



ARTICLE

March 2004

Euromoney Global Exchanges & Trading Handbook by Werner Frey, CEO of the European Securities Forum

Excellent analytical work has been provided in 2003 by The Group of Thirty at global level and by the Giovannini Group in its second report on European clearing & settlement. However, the willingness and the ability of private and public sector bodies to cooperate in implementing rapid change will be key to achieving the goal of an integrated pan-European capital market. The reduction of cost and risk in the post-trade part of the value chain is the single most important strategic objective in cross border trading and investments.

Foreword

Deutsche Börse, Euronext and the London Stock Exchange competing in the Dutch equities market will foster competition among exchanges as will Eurex' advent in the US derivatives market. Market participants and investors will welcome this trend to break up dominant – or even monopolistic – positions existing hitherto particularly within national boundaries. This trend, if successful, is likely to spur further consolidation among exchanges or, alternatively, promote the case of alternative trading systems.

The merger of the London Clearing House and Clearnet to LCH.Clearnet providing Central Counterparty services to several exchanges and clearing & settlement organisations is designed to improve the post-trade efficiency. Whilst CCP was *the* catchword in the field of market infrastructure only a few years ago, CCP services and developments are assessed with much greater soberness today.

Yet, the big problem, the fragmented and diverse European clearing & settlement landscape, still remains largely unsolved. While domestic markets in Europe are efficient and cost effective – even those that had a reputation of being notoriously inefficient have taken and are taking the necessary correcting steps – cross border transactions still suffer from undue high cost and risk. Not that the roots of the problem wouldn't be known: the causes of cross-border inefficiencies are clearly located, the barriers described and high level objectives defined. The Group of Thirty, ISSA and the Giovannini Group have performed excellent analytical work. However, the process to implement change has hardly started; the European Central Securities Depositories Association (ECSDA) and the European Securities Forum (ESF) appear to be the only organisations in Europe that have taken first practical steps towards the objective of integrating clearing & settlement in Europe.

8 Grafton Street London W1S 4EL	Telephone: +44 (0)20 7758 2872 Facsimile: +44 (0)20 7758 2873 Email: secretariat@eurosf.com Website: www.eurosf.com	Registered Office 30 St. James's Street London SW1A 1HB	European Securities Forum is a limited liability company registered in England and Wales under no. 4011370
------------------------------------	--	---	---

What needs to be done and what can be expected in 2004?

First of all it is essential that all the relevant constituencies, i.e. market users, the market infrastructure organisations, political bodies at national and above all at European level recognise and agree on the urgent need to start the process of implementing change towards harmonisation and integration, to rapidly build momentum and to enter into a close cooperation – the task is huge and the resources are limited. Consent to cooperate and decisive action are required in order to avoid two risks: First, the risk that those who currently profit from the fragmentation of the European securities infrastructure will continue to do so for an undue future period, essentially at the disadvantage of the investing community. And second, the risk that public authorities in Europe become impatient over perceived inaction of market led forces and legislate or set rules and structures for the European securities markets on the basis of inadequate knowledge and experience.

In accordance with the proposals of Giovannini II there are areas to be led by the private sector – removing barriers that are caused by market practices – whilst others have to be public sector led – regulatory, legal and tax issues as well as comprehensive rights of access and choice.

The existing fragmentation and barriers are to a large part caused by legal and regulatory diversities. The standards established by the Joint Working Group of the European System of Central Banks and the Committee of European Securities Regulators (ESCB-CESR Report) play a key role in harmonising the regulatory framework. However, they should do so without adding unnecessary regulatory and supervisory burdens to market participants. In view of the increased complexity caused by the advent of the new member states of the European Union an early publication of its final report will promote certainty on the regulatory framework.

The EU Commission announced that it will publish its long awaited Communication on Clearing and Settlement in the European Union in spring 2004. It is expected that the Commission will largely endorse the findings and recommendations of the Giovannini Group – including a close cooperation between public and private sector bodies – and will take a leadership role in an area that is of high priority to achieve the objectives set by the Financial Services Action Plan.

The process of harmonising securities laws in Europe is critically important taking into account that l'Association Française des Professionnels de Titres (AFTI) has estimated in a study that 60 % of cross border post trade cost are caused by legal diversities. The EU Commission has indicated its support in favour of a project that aims at an EU wide common legal definition of transfer of ownership in securities as a first harmonisation step. Specialised expert groups like the European Financial Market Lawyers Group, domiciled at the European Central Bank, or the Financial Market Law Committee in London have done valuable preparatory work in this field.

Private sector support like the recent change of the rules and regulations by Deutsche Börse will contribute to an early removal of national settlement restrictions to achieve the objective of open acces and free choice throughout Europe.

In removing the barriers caused by diverse market practices private sector organisations like ECSDA, ESF, SWIFT and the European Banking Federation will take a leadership role. Harmonising and integrating operating hours and settlement deadlines at all European CSDs, realigning complex corporate actions

8 Grafton Street London W1S 4EL	Telephone: +44 (0)20 7758 2872 Facsimile: +44 (0)20 7758 2873 Email: secretariat@eurosf.com Website: www.eurosf.com	Registered Office 30 St. James's Street London SW1A 1HB	European Securities Forum is a limited liability company registered in England and Wales under no. 4011370
------------------------------------	--	---	---

european securities forum

processes and remove national differences in the information technology and interfaces related to clearing & settlement are challenging tasks that will require a pronounced commitment and a mentality and ability to cooperate. As the example of Euroclear proofs, the integration of procedures, processes and systems is the difficult task, not consolidation by way of corporate mergers.

Moreover, at the earliest possible stage market participants and market infrastructure organisations – stock exchanges and CSDs – from Central and Eastern European countries will have to be involved in order to avoid a further increase of the complexities.

While harmonising and integrating clearing & settlement in Europe is an important ingredient to creating a pan-European capital market, the alignment with other regional markets, in particular the US securities market is imperative. The requirement of cooperation is of no lesser means in this respect. International standards provided by G-30 and ISSA and the work performed by Unidroit are the basis to work on.

In essence: the competitiveness of Europe in the global securities markets is at stake as well as its contribution to make trading and investing more efficient globally. Thereby, the consent that efforts to harmonise and integrate cross border clearing and settlement processes and systems as well as the legal, regulatory and fiscal environment should prevail structural issues and national interests will be a key requirement to success.

8 Grafton Street London W1S 4EL	Telephone: +44 (0)20 7758 2872 Facsimile: +44 (0)20 7758 2873 Email: secretariat@eurosf.com Website: www.eurosf.com	Registered Office 30 St. James's Street London SW1A 1HB	European Securities Forum is a limited liability company registered in England and Wales under no. 4011370
------------------------------------	--	---	---