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# **ALTERNATIVE DISPUTE RESOLUTION IN THE AREA OF FINANCIAL SERVICES**

## **CONSULTATION DOCUMENT**

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## 1. INTRODUCTION

When consumers cannot resolve their disputes with financial services providers bilaterally, not many of them consider going to court. In many Member States alternative dispute resolution (ADR) schemes, such as ombudsmen, mediators or complaint boards, are put in place to resolve disputes between consumers and their financial service providers out-of-court. Usually, these ADR schemes offer a much quicker and cheaper way to settle disputes than in courts. Therefore, they are appreciated by both consumers and financial services providers. ADR schemes are also considered to improve access to justice as they provide an opportunity to resolve disputes that consumers would not normally pursue in courts. Furthermore, they increase consumer confidence in financial services because consumers know they will have access to redress if something goes wrong.

In its staff working document on the initiatives in the area of retail financial services<sup>1</sup>, accompanying the Communication *A single market for 21<sup>st</sup> century Europe*<sup>2</sup>, the European Commission announced that its services will examine further the possibilities of improving alternative redress mechanisms in the field of financial services, since gaps in their geographical and sectoral coverage still remain. Also, not all financial services providers adhere to ADR schemes and inform their customers about them.

In its resolution on the Green Paper on retail financial services<sup>3</sup> of June 2008 the European Parliament requested that consumers have access to ADR mechanisms both at national and cross-border level and called on the Commission to promote best practices on ADR.

The purpose of this document is to seek the views of the stakeholders on how ADR schemes in the area of financial service, providing consumers with individual redress, could be further improved. This consultation, although complementary, is a separate initiative from the work being carried out by DG Health and Consumers on collective redress, which is wider in scope both in terms of sectors covered and the fact that it is not confined to redress through ADR but also covers judicial redress.

**Stakeholders are invited to send their responses to the questions raised in Section 5 of this document by 27 February 2009 to [markt-retail-consultation@ec.europa.eu](mailto:markt-retail-consultation@ec.europa.eu). Responses will be placed on the Commission's website unless explicitly indicated otherwise by the stakeholders in their response. To see how to submit your contribution, please see the Internal Market website at [http://ec.europa.eu/internal\\_market/consultations/2008/alternative\\_dispute\\_resolution\\_annex\\_en.htm](http://ec.europa.eu/internal_market/consultations/2008/alternative_dispute_resolution_annex_en.htm).**

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<sup>1</sup> See [http://ec.europa.eu/citizens\\_agenda/docs/sec\\_2007\\_1520\\_en.pdf](http://ec.europa.eu/citizens_agenda/docs/sec_2007_1520_en.pdf).

<sup>2</sup> COM(2007) 724 final, [http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007\\_0724en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0724en01.pdf).

<sup>3</sup> European Parliament resolution of 5 June 2008 on the Green Paper on retail financial services in the single market (2007/2287(INI))

## **2. ALTERNATIVE DISPUTE RESOLUTION (ADR) MECHANISMS**

The key feature of an ADR scheme is that a so called 'third party' (an ombudsman, a mediator or a complaint board) helps the consumer and the service provider to resolve their dispute by proposing or imposing a solution or by bringing the parties together to convince them to find a solution by common agreement.

In the area of financial services, the currently existing ADR schemes in different Member States either cover financial services in particular sectors (e.g. the Italian Banking Ombudsman scheme, the German Insurance Ombudsman, the French Ombudsman of the Authority of Financial Markets) or cover all financial services sectors (e.g. the UK Financial Ombudsman Service, the Consumer Complaints Manager of the Malta Financial Services Authority, the Dutch Financial Services Complaints Institute) or handle consumer complaints in general (e.g. the Swedish National Board for Consumer Complaints, the Lithuanian State Consumer Protection Authority). Most of the ADR schemes are central but some, such as the Lisbon Arbitration Centre for Consumer Conflicts, are regional. Some of the ADR schemes are established by public authorities (e.g. the Complaints Service of the Bank of Spain, the Irish Financial Services Ombudsman's Bureau), others are established by private actors, usually the associations of financial services providers (e.g. the Ombudsman of the German Cooperative Banks) or by associations of financial services providers in cooperation with consumer organisations (the Danish Complaint Boards).

ADR schemes also apply different procedures.<sup>4</sup> Some ADR schemes issue a decision on how the dispute should be settled. This decision can be binding for both the consumer and the financial services provider (e.g. the Lisbon Arbitration Centre for Consumer Conflicts) or binding only on the financial services provider (e.g. the UK Financial Ombudsman Service). Other ADR schemes only make a recommendation to the parties which they are free to follow or not (e.g. the Finnish Consumer Disputes Board). A number of ADR schemes do not formally adopt a position on the possible way to resolve the dispute but rather help the parties to come to an agreement, although sometimes they may propose a solution informally (e.g. the Belgian Insurance Ombudsman). There are ADR schemes that apply a mix of procedures. For example, at the Dutch Financial Services Complaints Institute a dispute is first handled through a mediation procedure but if this procedure is not successful in resolving the dispute, an arbitration procedure may be started.

## **3. FIN-NET**

The integration of retail financial services markets gave European consumers a greater choice of financial services, facilitated by the increasing purchase of financial services through internet. They have the opportunity to shop around not only in their home countries but also across national borders. However, in order to have confidence in buying financial services from providers established in other Member States, consumers need to know that they would have easy access to justice in case of dispute.

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<sup>4</sup> In April 2008, Directive 2008/52/EC on certain aspects of mediation in civil and commercial matters was adopted, which concerns one of the types of ADR procedures – mediation. Other common ADR procedures are conciliation and arbitration.

Normally, out-of-court ADR schemes cover financial services providers which operate in and from the country where the schemes exist. This means that if consumers complain about a foreign financial services provider, the complaint would normally be handled by an ADR scheme which operates in the Member State where the provider is established as that scheme is the most likely to be able to secure redress from the provider. This situation may, however, prove complicated for the consumer who would have to know of the existence and details of foreign ADR schemes.

Therefore, for easier resolution of cross-border disputes, in 2001, the Commission connected the existing national ADR schemes in EU Member States, Norway, Iceland and Liechtenstein, into a network, FIN-NET. Within this network national ADR schemes assist consumers who have disputes with financial service providers based in another Member State in identifying and contacting the ADR scheme, which is competent to deal with their complaint.

FIN-NET was designed to allow consumers to contact the out-of-court complaint scheme in their home country even when they have a complaint against a foreign financial services provider. The scheme in the consumers' country will help them to identify the relevant complaint scheme in the financial services provider's country and will give them, inter alia, the necessary information about the scheme and its complaint procedure, including: contact details, coverage, organisation, in which languages the scheme operates, whether there are any charges to be paid by the consumer, whether the decision of the scheme is binding, typical times for handling complaints.

When consumers have all the necessary information about the relevant scheme and have decided to file a complaint with it, they can leave the complaint with the FIN-NET member in their home country, which will then transfer it to the relevant scheme in the service provider's country. In some cases it might, however, be more efficient for consumers to contact the relevant scheme directly. In these cases, the FIN-NET member in their home country will recommend them to do so.

Cross-border complaints are handled by FIN-NET members on the same basis as domestic complaints. If a scheme needs more information about the legal rules on consumer protection in the country of consumer, it can obtain this from the FIN-NET member in the consumer's home country.

The FIN-NET's Memorandum of Understanding<sup>5</sup> outlines the mechanisms and other conditions according to which members of FIN-NET cooperate and exchange information in handling cross-border complaints. Access to the Memorandum of Understanding is open to any scheme which is responsible for out-of-court settlement of disputes between consumers and service providers in financial services, provided it complies with the principles set out in Commission Recommendation 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes<sup>6</sup>. In practice this means that a Member State authority has to certify to the Commission that a scheme which wishes to become a member of FIN-NET complies with all the seven principles laid down in the Recommendation, i.e. independence, transparency, adversarial procedure, effectiveness, legality, liberty and

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<sup>5</sup> [http://ec.europa.eu/internal\\_market/fin-net/docs/mou\\_en.pdf](http://ec.europa.eu/internal_market/fin-net/docs/mou_en.pdf)

<sup>6</sup> [http://eur-lex.europa.eu/LexUriServ/site/en/oj/1998/l\\_115/l\\_11519980417en00310034.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/1998/l_115/l_11519980417en00310034.pdf)

representation. Currently, FIN-NET has 50 members, the list of which can be found in Annex 1.

In 2007, FIN-NET handled 1 041 cross-border disputes: 494 in banking, 267 in insurance and 280 in investments services sectors. Examples of disputes handled through FIN-NET can be found in Annex 2. This figure should be seen in the context of cross-border trade in retail financial services. According to the European Commission's Eurobarometer<sup>7</sup>, only a small minority of EU citizens purchased financial services in another Member State. The results of this survey show that 5 % of EU citizens bought a bank account in another Member State, 2 % – a credit card, 2 % – a car insurance, 1 % – life insurance, 1 % – stocks and 1 % collective investments.

Furthermore, while FIN-NET is the network for resolution of cross-border disputes, its individual members' main activity is to resolve disputes within their Member States. For example, in 2007, the UK Financial Ombudsman Service dealt with around 116 600, the Belgian Insurance Ombudsman dealt with almost 3 400 complaints, the Finnish Securities Complaint Board handled around 250 complaints, the Italian Banking Ombudsman dealt with almost 4 000 complaints, the Hellenic Ombudsman for Banking – Investment Services handled around 1 500 complaints, the French Insurance Mediator handled around 4 000 complaints, the Consumer Complaints Manager of the Malta Financial Services Authority handled almost 250 complaints and the Consumer Complaints Scheme of the German Association of Private Building Societies handled over 650 complaints.

#### **4. CURRENT SITUATION IN MEMBER STATES**

Currently, there are still gaps in ADR in the area of financial services in various Member States.

##### **4.1. ADR scheme coverage in Member States**

Based on the information received from Member State authorities, the geographical and sectoral coverage of ADR schemes is shown in the table in Annex 3. It shows coverage for the banking, payments, insurance and securities sectors and whether the relevant ADR schemes have joined FIN-NET. In some countries, one scheme covers all sectors or more than one sector. This table should be seen as a rough picture of the existing situation as in some countries, even if a sector seems to be covered, gaps may still remain due to, for example, the fact that an ADR scheme only handles disputes that involve financial services providers that are members of a specific association.

##### **4.2. Creation of ADR schemes**

In a number of Member States the existing ADR schemes already cover all financial services sectors. In those Member States where ADR schemes currently do not cover all financial services generally there are no legal obstacles to establish ADR. A number of Member States (Cyprus, Czech Republic, Italy, Poland, Romania, Slovakia, Spain and Liechtenstein) report about work underway or plans in creation of ADR schemes. Only one Member State is of the view that there is no need to encourage the creation of ADR

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<sup>7</sup> Special Eurobarometer 230 *Public Opinion in Europe: Financial Services*, August 2005.

schemes, since a well developed judicial network and other less formal procedures, e.g. support for consumers by consumer associations, exist.

A number of Member States (Latvia, Lithuania, Luxembourg, Romania) have expressed their intention to the Commission to encourage the existing ADR schemes to join FIN-NET.

Some EU legislative acts in the area of financial services contain provisions encouraging the creation of ADR schemes or obliging Member States to ensure that they are created. Examples of such provisions can be found in Annex 4.

#### **4.3. Information to consumers about ADR schemes**

In Austria, Cyprus, Estonia, Latvia, Lithuania, Luxembourg, Poland, Romania and Liechtenstein there is no obligation on the financial service providers to inform customers about the existence of a relevant ADR scheme.

In seven Member States (Denmark, Ireland, Netherlands, Slovenia, Spain, Sweden, UK, and Norway) the obligation on the financial service providers to inform customers about the existence of a relevant ADR scheme exists across all financial sectors. In other Member States such obligation exists in certain sectors. For example, in Belgium, Bulgaria, Finland, France, Germany, Hungary, Portugal, Iceland such obligation exists in the insurance sector, in Bulgaria, Czech Republic and Germany it exists in the payments sector and in France it exists in the banking sector. In a few countries (Finland, Germany, Hungary, Portugal and Slovakia) there is an obligation on financial services providers to inform their clients about an ADR scheme when a contract is concluded at a distance.

In no Member State is there an obligation on financial services providers to inform their clients about FIN-NET.

Some EU legislative acts in the area of financial services require that information about the existence of an ADR scheme is part of the contractual information that financial services providers provide to their customers. Examples of such provisions can be found in Annex 5.

#### **4.4. Adherence by financial services providers to ADR schemes**

In some Member States financial services providers are obliged to adhere to an ADR scheme. For example, in Belgium, this obligation exists for insurance intermediaries, banking and investment service brokers. In Denmark, once a financial services provider is approved by the authorities, the relevant Complaints Board has the competence to deal with complaints against that provider. Also in the Netherlands the law requires most financial services providers to join the Financial Services Complaints Institute. However, the Commission does not have comprehensive information on this issue from all Member States.

## 5. ISSUES FOR STAKEHOLDER CONSIDERATION

Generally, the existence of ADR mechanisms is considered important in raising consumer confidence in buying financial services from local providers and particularly from providers from other Member States. Therefore, ADR schemes need to be effective, which would also directly contribute to the effectiveness of FIN-NET. The current situation in Member States, described in Section 4, shows that significant gaps still exist. This means that, currently, consumers and financial services providers will not always have the option of resolving their domestic or cross-border disputes through an ADR scheme. Stakeholders are invited to convey their views to the Commission on the following issues:

### 5.1. Membership of FIN-NET

Currently, FIN-NET has 50 members from 19 EU Member States, Iceland, Liechtenstein and Norway. This means that there are no FIN-NET members from Bulgaria, Cyprus, Estonia, Hungary, Latvia, Romania, Slovakia and Slovenia. Furthermore, members from the 19 Member States do not always cover all financial services sectors. Based on the information received from Member States, it seems that around 20 ADR schemes exist but are not members of FIN-NET. ADR schemes, which are not members of FIN-NET have not committed to cooperate with ADR schemes in other Member State in cross-border cases. This is likely to lead to situations where consumers will not receive the necessary help in pursuing their cross-border complaints.

- What steps need to be taken to make FIN-NET a comprehensive network, covering all Member States and financial services sectors?
- Should action be taken at EU level? If yes, what form should it take? Binding? Non-binding?

### 5.2. Creation of ADR schemes

ADR schemes do not exist in all Member States for all financial services sectors. Only in approximately seventy five per cent of Member States all sectors seem to be covered by an ADR scheme. Where an ADR scheme does not exist, if consumers and financial services providers fail to resolve their dispute bilaterally, usually the only possibility for them would be to go through lengthy and expensive court proceedings. Since often the value of a dispute is not very high, consumers normally do not pursue this option and therefore disputes remain unresolved.

- What action needs to be taken to encourage the creation of ADR schemes, where they do not exist?
- Should any action be taken at EU level? If yes, what form should it take? Binding? Non-binding?

### 5.3. Adherence to ADR schemes

Even if an ADR scheme exists, for it to be effective in providing consumers with the possibility to resolve disputes with financial services providers, providers need to adhere to the scheme or, in other words, accept the jurisdiction of the ADR scheme to handle the dispute. One of the issues in the Equitable Life case<sup>8</sup> was that, for example, German customers, who bought services from the German branch of the UK-owned Equitable Life, could get redress neither through the UK Financial Services Ombudsman (because it covers services provided from the UK branches of financial services providers, irrespective of the country of the owner) nor through the German Insurance Ombudsman (because the German branch of Equitable Life was not a member of this scheme).

- Should adherence to an ADR scheme be mandatory to all financial services providers? If yes, should the financial services providers be obliged to adhere to the ADR scheme only in the country where they are established or to all the ADR schemes in Member States where they provide services?
- Should action be taken at EU level? If yes, what form should it take? Binding? Non-binding?

### 5.4. Information to consumers about ADR schemes and FIN-NET

For consumers to have effective redress, they need to know that the possibility to resolve their disputes with providers through an ADR exists. In many countries, financial services providers are not required to inform customers of the existence of the relevant ADR scheme. Only seven Member States reported to the Commission that such obligation exists across all financial sectors. In no Member State financial services are obliged to inform customers about FIN-NET. If consumers are not aware of ADR schemes, even if they exist, they are not likely to be used.

- Should financial services providers be obliged to inform customers about the possibility to resolve disputes through an ADR scheme? Should this obligation be applicable also with regard to FIN-NET?
- Should action be taken at EU level? If yes, what form should it take? Binding? Non-binding?
- When should the financial services provider inform its customer about the possibility to address the complaint to an ADR scheme? As part of the contractual information? At the moment when the dispute arises and it cannot be settled between the provider and the customer bilaterally? Both? Other?

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<sup>8</sup> For more information on this case, please see the report of the European Parliament of 4 June 2007 on the crisis at the Equitable Life Assurance Society.

### **5.5. Awareness of FIN-NET and of its member ADR schemes**

FIN-NET is based on the idea that consumers, who have a complaint, in principle, only need to know about an ADR scheme in their Member State. This ADR scheme will then direct the consumer to the ADR scheme in the Member State of the financial services provider and explain how FIN-NET works. However, for consumers to be informed about their possibilities to obtain redress through ADR, stakeholders, such as public authorities, consumer and financial services providers' organisations need to be aware of the existence and functioning of ADR schemes and FIN-NET. Currently, such awareness is rather low.

- Is there a need to promote FIN-NET and its member ADR schemes? If yes, what would be the best way to do so?

## Members of FIN-NET by October 2008

### **Austria**

Gemeinsame Schlichtungsstelle der Österreichischen Kreditwirtschaft

### **Belgium**

Ombudsman des assurances/Ombudsman van de verzekeringen

Service de Médiation Banques – Crédit – Placements/  
Bemiddelingsdienst Banken – Krediet – Beleggingen

### **Czech Republic**

Finanční arbitr České republiky

### **Denmark**

Ankenævnet for Fondsmæglerselskaber

Ankenævnet for Investeringsforeninger

Pengeinstitutankenævnet

Realkreditankenævnet

Ankenævnet for Forsikring

### **Finland**

Kuluttajavalituslautakunta

Arvopaperilautakunta

Kuluttajien vakuutustoimisto/Vakuutuslautakunta

### **France**

Médiateur de Groupement des Entreprises Mutuelles

Autorité des Marchés Financiers - Service de la Médiation

Médiateur de la Fédération Française des Sociétés d'assurances

Le Médiateur de l'Association française des Sociétés Financières (ASF)

Comité de la Médiation Bancaire

## **Germany**

Schlichtungsstelle bei der Deutschen Bundesbank

Ombudsmann der privaten Banken

Deutscher Sparkassen- und Giroverband

Verband der Privaten Bausparkassen e.V. – Kundenbeschwerdestelle

Ombudsmann der deutschen genossenschaftlichen Bankengruppe  
c/o Kundenbeschwerdestelle beim Bundesverband der Deutschen Volksbanken und  
Raiffeisenbanken BVR

Ombudsmann der öffentlichen Banken

Schlichtungsstelle der LBS

Ombudsmann private Kranken- und Pflegeversicherung

Versicherungsombudsman e.V.

## **Greece**

Υπουργείο Ανάπτυξης – Διεύθυνση Ασφαλιστικών Επιχειρήσεων και Αναλογιστικής  
Μεσολαβητής Τραπεζικών – Επενδυτικών Υπηρεσιών (Μ.Τ.Ε.Υ.)

## **Iceland**

Úrskurðarnefnd í váttryggingamálum

Úrskurðarnefnd um viðskipti við fjármálafyrirtæki

## **Ireland**

Biúró an Ombudsman um Sheirbhísí Airgeadais/  
Financial Services Ombudsman's Bureau

## **Italy**

Ombudsman Bancario

ISVAP – Istituto di Vigilanza sulle assicurazioni private e di interesse collettivo

## **Liechtenstein**

Bankenombudsmann

Schlichtungsstelle zur Beilegung von Streitigkeiten bei der Ausführung von  
Überweisungen

## **Lithuania**

Valstybinė vartotojų teisių apsaugos taryba

**Luxembourg**

Médiateur en Assurances

Commission de Surveillance du Secteur Financier (CSSF)

**Malta**

'Manager' Għall-Ilmenti tal-Konsumatur, Awtorità għas-Servizzi Finanzjarji ta' Malta

**Netherlands**

Klachteninstituut Financiële Dienstverlening (Kifid)

**Norway**

Bankklagenemnda

Forsikringsklagekontoret

**Poland**

Sąd Polubowny przy Rzeczniku Ubezpieczonych

Arbiter Bankowy

**Portugal**

Centro de Arbitragem de Conflitos de Consumo de Lisboa

Serviço de Mediação de Conflitos, CMVM

**Spain**

Servicio de Reclamaciones del Banco de España

Oficina de Atención al Inversor - Dirección de Inversores de la CNMV

**Sweden**

Allmänna reklamationsnämnden

**United Kingdom**

Financial Ombudsman Service

**Examples of disputes handled through FIN-NET**

- (1) Mr X is an Irish citizen from Dublin. In 1998 he took a job in London, in the UK. He opened an account with a UK branch of an Irish-owned bank, and took out a credit card issued by the bank's UK-based credit-card subsidiary. In 2004 he left London and started a new job back in Ireland, but he continued to use the same credit card. In 2006, whilst he was on holiday in France, he used the credit card to buy a new camera for EUR 250. When he got back to Ireland, he discovered that the camera did not work properly. He sent several e-mails to the camera shop in France, but discovered it had gone out of business. He raised his concerns with the credit-card provider, but it said that it could not help. Mr X contacted the Irish Financial Services Ombudsman Bureau. It explained that, though the bank was Irish-owned, the credit card had been issued in the UK. So (through FIN-NET) it put Mr X in touch with the UK Financial Ombudsman Service. The UK Financial Ombudsman Service confirmed that it could deal with the case, because the credit-card had been issued in the UK. It made no difference that Mr X lived in Ireland and that the problem concerned the use of the credit card in France. Under UK law, because the transaction was for more than £100 sterling (about EUR 125), the credit-card issuer was equally liable for the fault in the camera. The UK Financial Ombudsman Service decided that the credit-card issuer should refund the EUR 250 price to Mr X and that he should give the faulty camera to the credit-card issuer. Mr X accepted this and, under UK law, the ombudsman's decision was legally binding on the credit-card issuer.
- (2) During her summer holidays in Greece, Mrs Y, who is a resident of another Member State of the EU, tried to make a cash-machine withdrawal of EUR 310 using her credit card. The machine gave her EUR 260 instead. When Mrs Y returned to her country, she complained in writing both to the bank and to the Hellenic Ombudsman for Banking – Investments Services. As a result of the investigation, the amount of EUR 50 was credited back to Mrs Y's account by her bank.
- (3) Mr X is a UK citizen. In January 2005, he contacted a Portuguese bank where he had an account, in order to raise a house loan, as he was thinking of purchasing a house in Portugal. In April 2005, after several contacts with the bank, Mr X decided not to go through with the loan, and informed the bank of his decision. In May 2005, he was charged EUR 145.34, covering the house insurance he would have had to subscribe to, in case he had gone through with the loan. After the intervention of the Lisbon Arbitration Centre for Consumer Complaints, the wrongly charged amount was credited back to the Mr X's account.
- (4) Mr X is a Belgian national. He insured his notebook against theft with a German insurance company. When Mr X's notebook was stolen, the insurance company refused to cover his loss. Mr X complained to the Belgian Insurance Ombudsman, which transferred the complaint to the German Insurance Ombudsman. The German Insurance Ombudsman contacted the insurance company, which explained that some documents were missing for it to be able to compensate Mr X's loss. Once the documents were provided, Mr X received full compensation from the company. Mr X is a UK citizen who bought shares through a German financial services provider. The provider did not deliver the

shares in time and did not respond to inquiries by Mr X. Having found out about the Arbitration Board at the Deutsche Bundesbank on the FIN-NET website, Mr X asked it for assistance. The Arbitration Board contacted the provider in question, which subsequently agreed to refund the purchase price to Mr X.

- (5) Mrs Y is a UK resident who owns a holiday apartment in France. The apartment was insured by a French insurance company. After a number of things were stolen from Mrs Y's apartment, the insurance company refused to cover the damage because Mrs Y did not give evidence that the theft had been committed by breaking in or use of violence, as required by the insurance contract. Mrs Y contacted the French Insurance Mediator. As there was no doubt about the fact that a theft was committed, most likely by using stolen or fake keys, the Mediator considered that good faith must prevail and that it was not fair to impose on Mrs Y an obligation to provide the company with an impossible proof. Therefore, the Mediator invited the insurance company to pay Mrs Y. The company complied with this recommendation.

## Annex 3

EEA countries		Banking	Payments	Insurance	Securities
AT	Austria	No	Yes, in FIN-NET	No	No
BE	Belgium	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
BG	Bulgaria	No	Yes	No	No
CY	Cyprus	No	No	No	No
CZ	Czech Republic	No	Yes, in FIN-NET	No	No
DE	Germany	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
DK	Denmark	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
EE	Estonia	Yes	Yes	Yes	Yes
EL	Greece	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
ES	Spain	Yes, in FIN-NET	Yes, in FIN-NET	Yes	Yes, in FIN-NET
FI	Finland	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
FR	France	Yes	Yes	Yes, in FIN-NET	Yes, in FIN-NET
HU	Hungary	Yes	Yes	Yes	Yes
IE	Ireland	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
IS	Iceland	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
IT	Italy	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
LI	Liechtenstein	Yes, in FIN-NET	Yes, in FIN-NET	No	No
LT	Lithuania	Yes, in FIN-NET	Yes, in FIN-NET	Yes	Yes, in FIN-NET
LU	Luxembourg	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
LV	Latvia	Yes	Yes	Yes	Yes
MT	Malta	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
NL	Netherlands	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
NO	Norway	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes
PL	Poland	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
PT	Portugal	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
RO	Romania	No	No	Yes	Yes
SE	Sweden	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET
SI	Slovenia	Yes	No	Yes	Yes
SK	Slovakia	Yes	Yes	Yes	Yes
UK	United Kingdom	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET	Yes, in FIN-NET

## **Provisions on creation of ADR schemes in the EU legislation**

**DIRECTIVE 2002/65/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC**

*Article 14*

### **Out-of-court redress**

1. Member States shall promote the setting up or development of adequate and effective out-of-court complaints and redress procedures for the settlement of consumer disputes concerning financial services provided at distance.
2. Member States shall, in particular, encourage the bodies responsible for out-of-court settlement of disputes to cooperate in the resolution of cross-border disputes concerning financial services provided at distance.

**DIRECTIVE 2002/92/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 December 2002 on insurance mediation**

*Article 11*

### **Out-of-court redress**

1. Member States shall encourage the setting-up of appropriate and effective complaints and redress procedures for the out-of-court settlement of disputes between insurance intermediaries and customers, using existing bodies where appropriate.
2. Member States shall encourage these bodies to cooperate in the resolution of cross-border disputes.

**DIRECTIVE 2004/39/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC**

*Article 53*

### **Extra-judicial mechanism for investors' complaints**

1. Member States shall encourage the setting-up of efficient and effective complaints and redress procedures for the out-of-court settlement of consumer disputes concerning the provision of investment and ancillary services provided by investment firms, using existing bodies where appropriate.
2. Member States shall ensure that those bodies are not prevented by legal or regulatory provisions from cooperating effectively in the resolution of cross-border disputes.

**DIRECTIVE 2007/64/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC Text with EEA relevance (to be implemented by November 2009)**

*Article 83*

**Out-of-court redress**

1. Member States shall ensure that adequate and effective out-of-court complaint and redress procedures for the settlement of disputes between payment service users and their payment service providers are put in place for disputes concerning rights and obligations arising under this Directive, using existing bodies where appropriate.
2. In the case of cross-border disputes, Member States shall make sure that those bodies cooperate actively in resolving them.

**DIRECTIVE 2008/48/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (to be implemented by May 2010)**

*Article 24*

**Out-of-court dispute resolution**

1. Member States shall ensure that adequate and effective out-of-court dispute resolution procedures for the settlement of consumer disputes concerning credit agreements are put in place, using existing bodies where appropriate.
2. Member States shall encourage those bodies to cooperate in order to also resolve cross-border disputes concerning credit agreements.

## **Provisions on information about ADR schemes in the EU legislation**

**DIRECTIVE 2002/65/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC**

### *Article 3*

#### **Information to the consumer prior to the conclusion of the distance contract**

1. In good time before the consumer is bound by any distance contract or offer, he shall be provided with the following information concerning:

[...]

(4) redress

(a) whether or not there is an out-of-court complaint and redress mechanism for the consumer that is party to the distance contract and, if so, the methods for having access to it;

**DIRECTIVE 2002/92/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 December 2002 on insurance mediation**

### *Article 12*

#### **Information provided by the insurance intermediary**

[...]

1. Prior to the conclusion of any initial insurance contract, and, if necessary, upon amendment or renewal thereof, an insurance intermediary shall provide the customer with at least the following information:

(e) the procedures referred to in Article 10 allowing customers and other interested parties to register complaints about insurance and reinsurance intermediaries and, if appropriate, about the out-of-court complaint and redress procedures referred to in Article 11.

**DIRECTIVE 2007/64/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC Text with EEA relevance (to be implemented by November 2009)**

*Article 42*

**Information and conditions**

Member States shall ensure that the following information and conditions are provided to the payment service user:

[...]

7. on redress:

(a) any contractual clause on the law applicable to the framework contract and/or the competent courts; and

(b) the out-of-court complaint and redress procedures available to the payment service user in accordance with Articles 80 to 83.

**DIRECTIVE 2008/48/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (to be implemented by May 2010)**

*Article 10*

**Information to be included in credit agreements**

2. The credit agreement shall specify in a clear and concise manner:

(t) whether or not there is an out-of-court complaint and redress mechanism for the consumer and, if so, the methods for having access to it;