

CESAME Group

Operational Conclusions (following the meeting held on 11 June 2007)

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 11 June 2007 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 post-trading environment. The structure of the table follows the 15 so-called Giovannini barriers. At the end of the table, various supplementary issues are listed, and **on the CESAME website, there is a 12 MB [document](#) containing all relevant documents in pdf-version in one table which corresponds to the operational conclusions.**

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 respective text **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.
- On barrier 2 (restrictions on location to C&S systems) the initial implementation date of the MiFID (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 and the CESAME group, it has been agreed that barrier 10 should be considered as a specific case of barrier 2.

4. USEFUL INFORMATION

As much as possible, this overview displays links to the various associations and documents. However, sometimes difficulties have been experienced with the links. Therefore, there is a [separate document](#), the "pdf-table", **with all relevant documents in pdf-format on the CESAME group webpage**. There is also a [list of abbreviations](#) at the end of these operational conclusions.

Overview Giovannini Barriers (as of 15 October 2007) – public barriers in *light italics*, industry barriers **bold and underlined**

Giovannini Barrier	Progress	Forecast
1. <u>Diversity of IT platforms/interfaces</u>	SWIFT Common Protocol&high level message gap analysis ready; details under consultation	Support for implementation started; full implementation anticipated only by 2011; potential major impact from TARGET2Securities ('T2S') to be assessed
2. <i>Restriction on location of C&S</i>	MiFID rules on choice of settlement location adopted; Code of conduct ('Code') signed	MiFID rules not sufficient but step forward; T2S expected to have positive impact on settlement level; implementation of the Code will provide additional possibilities on settlement/CCP clearing level; attitude of nat. supervisors/regulators important
3. <u>Different rules governing corporate actions</u>	Standards/recommendations for many corporate actions adopted/in implementation phase; work to combine them in one set of rules is under way	'Distributions' standards in implementation phase; Reorganisations, general meetings and transaction management standards under development; related legal and fiscal issues to be examined
4. <u>Absence of intra-day settlement finality</u>	ECSDA standards adopted and largely implemented by CSDs	Practical impediments for CSDs participants remain and are under consideration (with EPDA and ERC); major T2S impact expected
5. <i>Impediments to remote access</i>	Non-discrimination rule on remote access in MiFID; rem.access to central bank credit issue will become irrelevant for T2cash participants	Positive effect of Code; no solution for non-T2cash Member States as regards remote access to central bank credit
6. <u>Differences in standard settlement periods</u>	No progress so far; harmonisation of (T+x)standard is not considered a priority	Dismantling (through shortening the current T+x period) may become easier with more Straight-Through-Processing and increased same day confirmation/matching
7. <u>Different operating hours/settlement deadlines</u>	ECSDA standards adopted and largely implemented by CSDs	Practical impediments for CSDs participants remain and are under consideration (with EPDA/ERC); major T2S impact expected
8. <u>Differences in sec. issuances</u>	Dismantled	
9. <i>Restrictions on location of securities</i>	Under consideration by the Legal Certainty Group ('LCG')	Legal Certainty Group to propose solutions by November 2008
10. <i>Primary dealer restrictions</i>	"collapsed" into barrier 2 by EFC Sub-Committee on EU Government Bonds	now sub-part of barrier 2
11. <i>Restrictions on withholding agents & 12. Restrictions on tax collection</i>	FISCO 1 st Fact Finding Report finished; Solutions suggested and promoted by 2 nd FISCO Solutions Report, Oct. 2007	Member States and Commission to decide on follow-up
13. <i>Absence of EU-wide framework of laws</i>	Existing Law reviewed by LCG; follow up work in progress	Legal Certainty Group to propose solutions by November 2008
14. <i>Legal treatment of netting</i>	Financial Collateral Directive ('FCD') adopted, implemented and reported on	Issues relating to netting are sufficiently addressed by existing legislation; Commission to monitor whether future developments call for further action
15. <i>Conflict of laws</i>	FCD/SFD provide PRIMA rule for EU; diff. rule under Hague Convention debated in Council	Discussion on the Hague Convention blocked in Council; Commission services exploring way forward

CESAME group: Operational Conclusions – following the meeting on 12 February 2007

	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	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) publication of the final standard protocol	SWIFT (+compliance statement from major players)	March 2006
	A	e) gap analysis to identify and insert missing functionalities - draft for consultation	SWIFT	December 2006
		f) high level cost benefit and implementation roadmap framework; defining an implementation monitoring methodology	SWIFT together with infrastructures; develop monitoring methodology with ISSA (G30 recommendation implementation process?)	4 th quarter of 2007
	M	g) implementation of the standard protocol	all (European) industry participants, e.g. banks, (I)CSDs, CCPs, central banks, intermediaries etc.	starting 3/06 – 3/08 by all EU market infrastructures; 3-/06 – 3/2011 for all cross-border participants
		possible follow-up: Commission and ECB to consult on ways to accelerate adoption and use of the global protocol within the industry	COM, ECB	
<p>N.B. <i>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></p> <p>Link to SWIFT: http://www.swift.com/index.cfm?item_id=43429</p> <p>Link to ISO financial standard: http://www.iso20022.org</p> <p>Link to FIX protocol: http://www.fixprotocol.org</p>				

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15.10.2007

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	Necessary Action	Responsible	Time Target*
Giov. Barrier 2	<u>Restriction on location of C&S:</u> 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*]
public Sector	<p><i>MiFID covers some post-trading issues. In particular, Art. 34 and Art. 46 grant certain rights to investment firms and regulated markets, namely a) the right of investment firms to access remotely foreign CCPs and CSDs; b) the right of market participants to designate the settlement location for their trades (but not the CCP) provided links are in place between the designated system and that chosen by the regulated market, and c) the right of regulated markets to choose a particular CCP and/or CSD to clear and settle their transactions. Thus, MiFID does not provide market participants with the right to choose the CCP. Moreover, MiFID does not cover the relations among post-trading infrastructure. Therefore, the post-trading provisions contained in MiFID are not by themselves sufficient to eliminate fully this barrier. However, they represent an important step forward.</i></p> <p>Code of Conduct on clearing and settlement is (potentially) able to substantially impact on this barrier. The Code participants agreed to the MiFID principles (on a voluntary basis) on access to remote access by post-trading infrastructures. The latter include "access" to trading infrastructures and post-trading infrastructures as well.</p>	<p>FESE, EACH and ECSDA (signatories to the Code)</p> <p><i>Commission to monitor implementation of the Code.</i></p>	<p>MiFID adopted; initial implementation date 30/4/2006 has been prolonged to 31/1/2007 (application 1 November 2007)</p> <p>Code of Conduct signed (7.11.06); conditions on access and interoperability established (28.6.07); service unbundling and accounting separation to be provided by 1.1.08.</p>
N.B. This barrier is linked to barrier 9 and 10; barrier 10 has been 'collapsed' into barrier 2.			

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	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*]
	N.B. ¹ THIS SECTION ON BARRIER 3 IS GOING TO BE UPDATED AFTER 22 October 2007 (11th CESAME meeting)		
	a) Associations work on different areas of barrier 3 but consult closely and are in agreement on finalised standards.		
	b) Associations are working on integrating the standards and develop one set of market standards applicable to all entities concerned.		
C	c) Market implementation groups are being or have been established in each Member State.		
E	d) Work overlaps with the work of the Legal Certainty Group, FISCO group and the work of COM on company law; full implementation of standards depends on removal of other barriers, i.e. fiscal and legal barriers ; in this respect, associations involved agreed to follow at the same time a top down approach (i.e. general recommendations/standards to tackle the barriers) and a bottom up approach (i.e. implementation checked in each country with feedback on specific legal/fiscal procedure barriers).		
S	A. Distributions (mandatory and optional – according to ISO terminology)		
A			
M	1. ECSDA Standards for mandatory distributions (30/6/05)	ECSDA	1. standards finalised;
E	a) gap analysis (publication: see p.3-5 of the standards)	a) ECSDA	a) completed
	b) implementation structure	b) market implementation groups	b) agreed
	c) implementation plan (including implementation timeline)	c) market implementation groups	c) end 2006
	d) ECSAs+ECSDA Common Deliverables on mandatory distributions	d) to be endorsed by EALIC, ESF	d) 1 st quarter 2007
	e) implementation	e) market implementation groups	e) 2 years after Common Deliverables are agreed
	2. ECSAs Recommendations for Cash Dividends (3/05)	ECSAs	2. recomm. finalised
	a) gap analysis	a) ECSAs	a) completed , not public
	b) implementation structure	b) market implementation groups	b) identified
	c) implementation plan (including implementation timeline)	c) market implementation groups	c) end 2006
	d) ECSAs+ECSDA Common Deliverables on mandatory distributions	d) to be endorsed by EALIC, ESF	d) 1 st quarter 2007

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	Necessary Action	Responsible	Time Target*
Giov. Barrier 3	3. ECSAs Recommendations on Interest Payments and Maturity Redemption (6/05) a) gap analysis b) implementation structure c) implementation plan (including implementation timeline) d) ECSAs+ECSDA Common Deliverables on mandat.distributions	ECSAs a) ECSAs b) market implementation groups c) market implementation groups d) to be endorsed by EALIC, ESF	3. recommendations finalised a) completed, not public b) identified c) end 2006 d) 1 st quarter 2007
C E S A	4. ECSAs Recommendations on Events incl. Securities Distributions (4/06) a) gap analysis b) implementation structure c) implementation plan (including implementation timeline) d) ECSAs+ECSDA Common Deliverables on mandate.distributions	ECSAs a) ECSAs b) market implementation groups c) market implementation groups d) to be endorsed by EALIC, ESF	4. rec. finalised, a) started, to be finished early Dec. 2006 b) identified c) end 2006 d) 1 st quarter 2007
A	5. ECSDA Standards for Optional Distributions	ECSDA - to be endorsed by ECSAs, EALIC, ESF	Started 6/2006 -3 months after public.
M	<u>B. Reorganisations</u> (mandatory, optional and voluntary – according to ISO terminology)		
E	6. ECSAs Recommendations on Reorganisation Events a) gap analysis b) implementation structure c) implementation plan (including implementation timeline) d) ECSAs+ECSDA Common Deliverables on reorganisations	ECSAs	Draft, final end 2006
	7. ECSDA standards on reorganisations a) gap analysis b) implementation structure c) implementation plan (including implementation timeline) d) ECSAs+ECSDA Common Deliverables on reorganisations	ECSDA	Started 6/2006

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	Necessary Action	Responsible	Time Target*
Giov. Barrier 3	8. ESF Abstract of Proposals to Harmonise and Standardise key corporate actions processes (of 15/2/06, updated version 8/06)	ESF - to be endorsed by ECSAs, ECSDA, EALIC	Comments received from other associations - 3 months after finalisation of standards
	<u>C. Shareholders' rights</u> (this item is linked to COM proposal on Shareholders' Rights Directive, see point 18.)		
C E	9. Recommendations to streamline General Meeting related operational processes 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 2H2007 a) draft b) draft c) work under way
S	<u>D. Transaction management</u>		
A M E	10. ESF Abstract of Proposals to harmonise and standardise key corporate actions processes (of 15/2/06, updated version 8/06)	ESF	Comments received from other associations - 3 months after finalisation of standards
	11. ECSDA Standards for market claims (6/06) a) gap analysis (see p. 4-5 of the standards) b) implementation structure c) implementation plan (incl. implementation timeline) d) implementation	ECSDA - to be endorsed by ECSAs, EALIC, ESF a) ECSDA b) market implementation groups c) market implementation groups d) market implementation groups	11. standards finalised; - 1 st quarter 2007 a) completed b) agreed c) end 2006 d) 3 years after implementation of C.Deliv. on reorganisations
	12. ECSDA report on automatic transformations and buyer protection	ECSDA	Started 2006

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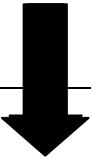
	Necessary Action	Responsible	Time Target*
Giov. Barrier 3	<u>E. Ensuring consistency and implementation of all standards</u>		
	13. Set of Common Deliverables	All Associations	
C E S A M E	14. Joint Monitoring "Dashboard"	ECSDA, ECSAs	ongoing
	15. Progress report	All associations	Annually, starting 07
	16. List of legal and fiscal procedure issues encountered	All Associations	
	17. <i>Ad-hoc informal working group on corporate actions (information and clarification on the links between corporate actions and legal and fiscal procedure implications): input to be taken into account by FISCO and LCG (see no. 19. below)</i>	<i>COM, participants of FISCO, LCG, associations dealing with barrier 3, ECB</i>	1st meeting on 5.12.06
	18. <u>Consultation</u> & <u>COM Directive proposal on Shareholder Rights</u> (Directive to be adopted in 2007)	COM	Proposal 10.1.2006
	19. <i>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 2007). LCG has also advised that specific legal issues should first be discussed by the CESAME group.</i>	<i>Legal Certainty Group (LCG): LCG is also asked to advise what further measures will be necessary to resolve differences in national law affecting corporate action processing. LCG established a sub-group to examine the issue</i>	

¹ **General information:** see EBF-FBE/ESBG [info](#);= EACB overview (11/4/05); ECSDA [WG5](#); ESF [publications](#); EALIC; FESE

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Overview: Current Situation regarding work on barrier 3 (kindly provided by EBF-FBE)

Distributions						Reorganisation			General Meetings
Cash			Securities						
Mandatory	Mand.w.options	Voluntary	Mandatory	Mand.w.options	Voluntary	Mandatory	Mand.w.options	Voluntary	Voluntary
ECSDA Standards for mandatory distributions		N/A	ECSDA Standards for mandatory distributions		N/A				Joint WG (EALIC, ECSA, ECSDA, ESF, FESE) on Gen.Mtg. related Operational Processes
ECSA Rec. for Cash Dividends						ECSAs Rec. on Maturity Redemption			a) Process 1: Notice to convene the general meeting
ECSAs Recommendations on Interest Payments			ECSAs Rec. on Events incl. Securities Distribution			ECSAs Recommendations on Reorganisation Events			b) Process 2: Entitlement/shareholder qualification/record date
	ECSDA Standards for Optional Distributions			ECSDA Standards for Optional Distributions			ECSDA standards on reorganisations		c) Process 3: Notification of attendance to the general meeting
							ESF Abstract of Proposals to harmonise and standardise key corporate actions processes		
ECSA/ECSDA common deliverables on mandatory distributions¹			ECSA/ECSDA common deliverables on mandatory distributions						
TRANSACTION MANAGEMENT									
ECSDA report on automatic transformations and buyer protection									
ESF Abstract of Proposals to harmonise and standardise key corporate actions processes									
ECSDA Standards for market claims									

Legend : Green highlights indicate that recommendations are final and have been published.

Yellow highlights indicate some work is taking place but there are no final recommendations agreed and published.

¹ Note: although work on mandatory cash distributions and mandatory securities distribution has been carried out separately initially by the two constituencies, it has been merged into a common list of deliverables.

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	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	Finalised
	b) market consultation/establishment of market liaison groups (to look at potential consequences of harmonisation of rules)	ECSDA members	Finalised End 2004
	c) 1 st annual status report (29/4/05)	ECSDA	finalised
	d) report on missing parts and gap analysis	ECSDA	CESAME 24/10/05
	e) second updated status report (6/06)	ECSDA	June 2006
	f) 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, next implementation status report December 2007
	g) Joint work on specific issues involving intermediaries relating to 2 of the 10 agreed standards (i.e. standard 5/closing time and standard 9/real-time settlement); possibly adaptation of CSD participants' practices to these CSD standards - identify prioritised list of settlement deadline inconsistencies - make proposals how inconsistencies might be addressed - ensure that standards also work for intermediating agent banks	ECSDA, EPDA, ICMA	g) ongoing - November 2007 - December 2007 - end February 2008
	h) implementation of the standards	CSDs	mid 2008**
	<p>N.B. the 10 ECSDA standards concern <i>e.g.</i> the range of eligible instruments, opening days and hours, processing periods</p> <p>N.B. this barrier is linked to barrier 7, therefore ECSDA dealt with both barriers in a single set of documents</p> <p>** this time target applies to the ECSDA members previous to the merger with CEECSDA (i.e. without CSDs in the new Member States)</p>		

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	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*]
public Sector	<i>Article 34 MiFID addresses the issue for investment firms; TARGET 2 cash will provide solutions (access to central bank money) within the Euro-area. Remaining problems for participants outside the Euro-area except those non-Euro-Member States which will join TARGET 2 cash).</i>	Discussion within CESAME group	24 October 2005
<p>N.B. MiFID covers remote access of investment firms to other Member States' CCPs and CSDs (see barrier 2 for more details). The Code of Conduct on Clearing and Settlement extends these remote access rights to post-trading infrastructures (see barrier 2 for more details). ECB-Website: http://www.ecb.int/paym/pol/secover/escbcesr/html/index.en.html; CESR-Website: http://www.cesr-eu.org/contenu_groups.php?id=36</p>			

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	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.	CESAME group discussed the issue (on 25 October 2004, 2 nd meeting) and will revert to it in due course and in the light of developments occurring in other areas 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 in competition among trading venues might raise the importance of settlement periods.	Beginning 2007 - discussion currently on hold in CESAME group
<p>N.B. Dismantling of this barrier impacts on the dismantling of barrier 3.</p> <p>N.B. ESF-ECSDA matching standards of Oct 06 could facilitate the dismantling of this barrier.</p>			

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Giov. Barrier 7	<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*]
	i) ECSDA recommendations on specific standards (4/2004)	ECSDA	Finalised
	j) market consultation/establishment of market liaison groups (to look at potential consequences of harmonisation of rules)	ECSDA members	Finalised End 2004
	k) 1 st annual status report (29/4/05)	ECSDA	finalised
C	l) report on missing parts and gap analysis	ECSDA	CESAME 24/10/05
E	m) second updated status report (6/06)	ECSDA	June 2006
S	n) establishment of implementation monitoring systems:	ECSDA	Continuously carried out, but results reported publicly on an annual basis – last report published June 2006 , next implementation status report December 2007
A	<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 	peer pressure or supervisory means or eventually Commission intervention	
M	<ul style="list-style-type: none"> gap analysis to include all new ECSDA members 		
E	o) Joint work on specific issues involving intermediaries relating to 2 of the 10 agreed standards (i.e. standard 5/closing time and standard 9/real-time settlement); possibly adaptation of CSD participants' practices to these CSD standards - identify prioritised list of settlement deadline inconsistencies - make proposals how inconsistencies might be addressed - ensure that standards also work for intermediating agent banks	ECSDA, EPDA, ICMA	g) ongoing - November 2007 - December 2007 - end February 2008
	p) implementation of the standards	CSDs	mid 2008**
<p>N.B. the 10 ECSDA standards concern <i>e.g.</i> the range of eligible instruments, opening days and hours, processing periods</p> <p>N.B. This barrier is linked to barrier 4, therefore ECSDA dealt with both barriers in a single set of documents</p> <p>** this time target applies to the ECSDA members previous to the merger with CEECSDA (i.e. without CSDs in the new Member States)</p>			

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Giov. Barrier 8	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
C E S A M E	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
<p>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.</p> <p>ISO has agreed to review the ISIN standard (6166) including the question of charging of license fees. An ISO working group is expected to make recommendations to the ISO bodies by mid 2007.</p>			

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CESAME group: Operational Conclusions – following the meeting on 12 February 2007

	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 preventing domestic securities from being issued abroad <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.</i> <i>In September 2006, the Commission requested the LCG 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).</i>	<i>MiFID does not cover the location of securities issue.</i> <i>Legal Certainty Group</i> <i>In the meantime, a sub-group of the LCG has been established to deal with this issue.</i>	<i>LCG initial advice:</i> <i>July 2006</i> <i>Further advice in 2007</i>
N.B. This barrier is linked to barrier 2. N.B. Apparently, certain Member States apply restrictive regimes, subject to various differentiations (e.g.equity/debt,materialised/dematerialised.)			

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CESAME group: Operational Conclusions – following the meeting on 12 February 2007

	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 (Economic and Financial Committee) 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 by EFC finalised in mid 2006
public Sector	1. issuers/national governments asked to report and auto-assess to which extent 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></i>	
	2. MS report to be reviewed by <u>EPDA</u> (European Primary Dealers Association)	<i>a) EPDA</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>	Results of EPDA preliminary report at CESAME of 12 June 2006
	<p>N.B. Letter to MS requested 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>The EFC Report concludes that restrictions on primary dealers relate to issues which are not necessarily unique for government bond markets, but reflect more generalised restrictions on location on C&S (see barrier 2). Following discussions in the relevant EFC-Sub-Committee and the CESAME group, it has been agreed that <u>barrier 10</u> should be considered as a specific case of <u>barrier 2</u>.</p>		

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CESAME group: Operational Conclusions – following the meeting on 12 February 2007

	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 (Second Report on Solutions scheduled to be presented at a Conference)	<i>FISCO group</i>	<i>Mid 2007</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 mid 2007</i>
	e) implementation of adopted solutions	<i>national Governments</i>	<i>starting mid 2007</i>

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CESAME group: Operational Conclusions – following the meeting on 12 February 2007			
	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 (Second Report on Solutions scheduled to be presented at a Conference)	<i>FISCO group</i>	<i>Mid 2007</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 mid 2007</i>
	d) implementation of adopted solutions	<i>national Governments</i>	<i>starting mid 2007</i>

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CESAME group: Operational Conclusions – following the meeting on 12 February 2007

	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*]
<i>public Sector</i>	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)</i>	End 2008
	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

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CESAME group: Operational Conclusions – following the meeting on 12 February 2007

	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,... [N.B. this part pertains to barriers 13 and 15: ... 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>	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 the major problems related to bilateral netting have been resolved by the implementation of the Financial Collateral Directive.</i>	<i>Financial Collateral Arrangements Directive (FCD) 2002/47/EC adopted and implemented by all Member States</i>
	c) evaluation of the Financial Collateral Directive (FCD) The Commission adopted its evaluation report on the FCD (COM 2006/833) which also covers the netting provision in the FCD.	<i>Commission (after consultation); Report was presented to the Council and the European Parliament.</i>	c) 20.12.2006

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CESAME group: Operational Conclusions – following the meeting on 12 February 2007

	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</i> <i>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 the Convention.	Implementation of SFD and FCD: EU Member States <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. On 14 December 2006, the European Parliament adopted a resolution asking The Commission to carry out a comprehensive impact assessment first.</i>	SFD and FCD adopted and implemented. Signature of The Hague Convention proposed; Council debate ongoing
	a) SFD Evaluation report b) FCD Evaluation report c) discussion with Member States on the Signature of the Hague Convention d) if Hague Convention ratified: possible SFD/FCD/ Winding-up of credit inst. Dir. Amendments	a) Commission b) Commission c) Council (Civil Law Committee) d) Commission, Member States and European Parliament	a) 15 December 2005 b) 20 Dec. 2006 c) end 2006-2007 d) ongoing

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CESAME group: Operational Conclusions – following the meeting on 12 February 2007			
	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.	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 (incl. TARGET2 Securities)	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	
	g) Code of Conduct on clearing and settlement	signatories of the Code for implementation; COM/DG Markt for monitoring	

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List of abbreviations

Abbreviation	Meaning	Information/webpage
AMTE	Association Marchés Taux Euro	http://www.aft.gouv.fr/article_784.html
ANNA	The Association of National Numbering Agencies	www.anna-web.com
BNP	BNP Paribas	http://www.bnpparibas.com/
CCBM	Correspondent Central Banking Model	http://www.ecb.int/paym/coll/coll/html/ccbm.en.html
C&S	Clearing and Settlement	http://ec.europa.eu/internal_market/financial-markets/clearing/index_en.htm
CCP	Central Counterparty	Association see "EACH"
CEECSDA	Central and Eastern European Central Securities Depositories Association	Merged with "ECSDA"
CESAME	Clearing and Settlement Advisory and Monitoring Experts' Group	http://ec.europa.eu/internal_market/financial-markets/clearing/cesame_en.htm
CESR	The Committee of European Securities Regulators	http://www.cesr-eu.org/
Civil Law Committee	Administered by the European Council	http://consilium.europa.eu
COM	European Commission	http://ec.europa.eu/index_en.htm
CSD	Central Securities Depository	CSD Association see "ECSDA"
DG	Directorate General – within the European Commission (e.g. DG Internal Market)	
DENISA	Diagnostic European Numbers for International Securities Accounts (proposition by FBE)	See CESAME Synthesis Report of 12 June 2006
EACB	European Association of Co-operative banks	http://www.eurocoopbanks.coop/
EACH	European Association of Central Counterparty Clearing Houses	http://www.eachgroup.org/
EALIC	European Association of Listed Companies	http://www.ealic.com/
EBF/FBE	European Banking Federation / Fédération bancaire Européenne	www.fbe.be
ECB	European Central Bank	www.ecb.int
ECON	Committee on Economic and Monetary Affairs	http://www.europarl.europa.eu/committees/econ_home_en.htm
ECOSOC	European Economic and Social Committee	http://www.eesc.europa.eu/index_en.asp
ECSAs	European Credit Sector Associations, these include EBF/FBE; ESBG, EACB	
ECSDA	European Central Securities Depositories Association	http://www.ecsda.com

EFC	Economic and Financial Committee	http://ec.europa.eu/economy_finance/efc_en.htm
EP	European Parliament	http://www.europarl.europa.eu/news/public/default_en.htm
EPDA	European Primary Dealers Association	http://www.bondmarkets.com/story.asp?id=1554
ERC	European Repo Council	http://www.icma-group.org/international1/european.html
ESBG	European Savings Banks Group	http://www.savings-banks.com
ESCB	European System of Central Banks	http://www.ecb.int/ecb/orga/escb/html/index.en.html
ESF	European Securities Forum	http://www.eurosf.com/
EU	European Union	www.europa.eu
EU Council	The Council of the European Union	http://www.consilium.europa.eu/showPage.ASP?lang=en
FBE/EBF	Fédération bancaire Européenne / European Banking Federation	www.fbe.be
FCD	Financial Collateral Directive	Directive 2002/47/EC of 6 June 2002 on Financial Collateral Arrangements
FESE	Federation of European Securities Exchanges	http://www.fese.be/en/
FISCO	Fiscal Compliance Group	http://ec.europa.eu/internal_market/financial-markets/clearing/compliance_en.htm
FIX	The Financial Information eXchange ("FIX") Protocol	www.fixprotocol.com
G30	The Group of Thirty (Consultative Group on International Economic and Monetary Affairs, Inc.)	http://www.group30.org/home.php
Hague Convention	The Hague Conference on Private International Law - Convention of 5 July 2006 on the Law Applicable to Certain Rights in respect of Securities held with an Intermediary	http://www.hcch.net/index_en.php http://www.hcch.net/index_en.php?act=conventions.text&cid=72&zoek=Securities
ICMA	International Capital Market Association	www.icma-group.org
IPMA	International Primary Market Association	The International Primary Market Association (IPMA) and the International Securities Market Association (ISMA) have merged with effect from July 1, 2005 to become the International Capital Market Association (ICMA) . www.icma-group.org
ISIN	International Securities Identification Numbers	http://en.wikipedia.org/wiki/ISIN
ISO	International Standard ISO 20022 – Universal Financial Industry message scheme	www.iso20022.org

ISSA	International Securities Services Association	http://www.issanet.org/
IT	Information Technology	
LCG	Legal Certainty Group	http://ec.europa.eu/internal_market/financial-markets/clearing/certainty_en.htm
MiFID	Markets in financial instruments directive	http://ec.europa.eu/internal_market/securities/isd/index_en.htm
S&P	Standard & Poor's	http://www2.standardandpoors.com/
SFD	Settlement Finality Directive	Directive 98/26/EC of 19 May 1998 on Settlement Finality in Payment and Securities Settlement Systems
SMPG	Securities Market Practice Group	http://smpg.webexone.com/
SWIFT	Society for Worldwide Interbank Financial Telecommunication	www.swift.com
TARGET 2	TARGET 2 Project	http://www.ecb.int/paym/target/target2/html/index.en.html#web
TARGET 2 Securities (T2S)	Possible TARGET 2 Securities Project	http://www.ecb.int/paym/market/secmar/integr/html/meeting.en.html
UNIFI	ISO 20022 Financial Services - Universal Financial Industry message scheme	http://www.iso20022.org/index.cfm?item_id=42953