Emerging challenges in retail finance and consumer policy

Conference
18 November 2014, Brussels

Final report

European Commission

European Economic and Social Committee

Contents

Introduction

During the financial crisis, one of the most severely affected groups were consumers and users of financial services, some of whom lost their savings, experienced major difficulties in the repayment of credits and faced additional constraints to access certain financial products. The EU reacted to these problems by introducing a number of regulations to enhance safety of financial products as well as their transparency and accessibility; however, many of these measures still need to be implemented in Member States. In parallel to this implementation work, the Commission considered it timely to meet with stakeholders and consult whether additional policy actions might be necessary. Their objective would be to reinforce, if need be, consumer protection and competition in retail financial services, and to improve cross-border access to financial products in the EU.

The topics presented and discussed at the conference were found to be of high importance both at Member States and EU level. In addition, the event provided an opportunity to better define the retail finance policy agenda of the recently appointed European Commission.

The conference gathered more than 200 stakeholders representing the financial industry, consumers, national public authorities, EU institutions, payment organisations and academics. It was an interactive event where the exchange of views and involvement of all participants were highly encouraged. The topics were addressed in the form of panel presentations, delivered by external experts, and by break-out sessions during which participants debated in small groups moderated by professional hosts. The outcomes of the break-out sessions were reported to the plenary at the end of the day.

The Conference presentations and discussions concerned four principal areas:

- The panel on **'Safer and simpler financial products'** addressed different product governance policies as well as the initiatives encouraging financial institutions to offer products which are simple and take into consideration consumers' interests.
- **'Behavioural economics and financial services'** explored ways allowing a better use of the insights of behavioural economics in policymaking in the area of financial services.
- **'What could be next on the EU mortgage credit agenda?'** looked at issues related to the mortgage credit in the context of the financial crisis, including helping borrowers in payment difficulties and further facilitating cross-border supply of mortgage credit.
- **'Payments: improving users' experience and looking into the future'** discussed latest developments in the area of payments, in terms of consumers' safety, accessibility and convenience.

The objective of this brochure is to present the steering notes and presentations prepared for and delivered during the conference and to highlight preliminary findings under each of the topics. These conclusions will be followed-up by further policy considerations by the European Commission in the first part of 2015.

All the information about the conference, including electronic version of all the documents and presentations, can be found at the conference website:

http://ec.europa.eu/internal_market/conferences/2014/1118-retail-finance/index_en.htm

Conference programme

08:30 **Registration and coffee**

09:10 **Opening address**

Jonathan Hill, European Commissioner for Financial Stability, Financial Services and Capital Markets Union, European Commission

09:30 **Welcome address**

Martin Siecker, President of the Section for the Single Market, European Economic and Social Committee

09:40 **Introduction**

Erik Nooteboom, Head of Retail Financial Services and Payments Unit, DG Financial Stability, Financial Services and Capital Markets Union, European Commission

SESSION I

09:50 **Safer and simpler financial products**

Moderator: Mick McAteer, Chair of the Financial Services User Group

Panellists: Sébastien de Brouwer, Executive Director, Retail, Legal, Economic & Social Policy, European Banking Federation

Wijnand van Beek, Manager Strategy, Policy and International Affairs, Netherlands Authority for Financial Markets

10:35 **Coffee break**

SESSION II

11:00 **Behavioural economics and financial services**

Moderator: Olivier Micol, Head of Financial Services and Redress Unit, DG Justice and Consumers, European Commission

Panellists: Peter Andrews, Chief Economist, UK Financial Conduct Authority

Monique Goyens, Director General of the European Consumer Organisation (BEUC)

SESSION III

11:45 **What could be next on the EU mortgage credit agenda?**

Moderator: Andreas Schwab, Member of the European Parliament

Panellists: Bernard Sheridan, Director of Consumer Protection, Central Bank of Ireland

Ágnes Uhereczky, Director, Confederation of Family Organisations in the European Union (COFACE)

12:30 **Lunch**

SESSION IV

14:00 **Payments: improving users' experience and looking into the future**

Moderator: Erik Nooteboom, Head of Retail Financial Services and Payments Unit, DG Financial Stability, Financial Services and Capital Markets Union, European Commission

Panellists: Luca Cassina, General Manager Western Europe, PayPal

Wiebe Ruttenberg, Head of the Market Integration Division in the European Central Bank

Javier Santamaría, Banco Santander and Chair of the European Payments Council

15:00 **Break-out brainstorming sessions**
(4 groups according to sessions I-IV)

16:30 **Reporting of the break-out sessions' conclusions**

17:15 **Closing address**

Mario Nava, Director, Regulation and Prudential Supervision of Financial Institutions, DG Financial Stability, Financial Services and Capital Markets Union, European Commission

Despina Spanou, Director for Consumers, DG Justice and Consumers, European Commission


EMERGING CHALLENGES IN RETAIL FINANCE AND CONSUMER POLICY
Conference
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Turning around the telescope — consumers at the centre of financial services policies

Speech by **Jonathan Hill**
Commissioner for Financial Stability,
Financial Services and Capital Markets Union

Good morning ladies and gentlemen. It is good to be here. A special thank you to Mr Siecker for hosting today's event at the Economic and Social Committee. I look forward to working with you and your colleagues in the Committee in the years ahead.

I am very pleased that we have here such a wide variety of people with real understanding of retail finance and consumer policy, from regulators national and European, from consumer groups and from business.

I was very keen to join you today to say a few words about a subject that I see as a priority for my term of office: how to make sure that financial markets bring real benefits to the general public.

This is not just an economic question, but a political one. If we can lower prices by opening up a single market, we can help people with the cost of living by making their money go further.

Recent reforms

In recent years, the Commission has had to focus on the financial system; on ending taxpayer bail outs, on overhauling financial supervision to reduce risk. On the back of the financial crisis, the priority was to tackle the big picture, systemic issues – and rightly so.

But now, with that big wave of crisis regulatory action behind us, and as the new Commission gets to work, I think it is a good time to turn the telescope round and look at financial services not from the top-down, but from the bottom–up. To ask, in other words, what can we do to enable more people to enjoy better quality services at lower prices?

This is not just an economic question, but a political one. If we can lower prices by opening up a single market, we can help people with the cost of living by making their money go further. And by delivering practical benefits, we can remind people of how the EU can help them.

The European Commission is not, of course, starting from a blank sheet of paper. It has tightened up consumer protection in many areas, ranging from improvements to the deposit guarantee system to greater investor protection under MiFID. It has introduced simple, comparable documentation that customers will be given when taking out a mortgage or buying an investment product. And it has given the millions of un-banked individuals in Europe a right to access the financial system through a basic payment account.

These were significant changes. And many of them were completed only recently. Implementation of those recently agreed rules is the next step and I want to work closely with Member States and with supervisory authorities to encourage good application of new rules.

But now I want us to look at new challenges.

Unlocking the potential of the Single Market

One of the first conversations I had when I arrived in Brussels was with someone complaining about the cost of insurance and the difference between pricing and service levels in different markets. That got me thinking. Some simple figures – after some quick googling – illustrate the point. In the UK, for the same level of coverage, you can get a quote for travel insurance for EUR 55 that in France costs EUR 120. A car insurance policy that costs EUR 700 in Poland will cost you, same car, same policy, EUR 1 300 in Belgium.

These figures surely suggest that we do not have a fully functioning Single Market that is working properly in consumers' interests.

Meanwhile, financial services regularly come at the bottom of the customer satisfaction list in the EU Consumer Markets Scoreboard and national financial ombudsmen are seeing their workload grow each year as complaints roll in.

Every day, my department receives letters from people whose health insurance has not followed their move to a new country; from people whose credit history is suddenly blank when they move across borders so they can't get a credit card or a mortgage; from people living close to a border who find cheaper car insurance in the country next door but who aren't able to take advantage of it.

EU role

Of course, not all markets are the same, but it is surely instructive to look at other areas to see whether there are lessons we can learn. Think about telecommunication, where liberalisation has brought huge benefits, both for "domestic" and for "cross-border" customers and businesses.

And think about the low-cost air industry, which has followed the opening up of Europe's skies in 1992. People said it couldn't be done. That consumers would always want the certainty of their national flag carrier. That operators had to be regulated to require you to book through a travel agent, give you a seat number in advance, guarantee your onward flight connection and give you a full meal.

But thanks to European legislation that opened up the Single Market, pioneers like Ryanair and Easyjet have proved the doubters wrong. They set their own terms for pricing, services and the airports they fly to, while adhering to the stringent safety requirements that aviation supervisors impose. And customers have voted with their feet.

They may grumble about the lack of service or the luggage restrictions but choose to pay less and to accept the downsides. More people now fly with Ryanair than with any other airline in Europe. Opening up the single market for air travel has had a dramatic impact even down to the most local level. So for me, the starting question is: can we apply those lessons in the sphere of financial services? And if so, how?

Competition gives consumers choice. It brings downward pressure to bear on prices and upward pressure on service-levels.

Principles

I want to sketch out the kind of approach I plan to adopt, and the principles I bring to the job.

The first is a strong belief in competition. Competition gives consumers choice. It brings downward pressure to bear on prices and upward pressure on service-levels. It makes it easier for new entrants to come into the market offering new services and new ways of doing things. It forces established players never to take their customers for granted.

The second is a belief in the virtues of transparency. Consumers must be able to understand what they are buying, and why they are being sold a particular service: is it because it is the right service for them? Or because it is a product that earns the biggest commission? The availability of information to consumers is crucial: transparency is the foundation of consumer protection. If consumers don't have information, and information presented in a comprehensible way that can be compared to other products, they can neither properly choose what works best for them nor hold service providers to account. As knowledge is power, transparency is vital for an equitable balance of power between producer and consumer.

The recently adopted PRIIPs regulation is a good example: the so called 'Key Information Document' will provide retail investors with information on investment products in a standardised way on the product's main features, as well as the risks and costs associated with the investment in that product in as straightforward and comparable way as possible.

The development of new technology and comparison websites is also a very powerful tool, allowing customers to find for themselves what products are on offer and which offer the best deals for them. These websites have exploded in popularity and are now a great force for competition and consumer choice in the marketplace.

Third, my approach to standards of behaviour and its relationship to regulation. The litany of recent scandals is deeply depressing. The promotion of NINJA - no income, no job, no assets – loans, the mis-selling of income protection insurance, the foreign exchange trading scandal that has been in the news in recent days – they all tell us that there is something wrong in the culture of these organisations. Putting that right is not simply a matter of putting in place more and more rules. It is not a question of ticking more boxes, but of management taking responsibility and remembering they are there to serve customers, not the other way round.

I do not want to micro-manage businesses, but I want managers to take responsibility. I am happy for them to benefit when things go well, but I think they should take the rap when things go wrong on their watch. People who de-fraud their customers by fiddling foreign exchange rates are just as guilty as someone who steals a wallet or hacks a bank account. I am in favour of strong sanctions in both cases.

Mobile consumers

The backdrop to all this is a new phase of technological development which is changing the way markets work. More and more products and services are bought and sold online, and growth in mobile devices is accelerating this trend.

We should not underestimate how online consumption is transforming the retail financial service market. Take online banking: people who take up online banking are likely to stay on it, so the online banking model we see emerging in the countries with the highest internet usage in the world – in the Netherlands, Sweden, Finland and Denmark – not only represent the future European practice of retail banking but the future global practice. Customers will increasingly judge banks on their digital service delivery.

Digital and electronic means of payment are also developing fast. The same is true of peer-to-peer payments systems and crowdfunding. These new trends could be very beneficial to consumers as they are cheap and easy to use, but people need to be able to understand what the services are that they are using and what the risks might be.

The same goes for virtual currencies. Such currencies, such as Bitcoin, have seen dramatic growth over the last couple of years. But virtual currencies are not without their risks. So we will need to look at the safety and appropriateness of these virtual currencies.

More widely, when considering electronic financial services, we need to strike the appropriate balance between guarding against fraud, hackers and money laundering and maintaining ease of use for customers. Security is paramount; it is an essential element of any financial services policy, but it should accompany, not prevent innovation and development.

How will I approach the task?

Ladies and gentlemen, I cannot succeed in my goals – breaking down barriers to competition and consumer choice, making sure that markets work for consumers – if policy making happens inside a locked room, only unbarred to present the regulator's fiat to Europe.

Good regulation requires broad consultation, drawing upon deep and detailed understanding of the market, and an open debate in which ideas are properly tested.

We have some knotty problems to resolve if we are to succeed in opening up retail markets. There are some issues that are rightly the product of local market conditions but we should sift the wheat from the chaff – we must distinguish those necessarily local features from special pleading that favours incumbents at the cost of new entrants and consumers.

So I want and need to meet people from different Member States, from different parts of the financial industry, from different supervisors and of course from different kinds of financial services user. I'm not interested in a one-sided discussion.

This Commission's priority is growth and jobs, delivered by being big on the big things and small on the small things. That will be my approach in this area of policy as elsewhere.

I want to hear from those who produce services, especially from small companies, and I also want to hear from consumer groups such as BEUC, Finance Watch, Better Finance for All, and the FSUG. They have a vital role because in the ceaseless interaction between producer and consumer that is the basis of any market, no one side should have a monopoly of expertise.

As you will be discussing today, there is still a lot of work to be done. To achieve what hasn't been achieved: a real single market for all financial services. So we have some important questions to ask ourselves:

What can we do to increase transparency and reduce complexity, so consumers can understand what they are buying and can compare costs?

What can we do to increase choice, competition and innovation?

What can we do to align business incentives with the interests of consumers?

How can we bring about a culture of true compliance rather than mere compliance – that is, the spirit, not the letter, of regulation?

If today's event helps us to start to find answers to those questions it will have been very valuable. So please give us ideas for the concrete steps to help create that real single financial market. Our rules should allow a market to develop that delivers what consumers really want – access to the best products and services on the market for their specific needs; clear and understandable products; ease of use through digital devices; and solutions when things go wrong.

Let us remember how this fits into the bigger picture in Europe. President Juncker has talked of the EU being in the last chance saloon. As I see it, the EU faces two great challenges: the democratic and the economic. The EU's legitimacy depends on the continued provision of tangible benefits to the public. Retail financial services and consumer policy is, I believe, an area where we can do exactly that.

This Commission's priority is growth and jobs, delivered by being big on the big things and small on the small things. That will be my approach in this area of policy as elsewhere.

If through choice, competition, transparency and high standards we can help the retail service sector develop as a growing part of the economy that costs consumers less and underpins broader economic stability we will contribute to Europe's wider success.

I look forward to learning your views and arguments and I hope your discussions today will be vigorous and productive – and help us put European consumers centre-stage.

1 Steering notes

These steering notes are to provide participants with background information on the topic and to stimulate questions to be addressed during the conference. They do not reflect the opinions, views or policy positions of the European Commission. Neither the European Commission nor any person acting on its behalf may be held responsible for any use of the background information contained therein.

Session I

Safer and simpler financial products

1. Brief introduction

In recent years, we have witnessed a number of significant mis-selling scandals across the EU. These scandals covered a wide range of financial products from mortgage credit to insurance or investment products, which sometimes were very complex or simply not suitable to the needs of retail consumers and investors, or which were offered automatically regardless of the customer's profile. The increasing complexity of financial products probably explains part of these mis-selling scandals which were highly detrimental to consumers in several Member States and led to an overall loss of trust in the financial industry. A number of regulations have been introduced both at European and national levels in response to these incidents, and to make financial markets safer and more accessible for consumers. While the objective of this session is to look at the areas where further policy action might still be needed, the discussions will take full consideration of the existing and recently adopted EU measures, including those which are either in the negotiation or implementation stage.

2. State of play and possible ways forward

In order to restore consumers' confidence in the financial services area, European policy makers introduced new requirements enhancing consumer protection by means of sectoral and cross-sectoral legislative initiatives recently adopted in the financial services area, e.g. Mortgage Credit Directive (MCD), Market in Financial Instrument Directive II (MiFID II), on-going review of Insurance Distribution Directive (IDD) and Regulation on a new Key Information Document for packaged retail and insurance-based investment products (PRIIPs).

These rules established new disclosure requirements aimed at giving consumers clear and simple information on the financial product they intend to purchase. They will enable consumers to choose financial products more effectively and easily, and compare similar products available on the market. Besides, the new legislative acts aim to improve the business practices in the financial industry, clearly identifying the specific needs of retail consumers and investors, in particular during the selling process.

In addition to tackling important weaknesses related to the sales of financial products, European policy makers also introduced some rules with regard to the product development process as an additional measure to limit the risk of mis-selling (e.g. UCITS legislation, MiFID II, and ongoing review of IDD). While these principles are quite general at this stage, the upcoming level 2 measures for MiFID II should provide for more concrete organisational requirements on manufacturers. Besides, the European Supervisory Authorities issued in November 2013 a joint position [1] on Manufacturers' product oversight and governance processes, which establishes a set of high-level, cross-sectoral principles on financial institutions' internal product approval process. Lastly, some supervisors, including at European level, have been attributed powers to intervene and withdraw from the market the products which are detrimental for consumers.

To regain consumers' trust, European policy makers also decided to make access to the most essential banking product for citizens – payment accounts – easier and more competitive. In this context, the recently adopted Payment Accounts Directive (PAD) establishes the right for all European consumers to access a basic payment account, irrespective of their place of residence and financial situation. Indeed, 58 million European citizens are still unbanked and do not have access to this essential banking product for everyday life. Like other recent legislation adopted in the financial services area, the PAD also introduces new transparency requirements as regards fees charged by providers and easier switching process for payment accounts to the benefit of all retail consumers.

Following this legislative initiative, which will strengthen both financial inclusion and competition in the retail banking sector, it would be worth assessing whether access to other essential financial products such as saving accounts, loans or insurance products – necessary for the vast majority of consumers once in their life – should be further facilitated.

3. Aspects of the topic to be addressed during discussions

Product governance can intervene at different stages in the life of a financial product and can take various forms.

As underlined in the previous section, a number of issues related to product intervention powers for supervisors and product governance have been already addressed or are under discussion for the development of EU measures regulating the sale of investment and insurance products. It might nevertheless be worth looking at those principles of product governance which could be relevant for other sectors or which could have a more horizontal application. The topics to be discussed could include: the types of procedures to be implemented and their traceability, the need for prior approval of financial products, the allocation of tasks and responsibilities between manufacturers, distributors and supervisors. While taking into account the existing or incoming rules (e.g. MiFID II and the level 2 legislation), should such processes potentially apply to financial products across all or just selected sectors? Based on what criteria could the eventual selection of sectors or products be made? How far should product oversight and governance rules cover the people involved in the sale of the product?

Once the product is available on the market, and as envisaged by MiFID II, specific oversight mechanisms should also be implemented to verify whether the product is performing according to the initial scenario.

The Netherlands for example adopted in January 2013 a new decree [2] which requires financial institutions to include a balanced consideration of consumers' interest in their product development process. The scope of these new rules is very broad and covers savings, insurance and lending. Whereas there are also other Member States which have already introduced product governance rules, the scope of these national provisions will have to be assessed with an eye to the new and upcoming EU legislation as mentioned earlier.

While trying to ensure that safer products are launched on the market, policy makers may also want to reflect about the actual needs of retail consumers and investors as regards financial products. Indeed, most of consumers will buy a limited number of financial products during their life. They will first need to manage their finances for their essential needs, such as buying a property and saving, in particular for their pension. Making these choices should be straightforward for consumers, who should be able to rely on simple products and simple processes.

Following the initiative on Payment Accounts, it would be useful to discuss the potential need for further basic financial products that could serve the interests of a vast majority of consumers. At the same time, it would be interesting to ask whether simple financial products could also represent a viable commercial proposition for the industry.

The UK government has been working on these issues since 2011 and asked a steering group to define a set of simple financial products that could suit the essential needs of the majority of consumers. As a result, the Sergeant Review of simple financial products [3] was published in March 2013, including six pragmatic recommendations covering the following topics: the types of products that should be targeted first, the distribution channels for these products, the setting up of badges to inform consumers about these products and the needs for an accreditation scheme.

4. Potential challenges in terms of policymaking

The introduction of rules and principles concerning simpler and safer financial products would have to face two main challenges:

1. Choosing the most effective policy approach
2. Co-ordinating with existing rules and initiatives

4.1 Choosing the most effective policy approach

Implementing product governance rules or even more specifically, introducing and promoting simple financial products on the market could be achieved in many different ways, e.g. using binding measures such as direct market intervention or softer approaches including industry codes or guidelines from supervisory authorities.

As regards the introduction of simple financial products, it should be assessed whether direct market intervention is preferable to a softer policy action. The softer approach could take the form of certification or labelling of products, for which criteria to comply with would have to be precisely defined. Market intervention could take various forms including tax relief to incentivise consumers to buy these products.

The option of direct market intervention (i.e. forcing banks or insurance companies to offer certain products) may pose issues with respect to the legal basis of the Commission action as well as its proportionality. In principle, only a major market failure could justify a direct intervention on products offered by financial institutions.

An alternative to direct market intervention would be the certification or labelling of products that comply with certain criteria of transparency, simplicity and safety. The EU could develop a set of principles to identify products that should be considered adequate to a certain category of consumers and provide means to make them easily identifiable, such as an accreditation or a "simple/safe product" label. This would reflect the approach taken in the UK.

While this policy approach would be more appropriate in relation to proportionality and subsidiarity, the actual offer of such products on the market would ultimately be left entirely to the banks' or insurers' initiative. This means that simple products would find their way to the market only if banks or insurers consider them sufficiently profitable. The definition of the criteria to identify simple products should take these aspects into account. At the same time, the labelling itself could act as an incentive if properly implemented: if consumers trust the label sufficiently, this would increase the purchase of financial products by retail customers, which in turn could result in a substantial increase in revenues for the banks offering such products.

The choice of instrument (i.e. non-binding vs. legislative/binding measures) would also be relevant in this respect, depending on which policy approach is considered preferable and more viable.

4.2 Co-ordination with existing rules and initiatives

As highlighted above, existing measures already provide a high level of consumer protection in the area of financial services. Any new policy to introduce product governance rules or promote simple financial products should be co-ordinated with existing rules.

It is important to assess whether the existing rules leave gaps in terms of consumer protection which may need to be filled. What would be the areas where an intervention may be needed? For example, both MiFID and MiFID II contain provisions related to product governance. In particular, MiFID II rules aim to guarantee that an investment firm identifies the target market of clients for a financial product, its channel of distribution and that it assesses the risks related to such a product. Also, it aims to ensure that distributors are provided with sufficient information about the product and therefore are able to better serve the interests of their clients. The IDD similarly would aim to match the target market with the relevant customers of insurance products.

We will only be able to assess the effectiveness of these new principles once they are in force. However, could additional action be already envisaged in other sectors or for other group of products, to ensure that consumers can clearly identify the products which are suitable for them? If so, in which direction should it go?

Furthermore, if action is ultimately taken with respect to simple financial products, the specific rules should not overlap, contradict or even undermine the provisions contained in other relevant legislative acts. For example, the identification of a product as "simple/safe" should not imply a more relaxed regime with respect to transparency and risk assessment that that devised under MiFID.

5. List of possible questions for the discussion

As regards product governance principles:

- Are the eight principles included in the Joint Position on Manufacturers' product oversight and governance processes ([4]) sufficient to make financial products safer and more adequate for consumers?
- How could one adapt them to the different types of financial products (exercise currently launched in EBA for banking products for instance)?
- Are there horizontal measures as regards product governance in your Member State?
- If yes, how is consistency ensured between horizontal and sectoral requirements as regards product governance rules?
- Which specific sectors of financial services or financial products are addressed with product governance rules in your country?
- Given cross-border nature of some of the financial products, and taking into consideration the already existing measures (e.g. MiFID II, PRIIPs), where should we aim in terms of product intervention at EU level? Should these measures be extended to other sectors or products?
- In case there is a new initiative proposed on product governance or simple financial products, how the existing or upcoming EU rules can inform this process and ensure cross-sectoral consistency where appropriate?

As regards simple financial products:

- How would you define simple financial products? What criteria should they follow? Are there already any definitions that have been applied in Member States?
- Are you aware of examples of existing simple financial products in your country or elsewhere in the EU? What kind of simple products are offered?
- Based on your experience, do these products work for consumers? Did the introduction of rules on simple products increase consumers' interest in them? Was there criticism on the way such policy was taken? If so, what was the main criticism?
- Do the existing measures already sufficiently address the needs of consumers? Is there a need for further action?
- If further action is needed, what and how added value could be provided? Do consumers need more protection against risks? Do they need more transparency? Do they need more clarity?
- What policy approach appears preferable to tackle the issue of simple products? Market intervention or accreditation/labelling? Could a 29th regime be introduced for the development of a product on a voluntary basis? Would you have other suggestions?
- Which criteria would be the most relevant for consumers to identify a simple/safe product? And how could these criteria be combined with sufficient incentives to banks to propose these products?
- What kind of approach would be preferable? Horizontal (all products or a large category of products) or vertical (following the UK model)?
- Is there an incentive for the financial industry or insurance companies and pension funds to offer simple financial products? What advantages can this approach bring to the industry?

([1]) http://www.eba.europa.eu/-/eba-eiopa-and-esma-publish-joint-position-on-product-oversight-and-governance-processes

([2]) Section 32 of the *Market Conduct Supervision Decree*.

([3]) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/191721/sergeant_review_simple_products_final_report.pdf

([4]) http://www.esma.europa.eu/system/files/jc-2013-77_pog_-_joint_position_0.pdf

Session II

Behavioural economics and financial services

1. Brief introduction

Many users of financial services have difficulties understanding the features of financial products which they purchase. The effectiveness of financial education is somewhat limited in making consumers better prepared to figure out what is the best pension scheme or investment fund for them. Despite these constraints, consumers still purchase and engage with very complex financial products. It is therefore of vital importance for policymakers to understand how consumers take financial decisions. What criteria do they apply to decide? Is there room for policymakers to help consumers take better decisions while respecting their freedom of choice?

The behavioural determinants of consumers' purchases and financial decisions are broadly applied by providers of financial services, who often use behavioural insights to devise more efficient marketing techniques and maximise sales. More recently, regulators started using such behavioural insights for policymaking to improve financial consumer protection. However, there is still scope to explore further behavioural economics in retail financial services and, more importantly, to learn how best to apply such insights in regulatory work.

2. Are behavioural insights relevant for financial services?

Behavioural science investigates how consumers actually behave. Human behaviour is not (entirely or *predictably*) rational and does not result from a thorough consideration and comparison of information about the features of a given product. In financial services, in particular, consumers often struggle to take rational and calculated decisions, either because of asymmetry of information between them and providers, or due to poor financial literacy of consumers. They instead decide in a more intuitive way – for example using mental shortcuts or reproducing passively other people's choices – which may lead to 'sub-optimal' results.

Consumers' decisions may also be influenced by providers, whose sales strategies may encourage the purchase of certain, and not necessarily the most suitable, products for consumers. Relevant techniques and strategies have been used by businesses in marketing campaigns and in direct contacts with customers with an overall objective to enhance sales and increase profits. One of the techniques called 'framing' is a method of the product presentation which makes it more attractive for consumers. Framing allows providers to emphasise the benefits and features of the product which are important for consumers, and at the same time gives less prominence to less tempting aspects, e.g. penalties for late repayment of the credit instalments. Another common way to encourage consumers to make a particular choice is to provide a default option. It saves consumers' time and effort in hesitating between different alternatives and therefore, consumers are very likely to opt for it without giving it too much consideration. The 'default option' is closely related with the 'choice overload' bias, also frequently observed in financial services. Consumers who are puzzled by too many options to choose from in a product may even entirely refrain from the purchase. Thus, when providers have to present to consumers several alternatives to make the choice, they usually limit them to the minimum necessary. This greatly facilitates consumers' decisions but sometimes omits certain important elements. Finally, it has been proved that consumers are much more eager to buy something if they can pay for it later. Delayed payment means that they do not have to 'suffer' now whereas they can already enjoy the purchase. This is the technique on which the great majority of credit products are based and is broadly applied by financial services providers.

Further, there is evidence showing that when consumers with a good understanding of financial matters are confronted with a complex financial product, they are able to use their knowledge only to a very limited extent. Instead of a logic and prudent approach, they tend to be over-confident and over-optimistic about the future revenue, for instance when deciding on the level of risk they are ready to take. During the financial crisis, even financially literate consumers were found to take the most risky and often wrong investment decisions. This shows that financial education is not a bulletproof solution by itself, if it ignores the existence of deep-rooted behavioural biases. Any proposed solution to improve consumers' financial decisions would have to be conceived by taking into account the existence of somewhat widespread behavioural biases. This approach may be costly and time-consuming but it is critical to place more emphasis on the psychological side of the process of purchase of financial products if we aim for better-equipped and educated consumers. Only such consumers will be truly empowered, and will be able to contribute to the smooth functioning of financial markets.

Apart from over-confidence or over-reliance on one's knowledge, there are other reasons - already well-defined in the literature – why people take sub-optimal decisions when they come to buy financial products. This is usually related to the fact that they receive excessive or inadequate information and it is simply too much effort for them to process or understand it. Therefore, they skip the phase of information search, collection and evaluation. Instead of comparing different options to appreciate them better, consumers often take decisions based on their first impressions or feelings. In such situations, they very much rely on the recommendations received from the sales staff or financial intermediaries who, as the evidence shows, may influence consumers' choice. Further, it has been observed that even if consumers are made aware of the intermediary's conflict of interest, they ignore such information and still trust the advisor. They often pay more attention to the intermediary's friendly behaviour or to his alleged expertise, also because they are simply unable to make the choice themselves. Finally, some consumers naively believe that they are well protected by the law, trusting that this would prevent unfair offers to be placed on the market.

A number of behavioural biases are at play when it comes to consumers' decisions relating to the purchase of financial services.

This is because financial products tend to be particularly complex, while at the same time they involve substantial resources and often establish a long-term commitment for consumers. To make things more difficult, financial products are "experience goods", that is goods the quality of which can only be ascertained after purchase. In the case of financial products, it may take years to fully appreciate them. Also, financial products are not subscribed to frequently, and most of them are one-off purchases by their very nature. This further limits the extent of learning-by-doing. These products can also be related to important life decisions (e.g. mortgage credit, pension savings), where consumers' choices can be easily driven by emotions, such as excitement, anxiety or fear rather than objective assessment of future effects. This 'emotional distortion' is closely related to another bias (the so-called 'present bias'), which lead consumers to focus more on the present implications of their decision, rather than on its future consequences. For instance, people with only temporary job contracts may take expensive mortgage credit to buy an apartment despite their unstable employment situation. In financial services consumers also tend to defer decisions carrying relatively small monetary implications though, as a whole, such behaviour may bring a substantial financial loss. It happens, for example, when we refrain from switching a bank account even though there are cheaper accounts than ours available in the market; or when we postpone cancelling our mobile phone insurance contract when the value of the device has already substantially decreased.

3. Other important aspects of the topic to be addressed during the conference

Some believe that adequate regulation can be more effective than education in shaping and changing consumers' behaviours. In financial services, there are already several examples of EU legislative measures where psychological aspects of the decision making process of consumers have been taken into account to a greater or lesser extent. The evidence shows that simple information (limited to the most important features of products) can greatly improve consumers' financial choices. For instance, the following recent EU legislations were inspired by such insights: the Consumer and Mortgage Credit Directives (CCD and MCD), the Payment Accounts Directive (PAD) and the Regulation on a new Key Information Document (KID) for packaged retail and insurance-based investment products (PRIIPs). Indeed, the PRIIPs Regulation took into account an investigation of consumers' understanding of investment products, which demonstrated that: *"simplification and standardisation of product information enables consumers to make better quality investment decisions and providing pre-calculated and directly comparable relevant information about investments enables better choices between dissimilar options, e.g. across product classes"* (1). In order to ensure that the PRIIPS KID is most useful to consumers, its presentation will be specified further in the level 2 measures taking behavioural aspects into account. Most importantly, the European Commission will conduct a consumer-testing study where different presentations will be directly tested on average consumers. The insights from this study will feed in the legal specifications of level 2 measures.

It is premature to evaluate if and to what extent the provision of simple and comparable product information allows consumers to take better financial decisions. This being said, it is worth exploring possible extensions to the current regulatory and non-regulatory framework. In this respect, different solutions are currently being discussed in some Member States. And these include even innovative ones, like labelling of investment products according to the level of risk involved, or pre-ticked options to minimise the risk involved in complex financial decisions.

The opponents to further financial regulation argue that, if it was true that consumers reward clarity and simplicity, there will be plenty of simple and clear products on offer, and the market would put forward the best solution by itself. The reality, though, is quite different. As John Kay puts it (*Financial Times*, 6th July 2011), *"If the winner of the competitive race is the company that is most innovative, not in productive efficiency or customer service, but in the ingenuity and opacity of its tariff structures, consumers will not be happy, or well served, in the long run"*.

4. Potential challenges for policymakers

For policies to be effective in this domain, policy-makers would need to improve their knowledge about the very factors determining consumers' decisions. This seems a *sine- qua-non* condition for identifying the causes of market dysfunction and for conceiving the best policy solutions.

While, as mentioned earlier, some first attempts have already been made at EU level (e.g. PRIPs, CCD, MCD), several EU Member States are more advanced in exploring behavioural insights and in applying them in policymaking. Some national authorities (e.g. the UK Financial Conduct Authority) have even developed principles and guidelines which the regulator should follow to better incorporate behavioural insights into its initiatives.

New policies in financial services – both at national and EU level – should take into account behavioural insights since they shed light on the determinants of consumer behaviour. At the same time, consumers should be free to decide and even free to make mistakes, if these do not result from misleading or unfair practices of providers. Therefore, regulators could have to face a dilemma regarding the scope of their intervention. In this context, it is appropriate to reflect on the trade-off between consumers' freedom to decide, and the regulator's need to prevent the sum of individual misbehaviours negatively affecting the economy, as in the case of the recent financial crisis.

5. List of possible questions for the discussion

1. What is the scale of the impact of behavioural biases on consumers' decisions? What proportions of consumers are driven

by behavioural biases when buying financial products? What is the level of detriment brought about by "biased" decisions?

2. To what extent providers of financial services exploit behavioural biases of consumers via their marketing and sales strategies? Are these practices widespread and common among providers or rather rare?
3. Assuming that the exploitation of behavioural biases may enhance providers' profits, how can regulators encourage providers to opt for de-biasing instead? What are the benefits of 'de-biasing' for providers?
4. What are the most effective methods to influence consumers' behaviour? Is there a role for financial education in this respect?
5. How far can regulation go in impacting consumers' behaviour? Should it aim to limit consumer's choice in situations in which consumer is not able to take a rational decision and risks making a mistake?
6. What other forms of intervention can a regulator envisage to better protect consumers against mistakes resulting from both the complexity of financial decisions and from their own behavioural biases?
7. Are there any particular areas of financial services where measures limiting the impact of behavioural biases would be especially desirable for example complex investment products? Are there other areas?
8. Can product governance or simple financial products help consumers in making better financial decisions?
9. Reputation seems to be a key concept in many markets with one-off transactions (e.g., holiday renting, booking restaurants). In such markets, peer review systems developed over time, better informing consumers' choices. Could such systems also apply to financial products or providers?

(1) *Consumer Decision-Making in Retail Investment Services: A Behavioural Economics Perspective*, November 2010.

Session III

What could be next on the EU mortgage credit agenda?

1. Brief introduction

In the wake of the financial crisis, many households ended up in negative equity due to the correction of the property markets or because of unemployment. Major problems were also reported in countries with a high exposure to consumer loans in foreign currencies. This resulted in a growing number of mortgage credit defaults. At the same time, consumers still find it difficult to access mortgage credit in another Member State. Several factors may explain this situation, including different debt recovery procedures, credit data systems. Other obstacles might include standards for property valuation, land registration systems, tax regimes, creditors' risk policies or language obstacles, which are not addressed in this steering note.

2. Why is it necessary to discuss 'what could be next on the EU mortgage credit agenda'?

Directive 2014/17/EU (the 'Mortgage Credit Directive' or 'MCD') was adopted to encourage responsible lending, ensure a high level of consumer protection and facilitate the creation of a single market for credit. Responsible lending will be fostered by EU-wide creditworthiness assessment standards and obligations to inform consumers at pre-contractual stage. The first steps towards creating a single market for mortgage credits will be built on the passport for credit intermediaries, better comparability between creditors' offers via the ESIS, non-discriminatory access to credit databases for all creditors and high-level standards on property valuation.

a) The MCD contains high-level principles on arrears and foreclosures. However these may not be enough to address the problem of households' over indebtedness, which has not only consequences for the households concerned and financial industry, but also for the overall health of the economy in terms of demand, employment and growth. The diversity of national systems and procedures, especially with regards to debt solutions schemes, may also still limit the provision of credit across borders. It appears worth assessing whether and how such high-level approach should be further complemented at Union level by additional rights and obligations, as foreseen in the review clause of the Directive.

   The Commission Recommendation on a new approach to business failure and insolvency of 12 March 2014 contains a framework for preventive procedures and for second chance for business debtors, but also urges Member States to examine whether those principles would not be usefully applied also to over-indebted consumers. As indicated in Point 36 of that Recommendation, the Commission will examine this question and to provide an appropriate follow-up.

b) The MCD requires that creditors, when assessing the consumer's creditworthiness, take appropriate account of factors relevant, such as for example income, savings, assets, expenses, features of the loan on offer, but also that the information used is verified, sufficient and proportionate. Similar approaches are put forward in the Opinion of the European Banking Authority on responsible lending of June 2013 (1). Such standards are expected to limit the sale of inappropriate products and thus to limit the level of over-indebtedness. This would also contribute to improve the quality of the banks' balance sheets in the long run. Competition among creditors may also be affected, thus also impacting on consumer choice and on credit costs for borrowers.

   Credit databases constitute for creditors one of many possible sources of information for assessing a consumer's creditworthiness. The consultation of credit databases raises a number of sensitive questions (2). Some practitioners, have criticised the current availability and reliability of information contained in credit databases at cross-border level. The MCD grants creditors the option to consult a database situated in another Member State, via the principle of non-discriminatory access to databases used in Member States to assess the creditworthiness of consumers. This, it is hoped, will limit the reluctance of creditors to grant credit to people with no credit history in the country where they are applying for credit and to facilitate the distribution of mortgage credit across borders. However, if lenders fail to make sense of the data available or only have access to insufficient quantities of data, the MCD provision risks not fulfilling its purpose. The current situation may not be considered satisfactory in this respect. The collection and sharing of data techniques in Member States are very diverse currently. Certain credit registers only engage in 'negative data reporting' (3), whereas others also contain 'positive data' (4). In addition, the definitions used to assess which data should be entered into the registers differ from one country to another. The legal form of credit registers varies across Member States, as well as the obligation or not for lenders to consult the credit database and the rules on data sharing. According to the 2012 ACCIS survey (5), regulatory differences may explain the limited volume of cross-border sharing of data (6). In this context further work on credit registers may be warranted.

3. Issues and aspects of the topic to be addressed during discussions

Preventing, limiting or addressing consumers' defaults on mortgage credit

The different options available to address situations where the borrower enters into financial difficulties should be discussed:

(i) Further responsible lending measures. As shown in the FinCoNet report on responsible lending (7) of July 2014, a broad range of measures (e.g. detailed rules for creditworthiness assessment, suitability tests, limitations on certain product features) and supervisory tools for monitoring and enforcing compliance exist internationally. Would additional responsible lending measures to the MCD be required and which areas would deserve particular attention inside the EU? Should better enforcement of existing rules be sought after? Should supervisory tools be further developed?

(ii) Guidance to creditors for early detection of financial distress, reasonable forbearance and debt reorganisation. Some Member States, e.g. Ireland, the United Kingdom or Portugal have implemented principles or rules to ensure that lenders effectively identify borrowers at risk of defaulting and try to find arrangements with them at an early stage. The European Banking Authority also issued an opinion [8] in June 2013 identifying best practices. The discussion should enable to identify best practices and the right setting for dealing with financial distress, reasonable forbearance and debt reorganisation. Are certain arrangements (e.g. change in contract terms, level of interest rates, types of credit) preferable compared to others?

(iii) Principles for institutional debt solutions. The London Economics' study on means to protect consumers in financial difficulty [9] of December 2012 presented a typology of debt solutions aiming at granting the borrower in payment difficulties a fresh start by re-organising, reducing or cancelling the debt value. What would be the best practice model for each of these debt mechanisms in cases of mortgage default - debt reorganisation, debt relief, debt cancellation? The following aspects should also be discussed in the context of mortgage debt: the desirable eligibility criteria, the rules of procedures for the responsible body (including whether there should be a formal out-of-court procedure), the concrete arrangements available and the consequences under the scheme, how to ensure the process is efficient and to allow a fresh start for the borrower – keeping in mind that mortgage debt is not the only type of debt that consumers' default on.

It might be useful to recall that the study also examined another debt settlement model ('datio in solutum'), which enables borrowers to get rid of all debt by handing back the property. Proponents usually claim that this helped re-energise the economy in the United States since consumers were rapidly able to consume again. On the other hand, opponents consider that this undermines the classical lender/borrower relationship and could lead to higher interest rates.

Principles on credit registers

The creditor should verify the prospect of the consumer to meet his obligation under the credit agreement on the basis of information from relevant internal or external sources. To some degree, the data from credit reporting can corroborate the data gathered by the creditor. When credit databases are used, it should be ensured not only that the data included is accurate, but also clear, timely and understandable.

(i) The discussion should allow to identify, the scope of data that could be of use to foreign lenders for their creditworthiness analysis and best practice modalities to make this data available . Options include the definition of a common minimum set of data to be reported to the credit registers and made available to creditors (e.g. data on defaults); development of mechanism(s) to facilitate data sharing (e.g. memorandum of understanding [10], bi/multilateral agreements, online portal); the possibility for individuals to 'carry' their own data with them when seeking credit abroad; an identification number for borrowers; or a public information source on credit registers in the Union. As regards cross-border access to databases, should in your opinion a particular model [11] be encouraged?

(ii) Practical solutions to help lenders better understand foreign credit reports should be discussed. Would it, in particular, be helpful to seek greater convergence [12] or harmonisation of the key terms used to determine data being reported and processed (such as 'defaults', 'arrears', 'loan types, etc), credit registration criteria (e.g. registration thresholds); data processing conditions (e.g. update frequency, retention periods)? Which actions would you consider necessary to guarantee the success of such an initiative?

(iii) According to the MCD, the European Commission will have to examine by 2019 whether credit registers operating in Member States require supervision. In light of this, it might already be useful to examine more closely data protection issues, security aspects, quality and usefulness of the data reported.

4. Potential challenges - policy making and choice of the most effective policy approach

Encouraging responsible lending (including via the proportionate and appropriate usage of credit databases) and reducing situations where consumers find themselves unable to meet their credit obligations, may be justified not only on consumer protection grounds, but also for single market, economic efficiency and financial stability reasons.

However, the wide diversity of existing national systems and rules (e.g. on civil law, procedural aspects including the range of procedures available, institutional structures, rules on data sharing), the differences in market conditions, credit cultures and problems in Member States as well as the sensitiveness of the issues in terms of consumer protection may pose additional challenges for policy action. Any initiative should weigh the intended benefits against the possible costs and risks associated with a particular action and find the right balance between lenders' and consumers' rights and duties. The pros and cons of standardisation vs. a step-by-step approach should be carefully assessed; the principles of subsidiarity and proportionality should also be respected.

Regarding post-contractual issues, while 'moral hazard' in relation to credit defaults demands attention, policy measures should also have regard to a wider range of economic, social, institutional, individual and cultural factors that may lead to credit defaults. An important challenge is to determine at which stage of the credit default process Union action, if any, would be most effective. The scope of action should also be carefully defined: encouraging best practices, setting minimum standards for preventive restructuring frameworks (13), imposing measures on some elements of the restructuring or debt cancellation process, or following a more holistic approach? While mortgage debt is a serious problem, especially in some countries, this is not the only type of debt that consumers default on. In this respect, issues such as the procedures available to consumers who need to restructure, reduce or cancel their debts might need to be addressed whilst not only bearing internal market and consumer protection considerations in mind, but also the principles of access to justice and effective remedies. Appropriate instruments to meet these objectives would also need to be carefully evaluated.

As regards cross-border credit reporting, any policy action would need to be adequate to the needs of creditworthiness analysis, technically feasible and practical. In addition, facilitating cross-border credit data transfers requires clear rules with regard to consumer protection and for the protection of personal data (14). EU data protection rules aim to protect the fundamental rights and freedoms of natural persons, and in particular the right to personal data protection, as well as the free flow of such data. The processing of personal data on individuals (e.g. unlawful disclosure to third parties, or collection for unlawful purposes) is risky. The quality of data is crucial, as inaccuracies can result in unjustified loan denials, higher borrowing costs, and potential exclusion if inaccurate data is shared across different industry segments. Concerns are even higher in a cross-border context as it may be more difficult to trace transmissions, rectify errors or outdated information or because of stronger data holder identification problems (e.g. in the event of homonymy) or differences in interpreting the rules on consumer's consent. Any initiative to facilitate cross-border access to credit databases would have to comply with the existing EU legislation in the field of data protection. The Data Protection Directive 1995/46/EC harmonises the national data protection rules, and lays down, inter alia, the criteria for rendering data processing legitimate, the data subject's rights, including that of being informed on the processing and of access to his or her personal data, and on monitoring by independent data protection supervisory authorities (DPAs). Member States have implemented the 1995 rules differently, resulting in divergences in enforcement. The Commission's 2012 proposals for data protection reform (15) update and modernise the principles enshrined in the 1995 Directive to guarantee privacy rights in the future. In particular, the proposal for a General Data Protection Regulation will provide a single set of rules on data protection, valid across the Union, and create the conditions for swift and efficient cooperation between DPAs, including setting up a consistency mechanism at Union level, to ensure that DPAs' decisions that have a wider European impact take full account of the views of other DPAs concerned, and are fully in compliance with Union law. The proposal is however currently under negotiations between the European Parliament and the Council.

5. List of possible questions for the discussion

Principles to prevent, limit or address consumers' defaults on mortgage credit

1. Do you consider the requirements of the MCD are sufficient to ensure responsible lending in practice? If not, what further preventive measures or supervisory tools could be desirable?
2. Should creditors be further guided in exercising forbearance? What would be best practices and prerequisites for success? Should some arrangements be preferred to others?
3. Do you see a need for encouraging at Union level the development of debt solutions at national level? If so, which ones (debt reorganisation, debt relief, debt cancellation)?
4. If further action is needed, which issues should be specifically addressed (e.g. eligibility criteria, responsible body, principles for its action, length of procedure, efficiency, etc)?
5. What measures are likely to allow consumers a fresh start (e.g. limiting the discharge time, type and length of constraints on the consumer declared bankrupted e.g. information on a database)?
6. Do you consider 'datio in solutum'(i.e. return of the property to get rid of debt) a viable debt solution option (from a consumers' perspective/ lenders' perspective)?
7. What policy approach or policy mix would be desirable to tackle the issue of consumers not being able or no longer being able to meet their mortgage credit commitments? (Responsible lending, creditor's action, debt solutions, ...). Do such potential approaches need to go beyond mortgage lending related issues (e.g. encompass rent arrangements and other consumer credit)?
8. Should an approach similar to Recommendation C(2014)1500 on business failure be followed at consumer level, as recommended in Recital (15) of that Recommendation?

Principles on credit registers

9. To which extent, can information contained in credit databases contribute to creditworthiness assessments and can credit histories help assess the prospect of the borrower to meet his obligations in the future? From a lender's perspective/consumer's perspective, is it recommended to consult such databases before granting a credit? If so, what should be the appropriate, necessary safeguards (e.g. in terms of adequacy to the objective, consumers' rights and privacy)?
10. Does the consultation of credit databases in your view contribute to, help to prevent over-indebtedness and support fair access to credit and financial inclusion? If yes, in which way?
11. If the exchange of credit data is actually considered useful for assessing creditworthiness, what steps would need to be taken to ease credit data exchanges cross-border, if any?
12. Do you foresee problems in the long run with possibly asymmetric data reporting across borders? If so, which type of data sharing should constitute the minimum basis for cross-border reporting?

13. Would the 'standardisation' of certain concepts at Union level contribute to help lenders to better understand foreign credit reports and contribute to better credit decisions? If so, for which terms, registration criteria and processing conditions convergence should be sought for?
14. What action if any would be needed to ensure secure and high quality data in credit registers whilst safeguarding a high level of consumer protection when it comes to the handling and sharing of such data? Do you think problems, if any, currently arise from a regulatory issue (e.g. lack of rules, unclear rules, existing gaps, etc.) or an enforcement issue (e.g. in terms of competencies, resources, coordination of competent authorities, complaint mechanisms for consumers, etc.)?
15. Do you see a need to supervise credit registers at Union level? If so, which would be the most important aspects to supervise? What supervision approach and control mechanisms would you suggest?

(1) http://www.eba.europa.eu/documents/10180/604499/EBA+Opinion+on+Good+Practices+for+Responsible+Mortgage+Lending.pdf

(2) For instance, some stakeholders have questioned the need to use information contained in credit databases for creditworthiness assessment purposes, the added-value of such databases or their adequacy to meet this objective.

(3) Credits will only be reported upon once the consumer did not manage to meet his/her payment obligations.

(4) Every single credit is registered. Data on other types of commitments may also be reported.

(5) http://www.accis.eu/fileadmin/filestore/newsflash/50923786_2_UKMATTERS_accis_2012_survey_of_members_.pdf

(6) Another possible reason mentioned in the report is that lenders might have little appetite for sharing data in the belief that it might impact their competitive advantage on a given market.

(7) http://www.finconet.org/FinCoNet-Responsible-Lending-2014.pdf

(8) http://www.eba.europa.eu/documents/10180/604521/EBA+Opinion+on+Good+Practices+for+Borrowers+in+Payment+Difficulties.pdf

(9) http://ec.europa.eu/internal_market/finservices-retail/docs/fsug/papers/debt_solutions_report_en.pdf

(10) A MoU already exists between several credit registers in the Union: https://www.ecb.europa.eu/pub/pdf/other/memoxinccreditregisters201004en.pdf

(11) Four possible models were identified in the *Expert Group on Credit Histories* (EGCH) report in 2009: direct access, indirect access, report portability, right of access. http://ec.europa.eu/internal_market/consultations/docs/2009/credit_histories/egch_report_en.pdf

(12) The EGCH recommended further working towards the convergence of concepts and definitions used. This opinion was shared by a majority of respondents to the public consultation organised on the report.

(13) See for instance Commission Recommendation of 12 March 2014 on a new approach to business failure and insolvency, C(2014) 1500 final.

(14) This has been highlighted in several reports, see for instance EGCH report or CEPS-ECRI task force report http://www.ceps.be/book/towards-better-use-credit-reporting-europe

(15) http://ec.europa.eu/justice/newsroom/data-protection/news/120125_en.htm

Session IV

Payments - improving users' experience and looking into the future

1. Introduction

New technologies offer new possibilities to users and providers on the payments market. Until recently, cash and cards (as well as cheques in a few countries) were the only ways of paying for European citizens. But this market has changed over the last ten years and will continue to evolve under the pressure of innovation. What will be next for EU consumers and how will their experience of payments be improved? Third party providers, virtual currencies, mobile payments providers are all in line to get a share of the market still mainly owned by the banking sector and card schemes.

Which one of these (if any) will improve its market share and which one might suffer from increased competition? What will this means for users – consumers and merchants? Faster payments? Cheaper payments? Safer payments? Wider acceptance of a single method of payment? Can we be sure that users will benefit from new methods of payment?

One thing is certain: consumers are not willing to pay more for new methods of payment. "Paying for paying" would have consequences and probably drive consumers towards a greater use of cash. New methods of payment tend to involve more and more players/intermediaries (see NFC mobile payments for instance). As a consequence, incumbent payment services providers will probably have to share these revenues with challengers / newcomers.

Users will not adopt new methods of payment that are not widely accepted. These methods are currently handicapped by merchant acceptance but also by a feeling of a lack of security amongst many users which might not be justified. How can all this be improved and what will the future propose to our citizens?

What about the regulators? The Payment Services Directive (or its revision proposal) already provides for a regulatory framework for payments that opens competition, protect consumers and imposes security requirements while being technology neutral. What else could be done to move Europe one step further in the future?

This 4th panel on the agenda will focus on these questions. It will also be the occasion for some thinking about the potential in the future. It will also attempt to imagine how the market may change and which benefits all market players but more particularly users, might enjoy. This is not an easy exercise. However, it's an important one for new methods of payment to be successful in the very near future. It is striking to see the consequences when users' experience is not fully taken into account: if one looks at mobile payments as an example, the consequence is that they are not, today, fully developed in Europe. Users experience has to be taken to a new level for a payment method to be successful. By providing users with a feeling of speed, low cost, convenience, simplicity, added value (such as coupons/advertising/benefits), chances to attract and keep new users will increase. We wish to see participants come forward with propositions.

2. Topics and questions to be addressed during the Panel and break-out session

2.1 Future forms of payments

- Are mobile payments the next wave of innovation? What would be the impact on users if they were used on a very large scale?
- Will we still use cards in 10 years? Is there anyone to predict that current methods of payment will still be the favoured methods of payment for consumers? And for merchants?
- Are virtual currencies a potential alternative? What can we take from them? Transparency of the central register of transactions ("blockchain")? Low cost? Speed of process? Is their integration in the scope of the 4th AML Directive a sufficient step to ensure a safe usage?
- Are mobile payments only an intermediate step? What could be the following innovation? How fast can we expect a new form of payment that will outdate mobile payments?
- Will payments become entirely free in the next decade?
- How can we make sure that future forms of payments will be available on a European scale and not limited by national borders? What are the barriers to European wide solutions?
- In terms of accessibility and integration, how can we ensure solutions are available for all citizens?

2.2 Users' experience – what remains to be improved?

- Users are the ones who will turn new form of payments into success or not. Looking at the level of use of electronic payments in the EU, they seem satisfied with what they already have. Do you agree with this point? If not, what could be improved on a consumer side? And from a merchant point of view?
- Do consumers and merchants have the same interests?
- New players on the market are filling the gap in users' experience: virtual currencies close the gap on speed and cost (and anonymity), TPPs close the gap on cost for retailers and consumers (and maybe speed), mobile payments on convenience but is there a solution closing all gaps? Is this objective reachable? What about security?
- Regulation protects users from abuses and fraud (unauthorised payments, refund right, 8 weeks, 13 months…). What could still be improved? Execution time? Complaints procedures?
- What can we learn from past or current initiative/experiments that did not meet success or did not reach their objectives?
- Data protection has become a key consideration in Europe after recent scandals (wikileaks, hacked Itunes accounts…). How can it be improved without reducing convenience for users?

2.3 Future regulation of payments

- How can regulators ensure security of all methods of payment without stifling innovation? How can regulators keep the pace with innovation?
- How can regulation improve the existence of the internal market (accessible by all suppliers and for all users)?
- What could the EU do to improve users experience with payments? Is security at its highest level? Are payments convenient enough? Is the current execution time sufficient? Do users feel protected on data protection, child protection or security levels?
- Are real-time payments the next step to take? What would be the advantages vs. costs? Who would be most impacted?

2.4 Future players in the payment industry

- What will be the banks' future in payments? Will they still be the major player?
- Could a new entrant take over the whole market for consumer payments?
- Payments are basically transmissions of data/information, i.e. a low value service. Will future players enhance the experience and enrich the data/information retrieved from payments (for instance by defining users profiles for targeted advertising)? Who will they be?
- Which technology for payments will be the leading one? Will the market split like it did with Blu-ray / HD DVD or VHS / Betamax before settling for one technology? Was the game changed with the recent entry of Apple in the NFC world? Is a single technology necessary for mobile payments to take up?
- From a European perspective, innovative products on a large scale often come from other continents (Asia, North America). How can we ensure that European companies enter and succeed on this market?

2 Speakers' presentations


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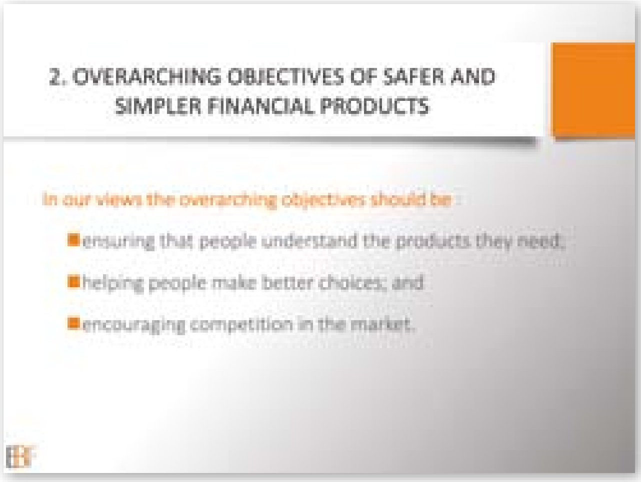
Social Committee

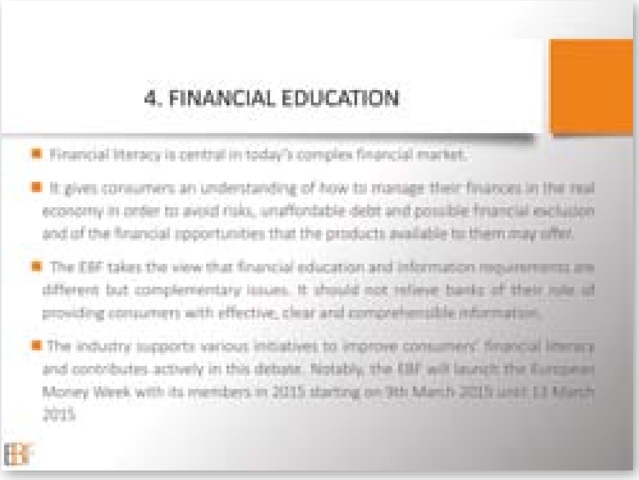
Session I

Simpler & safer financial products — A complex issue

Sébastien de Brouwer
Executive Director, Retail, Legal, Economic & Social Policy, European Banking Federation



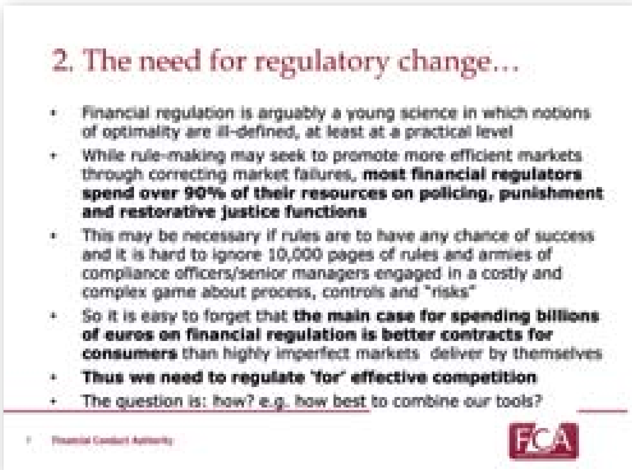

3. SAFER AND SIMPLER FINANCIAL PRODUCTS
ADDITIONAL CONSIDERATIONS
The assumption that simple products are safer products is wrong.
The message might be more properly focused in terms of:
1. Internal product oversight and governance,
2. Capacity of retail consumers to properly understand risks & costs associated to a product.
Impact on competition & innovation
Are authorities best placed to design financial products ?


4. FINANCIAL EDUCATION
Financial literacy is central in today's complex financial market.
It gives consumers an understanding of how to manage their finances in the real economy in order to avoid risks, unaffordable debt and possible financial exclusion and of the financial opportunities that the products available to them may offer.
The EBF takes the view that financial education and information requirements are different but complementary issues. It should not relieve banks of their role of providing consumers with effective, clear and comprehensible information.
The industry supports various initiatives to improve consumers' financial literacy and contributes actively in this debate. Notably, the EBF will launch the European Money Week with its members in 2015 starting on 9th March 2015 until 13 March 2015

Session II

Using Behavioural Insights to Make Competition Work Well for Financial Consumers

Peter Andrews
Chief Economist, UK Financial Conduct Authority



…because problems seem to persist

- **Many people hold false beliefs about finance**, don't understand what they are buying (or even whether they are buying it!) and **some agents are happy to exploit this**
- **Financial** firms use biases to create **local market power** despite many other suppliers in the market (e.g. PPI)
- Having some savvy consumers who are aware of their biases may not discipline firms (e.g. fund charges)
- **Entry of new firms often does not solve bias exploitation in FS** – non-exploitative business strategies may not be sustainable (e.g. teaser rates in credit cards)
- Consumer biases can also shape surprising responses to changes in market structure or regulation (e.g. trust increased by regulatory warning)

FCA

…and note that change will likely be hard

- The preceding slide strongly suggests that understanding behavioural factors is essential for designing interventions that will make markets work well
- This does not at all mean abandoning competition. See: "What does behavioural economics mean for competition policy?"(OFT, 2010)
- But **focussing on competition and behavioural issues requires a big shift in ideas and possibly in culture amongst financial regulators**
- I believe FCA Management is driving such change, whereas almost all behavioural and competition points were redacted from the FSA's 'Market Failure' Guide (and scandals and uncompetitive prices persisted in the UK…)

FCA

3. Looking at markets in the round

How can one understand what allows some banking oligopolies to persist without considering behavioural issues and their links to other problems?

FCA

Modelling such banking markets?

- Aside from drivers of market failure on previous slide…
- Cross-market issues are present: leveraging of market power, cross-subsidies between groups of customers and products
- Even properly incentivised agents may not understand products or introduce biases through their own choices (substantive whole of market search is implausible)
- Bundles may be designed to promote over-consumption and there may be barriers to mixed bundling
- Banks are trying to maximise the wedge between asset returns and liability costs through balance sheet management materially influenced by regulation
- **Rigorous modelling of ALL this is clearly a huge, perhaps impossible, challenge – designing and predicting outcomes of interventions is very hard**

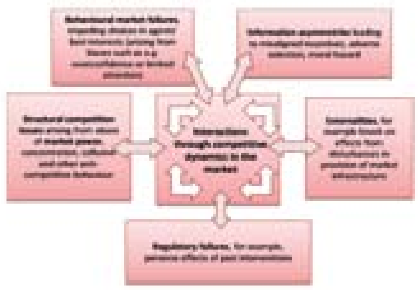
FCA

The FCA's approach: Integrated Analysis

- Informal modelling, given the necessary pragmatism of public policy making (and see above)
- The FCA found many **'Impact Assessment' Guides** used by governments/regulators at home and abroad
- Arguably, even the ones that take behavioural issues seriously, **give almost no detail on how practically to combine analysis of behaviour, competition, information, externalities and regulatory failures**
- We draw on relevant academic models in our approach – looking at markets in the round

FCA

The Integrated Analysis model



4. Examples - general

- **We integrate behavioural economics into regulatory analysis across the FCA**, including our supervision, policy-making and competition work
- For example, we have used behavioural economics or sometimes, more modestly, behavioural insights to:
  - ✓ Help consumers claim redress
  - ✓ Understand how general insurance add-on sales process affects competition
  - ✓ Analyse financial promotions

FCA

Example: the GI add-on market study

- In the **general insurance add-on market study** we were interested in whether there are **common patterns** across add-on markets that weaken competition and drive poor consumer outcomes
  - ➢ In particular, does the specific **context of the add-on sales** makes it difficult for consumer behaviour to drive effective competition: shop around, consider standalone alternatives, switch, understand products?
  - ➢ Gabaix and Laibson 2006 assisted our design
- Published our **preliminary findings with proposed remedies in March 2014**

FCA

Behavioural experiment was part of the evidence, but we drew on BE more widely

Survey of whether add-on buyers had known of add-on's existence/intended to buy it before it was offered at point of sale	Demand side analysis
Behavioural experiment (next slide)	
Research on development of market structure and firms' web pages/price comparison sites, e.g. to see when add-on prices introduced	Supply side analysis
Analysis of firm data on profitability and claims	

Financial Conduct Authority

FCA

Behavioural experiment

- With a consultancy/academics designed online environment that mimicked key features of shopping around for/buying a primary product plus optional add-on
- Varied the price format and point at which add-ons introduced to identify effects on extent/effectiveness of shopping around and add-on take-up
- Found: add-on mechanism/its characteristics in specific applications have powerful effects even where economically rational behaviour is easier than in real life
- See discussion in Iscenko, Duke, Huck, Wallace (2014) "How does selling insurance as an add-on affect consumer decisions?", FCA Occasional Paper 3 and technical report by London Economics (2014)

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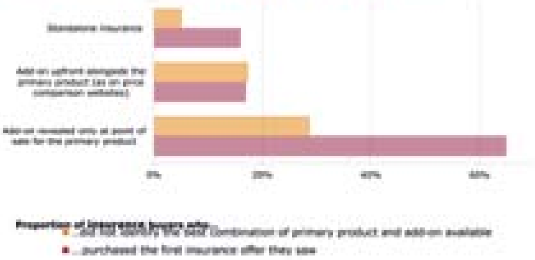
FCA

Experimental results: format of add-on sales have powerful results…



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FCA

…including on average prices paid

Standalone: £72

Both prices upfront: £89

Add-on price revealed only after main product selected: £102

Financial Conduct Authority

FCA

Example: Pay Day Lending

- Cap mandated by Government at first sight not behavioural/pro-competitive
- In fact, calibration used extensive analysis of efficient supply-side cost function
- And demand-side analysis showed many users are making serious mistakes
- Regression discontinuity exploited credit score lending cut-off as equivalent to an RCT in which ½ get and ½ do not get loan
- Outcomes for the two groups were materially different: the 'get' group suffered
- See FCA's price cap consultation paper and the technical annexes for more information on this research.

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FCA

An impact of 'just getting' HCSTC v 'just not getting'

Across a range of measures we find 'just getting' HCSTC worsens financial outcomes

But were consumers happy: survey design

1. Who are HCSTC loan consumers?
- Behavioural characteristics (focus on financial management)
- Financial capability
- Demographics

2. Which substitutes do consumers use?
- Formal substitutes (focus on overdrafts)
- Informal substitutes (borrowing from family, illegal lending)
- Alternatives to borrowing (using savings, reducing consumption)

3. Are unsuccessful applicants better or worse off?
- Welfare outcomes (happiness, financial distress)
- Consumer experiences of borrowing (regret)
- Reasons for borrowing and how money is used

Financial Conduct Authority

FCA

Key survey results

- High levels of consumers regret their decisions to take out HCSTC
- There is a strong relationship between consumers regretting their decisions to use HCSTC and repaying more than they expected to…
- …which is itself a common outcome

Redress letter: five treatments…

…plus two other treatments

Results

Base response rate:	1.5%
T1: Envelopes:	+14% better
T2: FSA logo:	No effect
T3: Salient Bullets:	+271% better
T4: Simplified:	+128% better
T5: Claims process:	+91% better
T6: CEO signature:	-21% worse
T7: Reminder:	+93% better

Effects are (mostly) additive, and material

The firm's letter: 1.5% response rate

Our best combination: 11.9% response rate (7.5x)

The firm's letter: Redress value ~£64,000

Our best combination: Redress value > £500,000 (>7.5x)

Some other uses of BE by the FCA in progress now

- Important part of developing prioritisation tool: map of markets with analysis of intensity of market failures, various metrics, etc
- Structured Deposits: consumer choices and disclosures
- Framing of pension decumulation decisions as investment or consumption choices
- Behaviour in organisations: what are the lessons for financial regulation
- Personal current accounts: drivers of acceptance of high charges
- Credit Card market: minimum repayment etc

Issues arising

- How to identify cross-cutting themes (biases) and if possible 'leverage' results of specific market studies
- To what extent can we use BE effectively in Supervision/ Enforcement as well as in market design?
- How do we stop firms using behavioural insights in advice or marketing or contract design to negate behaviourally informed regulation?
- Can behavioural finance help with our stability objective? (FPC and wholesale markets)
- How to influence ESAs on all this - almost no consumer voice in ESAs?
- Can we make practical use of behavioural welfare analysis to identify true preferences?

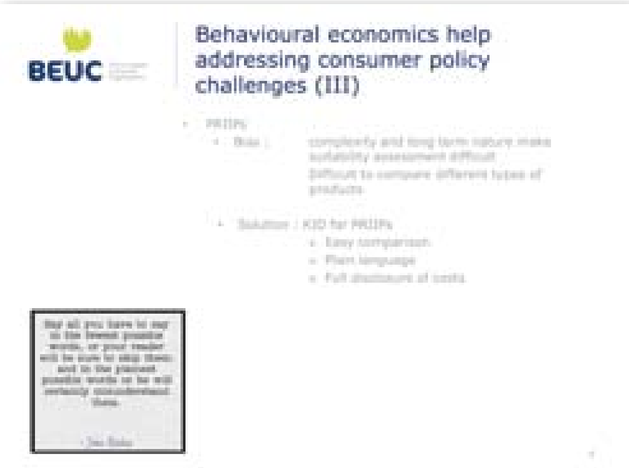
Summary

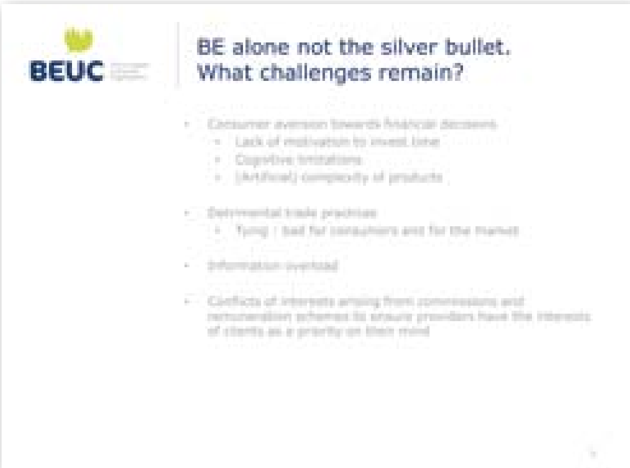
1. Behavioural issues are important in financial markets
2. This creates an adaptive challenge for regulators
3. Behavioural issues need to be considered as part of how markets are working in the round
4. Examples of 3 were given and some issues arising noted

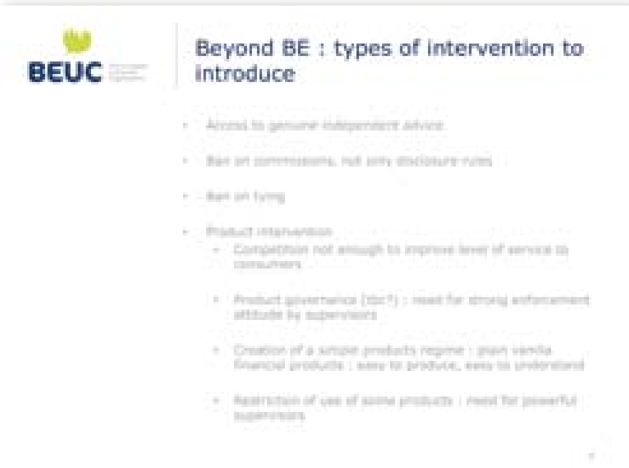
Session II

From integration of behavioural economics to revision of the consumer protection paradigm

Monique Goyens
Director General of the European Consumer Organisation (BEUC)







Session III

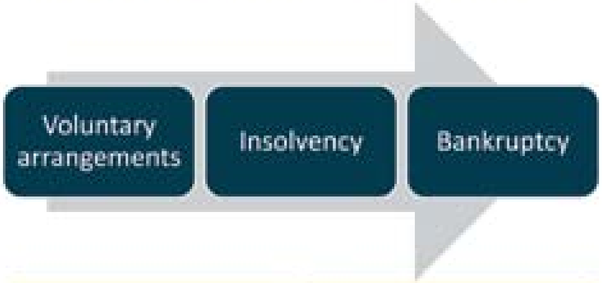
What could be next on the EU Mortgage Credit Agenda?

Bernard Sheridan
Director of Consumer Protection, Central Bank of Ireland

Developments in Ireland

- Mortgage Credit Directive
- Proposals to introduce Loan To Income and Loan To Value lending restrictions
- Sale of mortgage loans to unregulated entities – draft legislation being developed
- Regulation of commercial debt management firms

Arrears and foreclosure in Ireland



Insolvency

- Types:
  - Debt Relief Notice
  - Debt Settlement Arrangement
  - Personal Insolvency Arrangement
  - (Bankruptcy)
- Authorised intermediaries, personal insolvency practitioners
- Reasonable living expenses: total set costs, childcare, housing, special circumstances

Challenge

- … to regulators
  - Monitoring / Enforcing compliance
  - Learning from each other:
    EBA Standing Committee on Consumer Protection and Financial Innovation
    - Consultation on Product Oversight & Governance Guidelines
    - Good practices for responsible mortgage lending & treatment of borrowers in payment difficulties (EBA Opinions)
  - Learning from each other:
    FinCoNet

Challenge

- … to industry
  - Implementing Mortgage Credit Directive
  - Interacting with consumers over the lifetime of the mortgage credit agreement
- … to consumers
  - Responsibility to co-operate and provide information

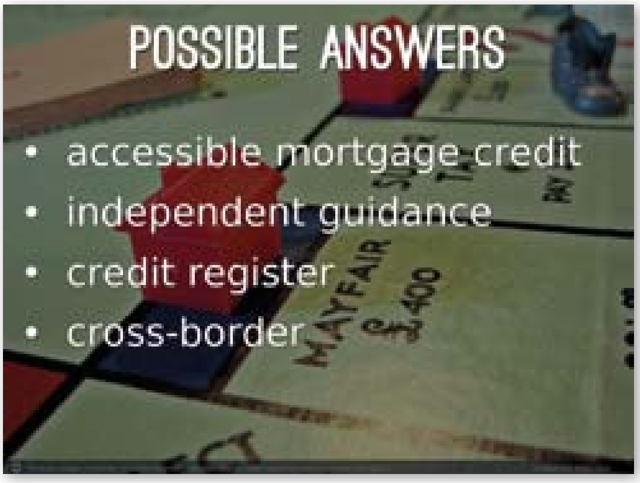
Questions

- How can we build on the Mortgage Credit Directive to deliver the best outcomes for consumers?
- When reviewing the Mortgage Credit Directive, how can the outcomes for consumers be measured?
- What is the best way to share international good practices in relation to mortgage credit?

Session III

A new EU Mortgage market?

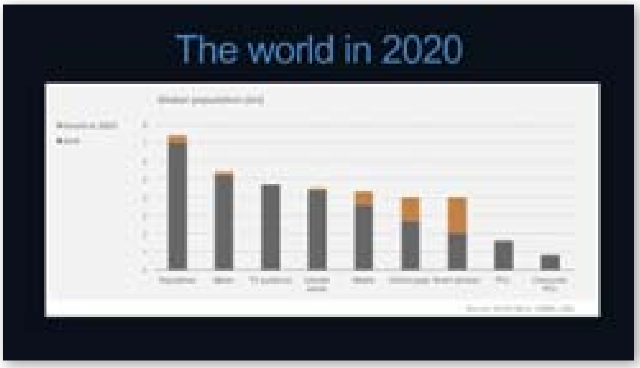
Ágnes Uhereczky
Director, Confederation of Family Organisations
in the European Union (COFACE)



Session IV

Payments: improving user's experience and looking into the future

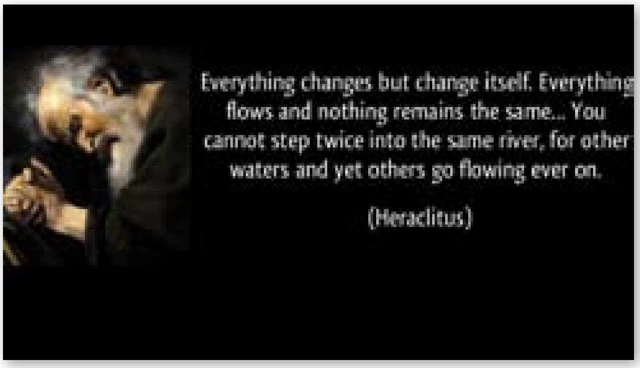
Luca Cassina
General Manager Western Europe, PayPal

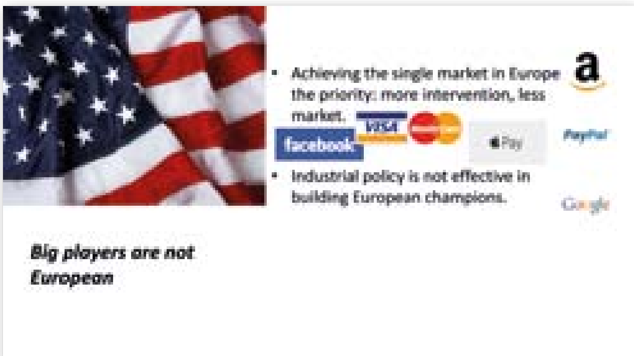


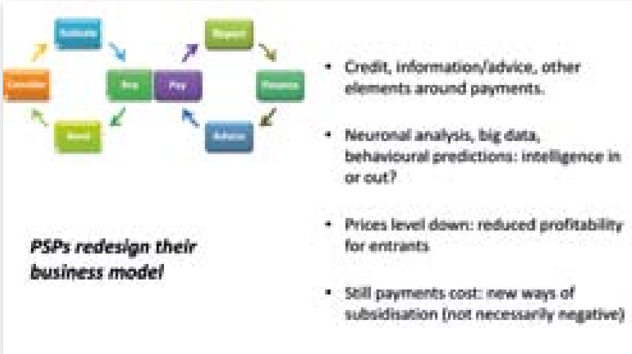
Session IV

Payments: 5 scenarios for the twenty-twenties

Javier Santamaría
Banco Santander and Chair of the
European Payments Council






PSPs redesign their business model
• Credit, information/advice, other elements around payments.
• Neuronal analysis, big data, behavioural predictions: intelligence in or out?
• Prices level down: reduced profitability for entrants
• Still payments cost: new ways of subsidisation (not necessarily negative)


How to thrive in a world of emotions
• Payments lose relevance (next wave of commoditisation): security – convenience – price – acceptance
• Providers struggle to personalise and differentiate: in search of promoters and fans
• The missing link between "payments" and "feelings and beliefs" in an "experience economy"


George Bailey:
a banker

3 Conference conclusions


IF IT IS NOT BROKEN, DON'T FIX IT!
- ENCOURAGE THE MARKET, NOT FORCE IT
Avoid duplication
whether
- new regulation is needed

Session I

Safer and simpler financial products

Plenary session

Mick McAteer, Chair of the Financial Services User Group (FSUG), launched the discussion by stating that, despite an excessive offer of financial products on the market, consumers find it difficult to choose suitable and affordable products in all essential sectors such as savings, insurance, investment products or mortgages. He made a reference to the FSUG discussion paper [1] on this matter and explained that introducing a simple financial products' regime may be an effective way to ensure that consumers have access to the products they need.

Sébastien de Brouwer, the European Banking Federation executive director, stressed that several aspects should be assessed carefully before launching a simple products' regime. First, if the main objective is to avoid mis-selling scandals, initiatives improving internal product governance processes as well as disclosure requirement, financial advice or financial education may be more effective. Second, simple financial products must be better defined and it should be made clear in which sectors they would be introduced. According to Mr de Brouwer, such products are already available on the market and it is therefore doubtful whether more simple products are needed. What could be improved is perhaps further information on these products. Lastly, it has to be clarified whether simple financial products would aim towards greater financial inclusion (vulnerable consumers) or the wider mass retail market (everybody).

Reacting to the same proposal, Wijnand van Beek, representing the Dutch Authority of Financial Markets, explained that additional measures are indeed needed to ensure that consumers have access to the products that suit them. In his view, transparency requirements foreseen in recent European legislation are not sufficient to ensure a good level of financial consumer protection. However, introducing a simple financial products' regime may not be the best way to go given the current lack of a) clarity and agreement on the intended objectives and b) evidence on the effects on consumer behaviour. Until we have more of both, one important way to enhance consumer protection is to implement robust product oversight and governance processes across all sectors. The responsibility to implement and oversee these processes should lie primarily with the firms, with proper supervision by the regulators.

Break-out session

During an interactive debate, stakeholders were asked to reflect about the best ways to open up the market for safer and simpler financial products. The following points were raised:

(i) Simple financial products should be better defined. Is a simple product the one whose features are easy to understand and compare? Is it a standardized product with predefined characteristics? Is it a product that corresponds to basic needs of all consumers and which is affordable? Is it a product that is cheap because it is sold through specific channel of distribution (e.g on-line sales)? Several participants pointed out that it might not always be possible to combine simplicity and safety.

(ii) Sectors where simple financial products would be most relevant should be identified. Most participants were in favour of core sectors where simple products could be proposed, for instance: savings, mortgages, pensions and to limited extent insurance. As regards investment products, there were mixed views on the possibility to develop simple products in this area since investment products, according to many participants, were rarely simple.

(iii) Simple financial products may already be available on the market in certain sectors (e.g. savings). In this context, some participants stressed that additional efforts may be necessary to better promote these products among consumers, e.g. by means of labelling, or accreditation scheme. Other participants underlined that initiatives aiming to improve financial advice or financial education might be more appropriate to make these products more popular.

(iv) Simple financial products could enhance competition on the market because it would be easier for consumers to compare products. Other participants were of the opinion that probably simple financial products would not be the best deals for consumers (e.g. a 10-year fixed interest rate mortgage credit) and therefore would not be very attractive for them.

[1] FSUG discussion paper *A simple financial products regime*: http://ec.europa.eu/finance/finservices-retail/docs/fsug/papers/1411-simple-products-project_en.pdf

Session II

Behavioural economics and financial services

Plenary session

Monique Goyens, the Director General of the European Consumer Organisation BEUC, stressed that 'behavioural economics' helps understand and address the challenges of consumer policy in financial services. Behavioural biases show that the mainstream market theories about rational behaviour of consumers are not entirely true. In different financial services' markets (e.g. mortgage or consumer credit, investment products, bank accounts), consumers are faced with a number of biases, some of which have been tackled by EU legislation. For instance, comparability of various offers will be facilitated by standardized information documents required under the Mortgage Credit and Payment Accounts Directives as well as the Regulation on a new Key Information Document (KID) for packaged retail and insurance-based investment products (PRIIPs). According to Monique Goyens, there are however more market failures which generate consumers' vulnerability but which have been so far insufficiently addressed by policymakers. These are for example: (artificial) complexity of financial products, tying of products or conflicts of interests arising from commissions and remuneration schemes. As remedies, Ms Goyens has proposed several policy actions, such as: ban on tying and commissions, access of consumers to independent financial advice as well as improved product governance and intervention (e.g. by creation of the simple products' regime).

Peter Andrews, Chief Economist in the UK Financial Conduct Authority (FCA), stressed that while the demand side of many financial markets is subject to biases, it is the firms' strategic reaction to the landscape created by these biases, competition and 'behavioural' and other policy interventions that determines whether financial markets typically work well for consumers. These markets are still highly imperfect and in many cases uncompetitive. Even new firms in these markets tend to exploit biases, which impedes effective competition. To tackle these issues, a new approach to regulatory policy is necessary. So far, regulation has focused on correcting individual market failures, in particular information asymmetry and its consequences, and on policing of firms' individual transgressions, whereas to make markets more effective for consumers, it is necessary to make them more competitive even in the presence of behavioural biases. The FCA has therefore developed a model for regulatory analysis which looks at markets in the round by exploring the interaction of behavioural market failures, structural competition issues, information asymmetries, externalities and regulatory failures. Based on a few examples, Mr Andrews explained how 'behavioural economics' in particular is integrated into regulatory analysis across the FCA, including in supervision, policy-making and competition work.

Break-out session

The debates during the afternoon session concerned four preselected topics falling under the scope of 'behavioural economics':

1. Comparability of products

It is simpler for consumers to choose a financial product if its features can be easily compared with competitive offers. Therefore, it has been stressed that the tools facilitating the comparability, such as comparison websites or standardized information documents, should be further promoted by policymakers. It has been also proposed to name and shame firms which breach consumers' rights or products which are detrimental to consumers.

2. Vulnerable consumers

To tackle consumers' vulnerability in financial services, an access to independent financial advice should be ensured. Impartial advice would help consumers choose more suitable products and would better protect them against abusive and unfair practices of providers. Consumers should also have an easy access to effective redress mechanisms (mandatory participation of firms). Finally, despite the limitations of financial education, participants agreed that it should be placed higher on the policy agenda.

3. Providers' reputation and trustworthiness

Firms should improve product oversight and governance and offer products better adapted to the needs of individual clients. They should invest in long-term relationships with their clients based on trust and understanding and pay greater attention to the quality instead of quantity of information which consumers receive.

4. Misalignment of incentives

Consumers must be fully aware of whether they deal with an independent advisor or an intermediary receiving sales' commissions, and what the different consequences of the two options are. National registers of independent advisors should be created so that consumers can easily identify these advisors. Further, sales' commissions should be made more transparent and paid based on the long-term performance of a product.

Session III

What could be next on the EU mortgage credit agenda?

Plenary session

Bernard Sheridan, Director of Consumer Protection within the Irish Central Bank, stated that the Mortgage Credit Directive (MCD), albeit comprehensive, will not be sufficient in view of the challenges currently faced by regulators, industry and consumers. According to him, the next priority is to monitor compliance and enforce the Directive and ensure consumer redress at a first step, but attention should also be paid to incentivising creditors to interact with consumers over the lifetime of the mortgage credit agreement, in particular when payment difficulties occur. He also insisted on the need for learning from each other, stressing the coordination role of the European Banking Authority and the work carried out so far by the FinCoNet on responsible lending practices. The outcomes for consumers should be adequately measured when reviewing the MCD.

Agnes Uhereczky, Director of the Confederation of Family Organisations in the European Union (COFACE), highlighted that disposable income of families is shrinking and that the future of families is not predictable. She considered that possible solutions would be to develop accessible and flexible mortgage credits, and independent guidance. In addition portable, transparent and well-managed credit registers could help. Further developing cross-border lending could also be useful. In addition she called for a more 'social' approach, e.g. better coordination of the housing and financial sectors or introducing special interest rates for certain families.

Break-out session

The following three questions were asked to participants:

1. Does the MCD fix the issues facing providers and consumers or is there something missing (including on the cross-border lending aspect)?
2. How to best address issues concerning (a) credit data and (b) borrowers in financial difficulties?
3. What can market actors and regulators do to ensure that further integration of the mortgage credit market is positive for providers and consumers?

In response to the above questions, three main ideas were shared by most of the participants:

(i) Implementation, enforcement and assessment of the impact of the MCD should be a priority.

(ii) Ensuring availability and effective application of some insolvency procedures in each Member State is important. Some common principles for such procedures at EU level could help, while respecting subsidiarity.

(iii) Ensuring that adequate type of data for the credit decision is available in each Member State is necessary, taking account of data protection requirements, proportionality and general interest.

The following remaining problems were also mentioned: access to credit for some categories of people (e.g. vulnerable consumers), obstacles to cross-border lending, standards applicable to non-bank lenders.

Session IV

Payments – improving users' experience and looking into the future

Plenary session

Erik Nooteboom, Head of Retail Financial Services and Payments in the DG Financial Stability, Financial Services and Capital Markets Union of the European Commission, introduced the panel, calling for open and visionary thoughts when looking into the crystal ball of the future of payments.

Mr Ruttenberg, Head of the Market Integration Division in the European Central Bank (ECB), called for a comprehensive reflection, not only focusing on trendy or alternative innovative payment solutions, such as the new Apple Pay or Bitcoins, or on consumer interests, as the needs of the payment world would be much broader, also including B2B and interbank issues. According to him, change will be evolutionary, not replacing but building on today's payment instruments (such as cash, cards, etc.), with profitability being a key driver. Payments will still bear a cost and these costs would have to be allocated in one way or another. To ensure continued innovation, a smooth and standardised infrastructure across Europe would be needed. True new access channels, mobile and speed will play an increasing role. For him, an important element to improve the users' experience would be to push instant payments with the ability of the payee to access his funds almost in real time.

Luca Cassina, PayPal's General Manager for Western Europe, focused on the unprecedented pace of innovation in today's time (with the accelerated spread of mobile phones, the web or smart phones) which should speed up even more. Technological change would continuously reshape behaviours and needs; the payment space would be flooded with innovative payment solutions, with often high potential for economic growth. Security and consumer trust would be as important as choice and convenience. In his view, to benefit from these developments, the EU needs a future-proof, technology neutral regulatory environment to support innovation. Ongoing dialogues between industry, financial entities, and regulators are critical to ensure that policies and solutions are relevant, effective and apt to allow adoption of smart technologies that are able to reconcile security with convenience.

Javier Santamaría, Banco Santander and Chair of the European Payments Council (EPC), concurred that the social networking and new technologies had considerably changed behaviours, including on payments. In his view, the future will blur even further the differences between physical and virtual worlds with new payment features. While shopping and payments would increasingly be personalised and mobile, it was not yet clear which technologies will win the market. Models for wallets would most probably stabilise. Payment service providers, including traditional banks, would have to redesign their business models around payments, regarding prices which would level down in 10 years' time, implying reduced profitability for new entrants, but also as regards new services to offer. The act of payment as such would lose relevance, more important would become the personalised payment experience. We would see a struggle for "feelings and beliefs". In any case, the big players were not expected to be Europeans. Achieving the Single Market in Europe would have to be a priority. This would justify more intervention as the market would not handle it on its own.

Break-out session

In the break-out session participants were asked to reflect about the potential market developments in the next 5 to 10 years, the needs and priorities of the users with the all comprising question what would need to happen in the market and among regulators to make sure the evolution is positive, for all parties. As the group represented a wide range of stakeholders and fresh thinking was welcome, the input received was quite diverse.

Three main ideas were however shared by most of the participants:

(i) Many saw the future of payments in mobile payments, however not only related to mobile phones. There was a general feeling that in Europe mobile payments had still not taken up due to the fact that it was not yet considered safe, common standards were still lacking and solutions were too often confined to the national level. Consumers' key concerns were security and data protection cited as main goals to achieve through convenient and safe payment solutions.

(ii) Instant payments should spread, on a peer-to-peer (mobile) level but also in the context of traditional bank transfers, with (almost) real time ability to use the funds. While some progress is being made (on P2P notably in Scandinavia) and on instant payments (with faster payments in the UK), it was deplored that solutions were in most cases confined to the domestic level.

(iii) Most participants felt that a good mix between regulation, standards and market forces was needed to move the European payments market one step further in the future. Achieving a Single Market in new evolving payment methods should be a priority. Others warned against overregulation and called for a right balance between cooperation and competition. Regular consultations were crucial as well as time to measure the effects of regulation.

All the members of our unit would like to thank the participants and particularly speakers and moderators for having presented their ideas and having contributed to policymaking at EU level as well as facilitators for their assistance with the break-out sessions.

This conference was organised by Unit D3 — Retail Financial Services and Payments — DG Financial Stability, Financial Services and Capital Markets Union.

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