



Parlamentul României

Senat

Bucharest, the 14th of March, 2016

Courtesy translation

OPINION

of the Romanian Senate on the GREEN PAPER on retail financial services. Better products, more choice and greater opportunities for consumers and businesses

COM (2015) 630 final

The Senate of Romania has examined the GREEN PAPER on retail financial services. Better products, more choice and greater opportunities for consumers and businesses - COM (2015) 630 final

Taking into account the report no.296/XLII/10.03.2016 of our permanent Committee on European Affairs, **the Plenum of the Senate**, decided, during its session on the 14-th of March 2016, as follows:

1. *For which financial products could improved cross-border supply increase competition on national markets in terms of better choice and price?*

Answer:

- The life insurance, those with savings component, health insurance, travel insurance mandatory insurance especially MTPL and CASCO.
 - The portability of accounts and overborder transferring services account
2. *What are the barriers which prevent firms from directly providing financial services cross-border and consumers from directly purchasing products cross-border?*

Answer:

So far, there have not been identified legislative barriers at European level in the prevention of the across border direct supply of goods, since through European passport – according to the freedom of movement or the freedom of establishment principles regulated by specific legislation, it exists a possible way of direct purchase of the insurance products across the national borders. However, the sale is influenced by the level of consumer confidence and we have signals indicating that for the cross-border sales could be influenced by the existence of a guarantee fund of policyholders . where it does not exist, the consumers are contrary influenced . On the other hand, the language, the lack of information/ access to information/ internet/ exchange rates,/ the costs necessary to the establishment, organization and functioning of branches may be considered administrative obstacles.

The consumers of financial services may be reluctant and because failure to understand certain products offered obstacle understood terminology can be different in each state.

3. *Can any of these barriers be overcome in the future by digitalisation and innovation in the FinTech sector?*

Answer:

Partially, the issues raised are related not only with the technology, but also with the correct information, transparency and legal elements guarantee. In order to ensure the homogeneity of the security, it would be necessary to take measures in order to ensure the uniform regulation of operational risk at European level in the field of digitization. A campaign at European level would be useful, given the reduced rate of population, in some areas, which is able to assimilate, manage and afford the benefits of digitization and financial innovation. If there are more choices and an increased competition in conjunction with the high standards of consumer protection, the consumers should be able to choose and decide, taking into account a wider range of insurance products and more, and not only. The digitization, the innovation in financial technologies are not sufficient to develop the Single Market and will not be able to reduce the gaps between countries as long as services are not standardized and compatible / interoperable at the European level.

4. *What can be done to ensure that digitalisation of financial services does not result in increased financial exclusion, in particular of those digitally illiterate?*

Answer:

In order to ensure that they are not excluded consumers, which do not use the digital solutions, in addition to digitization of financial services, should be maintained the existing variants or should be created new similar ones. The authorities should provide by compulsory regulation, on paper, all financial offers, all informations and all the ways purchase products and financial services in the classic version.

5. *What should be our approach if the opportunities presented by the growth and spread of digital technologies give rise to new consumer protection risks?*

Answer:

We do believe that this specific case of the online market, which is becoming increasingly extensive, calls for greater convergence of competition rules at international level, so that consumers could maximize their benefits from the growth of this important sector for economies worldwide. In addition, in this dynamic market environment, we must acknowledge that the application of competition rules operate in a difficult and ever-changing frame. Therefore, a prudent application of the competition rules is extremely necessary in order to ensure that the protection of competition does not turn into over-regulation of the online environment, thus discouraging investment and innovation. The existence of rules on electronic commerce and on operational risks are considering regulations of risk situations. These regulations should be extended in order to be consistent across Europe. A permanent monitoring is necessary in order to prevent risks to consumers, accompanied by the issuance of notifications and alerts.

6. *Do customers have access to safe, simple and understandable financial products throughout the European Union? If not, what could be done to allow this access?*

Answer:

Basically, the consumers have access to easy to understand products, but there are also such sophisticated financial products, requiring a high degree of financial literacy. For example, the area of life insurance, exclusions, use medical terms which are difficult to be understood. Regarding capital markets, European MiFID regulations emphasis on the protection of the interests of investors and on informing them in order to adopt the most appropriate level of knowledge and experience for their decisions. The new regulations required by Directive 2009/138 / EC on the taking up and pursuit of the business of Insurance and Reinsurance (Solvency II), Directive 2014/65 / EU Markets in Financial Instruments (MiFID 2) and Directive 2016/97 / EU insurance distribution, supplemented by the level 2 and 3 are designed to improve the insurance business and to facilitate the access of consumers at safe insurance products, simple and easy to understand.

7. *Is the quality of enforcement of EU retail financial services legislation across the EU a problem for consumer trust and market integration?*

Answer:

Although EU legislation tries to be as uniform possible and accessible to be applied throughout the European community, there are often differences that would create some uncertainties and obstacles for the implementation of EU legislation. Some level 3 measures are able to ensure a more consistent approach to enforcement and convergence. An example is the area of operational risks posed by digitization.

8. *Is there other evidence to be considered or are there other developments that need to be taken into account in relation to cross-border competition and choice in retail financial services?*

Answer:

For a cross-border trade insurance is important for the consumer to be provided with the finding of damage at a location close to his home and also, with an accessible procedure for petitioning. Both conditions are dedicated to maintain an uniform competition (same conditions for all participants) and to ensure an effective protection of policyholders.

9. *What would be the most appropriate channel to raise consumer awareness about the different retail financial services and insurance products available throughout the Union?*

Answer:

A detailed presentation of financial services through awareness campaigns for the retail financial services and insurance products in close cooperation with stakeholders, including companies and consumer associations would be appreciate. The appropriate information and publicity is also an effective method to promote the financial services among consumers. At the same time, the authorities should penalize the unfair distribution practices, including campaigns of misinformation or misrepresentation of information, even in media presentations. The financial exclusion can be avoided not only by using or having access to digital solutions.

The real constraints of citizens in financial services are related to costs, personal income, lack of financial culture (especially in rural areas), the diversity of terminologies used in the EU for the same product/ service, lack of payment terminals in rural areas, uncertainty on long term revenue, the exacerbation in mass media of isolated cases of fraud.

10. What more can be done to facilitate cross-border distribution of financial products through intermediaries?

Answer:

Enhancing the quality of financial services and providing increased benefits to consumers could facilitate the cross-border distribution.. Thus, the products of superior quality and calling competitive services of intermediaries can help a successful penetration of a foreign market.

The enrollment of all intermediaries in a transparent manner, in strict authorization requirements and supervision could help. Also, it can be had in view the outsourcing, by defining clearer framing coordinate with multiple accountability. An accurate and complete information of consumers about the financial services, the intermediation chain and the relevant risks to which they are exposed is necessary.

11. Is further action necessary to encourage comparability and / or facilitate switching to retail financial services from providers located either in the same or another Member State? If yes, what action and for which product segments?

Answer:

In the insurance field, for the sites comparing such financial products, is necessary to have supervision and rules according to the new legal provisions on insurance distribution, concerning the obligation to provide customers with accurate and detailed product information, pricing, reputation producers - insurers, etc. Directive 92/2014, from the perspective of transparency requirements in terms of financial cost of each service, will increase competition, having direct results in enhancing appetite of citizens for using the electronic payment instruments and not least for increasing the traceability of transactions, with beneficial effects on their fiscalisation.

12. What more can be done at EU level to tackle the problem of excessive fees charged for cross-border payments (e.g. credit transfers) involving different currencies in the EU?

Answer:

Are necessary detailed information and measures for transparency.

Cross-border payments will be made through two channels: payment systems and correspondent accounts. Both payment arrangements generate different costs, probably because payment volumes differ from one country to another, given the existence of similar infrastructure. In Romania, where payments are made in majority (95%) in cash, payment systems and equivalent arrangements involve higher costs. Countering could come through policy measures, financial intermediation population and, consequently, increasing the use of electronic payments.

13. *In addition to existing disclosure requirements, are there any further actions needed to ensure that consumers know what currency conversion fees they are being charged when they make cross-border transactions?*

Answer:

If it is about conversion charges, then they could be set at the time of initiating a transaction, regardless of when it will finalize it. If it is about the exchange rate used in currency conversion operations, the problem could be put in perspective of the party who will bear the foreign exchange risk. More, the payer must be notified of the transaction since the time of initiating the system and / or the chain of intermediary which contribute to achieving a transfer of funds.

14. *What can be done to limit unjustified discrimination on the grounds of residence in the retail financial sector including insurance?*

Answer:

Eliminating all unfair contract terms on geography or otherwise acting as barriers to cross-border provision of financial services could help. It is necessary to develop a specific regulation providing the sanctioning measures for states that do not comply.

Residence under Directive 92/2014 do not have to be an obstacle to any citizen of the Union.

15. *What can be done at EU level to facilitate the portability of retail financial products – for example, life insurance and private health insurance?*

Answer:

The measures that can be taken at EU level to facilitate portability products relates to the improvement of the legal framework of consumer choice could transfer the contract to another service provider in order to obtain better financial (or others) conditions. Is necessary to ensure the transparency regarding the options available to the European market.

16. *What can be done at the EU level to facilitate access for service providers to mandatory professional indemnity insurance and its cross-border recognition?*

Answer:

It is necessary to uniform the rules at EU level, thereby eliminating the national restrictions. That might hinder free market access. Measures that can be taken at EU level in order to facilitate the access for the service providers to compulsory professional indemnity and its recognition across borders (could be as the Convention Green Card),- a harmonization of national laws on insurance of civil liability, as arised from motor vehicles.

17. *Is further EU-level action needed to improve the transparency and comparability of financial products (particularly by means of digital solutions) to strengthen consumer trust?*

Answer:

The digitization facilitates the consumer access to a wider range of information and services in a relative short time, can perform a comparative analysis of financial products and services. We do believe that are required other measures in order to increase transparency, such as the development of information campaigns and financial education and methods of presentation of the essential conditions in a mild form and complete and also creating websites specialized corporate through which consumers You can find the best offer, given the fact that digitization has pluses and minuses. (The pluses are the short time spent for purchasing a product, offer range of products; minuses are related to the financial education potential client, choosing a product without a professional advice in connection with an insurance product suited its risk profile, lack of information detailed information on manufacturers, in terms of trade, particularly exceptions, the terms of termination of the contract, submitting a petition assistance during the production of an insured risk, etc.)

It is important the existence of a credible national authorities, to keep informed the citizens by accessible means, on products, services, costs, intermediaries and institutions able to mediate any conflicts.

18. *Should any measures be taken to increase consumer awareness of FIN-NET and its effectiveness in the context of the Alternative Dispute Resolution Directive's implementation?*

Answer:

Yes. A European-wide campaign to raise awareness of this type of mechanism is beneficial. Or having a specialized structure – as, an Authority for Financial Survey, for example, That will promote alternative services for the dispute resolution through its own organizational structure.

19. *Do consumers have adequate access to financial compensation in the case of misselling of retail financial products and insurance? If not, what could be done to ensure this is the case?*

Answer:

A more careful monitoring of the regulatory changes, including the related fields of insurance (eg winding damage). We believe that stricter regulations on the sale of inappropriate financial products would be more beneficial to the consumer.

20. *Is action needed to ensure that victims of car accidents are covered by guarantee funds from other Member States in case the insurance company becomes insolvent?*

Answer:

We believe that an uniform approach at European level regarding the guarantee of compensation in case of bankruptcy of an insurance company is absolutely necessary and will provide security and enhanced consumer protection. We do not consider that a voluntary participation in such a guarantee scheme is effective, because it is not fair and does not provide uniform protection for victims of road accidents in other Member States if their insurer becomes

insolvent. From the experience that the insurance sector in Romania has revealed, the existence of a guarantee fund (being a statutory obligation to set up) allowed an adequate protection of all policyholders and beneficiaries.

21. *What further measures could be taken to enhance transparency about ancillary insurance products and to ensure that consumers can make well-informed decisions to purchase these products? With respect to the car rental sector, are specific measures needed with regard to add-on products?*

Answer:

A mortgage immediate action is needed on how to take the insurance. In the automotive sector it has been identified an unified reference system on auto repair costs and modality, with professional independence of damage liquidators. In any case, whatever the product, there must be a pre-contractual information, in order to enable the consumer to take an informed decision. In order to increase transparency, the three authorities EBA, ESMA and EIOPA are preparing at the 3 legislative level, common guidelines on cross-selling activity.

22. *What can be done at the EU level to support firms in creating and providing innovative digital financial services across Europe, with appropriate levels of security and consumer protection?*

Answer:

Probably, the best solution is the development of an unified legal framework, to ensure an uniform application of the levels of security and consumer protection. It is necessary to define these "appropriate levels" of security and consumer protection. It is convenient to support the companies that have the object of technological innovation, using fiscal stimulants.

23. *Is further action needed to improve the application of EU-level AML legislation, particularly to ensure that service providers can identify customers at a distance, whilst maintaining the standards of the current framework?*

Answer:

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24. *Is further action necessary to promote the uptake and use of e-ID and e-signatures in retail financial services, including as regards security standards?*

Answer:

Yes, regulations, modeled on Regulation no. 6/2015 of ASF related to operational risks generated by IT systems.

25. *In your opinion, what kind of data is necessary for credit-worthiness assessments?*

Answer:

The main criterion by which customers' credit ratings are carried refers to ability to pay their financial situation.

26. *Does the increased use of personal financial and non-financial data by firms (including traditionally non-financial firms) require further action to facilitate provision of services or ensure consumer protection?*

Answer:

We believe that further measures are necessary on consumer protection regarding the use of financial and non-financial personal data, by companies, especially by non-financial corporations. In most cases, the personal data are transmitted without the consent of consumers.

Are necessary harsh penalties for people who distribute personal information without permission from the rightful owner.

27. *Should requirements about the form, content or accessibility of insurance claims histories be strengthened (for instance in relation to period covered or content) to ensure that firms are able to provide services cross-border?*

Answer:

Yes, especially in the area of finding and liquidation damages.

28. *Is further action required to support firms in providing post-contractual services in another Member State without a subsidiary or branch office?*

Answer:

Yes.

29. *Is further action necessary to encourage lenders to provide mortgage or loans crossborder?*

Answer:

Yes, concerning the use of simple, concise, non-technical language.

30. *Is action necessary at EU level to make practical assistance available from Member State governments or national competent authorities (e.g. through 'one-stop-shops') in order to facilitate cross-border sales of financial services, particularly for innovative firms or products?*

Answer:

It has to exist a National Payments Council, modeled on the majority of EU countries (only Romania and Sweden had no such body).

31. *What steps would be most helpful to make it easy for businesses to take advantage of the freedom of establishment or the freedom of provision of services for innovative products (such as streamlined cooperation between home and host supervisors)?*

Answer:

3 Level legislation for thr insurance products, with guidelines issued by EIOPA.

32. *For which retail financial services products might standardisation or opt-in regimes be most effective in overcoming differences in the legislation of Member States?*

Answer:

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33. *Is further action necessary at EU level in relation to the 'location of risk' principle in insurance legislation and to clarify rules on 'general good' in the insurance sector?*

Answer:

The Rome I Regulation establishes clear rules concerning risks, or rather the law which is applicable to insurance contracts. Regarding the "general interest" it is necessary a revision of the current framework.

p. President of the Senate

Ioan CHELARU

