



EUROPEAN COMMISSION

Internal Market and Services DG

FINANCIAL SERVICES POLICY AND FINANCIAL MARKETS
Financial markets infrastructure

Brussels, 23 May 2008
PP D(2008)

LEGAL CERTAINTY GROUP

Agenda

Centre Borschette, room 0/B, Rue Froissart 36, 1000 Brussels

28 May 2008: 10 a.m. – 6 p.m.

29 May 2008: 10 a.m. – 5 p.m.

- (1) Welcome (10 min)
- (2) Adoption of the Agenda (10 min)
- (3) Consideration of Recommendations 1-15

Discussion concentrates on the text of the Recommendation itself and some fundamental issues described in the explanations. Fundamental comments received from Members that need further discussion are listed below. Steps to take during the discussion for each Recommendation:

- Agreement on text of recommendation itself, in particular
- Important issues contained in the explanatory text, in particular
- Completeness of the recommendation?

Recommendation 1

- Are all recommendations valid for all asset classes? (O. Christmann, J. Than, L. Ziehms)
- Relationship of future legislation to regulatory powers (Klaus Löber)

Recommendation 2

- Regulated account provider (F. Drummond, A. Maffei, H. d.Vauplane, S. Cochard; F. de Tomasi, O. Christmann, J. Than, L. Ziehms)

Recommendation 3

- Presentation of differing views on the underlying concept of book-entry securities (Dario Loiacono)

Recommendation 4

- Creation of a security interest by way of credit (F. Drummond, A. Maffei, H. de Vauplane, S. Cochard)
- Should control agreement and the agreement with and in favour of an account provider stay included (F. de Tomasi)
- Are conditional bookings a subject to be mentioned under Recommendation 4 (not only Recommendation 5) - (O. Christmann, J. Than, L. Ziehms)

Recommendation 5

- Consequences of invalidity (O. Christmann, J. Than, L. Ziehms)
- "Middle way" regarding consequences of invalidity and reversal (Klaus Löber)
- Terminology: providing collateral / providing security? (O. Christmann, J. Than, L. Ziehms)
- Is a clarification regarding contractual banker's lien needed under 4.5? (O. Christmann, J. Than, L. Ziehms)
- Dis-application of national voidance rules (O. Christmann, J. Than, L. Ziehms)

Recommendation 6

- Disagreement with the new structure (O. Christmann, J. Than, L. Ziehms)
- Should control agreements be protected as is earmarking? (Philippe Dupont, O. Christmann, J. Than, L. Ziehms)
- Agreement with and in favour of intermediary should equally be protected (O. Christmann, J. Than, L. Ziehms)

Recommendation 7

...

Recommendation 8

- More substance regarding "time gap" (Philippe Dupont)
- Details regarding loss sharing mechanism to be agreed upon (F. Drummond, A. Maffei, H. de Vauplane, S. Cochard)

Recommendation 9

- Full discussion of 9.1 and 9.2

Recommendation 10

...

Recommendation 11

...

Recommendation 12

- Introduction: Check of terminology, in particular "corporate action processing" (Agata Waclavik-Wejman)

Recommendation 13

- Full discussion of 13.1, 13.2 and 13.3
- Inclusion on a rule on obligations performed by corporate actions processing service providers (F. Drummond, A. Maffei, H. de Vauplane, S. Cochard)

Recommendation 14

...

Recommendation 15

- 15.2 third hyphen: and or exclusively settled in the local SSS. (O. Christmann, J. Than, L. Ziehms)

Recommendation 16

- Is this a mere problem in the field of immobilisation and dematerialisation? (Karin Wallin Norman)

(4) Future work (10 min)

(5) Any other business (10 min)

List of Documents as of 26 May 2008

Document Number	Date of issue	Title	Remarks
LCG-1	11.08.2006	Legal Certainty Group Advice 2006	
LCG-2	22.08.2007	Subject 1: Introduction/Methodology	
LCG-3	22.08.2007	Subject 1: Monitoring Unidroit	
LCG-4	22.08.2007	Subject 1: Principles for new legislation	Extract from 2006 Advice
LCG-5	22.08.2007	Subject 1: Scope	
LCG-6	02.05.2007	Subject 1: Scope (v.2)	(replaces LCG-5)
LCG-7	02.05.2007	Subject 1: Monitoring Unidroit (v.2)	(replaces LCG-3)
LCG-8	02.05.2007	Subject 2: Methodology	
LCG-9	02.05.2007	Subject 2: Investor-issuer relationship	
LCG-10	26.04.2007	Minutes of the 6 th meeting	
LCG-11	08.06.2007	Minutes of the 7 th meeting	
LCG-12	03.09.2007	Subject 2: Advice 2007, working draft	(replaces LCG-4)
LCG-13	04.09.2007	Subject 1: Advice 2007, working draft	(replaces LCG-4)
LCG-14	13.11.2007	Minutes of the 8 th meeting	
LCG-15	13.11.2007	Subject 1: extract from report: validity	(updated version)
LCG-16	13.11.2007	Subject 3: working draft Advice	
LCG-17	17.01.2008	Minutes of the 9 th meeting	
LCG-18	20.12.2007	2008 Report, 1 st preliminary draft	
LCG-19	26.03.2008	Minutes of the 10 th meeting	To be published shortly
LCG-20	26.03.2008	2008 Report, 2 nd preliminary draft	
LCG-21	Upcoming	Minutes	
LCG-22	13.04.2008	2008 Report, 3 rd preliminary draft	
LCG-23	21.05.2008	2008 Report, 4 th preliminary draft	

Contact: Philipp Paech, Telephone:(32-2) 2962612; philipp.paech@ec.europa.eu