

European Co-chairs Inventory Status 28 September 2004

Recommendation	Initial Goals	Status Quo
1. Eliminate paper and automate communication, data capture, and enrichment.	<ul style="list-style-type: none"> ▪ publish steps necessary to eliminate the use of paper ▪ regulations/ laws that require for physical paper 	<ul style="list-style-type: none"> ▪ Relevant national jurisdiction does not yet provide for final dematerialisation in certain markets e.g. UK, Germany whilst others have dematerialised securities e.g. France, Scandinavia, Spain ▪ Process (tax, custody) still dependence strongly on paper
2. Harmonize messaging standards and communication protocols.	<ul style="list-style-type: none"> ▪ ISO 15022 implementation 	<ul style="list-style-type: none"> ▪ All major infrastructure providers, FIX etc have implemented ISO 15022 (XML) for trade processing ▪ Harmonisation of data content open to verify
3. Develop and implement reference data standards.	<ul style="list-style-type: none"> ▪ detailed objectives and ToR for formulation of reference data standards. 	<ul style="list-style-type: none"> ▪ Establishment of Reference Data User Groups (RDUG) and Reference Data Coalition (REDAC): FISD discussion paper released in 2003: "In Search of Unique Instrument Identifier". In November 2003, Concept for a Securities Master Database from Financial Instruments Data Model (FIDM)
4. Synchronize timing between different clearing and settlement systems and associated payment and foreign-exchange systems.	<ul style="list-style-type: none"> ▪ Address interdependencies and synchronize timing 	<ul style="list-style-type: none"> ▪ ESCDA Report on Giovannini Barrier 7: ECSDA created standards that member CSDs will be committed to achieving. E.g. all CSD members of ECSDA will (by Dec 2004) be open for Euro settlement on all TARGET days and be open for settlement in a currency on all relevant currency opening days etc. ▪ Harmonisation of timing of processes still pending
5. Automate and standardize institutional trade matching.	<ul style="list-style-type: none"> ▪ Publish working paper on globally applicable standards for trade matching 	<ul style="list-style-type: none"> ▪ Draft ESCB-CESR Standard Nr. 3 (not implemented into national law, yet) on Trade Confirmation and Settlement Matching calls for trade matching on T+0 (except for Free of Payment Transactions -> STP project at CBF to introduce mandatory matching for FoP)
6. Expand the use of central counterparties.	<ul style="list-style-type: none"> ▪ Publish paper setting out the risks, costs, and benefits of using a CCP in each market without a CCP. 	<ul style="list-style-type: none"> ▪ Draft for CPSS-IOSCO recommendations on CCPs provide ex-post requirements on efficiency (cost-effective in meeting the requirements of users) but not ex-ante. Each will monitor. ▪ Most European cash equity markets established CCPs (Nordic countries and Spain to follow soon)
7. Permit securities lending and borrowing to expedite settlement.	<ul style="list-style-type: none"> ▪ Identify all regulations, laws, or market practices that serve as impediments to securities lending. 	<ul style="list-style-type: none"> ▪ Securities Lending Report from CPSS-IOSCO (1999) reports that legal and tax changes to allow securities lending took place in most member states by late nineties already ▪ Collateral Directive should be implemented in most members states by 2004 (providing clarity on applicable law etc)

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<p>8. Automate and standardize asset servicing processes, including corporate actions, tax relief arrangements, and restrictions on foreign ownership.</p>	<ul style="list-style-type: none"> ▪ automatic transmission of corporate action information in ISO 15022 format ▪ harmonization of national tax documentation 	<ul style="list-style-type: none"> ▪ Corporate Actions Task Force of FBE will draft recommendations to remove Giovannini Barrier 3 (based on matrix showing differences in member states). Release envisaged for Sept. ▪ Differences re withholding tax set aside at this stage by EBF
<p>9. Ensure the financial integrity of providers of clearing and settlement services.</p>	<ul style="list-style-type: none"> ▪ Each provider to publish outline of business model, risk framework, and underlying risk management processes and standards. 	<ul style="list-style-type: none"> ▪ No standardised form of publication available in Europe except CPSS-IOSCO Disclosure framework and ECB assessment for SSS ▪ Singular event: Euroclear provided description of future business model for market consultation (not for the purpose described by G30)
<p>10. Reinforce the risk management practices of users of clearing and settlement service providers.</p>	<ul style="list-style-type: none"> ▪ All organizations to establish appropriate due diligence and risk management controls. 	<ul style="list-style-type: none"> ▪ No standardised form available
<p>11. Ensure final, simultaneous transfer and availability of assets.</p>	<ul style="list-style-type: none"> ▪ Each provider to publish report covering moment of finality 	<ul style="list-style-type: none"> ▪ ESCDA Report on Giovannini Barrier 4: Intra-Day Finality. By April 2005, all member CSDs should provide at least one settlement cycle per hour etc. ▪ Directive on Settlement Finality mostly implemented into national law
<p>12. Ensure effective business continuity and disaster recovery planning.</p>	<ul style="list-style-type: none"> ▪ Each provider to publish outline of business continuity plan 	<ul style="list-style-type: none"> ▪ ESCB-CESR standard 11 (operational reliability) partly exceeds requirements of US White Paper (e.g. second processing site requirement was tailored to core c&s organisations). ▪ Release of Report of the Task Force on Major Operational Disruption in the Financial System in December 2003 for the UK ▪ Further work on national level e.g. restricted paper from ZKA-Bundesbank-CBF on Crisis Management RTGS-Plus /Target 2003 ▪ Business and Contingency Plan published from Monte Titoli updated March 2004

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<p>13. Address the possibility of failure of a systemically important institution.</p>	<ul style="list-style-type: none"> ▪ Identify systemically important institutions and evaluate how the risk of their extended failure could be mitigated. 	<ul style="list-style-type: none"> ▪ Issue likely to be sufficiently addressed on national level (Confidential work on national level in cooperation with NCBs) ▪ ESCB-CESR draft standards Nr. 3 defines custodians having clearing and settlement activities comparable to those of national CSDs in terms of volume and value as significant custodian (Final judgement in national discretion) and provides measures to prevent failure (but does not provide ex-post rules).
<p>14. Strengthen assessment of the enforceability of contracts.</p>	<ul style="list-style-type: none"> ▪ Establish appropriate legal due diligence and risk management controls. 	<ul style="list-style-type: none"> ▪ Release of Report of the Task Force on Major Operational Disruption in the Financial System in December 2003 for the UK (e. g Recommendation 2: Market participants and their trade associations should work to ensure that private contracts are reviewed to take account of major operational disruption.) ▪ Hague Convention ▪ „Three-Points-Declaration“ from Clearstream
<p>15. Advance legal certainty over rights to securities, cash, or collateral.</p>	<ul style="list-style-type: none"> ▪ Complete agreement on PRIMA in the Hague Convention and embody in national laws. ▪ Providers to specify moment of finality in rules and contracts. 	<ul style="list-style-type: none"> ▪ Commission proposed that the European Community should sign the Hague Convention in Dec 2003, ratification could be completed in 2004 or early 2005. ▪ Directive on Settlement Finality mostly implemented into national law (and finality mostly explicitly specified in provider's customer handbooks) ▪ Directive on financial collateral arrangements partly implemented into national law ▪ Report published in June 2003 on project on Harmonisation of Rights Evidenced by Book-Entries by the European Financial Market Lawyers Group (EFMLG)
<p>16. Recognize and support improved valuation and closeout netting arrangements.</p>	<ul style="list-style-type: none"> ▪ Standard master agreements should embody consistent closeout netting and valuation provisions. 	<ul style="list-style-type: none"> ▪ Directive on financial collateral arrangements partly implemented into national law (France, Germany but not Italy, Spain, NL) and has stipulated recognition of close-out netting (e.g. Financial Security Act of 2003 in France) -> FBE Euro Master Agreement. CliffordChance found several Accession States are currently engaged in the process of updating their national legislation re effectiveness of contractual close-out netting arrangements.

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<p>17. Ensure appointment of appropriately experienced and senior board members.</p>	<ul style="list-style-type: none"> ▪ Develop guidelines by which to evaluate experience and seniority of board members. 	<ul style="list-style-type: none"> ▪ No specific guidelines available in respect to clearing & settlement providers but corporate governance codes for publicly traded companies
<p>18. Promote fair access to securities clearing and settlement networks.</p>	<ul style="list-style-type: none"> ▪ Providers to publish report on access rules 	<ul style="list-style-type: none"> ▪ Article 34 (FIMD) to be implemented into national law in April 2006 provides non-discriminatory remote access rights for investment firms to c&s providers ▪ Overview of EU25 clearing and settlement systems commissioned by DG Competition identifies access rules & regulations ▪ Commission's communication from April 2004 (likely to lead to directive) will further increase access rights for c&s providers
<p>19. Ensure equitable and effective attention to stakeholder interests.</p>	<ul style="list-style-type: none"> ▪ Mechanism to ensure fair user representation for providers 	<ul style="list-style-type: none"> ▪ Commission's communication from April 2004 (likely to lead to directive) sets out governance requirements for providers (e.g. independent members of audit committee to identify and manage potential conflicts of interests between owners and users)
<p>20. Encourage consistent regulation and oversight of securities clearing and settlement service providers.</p>	<ul style="list-style-type: none"> ▪ Clarify regulatory and oversight responsibilities for each provider. ▪ Establish supervisory principles 	<ul style="list-style-type: none"> ▪ No specific regulatory regime in place comparably to banking regulation for banks etc. Discussion started to develop regulatory principles on national level (e.g. Germany). ▪ Commission's communication from April 2004 (likely to lead to directive) will establish framework for draft ESCB-CESR standards

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