

**EALIC**  
European Association  
of Listed Companies AISBL-IVZW



esf

FBE



# Harmonisation of Corporate Actions Processing in Europe

Barrier 3  
Giovannini Report

# Agenda

1. Report and Update on Associations' Work on:
  - Distributions (e.g. cash dividend, rights distribution)
  - Reorganisations
  - General Meeting related processes Transaction Management
2. Enhanced Cooperation
3. Implementation of Standards
4. Legal & Fiscal Barriers

# 1. UPDATE ON ASSOCIATIONS' WORK (1)

## A. Distributions

- Deliverables relating to the standards and recommendations on cash and stock mandatory distributions from ECSAs and ECSDA are now public and final – in implementation phase
- Distributions with options: ECSDA standards now completed. To be published in Q4.

# 1. UPDATE ON ASSOCIATIONS' WORK (2)

## **B. Reorganisations**

- ECSAs: new set of Recommendations on Events including reorganisations in finalisation stage
- ESF: proposed default rules standards consulted with associations involved in removing barrier 3
- ECSDA: Discussions underway. Considerable fragmentation discovered across Europe and some potential significant legal barriers (e.g. harmonisation of finality of acceptance on an event)

# 1. UPDATE ON ASSOCIATIONS' WORK (3)

## C. General Meetings

- All associations working together on one set of common recommendations in order to streamline and harmonise general meetings related processes with the objective to enhance shareholders' participation in general meetings in a cross-border environment. This work is carried out in association with FESE.
- Methodology agreed and 3 Processes selected:
  - Process 1: Notice to convene the general meeting
  - Process 2: Entitlement /shareholder qualification/record date
  - Process 3: Notification of attendance to the general meeting
- Status:
  - Draft standards in discussion stage for the first 2 processes
  - Work continuing on third process
  - Final approved standards can be expected 1H2007
  - Interdependency with Shareholders Voting Rights *proposed* Directive

# 1. UPDATE ON ASSOCIATIONS' WORK (4)

## D. Transaction Management

- ECSDA: Market Claims report and standards published in July 2006
  - the report identifies: 10 standards; benefits associated with the standards; barriers to implementation (inc. legal); and a proposed timeline
  - 12 countries have completed their gap analysis so far
- ESF:
  - Proposed buyer protection rules and key dates related to corporate actions processes consulted with barrier 3 associations
  - Rules with regard to voluntary corporate actions on repo transactions in discussion with European Repo Council

## 2. ENHANCED COOPERATION

- EALIC, ECSDA, ECSA and ESF have reconfirmed their process for removing barrier 3 and their close cooperation. In addition they have:
  - invited Commission Representatives to the meetings of the Corporate Actions Coordination Team; and
  - produced 45 deliverables for the recommendations/standards already published on mandatory distributions and a common implementation monitoring roadmap.
  - progress will be reported on the CESAME website (a copy was distributed with the CESAME papers)
  
- See Annex 1
  
- Legal and fiscal barriers have been identified. More will be identified during implementation phase – see Annex 2.

## 3. IMPLEMENTATION OF STANDARDS (1)

### The main focus today!

Implementation is occurring:

- Most markets have set up a national implementation structure in the form of a “Market Implementation Group – MIG” under the responsibility of a national coordinator.
- MIGs are using the same documentation in all cases
- These MIGs include all stakeholders in order to ensure consistency in the implementation of the standards.
- National implementation plans are being set up.
- An example of a national implementation plan can be found in the documents distributed before the meeting.

## **3. IMPLEMENTATION OF STANDARDS (2)**

### **Example of National Implementation Structure - UK**

Membership of UKMIG will consist of expert representatives from firms and organisations in the financial sector and jointly chaired by the BBA and CRESTCo.

The Department of Trade and Industry, the Financial Services Authority and the Bank of England have each been invited to nominate a representative in an observer capacity.

## Conclusion

- Implementation is making good progress.
- Associations involved have agreed on a number of key standards for key processes and a set of 45 common deliverables.  
The goal is to attain the same objective with separate sets of standards as if there was only one single set.
- Strong interdependence with legal and fiscal constraints, with the removal of other barriers, with company law and corporate governance, with market evolutions, with the Directive on Shareholders' Voting Rights, with the market infrastructure projects.

# CESAME

## Supporting documents:

1. Deliverables table for distribution events
2. Examples of market implementation group
3. Legal & fiscal barriers from joint spreadsheet
4. Abstract of proposals to harmonise and standardise key corporate actions processes

## Annex 1 (1)

Division of labour between the Associations ensures that different classes of corporate actions are addressed by different initiatives

- ECAs and ECSDA: Mainstream recommendations/standards directed to their own constituencies, i.e. respectively banks and CSD participants.

Standards are published separately but totally consistent and mutually endorsed.

Implementation is common through the common deliverables document and Market Implementation Groups.

- ESF: Focuses on key processes, voluntary corporate actions or with options, default rules, buyer protection. It brings a new angle: front office perspective.
- EALIC: Focuses on processes related to general meetings and makes sure issuers are involved in and support the standards agreed.

## Annex 1 (2)

With this division of labour, Associations need to make sure that:

- No 2 Associations are addressing the same set of events in an uncoordinated manner.
- Standards/recommendations produced by one particular association are fully endorsed by all others (issuers included)
- All possible obstacles are spelled out, even if they fall on another type of institution than the one addressed by the standard (e.g. paying agents)

There is some degree of overlapping, yes, but in a way this is deliberate to make sure issuers, exchanges, CSDs, banks, etc. consider the standards under different perspectives.

## Annex 2 (1)

- Whilst defining the standards, ECSDA and ECSAs have identified some national regulatory, legal or fiscal barriers to the harmonisation of Corporate Actions processing.

These barriers have been transmitted to the Legal Certainty Group at the time.

- In its advice published on 28 July 2006, the Legal Certainty Group states that its central focus is a description of principles for new legislation about the legal effects of book entries and that “the group is waiting for specific legal issues to be exposed by the trade groups investigating the commercial aspects of differences in national legal provisions affecting corporate actions processing and for the final shape of the Commission’s proposal for a Directive on Shareholders’ voting rights to be known”.
- Using a bottom-up approach and in the expectation that further barriers to harmonisation will be uncovered by Market Implementation Groups as they implement the standards, the Associations will feed on a continuous basis the Legal Certainty Group and Fisco with information about the barriers.

## Annex 2 (2)

- Associations responsible for driving the removal of Barrier 3 can identify barriers and set up a procedure to escalate them to the Legal Certainty Group and the Commission

→ from an operational point of view

- We believe the legal and fiscal experts sitting on the advisory groups are also qualified to identify such barriers

→ from a legal and fiscal point of view

It is a two-way street.

Legal and fiscal experts should analyse the standards and see if there are any legal/fiscal barriers.

- In any case, whether the identified barriers are purely national or common across the EU, the responsibility to remove them lies entirely with the Authorities at European and/or national level.