

16 December 2004



Comments from the European Securities Forum on the Consultation Document of the European Commission on Fostering an Appropriate Regime for Shareholders' Rights

In response to the invitation for comments on the Consultation Document of the Services of the Internal Market Directorate General on Fostering an Appropriate Regime for Shareholders' Rights, we set out our comments as follows:

The European Securities Forum represents major users of European securities markets and currently focuses its activities to contribute to achieving an efficient, integrated and safe system of securities clearing settlement and custody in Europe. In this context our comments are limited to those parts of the Consultation Document that are deemed to have an impact on the efficiency of the areas of clearing settlement and custody processes such as corporate actions.

ad 5. Entitlement to control the voting right

- **Authentication of the ultimate investor**

We most strongly disagree that securities intermediaries should be required to certify to the issuing company who the ultimate investor entitled to control the voting rights is and for how many shares.

The compulsory identification and authentication of the ultimate investor throughout the chain of intermediaries would not only be utterly impractical and unnecessary but would counteract all efforts to make corporate actions processes more cost efficient. It would thus contradict the common objectives pursued by the European Commission and the securities industry as outlined in the Giovannini Reports and the Communication of the European Commission on Clearing and Settlement in the European Union, 2004.

- **Stock Lending**

We do not consider that the practice of securities lending create problems for the exercise of voting rights, in particular in a cross-border context that should be tackled at EU level.

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Practice has never experienced any difficulties as the exercise of voting rights is covered by pertaining agreements; therefore there is no need for a regulation at EU level.

ad 6. Pre-Annual General Meeting Stage

- **Communication of information relevant to GMs**

We consider that the forthcoming proposal should contain provisions regarding the disclosure of GM notice and materials.

Standards should particularly include pre-determined times for disseminating information, a minimum required content and the requirement of information dissemination via internet.

- **Admission to/Participation in GM - Share blocking**

We agree that the forthcoming proposal should require the abolition of share blocking requirements.

Share blocking is deemed a very cumbersome process that should by all means be substituted by the introduction of a record date. ESF's Corporate Actions Expert Group plans to work out respective standardisation proposals in the context of the ESF Action Plan 2005.

ad 7. Shareholders Rights in Relation to the GM

- **Participation via electronic means**

We consider that Member States should be prevented from imposing requirements on companies regarding the venue of the GM that would act as a barrier to the development of electronic means of participation.

A system that would allow voting in absentia via electronic means would be very helpful for shareholders since they could save the cost and time to physically attend the GM and it would thus contribute to the objective of making the European capital market globally competitive.

European Securities Forum

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