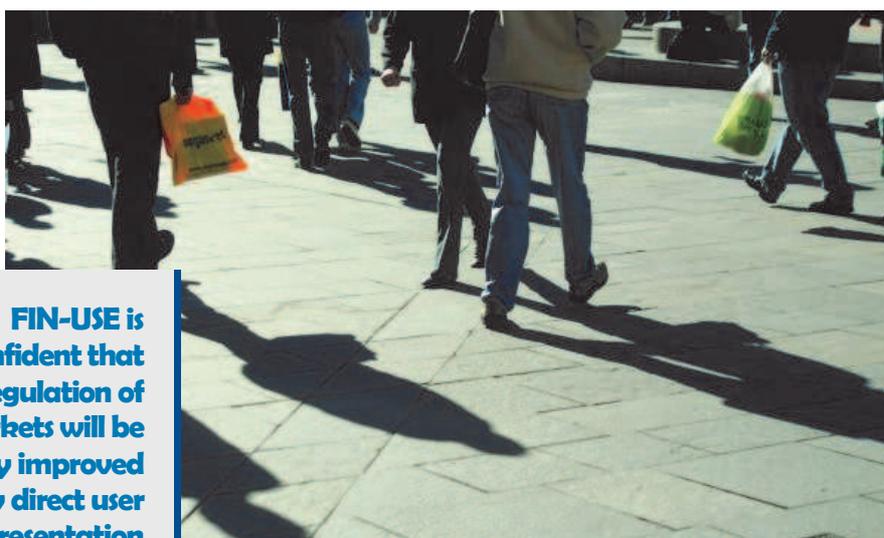
Improving consumer representation voice is critical for several reasons:

1. as a matter of principle, the democratic deficit must be addressed. It is wrong that consumer representation in financial services regulation is so weak given the importance of the sector to EU citizens;
2. the quality and effectiveness of regulation and policymaking would improve by having independent voices challenging market and regulatory orthodoxy. The policymaking process

would also be improved by involving user representatives at the earliest stage; and

3. the ongoing financial crisis threatens the financial futures of so many of the EU's citizens. Improving user representation would send a signal to the EU's citizens that policymakers have their interests at heart and help restore confidence in the financial system.

We share the same goal of reforming the financial system so that it meets the needs of those who matter – the citizens of the European Union, not its financial institutions. We are confident that the regulation of markets will be greatly improved by direct user representation. We produced this paper in the spirit of cooperation and look forward to a constructive dialogue with relevant authorities.



FIN-USE is confident that the regulation of markets will be greatly improved by direct user representation

Response to European Commission requests for opinions on financial services initiatives

During 2008/9, FIN-USE addressed all the issues on which the European Commission has requested opinions. The following provides a brief summary of these responses in chronological order (the full responses are available on FIN-USE's website):

POSITION ON POSSIBLE CHANGES TO THE CAPITAL REQUIREMENTS DIRECTIVE (CRD) (JUNE 2008)

- FIN-USE welcomes the updating of CRD directive, which had an extremely technical and complex wording and framework, and as a result, it has been improved.
- However, FIN-USE would like to emphasise that the recent upheaval in the capital markets, and the impact this has had on end-users, means that major reforms are needed not only in capital markets regulation (including capital markets firms and professionals), but also in solving the lack of disclosure and transparency shown by the European financial industry and others related agents (rating firms, real estate valuation agencies, etc.).
- These reforms are of paramount importance if consumer confidence and trust in the financial system is to be maintained, and efficient markets encouraged.

POSITION ON INSURANCE BLOCK EXEMPTION REGULATION (JULY 2008)

- FIN-USE is of the opinion that the

block exemption regulation can only be accepted if there are benefits from a consumer perspective. That is why more emphasis should be laid on consumer protection.

- It would also be useful to circulate more information about issues and problems arising with the present insurance block exemption regulation.

SEPA – STATE OF PLAY FROM AN END-USER PERSPECTIVE (SEPTEMBER 2008)

FIN-USE gave its views on key issues that are considered to be crucial in order to create efficient environment, regulation and infrastructure for non-cash payments in the EU. FIN-USE main findings were:

- The success of SEPA depends very much on the extent to which the new SEPA-compliant payment services will satisfy the needs of consumers, SMEs and larger corporates. SEPA was launched without sufficient national information campaigns and without a clear and organized consumer associations' involvement. In order to build confidence, end-users need to be on-going informed on SEPA developments. To improve transparency, EPC should start producing an annual report that focuses on issues of interest from an end-user perspective.
- SEPA is controlled and administered by the industry with the EPC Plenary as the supreme decision-making body. Currently only banks and banking

associations can be members of the EPC. This has to change since there is a risk that such an exclusive club of banks may design the standards in such a way that they place new or smaller market actors at a disadvantage or cause product development to focus on the needs of the largest participants rather than those of the other actors and ultimately end users.

- The EPC needs to have a clear and effective input mechanism not only from the industry but also from all types of users so that current and future needs of consumers and other end-users are promptly and efficiently met. The fact that end-user representatives are not permitted in their own power to control dialogues involving EPC Stakeholder Forum is not acceptable and compromises the legitimacy of this mechanism for end-user influence.
- Effective forums in which end-users views can be properly aired should immediately be set up.
- End-users of payment services such as immigrants who also have payment relationships in their country of origin may not benefit from SEPA services if their country of origin is not implementing SEPA. Therefore there is a need for developing strategies aiming at SEPA recognition in non EU countries, for example by introducing SEPA in the "EU-US Informal Financial Markets Regulatory Dialogue".
- There are no objectives on the performance of the SEPA schemes in meeting the needs of the economy and society, on its improvement in performance over time, or on enhancing competition. There is no reference or commitment to systematic

The success of SEPA depends very much on the extent to which the new SEPA-compliant payment services will satisfy the needs of users

evaluation against objectives on a regular basis. Such objectives should, according to FIN-USE, be assessed on a regular basis in a transparent and independent manner.

- A major incentive for banks to switch from national card schemes to the international credit card duopoly (Visa and Mastercard) is the high level of the multilateral interchange fees. Multilateral interchange fees can only be justified if:
 - It can be shown that incurred costs cannot be recovered through fees elsewhere in the payment chain, i.e. fees charged to payer and payees.
 - There is no other (and better) solution.
 - The interchange fee bears a true relation to actual costs.
- Incentives for cutting costs are maintained in the system
- The interchange fee is transparent.
- There is real competition with other card systems.
- To provide a scope for more card schemes in the EU, the Commission should seriously consider applying for MIFs what it has successful done for "roaming charges" – legalise the maximum acceptable (interchange) fee and then leave it to the market to come up with competing card products.
- There is a risk that SEPA will lead to that banks only will be willing to provide consumers with an expensive branded card (for which they have limited use). FIN-USE finds this worrying since this leads to less choice for the consumers and to a situation where consumers and retailers pay more under SEPA than they did before.

- The no-surcharge rules should be abolished. The removal of no surcharge rules has in FIN-USE's view the potential to increase economic efficiency because cardholders will be provided with better pricing signals on the costs of different payment instruments. Such a solution may also increase merchant acceptance, as some merchants that do not now accept payment cards because of the costs involved may begin to do so.

SEPA ACTION PLAN (DECEMBER 2008)

FIN-USE responded to the SEPA Action Plan—Completing SEPA : a framework for action 2009-2012, which sets out the actions required by the various stakeholders over the next four years within the following five priority areas:

- Foster SEPA migration.
- Increase SEPA awareness and promote SEPA products.
- Design and ensure compliance with a sound legal environment for SEPA.
- Reach necessary levels of standardisation and interoperability.
- Clarify and improve SEPA governance.

FIN-USE recommends:

- A review of the deadlines set out in the Action Plan to make sure that they are realistically achievable.
- That a decision be made on the migration end date following a consultation process.
- That targets are set for an increase in SEPA compliant organisations and SEPA transactions volumes in Member States.
- The early adoption of SEPA instruments by all EU bodies and agencies.
- The early adoption of SEPA instruments by Member State Governments and Public Authorities.
- While supporting the proposed interim MIF solution, care should be taken by the Commission and ECB to ensure that end users are

Care should be taken to ensure that end users are not burdened directly or indirectly with interchange costs



not burdened directly or indirectly with interchange costs.

- Because of the inadequacy issues surrounding self regulation generally, consideration should be given to moving to a more objective, transparent SEPA EPC regulatory regime.
- The further ongoing improvement and application of standards should not be allowed to limit access by providers or inhibit product innovation or development.
- While supporting the proposed SEPA Steering Group proposal, its membership should be opened up to provider and end user consumer representation as should the EPC.
- As SEPA awareness is essential for an effective engagement by all actors including the general public and consumers, Commission now should speak in support of the Action Plan and politically lobby for its delivery in Member States.

ECONOMIC IMPACT OF DIRECTIVE 2002/65/EC CONCERNING THE DISTANCE MARKETING OF CONSUMER FINANCIAL SERVICES (DECEMBER 2008)

FIN-USE provided an opinion on the impact of the directive concerning the distance marketing of consumer financial services. Two areas were identified:

(1) *Financial Services*

There is a very little cross-border marketing of financial service products. Even with reference to a simple product (e.g. consumer credit or credit cards), which could be easily sold in different MS, obstacle have been indicated.

(2) *Insurance Services*

It seems that there is little chance of success for distance marketing of motor car insurance. However additional

studies are running on this issue and might bring more details to light.

FIN-USE recommends and suggests:

- While Directive 2002/65/EC aimed to improve cross border distance marketing, in fact the situation today remains about the same as it was five years ago, with only a slight growth.
- The Directive seems to have made no favourable impact on distance marketing of Financial and Insurance Services.
- On the basis of this consideration, it seems that, from a Consumer's point of view, no improvement of the Directive could make cross boarder marketing easier.
- Present situation of consumers in cross-border retail financial services does not attract them at all. Lack of clear and simple solutions in case of dispute with financial providers is one of the key issues.
- FIN-NET, founded by the European Commission, grouping financial ADRs on non-mandatory basis, does not show much effectiveness to date.
- In support of the initiative of FIN-NET one may think about improving its efficacy. One way is to establish at European Ombudsman local branches with more powerful decision making authority, which might help in supporting consumer rights.

A EUROPEAN INITIATIVE FOR THE DEVELOPMENT OF MICRO-CREDIT (FEBRUARY 2009)

- FIN-USE expressed its opinion on the initiatives and intervention at EU level to improve micro-credit diffusion in support of growth and employment.
- FIN-USE is aware that the

Commission considers micro-credit as an important issue in order to implement the Lisbon strategy. Certain very qualified initiatives on micro-credit have been taken, from which some interesting proposals have emerged.

- FIN-USE recommends:
 1. The challenge for the Commission is to create the conditions for the rapid development of micro credit in all Member States.
 2. Foundations and banks can provide, in a friendly environment, all the “patient capital” that is needed for micro-credit to expand and become, as soon as possible, a viable financial tool.
 3. The Best Practice guidelines at single State Member level can be used to organize a legal framework in the perspective:
 - To permanently monitor the complete overview of the existing micro-credit practices in all EU Member States and their functioning with a description of their tools and goals.
 - To create a favourable environment for the growth and the development of micro-credit through extending interventions and creation of a European club of business angels that can assist micro-credit users.
 - To ensure the effectiveness of the Micro Credit MFI through its own structures.
 - To facilitate the creation of European national network for monitoring of micro-credit.
 - To favour financing of the Micro Credit MFI.
- FIN-USE considers that a more systemic approach is now needed. We suggest the creation of a

The challenge for the Commission is to create the conditions for the rapid development of micro credit in all Member States

network of professionals in all 27 EU Member States.

CONSULTATION ON IORPs (FEB 2009)

- FIN-USE recommends that Solvency rules should take into consideration the protection of the purchasing power of pensions’ participants and should be not limited to IORPs. Other products such as DC pension funds versus substitute products which are insurance regulated should be looked at to ensure a level playing field. Solvency rules should take into account the feature that mandatory membership may generate a difference in terms of underfunding risks.
- FIN-USE warns however that the impacts of solvency rules depend on the level of guarantee (e.g. by the state) and the position of IORPs within the social security system of the MS. In addition, in the case of underfunding situations in some IORPs (e.g. in the UK), there is a risk that promises may not be kept and as financial conditions worsen, some IORPs may default. Strengthening the solvency rules in such a situation may not help much if a provider is not able to put aside additional capital.

CONSULTATION DOCUMENT ON ALTERNATIVE DISPUTE RESOLUTION IN THE AREA OF FINANCIAL SERVICES (MARCH 2009)

FIN-USE expressed considerable support for the Consultation document on alternative dispute resolution in the area of financial services. FIN-USE believes that:

- It is necessary for alternative dispute resolution schemes to cover all financial services.
- The European Commission should urge the Member States which

have not created ADR yet to create them and also to develop the financing mechanisms that would enable an efficient alternative dispute resolution within the EU.

- Adherence to ADR schemes should be mandatory.
- Financial services providers must inform customers about the possibility to solve financial disputes through ADR, also ensure the conformity of the provided information to legal acts, its clarity and exhaustiveness. On the other hand, consumer must be provided with a possibility to resolve disputes speedily, free of charge or for a reasonable cost.
- Collective action mechanisms must be implemented.
- The financial services provider must inform the consumer about ADR schemes when: 1) providing information about a service; 2) entering relevant provisions in a contract (if it is signed in writing); 3) providing information about a possibility to address an ADR scheme, where it is not possible to resolve a dispute between the consumer and the financial services provider.

REVIEW OF PROSPECTUS DIRECTIVE (MARCH 2009)

- FIN-USE believes that the reduction of the administrative burden should not be the only objective of the Prospectus Directive revision, but that it should also enhance the protection of investors.

FINANCIAL INCLUSION: ENSURING ACCESS TO A BASIC BANK ACCOUNT (APRIL 2009)

- FIN-USE responded to the Commission's consultation

document Financial Inclusion: Access to a basic bank account. FIN-USE was very encouraged by the priority given to financial inclusion by the Commission.

- For too long, this issue has been the 'Cinderella' of financial services policymaking. Yet financial exclusion already affects millions of EU consumers. However, increasing numbers are likely to be affected as a result of the ongoing financial crisis. Financial institutions are becoming more risk averse and this self-imposed prudence may be exacerbated by a more robust approach by regulators. Regulators are requiring financial institutions to repair their balance sheets. This is likely to push up the cost of capital which will be passed onto consumers in the form of higher prices or greater use of risk-based/differential pricing. Financial institutions (especially shareholder owned institutions) are likely to concentrate activities on consumers with higher disposable incomes or those consumers considered to be lower risk. The likelihood is that growing numbers of vulnerable consumers will be excluded from financial services unless policymakers intervene robustly to protect their interests
- Access to a functioning transactional bank account is a particular priority in a modern society, and should be seen as important as access to basic utilities. The Commission intends that by a certain date every EU citizen should have access to a basic bank account. FIN-USE strongly supports this objective. We argue in our response that self-regulation by the industry has failed and that the Commission should introduce binding regulations to ensure consumers have access to a basic bank account. However, we also argued

that a right of access was not sufficient. Minimum standards on price, service levels and functionality need to be set down to ensure that disadvantaged consumers receive a good service. We also emphasised the need for greater transparency and disclosure to ensure financial institutions are accountable for their treatment of disadvantaged consumers. Financial institutions should be required to publish independently verified financial inclusion audits.

CALL FOR EVIDENCE ON INVESTOR COMPENSATION SCHEMES DIRECTIVE (APRIL 2009)

- FIN-USE notes with guarded satisfaction the Commission's call for evidence on investor compensation schemes ("ICS"). It is obvious for the expert group that the Commission's initiative is a direct consequence of the effect on people's savings following the financial havoc which came to a point during the last quarter of last year. We strongly feel that the Commission should dust-off the OXERA's 2005 report on the implementation of the ICSD and look again at the various assessments and recommendations it had made at the time. Its conclusions remain valid to this day.
- But first, it is important to place the ICS in a proper framework. An ICS is one part of many layers of regulatory protection. In theory, a compensation scheme should be of secondary importance if there is a robust regulatory framework in place and where the regulators, the market and investors have full and unconditional access to information which they can assess of the various players in the financial system. However, in practice this is

not the case. Markets are imperfect, regulators are overburdened and under-resourced, and investors cannot be assumed to be in a position to assess and interpret information. Moreover, the actual financial crisis has disclosed a lot of scandals in the aggressive marketing of financial products: based on the interested advice of the banks employees the costumers have frequently accepted high risks incompatible with their investor profile. In this sense, it could be stated that, when all other measures of a regulatory (like the MIFID Regulation, that has acted as a mere protector shield for the financial industry, failing in its real target and purpose, which is to give a robust and real protections for consumers)- and political nature fail, a compensation scheme setup to protect those who are likely to suffer most from the failure of a firm – i.e. the investor or depositor - is triggered.

CONSULTATION ON COMPENSATION OF VICTIMS OF CROSS-BORDER ROAD TRAFFIC ACCIDENTS (MAY 2009)

The freedom of movement of citizens is one of the most important principles established by European Union that should be supported. That is why it is crucial to harmonize issues that may deeply affect European citizens if they become victims of cross-border road traffic accidents. The aim of European legislation is to achieve common standards within issues that are recognised as vital for European citizens. Compensating victims of cross-border road traffic accidents in the European Union is very important but any legal effort in this respect should not distinguish between victims who are residents in the country of the accident and victims who, at the time of the accident, happened to be

travelling (and thus not habitually resident in the country of accident). On this basis, FIN-USE generally proposes setting up minimum standards that would guarantee level of protection for both "resident" and "visiting" victims without any differentiation.

FUTURE OF FINANCIAL SUPERVISION (MAY 2009)

- FIN-USE submitted its views on the issues set out in Annex I of The Communication for the Spring European Council entitled 'The Programme for Financial Market Reform' and the De Larosière Group Report.
- Ordinary consumers and businesses are feeling the full effects of the financial crisis through reduced credit availability, while the reckless behaviour of financial institutions and failure of regulation has put at risk the savings, investments, pension and jobs of millions of EU citizens.
- The present crisis revealed serious weaknesses in the current EU regulatory and supervisory regime. Financial regulation needs to be radically reformed if the financial system is to meet the needs of society, to restore consumer confidence in the system and to reduce the risk of a similar crisis recurring. The financial crisis provides a once in a generation opportunity to undertake the necessary radical reform. This opportunity must not be lost.
- We supported many recommendations of the De Larosière Report as sensible proposals for reforming the regulation of the financial system. However, there are some obvious

There seems to be no recognition of the need to improve regulatory accountability and user representation within policy making structures

deficiencies in the report. There seems to be no recognition of the need to improve regulatory accountability and user representation within policy making structures. There is insufficient recognition of the role long term investors (such as pension funds trustees) and the failure of corporate governance in financial institutions played in the financial crisis.

Therefore, we made a number of proposals for improving the EU system of regulation focusing on:

1. The protection of the users of financial services, to guarantee the effective functioning of financial markets, providing trust and confidence to savers and users;
2. A new regulatory architecture at international, EU and Member State level, with a clear distinction between prudential and consumers issues;
3. New Macro and Micro Prudential Authorities, along the line of the De Larosière Report;
4. A study on the need of a new European Financial Users Authority, to take care of conduct of business issues and investor protection;
5. Financial services user representation at the heart of the regulatory system and the accountability of financial regulators;
6. A new coherent, robust financial regulation, supervision and enforcement, including risk management and close and consistent links between supervision and crisis management;
7. Governance of financial institutions and role of long term investors.

Other responses and communications

LETTER TO JOSÉ MANUEL BARROSO CONCERNING USER REPRESENTATION IN THE DE LAROSIÈRE GROUP (3 FEBRUARY 2009)

This letter published on the FIN-USE website¹ asked for financial services users to be auditioned by the de Larosière Group on reforming financial supervision in Europe.

CESR CONSULTATION ON "NON EQUITY MARKETS TRANSPARENCY" (FEBRUARY 2009)

- On February 19, 2009, FIN-USE responded to the CESR consultation on non equity markets transparency.
- FIN-USE regrets that this consultation labelled "non equity markets transparency", was actually narrowed down to the corporate fixed income markets only, leaving aside the whole Government and public agencies bond markets, which represent the large majority of cash bond markets, and focussed only on post-trade transparency, excluding pre-trade transparency issues. Also, it did not include any questions on the impact the major fixed income markets failure in 2008 had on equity markets.
- FIN-USE believes that the non equity markets suffer from major illiquidity issues, and from a very serious lack of pre and post trade transparency. Also, it is generally very difficult for individual investors to access the fixed income markets.

FIN-USE believes the responsibility for the lack of transparency of non equity markets in the financial crisis has been underestimated by the regulators, and

it strongly advocates for a major overhaul of these markets which should become transparent and regulated.

CESR CONSULTATION ON THE "KEY INFORMATION DOCUMENT" (KID) DISCLOSURES FOR UCITS (MAY 2009)

- In May, 2009, FIN-USE responded to the CESR consultation on technical issues relating to Key Information Document (KID) disclosures for UCITS.
- FIN-USE is pleased to see that CESR is putting a lot of effort in trying to design a synthetic risk / reward indicator and recognizes that the task is challenging. However, risk management and therefore risk measurement are and should be a key competency of the asset management industry.
- FIN-USE strongly believes that a fund's past performance disclosure alone is misleading and requests again that the performance of a comparable and objective benchmark must be disclosed as well, unless the fund manager clearly states he has no benchmark and that this statement is consistent with the performance fee structure of his fund.
- For charges, FIN-USE asks again that a single summary cash figure example combining subscription/ redemption based fees with asset-based fees must be disclosed as well.

**LETTER TO JOSÉ MANUEL BARROSO CONCERNING SPRING EUROPEAN COUNCIL AND
G20 MEETING IN LONDON – THE VOICE OF EUROPEAN USERS
(15.3.2009)**



Meetings of the Forum

The following section summarises the minutes of FIN-USE meetings during the year.

3 JULY 2008

FIN-USE welcomed new member Mr Dieter Korczak.

FIN-USE opinions:

- Bank account switching – FIN-USE held an exchange of views on the EBIC "Common Principles for Bank Account Switching" and the Commission draft proposal for a Regulation on bank account switching. A discussion followed where FIN-USE members felt that legislation would be the best way to meet the policy aims.
- Solvency II – Members discussed Solvency II paper. The most important issue would be to guarantee that prices for consumers would not rise. There are still many data gaps concerning Solvency II e.g. group support regime where before taking a position FIN-USE would need to wait for a solution to be proposed.
- Consultation on insurance block exemption regulation – FIN-USE response to the consultation was discussed. The block exemption regulation is quite an efficient tool when used properly, but to ensure that BER works well it is better to use external judgment. In some industries BER does not lead to reduced but rather to increased prices. FIN-USE felt that the Commission should examine how the current system is functioning and whether there is misuse.

An EC representative presented an update on retail financial services issues, with initiatives on Credit Histories, Financial Inclusion and ADR mechanisms.

DG Internal Market & Services/H3 described the background to Recommendations on property valuation, foreclosure and land registration.

An EC representative informed FIN-USE about two initiatives in the field of payments: Regulation (EC) No 2560/2001 on cross-boarder payments in euro and E-money Directive.

11 SEPTEMBER 2008

- Election of chairman and vice chairman – Mr Fernando Zunzunegui was elected chairman and Mr Peter Knutsson vice-chairman of FIN-USE for one year. FIN-USE welcomed new member Mr Patrick Fay.
- Deposit guarantee schemes – The Commission explained that a directive is planned on DGS. Payout delays are a pertinent and recent issue - the need to provide adequate and timely information to consumers on DGS, and to speed up the payout procedure. The questions raised concerned whether the payout should be based on push- or pull-system; i.e. should depositors file claims or should the process be automatic; and the issue of ex ante or ex post funding systems. FIN-USE members discussed their opinion on the EFDI reports.
- Consultation on the

harmonisation of solvency rules applicable to Institutions for Occupational Retirement Provision (IORPs). – EC introduced the public consultation launched a week before.

- Draft Recommendation on property valuation, foreclosure procedures and land registration in the area of EU mortgage credit markets. – EC provided a general overview of the draft Recommendation and said that the Commission welcomes FIN-USE comments.
- Update on bank account switching.- EC gave an update on the process.
- Update on DG SANCO initiatives on distance marketing. -EC informed of two studies launched by DG SANCO - on the legal and economic impact of the directive which is in force since 2002. The draft of the final report of the economic study will be sent to FIN-USE for feedback. FIN-USE formed a sub-group on distance marketing.
- Update on UCITS directive.- EC presented the proposed amendments to the UCITS Directive.

23 OCTOBER 2008

FIN-USE opinions:

- Reforming mortgage market funding – A member of the group presented and briefly explained the draft on mortgage funding. It was decided that the paper is in general good. The main issues raised by the members concerned the repossession of mortgages, alternative mortgage funding systems, and principle based regulation in the context of the financial turmoil. Members agreed to move the section on

prudential regulation to FIN-USE response to the financial crisis.

Update on retail financial services issues- EC introduced the following initiatives:

- Tying will be the subject of a fact finding study performed by CEPS;
- Draft Commission Recommendation on property valuation, foreclosure procedures and land registration in the area of EU mortgage credit markets entails a shorter foreclosure period in the interest of the consumer;
- EBIC "Common Principles for Bank Account Switching";
- Relating to FIN-NET a public consultation will be launched to assess the policy options for alternative dispute resolution;
- On Financial Inclusion a consultative document is being drafted; and on. Credit Intermediaries study will soon be finalised.
- Transferability of assets within cross-border banking groups.- EC set out the issue of asset transferability in the context of the review of Directive 2001/24/EC.
- Deposit guarantee schemes.- EC explained the Commission's proposal to amend the Deposit Guarantee Schemes Directive.
- Financial turmoil.- Mr. Karel Lannoo provided a presentation on how to restore confidence in the European financial system. He argued for a new financial services action plan as there are still gaps in the system. He highlighted the regulatory failure and effectiveness of the Basel II ratios. Banks are undercapitalised in the European Union. It is necessary to use additional ratios as indicators of soundness of banks. In addition,

there is a need for an EU supervisory authority; data pooling and an integrated crisis management.

27 NOVEMBER 2008

- The financial crisis.- EC provided an update of the actions as a response to the financial crisis. FIN-USE was of the view that short-term action to protect consumers is missing, and that users lack information.
- Solvency II.- EC informed about the state of play of the Solvency II proposal.
- SEPA Action Plan.- EC presented the SEPA Action Plan, the Commission's decision to bring new momentum to the SEPA process. The Action Plan is a joint effort of the ECB and the Commission to overcome the fatigue towards SEPA.
- Financial Inclusion.- EC provided insight into the way forward with financial inclusion. In May 2008 a high-level conference was held where a study Financial Services Provision and Prevention of Financial Exclusion was presented.
- Data Protection.- EC provided a presentation on how Directive 95/46/EC protects personal data.
- Distance Marketing.- A FIN-USE member presented FIN-USE draft opinion on the Economic Impact of the Distance Marketing Directive (DMD). He remarked that the conclusions drawn in the study were good. In principle the DMD is good Directive with a good framework from a consumer perspective, though it has been of limited effect for cross-border activity.
- MiFID transposition.- Mr Michael Fridrich provided an update and prospect on MiFID. FIN-USE put

forward that the problem of MiFID is not with transposition by Member States but with the application by banks in practice. FIN-USE explained that there is no transparency on commissions and inducements and CESR does not communicate well on the transposition of inducement rules.

- Resources – FIN-USE discussed the possibilities to have one and a half day or two day meeting in the future as well as a decrease of number of agenda items in order to have more constructive meetings. FIN-USE will be informed of increase in resources for the last contract year once the budget has been approved.

28 JANUARY 2009

- Consultation on the review of the Prospectus Directive.- EC presented and briefly explained the proposal for the review of the Prospectus Directive (2003/71/EC) and the content of the consultation document that was made public for consultation on 9 January 2009. FIN-USE members raised the issue that sometimes clients were not provided a prospectus with their shares. Moreover, members mentioned that the issue is not so much with the prospectus but the lack of disclosure on the product as such. FIN-USE requested to be involved in the White Paper preparations at the earliest stage.
- Consultation on ADR in the area of financial services.- EC presented the consultation paper on ADR in the area of financial services. FIN-USE members sought some clarifications on the current situation with the organisation of national ADR

- schemes and FIN-NET. FIN-USE members agreed to prepare a FIN-USE position.
- CESR consultation on the transparency of corporate bond, structured finance products and credit derivatives markets.- CESR informed FIN-USE about CESR's consultation on the transparency of non-equity markets. FIN-USE members wondered why CESR concluded in August 2007 that there was no case of market failure. CESR remarked that this view related mainly to the wholesale markets and reflected the views of the participants in those markets. However, CESR also noted that small intermediaries and retail investors have limited access to trading information. FIN-USE raised several issues regarding whether post-trade transparency would help restore market liquidity and CESR's possible work on asset-backed securities, government bonds and structured bonds, as well as on Madoff and Lehman Brothers.
 - Consultation on access to a basic bank account.- EC thanked FIN-USE for their input in providing comments to the text of the consultation document.
 - Study on tying and other potentially unfair commercial practices.- EC presented the status quo on the study on tying and other potentially unfair commercial practices. This study is carried out by CEPS.
 - Microcredit - EC provided a state of play of the Commission's initiative in the area of microcredit and presented JASMINE (Joint Action to Support Microfinance Institutions in Europe), the European Initiative to develop microcredit for potential entrepreneurs. FIN-USE members reacted positively and embraced the JASMINE initiative.
 - Letter to chairman of de Larosière group - FIN-USE members discussed the letter prepared to be sent to President Barroso and Mr Jacques de Larosière concerning lack of user representation. The group decided to send it in order to recognise the importance for involving consumers in similar undertakings in the future.
 - Update of Consumer's Voice.- A FIN-USE member presented the outline and structure of the update of the Consumer's Voice. He emphasised that it is not about the financial crisis and examples from around the EU are needed on the lack of consumer influence on policy-making. Commission efforts to enhance consumer representation are welcome but more needs to be done.

3-4 MARCH 2009

- Consumer Voice – A member introduced the draft of opinion. Members added that the idea is to be ambitious but realistic. The preamble should state that consumers' purchasing power is the driving force of the economy. It was discussed that instead of 'consumer representative' the paper could mention 'persons with consumer background'. Their independence (from the financial services industry) is crucial. Currently there is lack of transparency on who sits on boards. A shortage of finance causes a lack of expertise among consumer bodies in some countries. Governments need to recognise it, otherwise experts will continue to work for the industry. But supervisors also lack expertise on consumer issues. An additional problem is that in some countries regulators have no mandate to

protect consumers. The conclusion of the discussion was that resources are needed at national and EU level, and coordination should take place at EU level. Two bodies could be established: a confederation of financial services users that encompasses all financial services, and an evolved FIN-USE – an expert think tank defining and proposing research.

- Consultation on ADR in the area of financial services - FIN-USE members invoked the idea that ADR schemes could be effective only when existing in all Member States. Competences of ADR bodies are very different in Member States (e.g. right to give binding decision vs. mediation), also not all fields are covered in all Member States. FIN-USE should argue for a level playing field. The study on how the Recommendation is followed in Member States dates back 10 years. Some countries follow but there is large room for interpretation.
- Communication on packaged retail investment products- DG Internal Market and Services/G4 explained that the Communication will be published in the second half of April 2009, adding that although the idea for such an initiative is not new, the current crisis has given additional impetus for it. There is an information overload, the provision of information is too technical and does not cover key elements. In some sectors there are no EU rules. A legislative approach at the EU level might be needed, i.e. looking at ways of extending MiFID to other sectors. FIN-USE will be involved in the follow-up of the Communication at the earliest stage.
- Study on the comparison of prices of current accounts across

the EU.- DG Health and Consumers/B4 said that since 2005 problems have been detected in the sector – information asymmetry and high variability of prices of current accounts across the EU. The study is expected to provide solid and comprehensive data, also on the hidden costs. Where data is not available on the web sites of the banks, mystery shopping will be carried out. The evidence base created by this study may be used for further initiatives in this sector. FIN-USE members were invited to send any studies that investigate the prices of current accounts in their Member State or of profiles of current account usage. FIN-USE made a proposal to discuss future Terms of References of studies before they are published.

- Call for evidence on review of Investor Compensation Schemes Directive.- DG Internal Market and Services/G3 made a presentation on the call for evidence the main purpose of which is to improve the provisions of the directive.
- Consultation on the review of the Prospectus Directive.- A FIN-USE member presented the draft response to the consultation. It was discussed that there should be a preliminary statement to lighten the administrative burden.
- Consultation on ensuring access to a basic bank account.- A FIN-USE member introduced the opinion. He said that commercially not viable consumers need a different approach. For banks there is no commercial imperative, governments on the other hand have too much trust in self-regulation. Strong intervention is necessary because the enforcement issue is crucial. It

was discussed that parallel banking systems create exclusion. Account is a key to a service not service itself. Basic bank account should be a basic right. Closely tied to financial literacy – Member States need to have awareness campaigns.

- AOB.- DG Internal Market and Services/H3 introduced the workshop on consumer testing on the content and form of ESIS on mortgage to be held in Brussels on 13 May where FIN-USE could nominate two participants. Ms Ayadi and Mr Fiorillo volunteered to participate in the workshop.

29 APRIL 2009

- European financial supervision package - A presentation was made by the Commission. FIN-USE was invited to contribute to the consultation to be published in the end of May.
- Consultation on the compensation of victims of cross-border road traffic accidents - A presentation was made by the Commission. It was agreed between members of the Forum that FIN-USE would respond to the consultation.
- Call for evidence on review of Investor Compensation Schemes directive - FIN-USE position paper was discussed.
- CESR consultation of KID disclosures for UCITS - It was agreed between members of the Forum that FIN-USE would respond to the consultation.
- Consumer Voice in Financial Services - FIN-USE discussed the own-initiative position paper and agreed to send it to the Commission.

17 JUNE 2009

FIN-USE welcomed new member Ms Lorenza Pegoretti.

- Consultation on the Review of the Directive of Deposit Guarantee Schemes - A presentation was made by the Commission. It was agreed between members of the Forum that FIN-USE would respond to the consultation.
- Communication on packaged retail investment products - A presentation was made by the Commission. FIN-USE agreed to prepare proposals send them to the Commission.
- Securities consultation - A presentation was made by the Commission. FIN-USE draft response was discussed.
- Acting chairman of UK Financial Services Consumer Panel, Mr Adam Phillips, gave a presentation on the work of the panel. A discussion with members of the Forum followed.
- Consultation on responsible lending and borrowing and Consultation on the Report of the Expert Group on Credit Histories - A presentation was made by the Commission. It was agreed between members of the Forum that FIN-USE would draft a common response consisting of two parts.
- Consultation on possible end-date(s) for SEPA - A presentation was made by the Commission. It was agreed that FIN-USE would respond to the consultation.
- Banking crisis position paper - FIN-USE paper was discussed.
- Consultation on Commission Communication of 27 May 2009 on European Financial Supervision - It was agreed

between members of the Forum that FIN-Use would respond to the consultation.

- CESR consultation on MiFID complex and non-complex financial instruments for the purposes of the Directive's appropriateness requirements - It was agreed that FIN-USE would respond to the consultation.

Events which FIN-USE members have been invited, attended and made presentations

The following details some of these events:

- FIN-USE members form part of Committee of European Banking Supervisors (CEBS) consultative panel.
- A member of FIN-USE is observer on the European Commission's Expert Group on Financial Education (EGFE).
- CESR Sessions on Non-Equities Markets Transparency, Paris, June 26/27, 2008: A FIN-USE member participated in the session.
- Open Hearing on Retail Investment Products – Brussels, 15th July, 2008: FIN-USE members participated in the Hearing.
- EC Workshop on Key Investor Information (later renamed as "KID" or Key Information Document") for UCITS, 10 October, 2008, Brussels
- Key Investor Information (KII) workshop, 20 October, 2008, Brussels: FIN-USE members participated in the Workshop.
- Meeting with European Commission on FIN-USE Action Plan, resources and visibility, 20 October, Brussels : FIN-USE Chair and Vice-Chair attended the meeting.
- EC "MiFID: one year on" Conference, 13 November, 2008, Brussels: A FIN-USE member participated in the panel: "Investors – Wider choice? Higher levels of protection? Best (or better) execution?"
- European Parliament Workshop on consumer protection in financial services on the 21 January 2009 in Brussels: A FIN-USE member gave a presentation on "How are financial services' consumers protected? Lessons from the crisis"
- Round Table on MiFID organized by CESR, 5 February 2009, Paris.

- CESR Conference, Preparing for the future: where to now for regulation and supervision in the field of securities?, 23 February 2009, Paris: Three FIN-USE members participated in the conference.
- EC Workshop on the Prospectus Directive, 12 March, 2009, Brussels.
- European Commission Conference "Towards a new supervisory architecture in Europe" 7 May, 2009, Brussels: FIN-USE Chairman participated as Speaker, and two FIN-USE members attended the Conference.
- IGS - informal meeting of stakeholder on Insurance guarantee schemes, 8 May, 2009, Brussels.
- EC Open Hearing on the harmonisation of solvency rules applicable to IORPs, May 27, 2009, Brussels: A FIN-USE member was the only representative from the users side at the event.
- A FIN-USE member presented the forum's position paper on consumer voice in financial services at a meeting arranged by the Swedish ministry responsible for consumer affairs, May 2009, Stockholm.
- ESIS Workshop on pre-contractual information on mortgages, 13 May 2009, Brussels.
- Review of functioning of Commission Regulation 358/2003, the Insurance Block Exemption Regulation, Public event, (speaker in Panel Discussion on Joint Calculations, Tables and Studies), 2 June, 2009, Brussels.
- Meeting on Insurance Guarantee Schemes on the 11 June 2009 in Brussels: A FIN-USE member participated in the discussion on the design of schemes at EU level.
- Centre for European Policy Studies Task Force on Meeting within The Solvency II Regime: A Revolution Underway for Reinsurance Companies.

The silence of the lambs

The voice of European financial services users in the crisis

Guillaume Prache
Member of FIN-USE

The silence of small investors whose savings have been wiped out by the financial crisis is as deafening as that of lambs being led to the slaughter. Hundreds of millions of European financial services users have been badly hurt by the crisis: shareholders of course, including employee shareholders, but also all savers who invested indirectly in equities: investment funds holders, life insurance policy holders, and pension funds participants. Mortgage borrowers have also been hit, especially in the UK.

Little is heard from these victims of the crisis, and apparently everyone, especially politicians, find that normal.

Who dominates the media, telling us about the financial crisis, its roots and possible cures? Who participates in the various bodies, committees and task forces in charge of proposing and deciding solutions to the financial crisis? Predominantly the bankers and the

supervisors, the very same parties responsible for causing the crisis in the first place. All analysts concur at least on this.

In fact, there was not one representative of individual investors or of financial services users among the "de Larosière Group" charged with addressing the European financial supervision failures revealed in open daylight by the crisis. Worse, this high level Group appointed by the European Commission President did not even audition any representatives of the users despite an official request from FIN-USE¹.

Actually the issue is much larger and deeper as financial services users are seldom represented in the decision-making bodies of the European financial supervisors and regulators, even though one of the key objectives of these regulators is (or should be) to protect the users. Even more worrying, several national regulators' boards include only individuals who

come from the finance industry itself (besides those from government finance departments and central banks). For example, the boards of the French banking, securities markets and insurance regulators do not include any users' representatives², but are heavily populated with people coming from the industry. A recent study published by FIN-USE³ shows that this is a widespread phenomenon in the EU. The risk of conflicts of interests for these regulators is therefore very high.

A similar situation is unfortunately to be found at the EU level. The financial supervisors (CEBS for banks, CEIOPS for insurers and pension funds, and CESR for securities markets) do not include any users' representative on their boards. Of course this is partly due to the fact that they still have limited decision powers. But the "de Larosière Group" has proposed that they be developed as fully fledged supra-national "authorities". The

Hundreds of millions of European financial services users have been badly hurt by the crisis



conferences organised by these Committees usually only involve a handful of users' representatives if any (who sometimes even have to pay to participate), whose voices are drowned out by those of the hundreds of financial industry executives present. At the European Parliament level it can be even worse. The "European Parliamentary Financial Services Forum" (EPFSF) involves 14 MEPs along with representatives only from the financial industry. Even the participants' list of a recent EPFSF event entitled "Protecting EU Retail Investors" included not one retail investor representative but only MEPs and financial industry representatives.

Not surprisingly, this shows in the results to date. The G20 in London

(April 2009) did focus heavily on targeting tax havens throughout the world. While this may be a good thing, its relationships to the worst financial crisis since 1929 is dubious. On the contrary, the poor governance of listed companies' boards (especially banks) and of supervisors are certainly two key factors contributing to the crisis. But the G20 remained extremely discreet on these issues, to say the least.

It is indeed shocking to see that such high level public authorities have not addressed the responsibility of directors (especially so-called "non-executive" or "independent" directors) who, for example, granted billions of dollars in bonuses to Lehman

executives only months before the bank went bankrupt and annihilated its shareholders wealth. It is indeed also a big concern to see national financial supervisors being given a green light to continue "business as usual" in terms of rectifying governance deficiencies, as often their discussions are still with bankers only and mostly exclude any user representatives, at least at board level.

A typical response from the regulatory authorities is that they have a hard time finding financial users' representatives, especially competent ones. But these regulators are often the same ones who not only do not compensate these users' representatives for their expenses and time, but even sometimes

make them pay a fee to attend and get an opportunity to have their voice heard in their conferences. These are also often the same authorities who will not make any room for financial users representation on their boards despite investors demands and political promises.

Public authorities have to realise that, unlike the well paid financial industry lobbyists, individual investors and financial services users have very scarce resources available to them.

Our governments must ensure that small savers organizations get the resources to have a sufficient number of competent representatives who are able to challenge the financial industry lobbyists and at the same time maintain their independence. The lack of adequate resources is the main reason why there is still no lobbying entity at European level to defend the interests of all individual investors and financial services users, leaving the whole financial policy field to the armada of the powerful financial industries lobbyists. Is this true democracy?

There is some hope. The European Commission, which had already created FIN-USE in 2004, has now identified this issue, and has

recently proposed to directly fund investor stakeholders to represent their interests in financial services policies at EU level⁴. And FIN-USE recently published detailed proposals to improve the governance of financial supervisors in Europe. These moves may help the much needed emergence of European individual investors and financial services users as a real lobbying force in Brussels.

Our governments must ensure that small savers organizations get the resources to have a sufficient number of competent representatives who are able to challenge the financial industry lobbyists and at the same time maintain their independence

¹ Letter to Mr J. M. Barroso, February 3rd, 2009.

² With only one and very specific exception: employee shareholders have one representative at the Securities Markets Regulator's board.

³ Position Paper on Consumer Voice in Financial Services, May 2009.

⁴ Commission Communication "Driving European Recovery", annex I, page 4, 4 March 2009.

APPENDIX A

FIN-USE Members

Rym Ayadi
Belgium

Geoffrey Bezzina
Malta

Zita Čeponytė
Lithuania

Patrick FAY
Ireland

Ernesto Fiorillo
Italy

Ardo-Heiki Ingar
Estonia

Robin Jarvis
United Kingdom

Marcin Kawiński
Poland

Peter Knutsson (Vice-Chair)
Sweden

Dieter Korczak
Germany

Mick Mcateer
United Kingdom

Lorenza Pegoretti
Italy

Guillaume Prache
France

David Šmejkal
Czech Republic

Carlos Javier Zarco Pleguezuelos
Spain

Fernando Zunzunegui (Chair)
Spain

APPENDIX B

FIN-USE Charter**1. PREAMBLE**

Whereas:

- 1.1** The Commission's Communication on a Consumer Policy Strategy (COM (2002) 208 final) proposed reinforcing the regulatory approach in the field of financial services based on early, broad and systematic consultation of all interested parties including consumers and end-users.
- 1.2** The setting up of a forum from the perspective of users of financial services is in line with the ambitions of opening up policy making and making it more accountable, as set out in the Commission's White Paper on European Governance (COM 2001 428 final).
- 1.3** There is a pressing need to improve policy-making for the Internal Market in the field of financial services through a more structured dialogue with consumers and SME's (to be described hereafter as "users of financial services").
- 1.4** In its White Paper on Financial Services Policy 2005-2010, the Commission

recognised that FIN-USE plays a very important role by conveying the user perspective on Commission policy initiatives in the area of financial services.

- 1.5** The mandate of this Forum should be defined and its administration organised.

2. MANDATE OF THE FORUM

- 2.1** The Forum shall respond to the Commission's requests for opinions and recommendations on initiatives affecting users of financial services in the Internal Market.
- 2.2** The Forum shall, in addition to reacting to submissions from the Commission, proactively seek to identify key financial services issues which affect users in the internal market.
- 2.3** The Forum shall produce an annual report of its activities, including any opinions it has formulated over the course of the exercise. This report shall be addressed to the Commission.

3. STATUS OF THE FIN-USE FORUM

- 3.1** The FIN-USE Forum shall be considered as an

independent expert forum.

- 3.2** The opinions expressed by the FIN-USE forum do not in any way prejudice the Commission's right of initiative, nor shall those opinions necessarily represent the views of the Commission.

4. CONSTITUTION AND COMPOSITION OF THE FORUM

- 4.1** Experts are appointed *ad personam* by the Commission in accordance with official procedures for a call for an expression of interest. Experts may only be replaced in accordance with those procedures.
- 4.2** Experts are appointed for a period of 12 months, renewable for a further two periods of 12 months each, and shall be required to sign expert contracts with the Commission.
- 4.3** Experts may withdraw from the expert panel by terminating the contract with the Commission after having served 30 days formal notice. Similarly the Commission may terminate a contract with an expert after having served 30 days formal notice.

- 4.4** Experts shall elect a chairman from among the group who will chair meetings and liaise with the Commission secretariat, as well as a vice chairman. Both chairman and vice chairman shall be renewed each year.
- 4.5** Chairman and vice-chairman may be re-elected.
- 4.6** If necessary, the Forum may seek occasional expert advice on specific financial services issues from a qualified expert. Such expert(s) may attend one or several Forum meetings and, subject to agreement by the Commission, may claim reimbursement of travel expenses. The number of reimbursements shall not exceed a total of four per year.

5. DUTIES OF EXPERTS

- 5.1** Experts are expected to express independent opinions to the Commission and to ensure that there is no conflict of interests between the work they undertake in the context of the Forum and the posts they occupy.
- 5.2** Experts are expected to observe the confidentiality of the information and documents brought to their attention

during the meetings or the consultation process, if required by the Commission. Confidential information shall not be disseminated outside the Forum.

- 5.3** Experts are required to attend and participate actively in between 6 and 9 meetings per year in Brussels, and shall be expected to carry out the necessary background work outside these meetings.

6. TASKS OF THE COMMISSION

- 6.1** The Commission shall provide the secretariat of the forum, convene meetings, prepare draft agendas in agreement with the Chairman, arrange meeting facilities, reimburse travel expenses, liaise with contracted experts and draft the minutes of the meetings.
- 6.2** The Commission shall provide background materials on Commission initiatives on which the Forum's opinion is sought.

7. CONSULTATION OF THE FORUM

- 7.1** The Commission shall consult the Forum, at the

earliest stage possible, about important initiatives, in particular of a legislative nature, affecting users of financial services.

- 7.2** The Commission secretariat shall be responsible for submitting requests from the Commission. This shall be done in agreement with the Forum's Chairman.
- 7.3** The Forum, via the Chairman, may request to be consulted on issues which have not been submitted to it by the Commission.

8. TRANSPARENCY

- 8.1** Documents and research resulting from the Forum's work shall be made available to the public.
- 8.2** The Commission shall be the sole owner of the outputs of FIN-USE, including copyright and other intellectual property right. Experts shall not be entitled to make any use or publication of these outputs without prior permission from the Commission.



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Expert Forum of Financial Services Users
Providing expertise for policymakers

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