KEYNOTE SPEECH – Olivier Guersent

4th Joint ESAs Consumer Protection Day – 16th September 2016

Making financial services deliver for consumers

Thank you Gabriel [Bernardino] for the [kind] introduction. It is always good to be back in Paris and it is an honor to speak at the Joint ESAs Consumer Protection Day. This is an important event that brings together consumer representatives, academics, regulators, supervisors, experts from EU institutions and members of the financial services industry to discuss the issues that impacts consumers/investors. It is important that the European Supervisory Authorities fully engage with all participants in the financial services market place across Europe so that we can better understand the unique features of its consumers/investors and the real world consequences of what we do. This type of dialogue can only make the European Supervisory Authorities more effective in their roles and better able to protect consumers/investors.

In my career I have had plenty of firsthand experience in promoting positive outcomes for consumers. I have spent half of my career working with competition policy, and whether through competition policy or financial regulation I firmly believe that our actions should be aimed at achieving the good outcomes we want for consumers. This not only brings consumers the widest possible range of informed choice of goods and services at the lowest possible prices, but it promotes efficiency and stability and helps to create positive outcomes for financial institutions as well.

Today I will first focus on what has been delivered and achieved but where we still need to do more. I will then tackle new challenges, including our approach to the use of Big Data in FinTech, and last finish off with some thoughts on the important topic of ensuring that our rules are applied in a way that leads to coherent outcomes.

The rules we have all contributed to putting in place the last years are intended to improve consumer outcomes. For example, by building trust and helping consumer to make informed choices through increased transparency requirements before the sale of certain financial produces such as: payment accounts, mortgages, consumer credit, investment products and insurance, and by promoting choice by improving cross-border access to basic financial services.

The ESAs have played a key role, and will continue to do so, in supporting the implementation of new requirements relating to, for example, payment accounts, mortgages, consumer credit. We are both impressed and grateful for the top-quality technical advice we have received.

In the field of **retail financial products**, the EBA has developed a number of guidelines to protect consumers better. I would like to, in particular, mention the

EBA guidelines issued in the area of **mortgages** - on creditworthiness and on arrears and foreclosure. It is a very good example of a document that offers a clear benefit to consumers and constitutes a perfect supplement the Level 1 text.

Insurance is a market characterised by complex products, where a number of information problems and consumer biases may be at play, limiting the choice between insurance contracts and the benefits of competition for consumers. Of particular concern are the transparency and the comparability of insurance products, as well as their limited cross-border uptake.

I therefore would like to highlight EIOPA's ongoing consultation on technical advice and implementing legislation in relation to the Insurance Distribution Directive. This important Directive should significantly enhance the information requirements regarding insurance products across the different distribution channels for the protection of insurance policyholders.

Pensions is another field where we have updated previous rules. The new rules relating to the activities and supervision of institutions for occupational retirement provision – IORP2 should make it easier for pension funds to invest in long-term assets, strengthening the role they can play in the Capital Markets Union. Importantly it will improve the way pension funds are governed, provide consumer with choice by making it easier for pension funds to conduct cross-border business, and create trust by improving information flows to pension scheme members and beneficiaries.

In the area of **investment services**, MiFID II has profoundly upgraded the rules aimed at protecting investors in the context of the provision of investment services. It addresses all aspects of the relationship between the investment firm and investors and across the full range of services from execution-only services to investment advice and discretionary portfolio management. ESMA has been an admirable partner in all the work on the delegated acts.

Our past joint efforts are paying off! Last week [September 5] the Commission published its **2016 Consumer Markets Scoreboard** which monitors EU consumers' ratings of how goods and services markets work. This year's ratings show that consumer-friendly rules, market reforms, as well as effective enforcement of consumer rules have made consumers more confident in the markets. And the financial services market place is showing the biggest progress: consumers have more trust in their banks, private pensions and investment funds than before.

This is an important development and we should be proud of our work and efforts. Today offers a good opportunity to publicly also thank all three ESAs for the work you have done.

However, let me be clear that we cannot see our work as finished. The financial services market still remains in the lowest performing market cluster in the scoreboard rating. There is significant scope for improvement.

We must deliver more and better for consumers. **Switching provider** remains difficult in particular in the mortgages market and in the market for investment products, private pensions and securities. There seems to be unmet demand for more choice to be made available among service providers. The detriment experienced by consumers when problems occur in insurance is very high. There is a high incidence of consumer vulnerability in the financial services sector where the complexity of offers and contract terms is a challenge for many. Results from the scoreboard also show a lack of compliance by business. All of this therefore underscores the importance that the EU retail financial services legislation is **effectively enforced**.

And here the ESAs as well as Member States have an important role to play going forward. Not only as they do in protecting the interests of consumers in supervisory and regulatory work, but also as our partner in ensuring that our legislation is properly implemented and well applied. Enforcement and awareness-raising efforts are areas where the ESAs are particularly well placed to increase efforts.

The findings in the scoreboard underline the importance of continuing putting consumers/investors at the fore front of our work, and are fully in line with our strategic choice to put consumer/investor choice and protection at the heart of retail financial services and in our work on a single market for capital.

In the context of the Capital Markets Union I would like to press the message that we are working at full speed to ensure that the **Regulation on Packaged Retail and Insurance-based Investment Products (PRIIPS**) and the provisions relating to the Key Information Document will be in place before the end of this year. Such an important piece of legislation to ensure comparability of investment products for retail investors! And the ESAs have done a fantastic job assisting us with the complicated technical standards. I now call on the co-legislators to work constructively to make us deliver the final text quickly.

Several other important **CMU** work strands also aim at providing better opportunities for retail investors and consumers and to increase their confidence to participate in capital markets.

For example, we are currently undertaking a comprehensive **assessment of retail investment markets** to understand the distribution systems of retail investment products including how fees and charges on these products impacts investor participation. The goal is to see how we can increase retail investor engagement and protection. Without retail investors, the reservoir of funds to fuel corporate debt and equity will not develop sufficiently. We intend to formulate policy remedies by 2018.

We are also working on **opening up the European market for retail financial services.** In this context, we will present an **action plan** on retail financial services and open up the European market for retail financial services to deliver better results for consumers/investors and companies – which will also to strengthen retail investor participation in capital markets. Despite an increasingly digital and more transparent environment, consumers still cannot access the best offers available.

Further initiatives we are reflecting on include increasing transparency (*e.g.,* fees charged for cross-border transactions), stimulating competition and raising awareness on cross-border offers (*e.g.,* through comparison websites) and improving cooperation to provide consumers with easy access to out-of-court complaint procedures in cross-border cases within the context of FIN-NET.

In certain segments, the **creation of pan-European** products might contribute to build up a more integrated market. For example, **pensions**. Clearly these are areas where I see ample scope for ESA involvement going forward; interacting with national consumer protection agencies and stakeholder groups.

One of the important issues being addressed at today's event is **Big Data** in the financial sector. Big Data can be defined as "high volume, high velocity and/or high variety information assets." Veracity is now being added by some organizations to emphasize the importance of data integrity/quality and the ability to trust the data while taking critical business definitions. Big Data is not a new concept in FinTech. The growth in data or data explosion is a function of multiple technological advancements. Adoption of cloud, mobile technologies, apps, wearable devices, intelligent networks, and internet penetration are some of the major factors for growth in overall data.

The technology innovation sector and the financial services sector are among our most valuable assets. Both are key priorities to enable Europe to support growth and competitiveness. It is clear that these sectors are more and more interdependent as the financial services sector increasingly depends on technologies and innovation for banking, corporate finance, capital markets, financial data analytics, payments and personal financial management.

And in the world of information technology, data is becoming the new oil. We see several sectors where new solutions leveraging Big Data is used to reshape markets, for example: lending and credit scoring, insurance underwriting, customer acquisition, marketing, customer retention and loyalty programs, risk management and investment management.

Clearly there are benefits of financial institutions using the data available to them more intelligently. Using data available to banks to identify and interrogate cyber-threats and to share this information with other financial institutions and authorities, to raise standards and sector resilience create significant positive outcomes to society as a whole (financial crime or security perspective)

There may be consumer benefits too in the field of innovation, if Big Data supports developments in FinTech and in terms of financial institutions intelligently tailoring financial products to consumers' needs. There are some studies showing that Big (and granular) Data on individuals' behavior can lead to financial services becoming more inclusive: better data can allow banks to extend credit to groups with atypical credit histories.

There are, however, risks that Big Data strategies harm consumers because information is misused by the financial sector, or lead to the lack of access of certain products or to exclusion.

The traditional view of a regulator's role in innovation is basically to stay out of the way and don't try to pick winners. We certainly don't try to pick winner but I see we have a role here in empowering consumers to make good choices and encouraging innovation to create value in financial services.

That is why I think the regulatory sandboxes are so interesting. Creating a space for experimentation and discussion between regulators and industry to learn more, test innovation and observe outcomes, examine products and how they interact with existing regulation or explore how new regulation may develop. The UK FCA's approach to highlight the consumer by enforcing consumer protection rules within the sandbox is applaudable. I think a lot can be learned from this approach.

We will focus on a number of priorities including regulatory and supervisory innovation; outsourcing and cloud frameworks; distributed ledger technology; data-related policies; cybersecurity and operational risk. A better understanding of the risks and potential with these topics will help us determine the shape and direction of financial services policy. But treading the line between keeping customers safe and encouraging financial innovation is going to be a battle.

Here the ESAs have an important role – especially within the Joint Committee - looking into new trends, innovations, use of Big Data in FinTech and other developments in the retail financial services markets.

But as we make ourselves ready to think about new challenges we cannot lose sight of ensuring that new and pending legislation is properly implemented and applied.

Having Level 1 rules that protect consumers/investors is good. Having them applied – and **applied consistently and in a harmonized way across the 28 Member** States – is even better.

Enhanced supervisory convergence is one of the ingredients to strengthen investors' trust in the capital markets and is a key part of the **Capital Markets Union** work. In the *Commission Communication on CMU-Accelerating Reform* which was adopted two days ago we therefore stress the importance of effective and consistent supervision.

Supervisory convergence is all the more needed as we can see the increase in marketing and distribution of certain investment products by investment firms across borders. This is good news from a single market perspective. Yet, sometimes the products are highly risky, they are marketed aggressively online, and the rules protecting investors (for example, the principle that information addressed to clients should be fair, clear and not misleading) are inadequately applied, if at all.

This creates challenges for proper supervision and this is taking significant proportions as complaints accumulate from EU consumers who have lost significant amounts of money after investing in exotic products like: binary options, contracts for difference (CFDs) or rolling spot forex contracts.

In that context, I welcome ESMA's initiatives in this field including its recent warning [of July 2016] on some of these exotic products (CFDs, binary options). We fully support the efforts of ESMA to promote further convergence among NCAs with regard to the supervision of online business models of investment firms which operate on a cross-border basis.

As with many other issues, an active cooperation among home and host NCAs is essential, and I know that ESMA has achieved several concrete results in this area. For example in relation to the Cyprus task force.

MiFID and PRIIPS are coming on stream to give consumers more protection. Clearly challenges ahead include ensuring that the NCAs and the ESAs are using their product intervention powers wisely and in a way that ensures a consistent outcome. I encourage a lively debate today on how to achieve better and consistent outcomes.

To conclude: there is still a lot that we need to deliver if we want to keep financial services companies focused on consumers, creating growth and jobs. I hope that the ESAs will prioritize wisely and take their consumer protection mandate seriously. As I said in the beginning, this will not only bring consumers the widest possible range of choice of goods and services at the lowest possible prices, but it also promotes efficiency and stability and helps to create positive outcomes for financial institutions as well. If we maintain this in our focus we make the best progress. Thank you.