

CESAME Group

Operational Conclusions (following the meeting held on 12 June 2006)

1. AIM

These updated Operational Conclusions shall set out a roadmap for the agreed work to be undertaken in view of the next meeting of the CESAME group on 23 October 2006 and beyond.

2. TABLE

The Operational Conclusions are presented in the form of a summary table indicating for each barrier

- a) the necessary **action**,
- b) **entities** responsible for that action; and
- c) **time target**

for removing the barriers to an integrated EU clearing and settlement environment. The structure of the table follows the 15 so-called Giovannini barriers. At the end of the table, various supplementary issues are listed.

3. INDICATORS OF SUCCESS

Whenever an issue is fully settled, i.e. a barrier is entirely dismantled or a given task carried out *in toto*, the pertaining text in the respective columns and rows **is highlighted**.

- So far, only barrier 8 (issuance of ISINs) has been fully dismantled.
- On barrier 14 (legal treatment of netting), the Financial Collateral Directive has now been implemented.
- The implementation of the solution regarding intermediaries for barrier 2 (restrictions on location to C&S systems), i.e. Article 34 of the MiFID is still pending (the initial implementation date of 30 April 2006 has been changed to 31 January 2007 and the application date to 1 November 2007).
- Following discussions in the relevant EFC-Sub-Committee, barrier 10 has been identified as a part of barrier 2.

CESAME group: Operational Conclusions – following the meeting on 12 June 2006

	Necessary Action	Responsible	Time Target*	
Giov. Barrier 1	Diversity of IT platforms/interfaces: National differences in the information technology and interfaces used by clearing and settlement providers should be eliminated via an EU-wide protocol.	Protocol should be defined by SWIFT and, once defined, should be immediately adopted by the Eurosystem in respect of its operations.	within 2 years [October 2006*]	
	a) consultation paper – draft initial common protocol	SWIFT	January 2005	
	b) analysis of comments, refining the initial protocol model	SWIFT + user group ("independent advisory group")	September 2005	
	C E S A M E	c) presentation of initial protocol model for a 2 nd round consultation, establishment of a “converter”	SWIFT	25 October 2005 [but not for "converter"]
		d) gap analysis to identify and insert missing functionalities	SWIFT	Ongoing
		e) publication of the final standard protocol	SWIFT (+compliance statement from major players)	March 2006
	f) implementation of the standard protocol – defining an implementation monitoring methodology - developing an implementation roadmap	all (European) industry participants, e.g. banks, (I)CSDs, CCPs, central banks, intermediaries etc.; probably with monitoring by ISSA; possibly embedded into G30 recommendation implementation monitoring process	to be coordinated starting 3/06 – 3/08 by all EU market infrastructures; 3-/06 – 3/2011 for all cross-border participants	
	g) high level cost benefit analysis	SWIFT together with infrastructures	3 rd quarter of 2006	
		<u>possible follow-up:</u> Commission and ECB to consult on ways to accelerate adoption and use of the global protocol within the industry	<i>N.B. The ISO 20022 Registration Authority (RA) is the guardian of the UNIFI Financial Repository. The RA's mission is to ensure compliance of developed Repository items with the approved technical specifications and to publish the Financial Repository on www.iso20022.org, on behalf of ISO. Registration Requests to update the Financial Repository are sent to the RA. The RA services are provided by SWIFT sc.</i>	
	Link to SWIFT: http://www.swift.com/index.cfm?item_id=43429 Link to ISO financial standard: http://www.iso20022.org Link to FIX protocol: http://www.fixprotocol.org			

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006

	Necessary Action	Responsible	Time Target*
Giov. Barrier 2	Restriction on location of C&S: National restrictions on the location of clearing and settlement should be removed, as an essential precondition for a market-led integration of the EU clearing and settlement environment.	<i>National governments should adopt the relevant elements on the location of clearing and settlement in the new Investment Services Directive [now MiFID] as proposed by the Commission. National Governments should then co-ordinate to remove restrictions on location of securities.</i>	within 3 years [October 2007*]
<i>public Sector</i>	<i>Background: barrier 2 is referring to connections between exchanges and settlement systems, thus being rather a market structure or business issue. [more info see Synthesis Report of 24.10.2005]</i>		MiFID adopted; initial implementation date 30/4/2006 has been prolonged to 31/1/2007 (application 1 November 2007)
	<i>MiFID covers certain aspects of access of investment firms to other Member States' CSDs. Art. 34 and 46 grant certain rights, namely a) the right of market participants to access remotely a foreign CCP and/or CSD; b) the right of market participants to choose the settlement location for their trades (but not the CCP one) provided links are in place between the regulated market and the entity in question, and c) the right of regulated markets to choose a particular CCP and/or CSD to clear and settle their transactions. However, MiFID does not cover the relations between the Clearing and Settlement infrastructures; therefore these rules may not be sufficient to eliminate fully this barrier. However, they represent an important step forward.</i>	Possible Industry Code of Conduct might facilitate the issue. <i>Commission would wish the Code to address the effective extension of MiFID principles to additional relations in the clearing and settlement sector, addressing mainly the relationships between infrastructures. Although the Code is a private sector action, Commission is supportive to this effort to tackle a part of barrier 2 and will scrutinize its consistency with Internal Market rules.</i>	<i>Industry Code of Conduct to be signed by end October 2007; details (on access and interoperability) to be agreed by mid 2007, implementation lateron.</i>
	N.B. This barrier is linked to barrier 9 and 10.		

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

13.10.2006

CESAME group: Operational Conclusions – following the meeting on 12 June 2006

	Necessary Action	Responsible	Time Target*
Giov. Barrier 3	Different rules governing corporate actions: National rules relating to corporate actions, beneficial ownership and custody should be harmonised.	Local agent banks, via ECSA, and CSDs, via ECSDA should co-ordinate private-sector proposals. <i>National governments should coordinate their response via the relevant EU Council.</i>	within 2 years and 3 months from the start of project [January 2007*]
	<p>N.B. a) Available general information: EBF-FBE/ESBG/EACB (= ECSAs European Credit Sector Associations): overview (11/4/05); ECSDA WG5; ESF publications; ESBG info;</p> <p>b) Standards are addressed to associations' members – they cannot be enforced</p> <p>c) Work overlaps with the work of the Legal Certainty Group, FISCO group and the work of COM on company law, i.e. full implementation of standards depends on removal of all other barriers,</p> <p>d) Associations involved agreed to follow at the same time a top down (i.e. general recommendations/standards to tackle the barriers)/bottom up (i.e. implementation checked in each country with feedback on specific legal/fiscal barriers) approach;</p> <p>e) Associations work on different areas of barrier 3 but consult closely and are in agreement on finalised standards</p>		
C			
E			
S			
A			
M	A. Distributions (mandatory and optional – according to ISO terminology)		
E	On nos. 1.-4.: implementation plan for ALL distributions (identification of market deliverables)	Market implementation groups	Groups established or to be established, plan to be finalised by end 2006
	1. ECSDA Standards for mandatory distributions (30/6/05) a) gap analysis	ECSDA	1. standards finalised; a) completed;
	2. ECSAs Recommendations for Cash Dividends (3/05) a) Gap analysis b) implementation structure identified;	ECSAs	2. recommendation finalised a) completed, not public b) identified, update June 2006
	3. ECSAs Recommendations on Interest Payments and Maturity Redemption (6/05) a) Gap analysis b) implementation structure	ECSAs	3. recommendations finalised a) completed, not public b) identified, update June 2006
	4. ECSAs Recommendations on Events incl. Securities Distributions (4/06)	ECSAs	4. recommendations finalised,

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

13.10.2006

CESAME group: Operational Conclusions – following the meeting on 12 June 2006

	Necessary Action	Responsible	Time Target*
Giov. Barrier 3	a) Gap analysis b) implementation structure		a) started, to be finished early Dec. 2006 b) identified
	5. ECSDA Standards for Optional Distributions	ECSDA	Started
C	<u>B. Reorganisations</u> (mandatory, optional and voluntary – according to ISO terminology)		
E	6. ECSAs Recommendations on Reorganisation Events	ECSAs	Draft, final end 2006
S	7. ECSDA standards on reorganisations	ECSDA	Started
A	8. ESF Proposals (to Harmonise and Standardise Default Rules Related to Mandatory and Voluntary corporate actions events, see point 3.3).	ESF (for proposal document see point 10.); the core standards proposed in the abstract have been agreed and integrated by the other associations into their work	Proposed standards consulted with other associations
M	<u>C. Shareholders' rights</u> (this item is linked to COM proposal on Shareholders' Rights Directive, see point 18.)		
E	9. Analysis on Admissions to the General Meeting and Shareholders' Identification incl. Recommendations on Proxy Issues a) Process 1: Notice to convene the general meeting b) Process 2: Entitlement/shareholder qualification/record date c) Process 3: Notification of attendance to the general meeting	Joint working group chaired by EALIC with ECSAs, ECSDA, FESE, and ESF	9. final standards planned for 1H2007 a) draft b) draft c) work under way
	<u>D. Transaction management</u> (corporate actions related more to trading than to issuers)		
	10. ESF Proposals (to harmonise and standardise buyer protection rules – see point 3.4. - and key corporate actions processes – see point 3.2.)	ESF <u>abstract</u> (15/2/06, updated version 8/06); the core standards proposed in the abstract have been agreed and integrated by the other associations into their work	Proposed standards consulted with other associations
	11. ECSDA <u>Standards for market claims</u> (6/06) a) implementation timeline proposal (p. 4-5)	ECSDA	11. standards finalised; a) published (within the standards document, p. 4-5)
	12. ECSDA report on automatic transformations and buyer protection	ECSDA (linked to work on reorganisations)	Started 2006
	<u>E. Ensuring consistency and implementation of all standards</u>		

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006			
	Necessary Action	Responsible	Time Target*
Giov. Barrier 3	13.ECSDA Gap Analysis (on level of adherence to proposed standards)	ECSDA	Completed; published
	14.ECSAs Gap-analysis for each market acc. to a standardised matrix and compliance table (allows periodical progress monitoring and potential corrective action)	ECSAs	October 2005 first time, than every six months thereafter
	15.Common Summary Gap Analysis and Joint Monitoring "Dashboard" a) progress report	ECSDA, ECSAs	15. Final, not public a) 7/2006, not public
C	16.Joint Spreadsheet of Standards (overview on all the associations' standards – to ensure consistency)	ECSDA, ESF, EALIC, ECSAs	finished + ongoing updates; not public
E	17. Set of Common deliverables and list of legal issues encountered	All Associations	
S			
A	18. <u>Consultation</u> & <u>COM Directive proposal on Shareholder Rights</u>	COM	Beginning 2006
M	<i>The Legal Certainty Group (LCG) has been mandated to assess the legal barriers to corporate actions processing which cannot be resolved by the private sector. In its <u>initial advice</u>, the LCG has advised the Commission to refrain from legislative proposals in this particular area until the proposed directive on Shareholder Rights (see. No. 18.) will be adopted (estimated for first quarter 2007). LCG has also advised that specific legal issues should first be discussed by the CESAME group.</i>		
E			

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006			
	Necessary Action	Responsible	Time Target*
Giov. Barrier 4	Absence of intra-day settlement finality: Intra-day settlement finality in all links between settlement systems within the EU should be guaranteed.	ECSDA should co-ordinate necessary measures. These measures should be drawn up in close consultation with ESCB-CESR.	within 2 years and 3 months [January 2007*]
	a) ECSDA recommendations on specific standards (4/2004)	ECSDA	April 2004
C	b) 1 st annual status report (29/4/05)	ECSDA	April 2005
	c) market consultation/establishment of market liaison groups (to look at potential consequences of harmonisation of rules)	ECSDA members	End 2004
E	d) implementation of the recommended standards, <i>i.e.</i> ECSDA members to adapt their systems in parallel to comply with the standards	CSDs	mid 2008*
	e) report on missing parts and gap analysis	ECSDA	CESAME 24/10/05
A	f) further updated status report (6/06)	ECSDA	June 2006
	g) establishment of implementation monitoring systems: <ul style="list-style-type: none"> development of a set of criteria and information to monitor and assess the development of the implementation process if significant delays of implementation are still reported, then appropriate measures may be envisaged gap analysis to include all new ECSDA members 	ECSDA peer pressure or supervisory means or eventually Commission intervention	Continuously carried out, but results reported publicly on an annual basis – last report published June 2006
M	N.B. the 10 ECSDA standards concern <i>e.g.</i> the range of eligible instruments, opening days and hours, processing periods		
E	N.B. this barrier is linked to barrier 7		
	* this time target applies to the ECSDA members previous to the merger with CEECSDA (i.e. without CSDs in the 10 new Member States)		

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006			
	Necessary Action	Responsible	Time Target*
Giov. Barrier 5	Impediments to remote access: Practical impediments to remote access to national clearing and settlement systems should be removed in order to ensure a level playing field.	<i>National governments should draw up a set of conditions upon which remote access can be guaranteed across the EU. These conditions should be drawn up in conformity with the requirements of ESCB/CESR.</i>	within 3 years [October 2007*]
<i>public Sector</i>	<i>Article 34 MiFID addresses the issue for investment firms; TARGET 2 will provide solutions (access to central bank money) within the Euro-area. Remaining problems for participants outside the Euro-area.</i>	Discussion within CESAME group	24 October 2005
N.B. MiFID covers certain aspects of access of investment firms to other Member States' CSDs (see barrier 2 for more details)			

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006

	Necessary Action	Responsible	Time Target*
Giov. Barrier 6	Differences in standard settlement periods: Settlement periods for all systems within the EU should be harmonised.	More study required on the costs of harmonisation versus the alternative of managing additional costs of this barrier.	within 2 years and 3 months [January 2007*]
	There are issues raised by the existence of different settlement periods in the EU and it is questioned whether it is advisable to push for a generalised alignment on a same settlement period or a reduction of settlement periods. Major banks can already do settlement in T+0, but non-harmonised settlement cycles create difficulties from the point of view of both the front- and back-offices. As to the trading activity, arbitrage between similar products in different countries is more difficult (e.g., back to back transactions are not always possible). Moreover, one of the consequences of different settlement periods is that operational risks are introduced because the standard settlement period is transferred into a non-standard one. This issue may also need to be considered in the context of Basel II rules. In such cases manual intervention is required which always presents risks. This increases complexity and the incidence of un-matched trades, which can cause dysfunctions in the liquidity function of the banks. Borrowing programs may prove to be a solution in tackling the T+2 - T+3 differences. Collateral management could be a problem.	<p>CESAME group discussed the issue (on 25 October 2004, 2nd meeting) and revert to it in due course</p> <p><i>Barrier 6</i> is not a barrier that the group will actively pursue but it will assess its effects in the light of developments occurring in other areas in due course.</p> <p>The group agreed that this barrier should not be tackled, at least for the time being. However the issue should further be discussed and developments monitored (without actively seeking reform within given timeframes) since a future important increase of cross-system trades resulting from the integration of markets and the lifting of the other barriers might raise the importance of settlement periods. In other words, the momentum for the removal of that barrier could build up as the work on the removal of the other barriers progresses.</p>	<p>Beginning 2007</p> <p>- discussion currently on hold in CESAME group</p> <p>- to be reconsidered after barrier 3 is dismantled</p>
C E S A M E	N.B. This barrier may affect the solutions to tackle barrier 3.		

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006

	Necessary Action	Responsible	Time Target*
Giov. Barrier 7 C E S A M E	<u>Different operating hours/settlement deadlines:</u> Operating hours and settlement deadlines should be harmonised.	ECSDA should take the lead in this initiative, in close cooperation with ESCB-CESR.	within 2 years [October 2006*]
	a) ECSDA recommendations on specific standards (4/2004)	ECSDA	April 2004
	b) progress reports	ECSDA	At CESAME meetings
	c) 1st annual status report (29/4/05)	ECSDA	April 2005
	d) market consultation/establishment of liaison groups (to look at potential consequences of harmonisation of rules)	ECSDA members	
	e) further updated status report (6/06)	ECSDA	June 2006
	f) implementation of the recommended standards (<i>i.e.</i> to ECSDA members adapt their systems in parallel to comply with the standards)	national CSDs	mid 2008*
	g) establishment of implementation monitoring systems: <ul style="list-style-type: none"> development of a set of criteria and information to monitor and assess the development of the implementation process if significant delays of implementation are still reported, then appropriate measures may be envisaged gap analysis to include all new ECSDA members 	ECSDA peer pressure or supervisory means or eventually Commission intervention	Continuously carried out, but results reported publicly on an annual basis ò last report published June 2006
	h) Joint work on specific issues involving intermediaries relating to 2 of the 10 agreed standards (<i>i.e.</i> standard 5/closing time and standard 9/real-time settlement)	ECSDA, EPDA, ICMA	Mid 2007
<u>N.B.</u> the 10 ECSDA standards concern <i>e.g.</i> the range of eligible instruments, opening days and hours, processing periods			
<u>N.B.</u> This barrier is linked to barrier 4.			
* this time target applies to the ECSDA members previous to the merger with CEECSDA (i.e. without CSDs in the 10 new Member States)			

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (*i.e.* October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006			
	Necessary Action	Responsible	Time Target*
Giov. Barrier 8 C E S A M E	Differences in securities issuances: National differences in securities issuance practice should be eliminated.	IPMA and ANNA should draw up proposals to this end.	within 2 years and 3 months
	All ANNA members in the EU are now issuing, on request, ISIN numbers on the same day.	Barrier 8 no longer considered an obstacle.	barrier dismantled
	For monitoring		
	Problem with charging of fees for use of U.S. ISINs	a) CESAME group members and guests (ICMA) to provide written information and documents b) CESAME group to continue monitoring events and progress on the issue.	a) until 21.2.2006 b) 2006 and beyond
N.B. While barrier 8 is not perceived as a barrier any more, problems were identified with the U.S. numbering agency (S&P) charging fees for the use of U.S. ISINs. This is seen as being counter productive to the aim of global use of ISINs. CESAME members and guests (ICMA) are requested to provide – preferably written - information to the meeting.			

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006			
	Necessary Action	Responsible	Time Target*
Giov. Barrier 9 <i>public Sector</i>	Restrictions on location of securities: National restrictions on the location of securities should be removed, as an essential precondition for a market-led integration of the EU clearing and settlement environment.	<i>National governments should adopt the relevant elements on the location of clearing and settlement in the new Investment Services Directive [now MiFID] as proposed by the Commission. National Governments should then co-ordinate to remove restrictions on location of securities.</i>	within 3 years [October 2007*]
	► restrictions based on market rules		
	► restrictions based on national law (for domestic securities in the respective country; regulation for foreign securities to enter a country are not within the scope of the exercise of the Legal Certainty Group)	<i>The Legal Certainty Group (LCG) has been asked to address the issue. The LCG stated in its initial advice that restrictions do indeed exist and that new legislation would be needed to overcome them. It was however acknowledged that the matter requires further study as it involves Member States company law. N.B. Apparently, 16 out of 25 Member States apply restrictive regimes, subject to various differentiations (e.g. equity/debt, materialised/dematerialised.)</i>	<i>LCG initial advice: July 2006 Further advice in 2007</i>
N.B. This barrier is linked to barrier 2.			

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006

	Necessary Action	Responsible	Time Target*
Giov. Barrier 10	Primary dealer restrictions: Restrictions on the activity of primary dealers and market makers should be removed.	<i>National governments should co-ordinate their actions via the relevant EU Council.</i>	within 3 years [October 2007*]
	Letter to the national debt offices recalling context for barrier 10 and asking for a response on the existence and explanation of any restrictions linked specifically to primary dealer's settlement activities.	<i>Letter to the chairman of the EFC Sub-Committee on EU Government Bonds and Bills Markets signed by CESAME group Chairman and COM member of the EFC Sub-Committee of national debt managers</i>	Letter sent on 11 April 2005 Report on 24 Oct.05
public Sector	1. issuers/national governments asked to report and auto-assess to which extend restrictions (still) exist and have an impact on primary dealers	<i>Member States / <u>Economic and Financial Committee (EFC) Sub-Committee of national debt managers</u> - sub-committee met on 4 October 2005 - aim is to finalise the report for the next sub-committee meeting in second quarter of 2006</i>	50% issuers replies (<i>< 50% of issuance volumes</i>), few large issuers outstanding
	2. MS report to be reviewed by a) <u>EPDA</u> (European Primary Dealers Association), b) <u>ICMA</u> (International Capital Market Association - a merger of the International Securities Market Association (ISMA) and the International Primary Market Association (IPMA) in July 2005) and c) <u>AMTE</u> (Association Marchés Taux Euro)	<i>a) EPDA b) ICMA c) AMTE</i>	
	3. joint review of the two positions in the CESAME group	<i>COM to co-ordinate overall response (both public and private sectors) through CESAME group</i>	EPDA preliminary report at CESAME of 20 Feb.2006
<p>N.B. letter requests information in four areas: 1. a review of the relevant primary dealership arrangements, 2. the existence of any restriction, 3. the reasons for the restrictions, and 4. implications for primary dealers and national governments as issuers if restrictions were to be removed.</p> <p>N.B. Sub-Committee agreed not to divulge individual responses until all replies are received; replies vary across issuers: problem does not seem to be very wide-spread; some issuers do not impose any restrictions, other have issued recommendations which they argue should not be classified as restrictions and only a few have so far indicated restrictions – these being justified mainly by public good considerations.</p> <p>N.B. Sub-Committee delivered its <u>report</u> (CESAME meeting of 12 June 2006)</p>			

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006			
	Necessary Action	Responsible	Time Target*
Giov. Barrier 11	<u>Restrictions on withholding agents:</u> All financial intermediaries established within the EU should be allowed to offer withholding agent services in all of the Member States so as to ensure a level playing field between local and foreign intermediaries.	<i>National governments should co-ordinate their actions via the relevant EU Council.</i>	within 2 years and 3 months [January 2007*]
<i>public Sector</i>	a) establish FISCO group	<i>Commission</i>	Done since 2005
	b) overview on present situation in Member States (First FISCO Report)	<i>FISCO group</i>	April 2006
	c) presentation of alternative, more efficient procedures	<i>FISCO group</i>	<i>end 2006</i>
	d) discussion in Commission Working Group No. 4 – Direct Taxation with the Member States	<i>Commission and national Governments</i>	<i>Ongoing information, final report by beginning of 2007</i>
	e) implementation of adopted solutions	<i>national Governments</i>	<i>starting mid 2007</i>

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006			
	Necessary Action	Responsible	Time Target*
Giov. Barrier 12	<u>Restrictions on tax collection:</u> Any provisions requiring that taxes on securities transactions be collected via local systems should be removed to ensure a level playing field between domestic and foreign investors.	<i>National governments should co-ordinate their actions via the relevant EU Council.</i>	within 2 years and 3 months [January 2007*]
<i>public Sector</i>	a) establish FISCO (Fiscal Compliance Experts') group	<i>European Commission</i>	Done since 2005
	b) overview on present situation in Member States (First FISCO Report)	<i>FISCO group</i>	April 2006
	c) presentation of alternative, more efficient procedures	<i>FISCO group</i>	<i>end 2006</i>
	f) discussion in Commission Working Group No. 4 – Direct Taxation with the Member States	<i>Commission and national Governments</i>	<i>Ongoing information, final report by beginning of 2007</i>
	d) implementation of adopted solutions	<i>national Governments</i>	<i>starting mid 2007</i>

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006			
	Necessary Action	Responsible	Time Target*
Giov. Barrier 13	Absence of EU-wide framework of laws: Absence of EU-wide framework of laws/national differences in the legal treatment of securities	<i>An EU Securities Account Certainty project should be agreed upon by national governments. The objective of this Project should be to draft the target reform and adequate resources should be made available to meet this objective.</i>	within 3 years [October 2007*]
public Sector	a) establish the Legal Certainty Group	<i>European Commission</i>	Established April 2005
	b) review in detail existing laws of the EU Member States	<i>Legal Certainty Group (LCG) advised the Commission in its initial report that legislation is needed on the legal effects of book entries made on securities accounts. Such legislation should also include rules on priorities, bona fide purchase, prohibition of upper tier attachment, account provider's insolvency, validity of credit entries, an option to prohibit conditional settlement and the duties of the account provider, including as regards shortfalls. In the LCG's view, the issues of moment of transfer (of the security) and transfer requirements do not require to be addressed in EU legislation and could be safely left to market practice, settlement systems rules etc.</i>	July 2006
	c) advise on how to best overcome barrier 13	<i>Legal Certainty Group (LCG) In September 2006, the Commission requested the LCG to continue its work, in order to elaborate further details of its advice and to study what is necessary to abolish restrictions on the issuer's ability to choose the location of its securities (if necessary with a further study of this matter). LCG is also asked to advise what further measures will be necessary to resolve differences in national law affecting corporate action processing.</i>	End 2006
	d) taking into account the findings of the Legal Certainty Group, the Commission will formulate its policy	<i>European Commission</i>	Depends on advice received

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006

	Necessary Action	Responsible	Time Target*
Giov. Barrier 14	Legal treatment of netting: National differences in the legal treatment of bilateral netting <i>The EU Collateral Directive (Implementation date 27.12.2003) removes much of the legal uncertainty relating to netting and the uneven application of conflict of laws. While this should be enough to allow the lifting of the restrictions on holdings of securities and securities settlement, there remains a need for a legal framework across the EU under which, whenever securities are held using an intermediary, it is the accounts of that intermediary that establish ownership of those securities.</i>	<i>An EU Securities Account Certainty project should be agreed upon by national governments. The objective of this Project should be to draft the target reform and adequate resources should be made available to meet this objective.</i>	within 3 years [October 2007*]
public Sector	a) adopt and implement the Financial Collateral Directive b) retain a watching brief for netting issues <i>EU Commission: Although some legal issues may remain, there is no pan-EU problem that calls for immediate action. Therefore, COM has <u>not</u>, at least for the time being, mandated the Legal Certainty Group (LCG) to look at netting issues. It is recognised that a review of netting issues by LCG would indeed be useful, and could come in the future. Given current priorities and resources, however the focus of LCG on barrier 13 (and associated issues) continues to be the best course of action. In the meantime, interested parties are of course welcome and invited to inform COM of any matters falling within this barrier.</i>	<i>Council and EP, EU Member States - This barrier is no longer considered to be of major importance as most – although not all – problems related to bilateral netting have been resolved by the implementation of the Financial Collateral Directive.</i>	Financial Collateral directive adopted and implemented by all Member States
	c) evaluation of the Financial Collateral Directive (FCD) The Commission is currently evaluating responses of Member States and industry to its questionnaire on the FCD which also covers the netting provision in the FCD.	<i>Commission (after consultation)</i>	<i>c) 27.12.2006</i>

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

CESAME group: Operational Conclusions – following the meeting on 12 June 2006

	Necessary Action	Responsible	Time Target*
Giov. Barrier 15	Conflict of laws: Uneven application of conflict of law rules <i>The EU Collateral Directive (Implementation date 27.12.2003) removes much of the legal uncertainty relating to netting and the uneven application of conflict of laws. While this should be enough to allow the lifting of the restrictions on holdings of securities and securities settlement, there remains a need for a legal framework across the EU under which, whenever securities are held using an intermediary, it is the accounts of that intermediary that establish ownership of those securities.</i>	<i>An EU Securities Account Certainty project should be agreed upon by national governments. The objective of this Project should be to draft the target reform and adequate resources should be made available to meet this objective.</i>	within 3 years [October 2007*]
<i>public Sector</i>	The Settlement Finality Directive (SFD) and the Financial Collateral Directive (FCD) contain in their respective Article 9 conflict of law rules within their respective scope of application. This is reducing the extent of diversity of existing rules as evoked by this barrier. However, there is no generally applicable conflict of law rule for securities held with an intermediary established at the EU level beyond these directives. The Hague Convention aims at providing a general and globally acceptable rule, but the Council has not yet decided to sign (let alone ratify) the Convention.	<i>Implementation of SFD and FCD: EU Member States</i> <i>The Commission proposed in 2003 to the Council that the Community should sign the Hague Convention. Pursuant to the publication of the Commission's services legal assessment (3 July 2006) and signature by the U.S.A. and Switzerland (5 July 2006), the Council (Civil Law Committee) has resumed its debate on the Commission's proposal to sign the Convention.</i>	<i>SFD and FCD adopted and implemented.</i> <i>Signature of The Hague Convention proposed; Council debate ongoing</i>
	a) SFD Evaluation report b) FCD Evaluation report c) discussion with Member States on possible SFD/FCD amendments (these could impinge on Art. 24 Winding-up of credit inst. Dir.) d) discussion with Member States on the Signature of the Hague Convention	<i>a) Commission b) Commission c) Commission and Member States in European Securities Committee (ESC) d) Council (Civil Law Committee)</i>	<i>a) 15 December 2005 b) end of 2006 c) end 2006-2007 d) ongoing</i>

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)

13.10.2006

CESAME group: Operational Conclusions – following the meeting on 12 June 2006			
	Necessary Action	Responsible	Time Target*
suppl.	a) Establish common technical and functional <u>definitions</u> b) possible follow-up	<u>CESAME sub-group on definitions</u> (BNP, Deutsche Börse Group, Citigroup, Euroclear, ECB, ECSDA, LCH, DB, FBE and, from the second meeting, EALIC)	a) CESAME meeting of 24 October 2005 b) in 2006
suppl.	<u>Data requests: exercise aborted due to lack of responses</u>		
	a) available information on the degree of internal settlement by major banks is contradictory; therefore, CESAME group agreed to initiate a two step data collection process: first step, COM sent a data format to ECSDA/CEECSDA to be circulated to their members.	Certain CESAME group members	COM letter send on 7 April 2005; reply date extended (from 29 April 2005) until 30 June 2005
	b) second step: further data request will be made in order to try to evaluate the level of internalisation at the level of custodian banks	certain CESAME group members (custodian banks)	request not yet sent
	c) Feedback and statistical info for the impact assessment	all CESAME group members	ongoing
suppl.	Possibly: establish Diagnostic European Numbers for International Securities Accounts (DENISA)	Market participants (facilitated by EBF/FBE)	Cf. CESAME minutes of 20/2/06 and 12/6/06
suppl.	<u>Regular Reports and updates</u>		
	a) CESR work	Eddy Wymeersch	At every CESAME group meeting if appropriate
	b) G30 work	Stephan Schuster	
	c) ECB work	Daniela Russo	
	d) EP/ECON, Council and ECOSOC work	Chairman/COM	
	e) Competition reports and issues	COM/DG Competition	
	f) Regulatory Impact Assessment	COM/DG Markt	

Text in **bold** = copied from Annex 2b of the Second Giovannini Report / Text in *italics* = public sector responsibility / **highlighted text** = indicator for achievement

13.10.2006

*Giovannini barriers deadlines in square brackets were calculated as of 1st CESAME group working meeting (i.e. October 2004)