



The European Commission
DG Internal Market

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By e-mail

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Comments of Finanstilsynet on the Green Paper on Retail Financial Services in the Single Market

Finanstilsynet welcomes the Green Paper and supports the work of the Commission in reviewing the single market to ensure its policies are fit for the 21st century. Finanstilsynet shares the belief that retail financial services represent an important part of the review of the single market. Moreover, Finanstilsynet believes that enhanced confidence of the consumers is fundamental to an increased cross-border competition in the financial sector.

Finanstilsynet agrees with the overarching objectives set out in the Green Paper. New initiatives should:

- ensure properly regulated open markets and strong competition
- enhance consumer confidence and ensuring adequate consumer protection
- empower consumers to make the right financial decisions including increasing financial literacy and ensuring the consumers relevant and timely information.

A strengthening of these areas would benefit the European consumers and increase the integration of the single market for retail financial services.

Constant attention is needed to ensure that citizens reap the benefits of a single market. This includes both reviews of existing legislation and initiatives as well as considering the need for new initiatives to ensure the full development of the single market and where appropriate take action. In this context it is important that a harmonization of the rules does not result in unnecessary and disproportionate administrative burdens.

Finanstilsynet supports efforts aimed at opening the financial markets in the EU and harmonizing initiatives at EU-level when necessary to open up a market and secure strong competition. Increased competition is

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necessary to ensure consumers lower prices and more choices in retail financial services on an EU-wide basis.

Finanstilsynet agrees with the Commission that a review of the existing information requirements in the financial legislation is a key issue. A review is necessary in order to ensure that the consumers receive the right information at the right time. In addition, the information requirements should be checked against the possibilities of digital communication and the use of the internet. In the 21st century it is important to ensure technology-neutral rules. Finanstilsynet believes that in addition to simplifying the rules significant reductions in the administrative burdens can be made in this area.

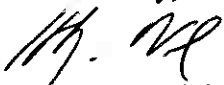
Generally, Finanstilsynet finds it important that the wordings of the directives are streamlined and that the terms used are clearly defined so as to ensure a harmonized implementation and interpretation at a national level throughout the EU. In particular, it should be noted that a clarification is needed of the term "durable medium" in order to open up a wider use of electronic communication both domestically and in other Member States.

The definition of durable medium is also a key issue for the service providers. A clear definition of durable medium is a condition for many service providers for developing and marketing new service products – and as a consequence for an increase in the number of products available to the consumers on the financial markets.

In the course of preparing the position of Finanstilsynet and specific comments on the Green Paper Finanstilsynet has consulted industry, users and consumers representatives. Therefore this letter also reflects their positions to a large degree. However, the consultation does not exclude individual comments from industry, users and consumer representatives made directly to the Commission.

For detailed comments and answers to the questions posed in the Green Paper, please refer to the annex attached.

Yours sincerely,



Henrik Bjerre-Nielsen

Annex – detailed comments from Finanstilsynet on the questions in the Green Paper

Q1: Do you agree with the objectives and priorities set out in the paper?

Yes, Finanstilsynet agrees with the overarching objectives set out in the Green Paper. All three main objectives should be pursued equally. Initiatives aimed at achieving one of the objectives cannot substitute other initiatives necessary to pursue another objective. For instance, financial consumer education seeking to empower the consumer cannot substitute rules ensuring an adequate level of consumer protection, as the latter is necessary for enhancing consumer confidence. Both these objectives - together with strong competition in the market – are fundamental for the integration of the single market in retail financial services to reach its full potential.

In terms of specific initiatives mentioned in the Green Paper, Finanstilsynet would give priority to the initiatives aimed at:

- Increasing competition and in particular increasing customer mobility in banking,
- Ensuring adequate consumer protection in regards to the rules on consumer credit.
- Promoting sound and safe retail financial institutions by completing the modernization of the main legislative framework (solvency II).
- Ensuring consumers the right information at the right time. This includes improving the quality of information, evaluating the relevance and usefulness of information as well as checking the appropriateness and consistency of information requirements across the EU financial legislation.

Q2: Are there issues not covered in this Green Paper, which are important for the integration of retail financial market and to which the Commission's attention should be drawn? For example, are consumers in their everyday life confronted with requirements or limitations from either financial services providers or other stakeholders (employers, social security, administrations, businesses, etc.) which restrict their ability to use cross border financial services (such as an obligation to have a bank account or insurance policy in one specific country, etc)?

Finanstilsynet is of the opinion that it is important that efforts are made to harmonizing the wordings of both new as well as existing financial legislation. It is essential to have a common understanding of the terms

used in the EU directives in order to ensure a uniform implementation of the rules at a national level. As an example Finanstilsynet would like to urge the Commission to bring clarification to the definitions of "consumer" and "durable medium".

Q3: The Commission has undertaken several initiatives to improve consultation with consumers and to secure their input into its policy making. Should further steps be taken and, if so, what steps?

Finanstilsynet acknowledges the work that the Commission has already done in order to improve the dialogue with the consumer representatives in the financial area.

Finanstilsynet does, however, envisage a need to create a more level playing field between industry associations and consumer representatives when it comes to providing input to the Commission. Finanstilsynet therefore supports further steps to be taken to strengthen the consumer representatives based on the principle of "treat equally by treating differently". The challenge would of course be to finance the increased consumer representation.

Finanstilsynet supports a proposal made on previous occasions by the European Consumers' Organisation BEUC for the introduction of so-called consumer impact assessments, when new proposals for legislation are introduced. Directives in the financial area are often complex and of a technical nature, which makes it difficult and very resource demanding for consumer representatives to analyse the impact on consumers at a national level. Consumer impact assessments would give consumers representatives a better chance to examine and analyse the consequences for consumers in the individual Member States. Moreover, the initiative should be combined with the possibility for technical briefings by the Commission's staff of the consumer representatives in connection with introduction of new proposals.

Q4: Is consumer choice unnecessarily limited by restrictions on the providers and channels through which they access retail financial services. What are, in your experience, these restrictions?

Finanstilsynet has no information on such restrictions.

Q5: Despite efforts, in particular the creation of FIN-NET, the handling of cross-border consumer complaints in the field of financial services still remains problematic. The Commission would welcome input as to the ways to improve the current situation. For example, should Member States be obliged to ensure that alternative

dispute resolution (ADR) schemes are in place? Should providers be obliged to adhere to an ADR scheme? Should they be contractually obliged to offer ADR mechanisms to their clients?

Generally, Finanstilsynet believes that the presence of ADR schemes in all Member States plays an important role in enhancing consumer confidence. However, the existence of national ADR schemes alone is not sufficient. Efforts must be made for consumers to be properly informed about the possibilities to make use of the schemes in the other countries and assistances must be made available in the Member States. To this end a well-functioning FIN-NET is important. Therefore Finanstilsynet fully supports the efforts of the Commission to assess how the gaps in FIN-NET membership and in ADR schemes at a national level can be filled.

In principle, Finanstilsynet would support an initiative from the Commission to examine further the possibility to make ADR schemes obligatory in Member States. However, legislative initiatives in the area should only be considered on the basis of comprehensive impact assessments.

Q6: The creation of the Single Euro Payments Area (SEPA) offers challenges and opportunities for businesses and consumers alike. What do stakeholders think of SEPA's impact on consumers? Should consumers be more involved in the governance and the preparation of SEPA?

Finanstilsynet has no comments on this point.

Q7: With view to the launch of its study on credit intermediaries, later this year, the Commission would like to know whether stakeholders believe the current legislative framework to be sufficient and if consumers face any particular problems in dealing with credit intermediaries, particularly on a cross-border basis.

In Denmark no need has appeared up until now to introduce regulation for credit intermediaries.

Q8: The Commission believes that it has an important role to play in developing a competitive, open and effective market for long-term savings, retirement and pension schemes that meet consumers' needs. Do stakeholders agree and how could the Commission contribute? Could an optional legal EU-wide regime ("28th regime") for savings and/or 3rd pillar pension products be envisaged?

Finanstilsynet is of the opinion that it is an interesting idea that the Commission could play a role in the establishment of an optional legal EU-wide regime ("28th regime") for savings and/or pensions products.

There seems to be two lines of thinking in regards to the concept of a "28th regime" depending on which legal basis may be chosen to override existing rules and to provide a European product passport.

One line of thinking is that an optional legal 28th regime would end up as a product corresponding to the lowest common denominator in regards to the level of consumer protection and/or the taxation of the funds in the Member States. In this case Finanstilsynet cannot support an establishment of an optional legal EU-wide 28th regime for savings and/or pensions products.

The other line of thinking is that an optional system must be introduced by way of a directive. If this road forward is chosen it seems unlikely that it will be possible to agree on rules for simple financial products.

Q9: Do you think that there could be benefits for both banks and consumers, if banks would have the opportunity to offer an optional simplified standardised product, which would have a good level of consumer protection, would be easy to understand, and could be offered across borders without the need to be modified to fit local rules?

Finanstilsynet has some experience with regard to an optional simplified standardized product within retail insurance products at a national level. In 1989 the Danish Consumer Organisation and the Danish Insurance Association entered into cooperation and agreed on the content of a standardised family insurance, which was marketed as the "Basic Family Insurance" (familiens basisforsikring). However, the initiative had limited success. Based on this experience Finanstilsynet cannot recommend further work on an optional simplified standardised banking product at EU-level.

Q10: The Commission believes that more could be done to improve consumers' financial literacy and capability. Possible measures include developing guidelines or promoting best practices. The Commission would welcome input on how this policy should be further developed at the European level.

Finanstilsynet agrees with the Commission that there is a need to strengthen consumers' knowledge on financial matters. Finanstilsynet also believes that more and better financial consumer education will

empower the consumers and make them better equipped to make informed financial choices.

Finanstilsynet is positive toward the role the Commission can play in improving consumers' financial literacy. In particular, Finanstilsynet would welcome initiatives from the Commission's side to gather information about best practices in the Member States and issue guidelines in the area.

Q11: Do you think that, as they stand, the provisions on consumer information contained in financial services directives are adequate and consistent with one another? Were it not the case, how could the Commission ensure that information requirements are set at the right level, ensuring proper information but without creating any overload? Do you think that informing consumers is sufficient or that advice should also be provided? If yes, should that be compulsory or on request?

Finanstilsynet welcomes the focus of the Commission on the information requirements in the financial legislation. Finanstilsynet believes that the information given to consumer should be targeted to the needs of the consumers to a larger degree.

Finanstilsynet encourages the Commission to review all information requirements in the existing directives on financial services. Information requirements should be analysed critically to see if the rules can be simplified and to a higher degree reflect the needs of the consumers. The rules should also be checked against the possibilities of digital communication and the use of the internet in the 21st century. It is important to ensure technology-neutral rules. Finanstilsynet believes that in addition to simplifying the rules significant reductions can also be made in the administrative burdens in this area.

It is important that concepts and terms used in the directives are properly defined so as to ensure a uniform interpretation throughout the Member States. E.g. clarification is needed for the term "durable medium" in order to open up the possibilities of the use of electronic communication to a larger degree. Both in the drafting and in the implementation stages of directives emphasis should be on harmonizing the wording and understanding of the terms used - both at EU-level and at national level.

Q12: Measures to improve lenders' access to credit data will be discussed in the context of the forthcoming White Paper on Mortgage Credit. The Commission believes that more could be done

to promote the accessibility of credit data, in particular on a cross-border basis. Who should be able to access consumer credit data? How could the cross-border transferability of consumer credit data be improved, ensuring in particular that mobile credit data follows increasingly mobile consumers? Could a memorandum of understanding, ensuring smooth data circulation between credit bureaus, be a workable solution?

As far as mortgage credit is concerned Finanstilsynet would like to refer to the Danish comments on the Commission's Green Paper on Mortgage Credit. Finanstilsynet agrees that at present it is too early for any decisions on whether the Commission should act. The Commission should only act where initiatives are expected to bring clear benefits to industry, markets, consumers without negative effects to existing national systems.

Finanstilsynet will continue to take part in the discussions in this area in the context of the coming White Paper.

Q13: Fragmentation of retail insurance markets, for example in the field of motor insurance, does not allow consumers to reap full benefits of EU integration in this area. Do you think that more should be done at EU level to address this fragmentation?

Finanstilsynet supports further work on breaking down the fragmentation in this market.

Q14: Customer mobility and competition are closely associated. The Commission would welcome input as to how customer mobility could be enhanced. In particular, in the field of bank accounts, and as a follow-up to the Expert Group's work, would stakeholders see merits in, for example, having EU-wide account switching arrangements? Will SEPA have an impact on customer mobility?

The customer mobility is low across the financial sector. Finanstilsynet believes that two of the main reasons for this are the need for further financial consumer education and increased competition. Finanstilsynet looks forward to receiving the Commission's response to the recent rapport from the expert group on customer mobility in relation to bank accounts. However, Finanstilsynet would like to encourage the Commission to broaden the discussions on customer mobility to include customer mobility in relation to other financial services as well.

Finanstilsynet supports efforts and initiatives aimed at increasing customer mobility in the financial sector.