

Zurich, July 7, 2006

ISO 6166 Background

Dear TC68/SC4 members,

Following the decision of ISO to ask ISO TC68/SC4 to review the services of the ISO 6166 Registration Authority (RA) and their recommendation to start the revision of ISO 6166, the SC4 Secretariat will now proceed with a call for experts to build a dedicated working group.

Many of the amendment proposals submitted by the members in connection with the systematic review deal with the charging mechanisms in place at the RA level. After consultation with the ISO Central Secretariat, it was decided that the future working group shall handle all change proposals as well as the service proposed by the Registration Authority and work out a new committee draft for ISO 6166 and/or come up with appropriate recommendations. A decision with regard to the services of the RA at the SC4 level will then be based on the results of the work of the working group. The SC4 decisions shall be reflected in the future RA agreement which is mandatory.

The following overview should ease the understanding of the situation and the forthcoming discussions:

Background

1. ISO 6166 concept

- The ISIN structure is an envelope solution embedding a basic number between a country code (using ISO 3166) and a check digit. At the beginning of the ISIN era, the basic numbers were the local, proprietary numbers (also called National Security Identification Numbers – NSIN) in use in many securities markets. The NSINs were issued by corporate or governmental entities in their capacity as National Numbering Agency (NNA). ISO 6166 recommended both to use the national numbers as the basic number of the ISIN and to assign the ISIN responsibility to the existing National Numbering Agencies in countries where such an agency exists.
- The Association of National Numbering Agencies (ANNA) was created in 1992 by the members of the "ISIN Experts" group which resulted from the former ISOTC68/WG1, the elaborators of ISO 6166. Following the resolution 146 taken on November 26, 1993 by the plenary meeting of ISOTC68/SC4, ISO confirmed the approval of ANNA by the ISO Council (resolution 4/1994) as the Registration Authority (RA) of ISO 6166 in a letter dated February 10, 1994.
- It has to be noted that when the ISO Council had designated ANNA as the Registration Authority for ISO 6166, no mention was made of any existing or planned charging mechanism for the RA services. According to the ISO rules, charging fees were (and still are) not allowed unless duly authorized by the ISO council, and in any way not more than on a cost recovery basis.
- The activities of ANNA have been decisive for the break-through of the standard and its adoption by users on a worldwide scale. The fact that some countries under the leadership of their NNAs decided to adopt the ISIN as the sole numbering system for financial instruments for cross-border transactions reflects the increasing confidence in the ISIN over the years. France and Germany for instance started large projects at the beginning of the millennium to substitute the ISIN to their national numbers. However, other countries keep using their national number parallel to the ISINs (for instance UK, USA, Japan and Switzerland).

2. The issue

- Some numbering agencies claim that ISINs are also protected by IPR laws since they transport their proprietary numbers. Acting on behalf of the American Banking Association as well as countries like Canada, Venezuela and the Cayman Islands, the CUSIP Service Bureau (CSB) started a few years ago to ask users outside of its local market to sign licensing contracts and pay volume-based yearly fees for the right to use so-called "CSB ISINs".
- An ISO letter dated March 23, 2004 was addressed to the ANNA board to confirm that over the previous three months, the organization had received "several complaints" from European banks concerning the CUSIP Service Bureau's licensing fees. ANNA was requested to

"...submit a report on the functioning, the operating procedures and the charging fees/licensing fees of each of the Numbering Agencies in charge of registering ISINs on behalf of ANNA".

ISO warned that if ANNA did not respond by June 30, 2004, ISO could revoke the ISO 6166 registration authority function given to ANNA in 1994. A letter of the ANNA chairman stating:

"We need to know whether complaints are related to ISIN allocation directly or if they are related to the regulations of the standard"

was answered by ISO on April 5, 2004:

"We would like to make it clear that not only the allocation but also the conditions linked to the availability of the ISIN codes to a user belong to Registration Authority function, such a function being assigned, supervised or where appropriate cancelled by the ISO Council".

- The ANNA board collected information about the billing practices of its members and reported more details to ISO on May 28, 2005 and January 7, 2005. The last report distinguished between allocation fees (which differ from one country to another) and licensing fees.

In a letter dated March 18, 2005, ISO asked the registration authority to

"...more clearly define the services it provides in its capacity as ISO 6166 Registration Authority.

The RA should, in particular, define which data elements are essential to implement the standard ISO 6166. The provision of such data should represent the basic and essential information service provided by the ISO 6166 RA to the user community worldwide. Should ANNA or its members charge fees as compensation for this basic service, such fees should be on a cost-recovery basis".

Furthermore, ISO submitted a draft agreement to the ANNA board with the *"view to formalizing the rules and procedures relating to the ISO 6166 RA"*. To date, this agreement did not get the appropriate signatures in order to become effective.

- ANNA is not in a position to sign the agreement proposed to ISO because its Articles of Incorporation are in contradiction with the ISO directives. The "at-no-cost" or "cost-recovery-if-authorized-by-ISO" rule (ISO directives, annex H) cannot be followed by ANNA against the will of individual members since the Articles of Incorporation forbid any interference in the business of its members. Moreover, existing contracts between the NNAs and ANNA recognize the ownership of the ISINs by the NNAs. A resolution taken at a general meeting in June 2004, according to which a large majority expressed their opposition to ISIN licensing, was contested by legal advisers. Such legal advisers pointed out that, on one hand, it was not in the power of ANNA to adopt such a resolution but that, on the other hand, ANNA was *"clearly in breach with the ISO directives"*.

Being committed to two contradictory regulations, the ISO directives on one side and its own Articles of Incorporation on the other side, ANNA used its best efforts to come up with a solution which could satisfy both ISO and its members. The solution was a so-called look-up service which was proposed to ISO in early February 2006.

In the meantime, communities of users warned ISO that the look-up service proposed by ANNA would not be appropriate in a banking environment, that it would be restrictive with regard to the use and that it did not offer any guarantee that the licensing practice would stop.

- In a letter dated April 13, 2006, ISO informed ANNA that the services of the RA shall be reviewed by the SC4 members and that a revision of ISO 6166 is desirable. This letter was distributed to the SC4 members on April 18, 2006 together with
 - the ANNA proposal document dated 2006-02-27 and
 - the Registration Authority Agreement drafted by ISO
- In the light of the systematic review process started in last October, many countries expressed the wish to solve the IPR issue by rewording the standard.

3. General observations

While ANNA played a decisive role in the adoption of ISO 6166 by the securities markets across the globe, the issue concerning the services and the functioning of the RA bears considerable risks. Many communities of users deem it appropriate to re-open ISO 6166 and take the opportunity to involve all market-players in the research for an appropriate solution.

For instance, the Federation Financière de Belgique (Febelfin) wrote:

"We urge ISO to discuss such proposal with the ISIN user community before any decision is made".

Febelfin is the Belgian Finance Federation comprising, among others, BEAMA (Belgian Asset Managers Association), BBA (Belgian Bankers' Association) and BASEM (Belgian Association of Stock Exchange Members).

The unsolved aspects in the present system are multiple:

- Different pricing and selling conditions of the numbering agencies, while ISO requests uniformity of conditions.
- A RA agreement is to be signed by the RA on behalf of its members, while the RA does not have the power to discipline its members in this matter.
- There is a need of defining which data elements belong to the ISINs when distributed to the users and therefore to the RA service. The data elements requested for identification of the instrument and allocation of the ISIN (to be provided by the entity requesting the allocation of an ISIN) are specified in the Annex C of ISO 6166.
- The Articles of Incorporation of ANNA do not mention ISO nor any relationship with the parent organisation nor the RA function. The same applies to all of its documentation, although the ISO directives specify:

"Registration authorities should be required to indicate clearly in their operations that they have been designated by ISO or IEC (for example, by including appropriate wording in the letterhead of the designated body)".

Obviously the "very object" of the association and the framework in which it shall operate is missing in the perception of the association.

- ANNA has also been nominated by SC4 as the RA of ISO 10962 (CFI). This needs to be taken into account when dealing with the RA services and the future RA agreement.
- Besides, the US-ISINs licensing fees apply to approx. 40 countries, among others Canada, the Cayman Islands, the Virgin Islands, the Bermudas, the Bahamas, Venezuela, the Netherlands Antilles, Guatemala, Paraguay, Honduras, the Dominican Republic, Ecuador, Uruguay, Colombia, Guyana. Some of these countries are not ANNA members, i.e. not under the authority of ANNA. Although the present version of ISO 6166 specifies

"In order to ensure that information is readily available worldwide, the agencies as mentioned shall exchange information among themselves concerning ISINs,"

some of these agencies (for instance the Cayman Islands Stock Exchange) refuse in general requests from the NNAs and ask European customers to address their requests to them directly against payment of an allocation fee.

- The US national standards committee (X9) made a few proposals with regard to the ISIN allocation rules of specific categories of financial instruments. In addition, it is recommended to deal as well with the allocation rules to be applied in the future to the new category "structured products" proposed in the new Committee Draft of ISO 10962 (revised version).

4. User organizations complaining to ISO/ANNA:

- Bundesverband Investment und Asset Management – BVI – (74 individual institutions)
- Abbey National PLC (U. K.)
- Bondtrac Inc. (USA)
- Swiss Information Providers User Group (22 of the largest Swiss financial institutions)
- Swiss Committee for Financial Standardization
- Swiss Banking Association
- Commerzbank Frankfurt
- DekaBank Frankfurt
- Belgian Finance Federation (including the Belgian Asset Managers Association, the Belgian Bankers' Association and the Belgian Association of Stock Exchange Members)
- European Fund and Asset Management Association (FEFSI)
- Investment Management Association, U. K. (IMA)
- Vereinigung Österreichischer Investmentgesellschaften (VÖIG), representing 23 Austrian investment companies.
- Association Française de la Gestion Financière (FAG), representing 1455 investment companies and mutual funds.
- Norwegian Mutual Funds Association, representing 20 investment companies

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