

9 June 2006



Memorandum to Commissioner Charlie McCreevy

A proposed alternative to EU legislation as a contribution to achieving an efficient and safe market for securities clearing and settlement

The European Securities Forum represents major market users operating in the European securities markets.

Since its foundation in 1999 ESF has worked towards its overriding objective of an integrated and efficient clearing and settlement system in Europe, reducing thus cost and risk for all market users significantly - an objective that is entirely concurring with the position of the EU Commission as expressed in its Communication on Clearing and Settlement in 2004 and in the most recent working documents of DG Markt and DG Competition.

Since the publication of the Reports of the Giovannini Group (and the G-30 Report at international level), ESF through its members has engaged to act as a solution provider, i.e. to break down high level objectives into standardised market practices that will remove defined barriers upon implementation. ESF remains committed to actively contribute to the work of CESAME Group and to the cooperation and coordination with organisations and institutions that pursue similar objectives of harmonisation and integration of clearing and settlement and custody in Europe and at a global level.

As outlined in our Position Paper of 16 February 2006 on possible legislation on Clearing and Settlement by the European Union (attached), we consider legislative action unnecessary in the area of those Giovannini barriers for which the private sector has assumed responsibility for removal. The members of ESF will continue to make available the required resources to successfully achieve the defined objectives.

Private sector initiatives to harmonise and standardise market practices have started bearing fruit, though in some areas at a slower pace than originally anticipated. Yet, we are convinced that the required time consuming consensus building process will ultimately produce solid and homogeneous results.

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ESF has continuously promoted the consolidation and integration of securities infrastructure organisations in Europe. As an example, ESF's Blueprint for a Single Pan-European Central Counterparty, published in 2000, is proof of it, even if with hindsight this initiative might have been somewhat premature then.

As outlined in our consultation contribution on the Communication of the EU Commission on Clearing and Settlement in the European Union, ESF's members fully concur with the Commission in considering open access, free choice and price transparency key elements of an efficient post-trade environment in Europe. We believe that industry-wide awareness of the need to take action in this field is significantly growing. Thus we are in favour of **a market led approach for further consolidation and integration and the evolution of the future market structure.**

For years we have advocated a close cooperation between the public and the private sector towards the common goal objective of an efficient and integrated clearing and settlement in Europe - in a number of instances, such as the CESAME Group, with encouraging results.

However, to date limited action has been taken by national governments to remove the legal, regulatory and fiscal barriers within their responsibility. Without the contribution of the public sector the targeted efficiency increases will not be achieved.

Therefore market practitioners of our members have compiled a **list of inefficiencies caused by legal, tax and regulatory requirements at national levels** (attached). In particular, we would like to highlight three areas, which represent in our views the most evident and grave contraventions and violations of agreed principles and objectives, i.e. cost efficiency, comprehensive rights of access and choice, removal of defined barriers:

- Missing system / acceptance of **omnibus account structure and nominee concept** in Spain, Greece, Poland, the Czech Republic and Slovenia
 - The non-acceptance of omnibus account structure and nominee concept in these markets implies that the account holder is considered the beneficial owner. In order to avoid negative impacts on account transfers (market cross transactions), shareholder reporting, voting rights at shareholders' meetings and pledge of assets, segregation is required. However, segregation is the source of significant excess costs and operational inefficiencies.
 - We propose that the Commission take appropriate steps to provide for a harmonisation of the respective regulatory environment with mandatory acceptance of the omnibus account structure and the nominee concept in the context of the mandates of the Legal Certainty Group and the Fiscal Compliance Group as well as the Commission's Shareholders' Rights initiative.

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- The change of the **registration process for equities in Spain** and the respective Royal Decree
 - Since 2003 ESF and its members have made exceptional efforts to induce the Spanish authorities to change what is unequivocally deemed one of the most formidable barriers to efficient cross border trade processes and to the creation of a truly pan-European capital market as the process, as currently in place, discourages further growth of investments in the Spanish market.
 - The support not only of ESF member firms but also of Iberclear, the Spanish CSD, of major international and domestic agent banks and of senior executives of international members of Bolsa de Madrid have been rallied in the past two years during numerous meetings in London and in Madrid.
 - To date our efforts have not borne fruit as our interventions in writing and our requests for meetings have remained without an answer. As this broadly based private sector initiative evidently will remain unsuccessful without public sector support, we believe that the EU Commission should take appropriate steps with the respective Spanish authorities (Comisión Nacional de Mercado de Valores et al) to have a 'flagship' of existing costly inefficiencies removed.

More detailed information covering this initiative is attached to this memorandum.

- **Tax issues**
 - The long term aim of the ESF group would be to achieve relief at source across all reclaim markets with a medium term goal of achieving a uniform reclaim process across Europe that would be transparent, easy to use and quick. Time delays in tax reclaims being actually paid are a constant source of irritation.
 - In the attached note, prepared by senior tax experts of ESF member firms, a number of particular problems are outlined, where we feel short term progress could be made. We therefore believe that the Commission should take appropriate steps, in the context of the mandate of the Fiscal Compliance Group or otherwise, to address these inefficiencies.

We believe that bespoke action on the part of EU authorities will be more effective and less time consuming than legislation. Moreover such action might serve as a wake-up call for national governments to perform their part in removing the Giovannini barriers, thus starting a virtuous circle as a best case scenario.

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Senior Executives and subject matter experts of ESF member firm will be happy to meet with you and to provide EU authorities with any information required in respect of the proposed areas of bespoke action by EU authorities.

Joan Beck
Chairman

Werner Frey
Chief Executive Officer

Attachments

- Inefficiencies caused by legal, tax and regulatory requirements at national level
- Documents supporting the request for change of the registration process for equities in Spain
- Note on tax issues

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Inefficiencies caused by legal, tax and regulatory requirements at national levels

<p>The "EU Uniformity" principle: Removal of individual national restrictions eliminates practical impediments</p>	
<p>Violation of principle by: Missing system/acceptance of omnibus account structure / nominee concept</p>	
<ul style="list-style-type: none"> • Non-acceptance of omnibus account structure -> account holder is regarded as beneficial owner (--> a "real" acceptance of the omnibus account structure only exists when the nominee concept is also accepted). • The account holder is regarded as beneficial owner. • Negative impact on shareholder reporting, proxy voting (-> voting rights), pledge of assets. 	<p>Spain, Greece, Poland, Czech Republic, Slovenia</p>
<p>Violation of principle by: National requirements for segregation</p>	
<ul style="list-style-type: none"> • In general, every law enforced account segregation leads to inefficiencies in settlement as well as in custody and asset servicing processes. This due to the fact, that the vast majority of participants in the industry is organized along the omnibus account structure. • Handling of pledged securities are different due to a variety of regulatory demands 	<p>Portugal: Residents for Portuguese investments.</p> <p>Norway: Residents and nationals for all kind of Norwegian investments.</p> <p>Finland: Residents for Finnish investments.</p> <p>Italy: Residents for reason of capital gain at source calculation on Italian investments; Residents with substantial share positions in individual Italian companies (>2%) must comply with special tax reporting issues.</p> <p>Belgium: Residents for domestic Bonds.</p> <p>Portugal: For investments belonging to investors domiciled in a tax haven as defined by Portugal.</p>

Inefficiencies caused by legal, tax and regulatory requirements at national levels

Violation of principle by: Withholding tax agent needs to be a local bank	
<ul style="list-style-type: none"> • Withholding Tax Agent: Missing intermediary EU-passporting • Requirement to have a link to a local fiscal representative to act as a withholding tax agent • Global providers are hindered in business due to such national impediment. A non local intermediary or agent bank of another EU-country has, compared to the local competitors, a disadvantage as taxes will be deducted from dividend payments to residents, while local banks will be fully funded 	This violation is addressed in FISCO's fact finding study: We are looking forward to FISCO's solution paper to be expected early 2007. Procedural tax rules can prevent foreign intermediaries from obtaining direct access to the local CSDs, or at least do not allow them to obtain access under conditions similar to those applicable to local intermediaries. We expect that this kind of national impediment is also addressed in FISCO's solution paper.
Violation of principle by: Special registration process	
<ul style="list-style-type: none"> • Registration process hinders general STP; exceptional manual interventions are cost drivers; lack of secureness on settlement, reconciliation and position keeping. 	Spain
Violation of principle by: Special registration process for individual shares	
<ul style="list-style-type: none"> • Registered shares (nominatif pur or nominatif administré accounts) can only be sold on the market indirectly after being exchanged to bearer shares. This process takes up to 3 weeks and hence causes risk (settlement delays, missing transparency regarding status of registration process etc.). 	France
Violation of principle by: Sub-optimal CSD Interoperability conditions:	
<ul style="list-style-type: none"> • Despite remote access possibilities, CSDs have mostly limited access to central bank money and to intra-day liquidity. (As long as these constraints are not removed the interoperability remains inefficient) 	Various EU-Countries

Inefficiencies caused by legal, tax and regulatory requirements at national levels

The "Lean" principle: Lean settlement process leading to cost efficiency

Violation of principle by: Integrated tax collections in settlement process

- Extraterritorial collecting of transaction taxes (e.g. UK SDRT)
- Collection of capital gain tax at source (e.g. Italian CGT)
- FoP and DvP: Taxation on accrued interests (e.g. in Belgium, Italy, Portugal)

This selection of principle violation is a significant interfering in the settlement process. We note that they are all **addressed in FISCO's fact finding study**. We would consider their removal from the settlement process as a big step to settlement efficiency.

The "Same Rights For All" principle: Right of access guarantees level playing field for fair competition

Violation of principle by: Access restriction to infrastructure

- Direct access to the CSD is restricted to resident institutions; need to open locally a branch to obtain access
- Access to MTS Spain is restricted to resident institutions; need to open locally a branch for purpose of accessing the MTS Market

Spain

Inefficiencies caused by legal, tax and regulatory requirements at national levels

The "One Market Philosophy" principle: EU-wide general harmonisation requirements on practical issues

Violation of principle respectively practical harmonisation necessity: National differentiated pre-settlement matching criteria

- Requirement for a mandatory second layer matching field with non standardised information
- Matching instruction for free deliveries not required
- Practice of voice matching
- General Inconsistent standards on pre-matching

- When instructing the opening of a bilateral Repo, a participant is required to instruct the closing leg of the Repo. When the closing legs match, this becomes a binding trade. The French market rules on bilateral Repo impose risk of regulatory sanctions if 2nd leg fails.

Two working groups of the **European Securities Depositories Association (ESDA)** and the ESF agreed upon a close cooperation on "pre-settlement date matching processes standards" which will overcome these inefficiencies. At the time the standards are in consultation discussions and the target to implement them is by end of 2008 when also the relevant SWIFT standards are released. ESF would **appreciate the Commission's and CESAME's support** for these standards.

France (this specific product issue is not addressed with above standards respectively Repo business is not in the scope of the developed standards).

Violation of principle respectively practical harmonisation necessity: Voting procedure at General Meeting / Proxy Voting

- Selection of GM issues:
- Disclosing of BO (Italy)
 - Disclosure of BO, registration minimum 10 days before GM, Power of Attorney for individual representing shares registered in the name of a company (Sweden, Norway, Finland)
 - Client needs to be registered in company's register before GM announcement (Belgium)
 - Pre-Voting notice requirement together with ordering of GM tickets (United Kingdom)

Issues are **mostly addressed in the proposal for a directive on the exercise of voting rights by shareholders (2005/0265/COD → Article 13**. Generally we welcome the foreseen voting procedures of this proposal as they take into account the cross-border intermediation.

Inefficiencies caused by legal, tax and regulatory requirements at national levels

Violation of principle respectively practical harmonisation necessity: National differentiated MTS¹ markets	
<ul style="list-style-type: none"> Markets have different infrastructure and the complete value chain is not always available to all participants. Same platform is deployed uniquely in each market (→ different business rules necessary) 	Various EU Countries
Violation of principle respectively practical harmonisation necessity: Tax reclaim / tax relief	
<ul style="list-style-type: none"> Missing a uniform automated EU-wide tax relief at source or tax reclaim procedure in cross border C&S environment: (-> global investments vs national tax systems). Some countries have reclaim procedures, some have relief at source, some have both or even in the same country there is no unique method for the relief at source as depending on the DTT 	This harmonisation issue has been addressed in FISCO's fact finding study as a rationalisation area . We are looking forward to FISCO's solution paper to be expected early 2007. Most Market participants would prefer a uniform automated EU-wide tax relief at source procedure, which would definitely simplify cross-border intermediary business.
Violation of principle respectively practical harmonisation necessity: Double Tax Treaty (DTT) agreements	
<ul style="list-style-type: none"> Harmonisation guideline within the EU 	This harmonisation issue has not been addressed in FISCO's fact finding study . From the operational point of view we clearly see room for rationalisation with positive impact on fiscal certainty and administrative costs.

¹ MTS is the leading market in Europe for the trading of fixed income securities. MTS has over 1200 participants throughout Europe, with average transaction volumes of up 85 billion euros a day. The MTS market model allows for the use of a common trading platform while corporate governance and market supervision remain with the domestic financial community.

Inefficiencies caused by legal, tax and regulatory requirements at national levels

Violation of principle respectively practical harmonisation necessity: Shareholder reporting threshold requirements and calculation requirements	
<ul style="list-style-type: none"> • Missing harmonisation of shareholder reporting thresholds and calculation methods within EU. • Various thresholds and calculation methods over various companies and countries requires for cross-border holdings an enormous effort and work to comply with the different national regulations. • Various regulations have the impact that reports do not always have to be submitted to the same controlling body (exchange, company, regulator). • Threshold limits differ from country to country (e.g. 5%, 10%). • Diversity of possible sanctions of passing threshold limits (sale, blockage of surplus holdings etc.) 	<p>Issue has been partially addressed in the Transparency Directive which we very much appreciate . The main focus in the directive is on shareholdings notification by setting minimum standards. Additional requirements per EU Member States are possible. From the operational point of view there is missing an analysis how the reporting procedures and various calculating methods hinder an efficient functioning and therefore increase the cost of cross-border settlement.</p>
Violation of principle respectively practical harmonisation necessity: Restrictions to participate in corporate actions	
<ul style="list-style-type: none"> • Restrictions of corporate Actions. • Restrictions to participate in CAs are mainly due to registration/notification requirements in the country of resident of the end-investor. Issuers, not having a full clear picture, therefore tend to restrict their offering towards only a few in order to be on the safe side. • Compared to domestic clients the international clients of other cross-border EU-countries often are in a disadvantage due to CA restrictions, as information or offers cannot be addressed to them. • The Prospectus Directive is not really helpful due to notification requirements. To the contrary further restrictions evolved. 	<p>Various EU Countries</p>
Violation of principle respectively practical harmonisation necessity: Corporate actions handling in a cross-border environment	
<ul style="list-style-type: none"> • Multi-listing with different compensations on pending deliveries; respectively non harmonised dividends and corporate action processes. 	<p>Issue is addressed in ESF and ECSDA and is on track to be solved under the Giovannini Barrier No. 3 together with other developed standards for corporate actions barriers to achieve greater efficiency in Europe's cross-border clearing and settlement environment. Nevertheless ESF would appreciate the Commission's and</p>

Inefficiencies caused by legal, tax and regulatory requirements at national levels

	CESAME's support.
Violation of principle respectively practical harmonisation necessity: Infrastructure consolidation constraints	
<ul style="list-style-type: none">• For the offering of Settlement/Safe Custody the CSD has to be operated legally and locally in the market of origin (For a future consolidation this might be an impediment, provided that there are:<ul style="list-style-type: none">- "one European capital market" and not 25+ national markets- "European registered companies" and not national registered companies- one European supervision)	e.g. Germany for the Collective Safe Custody as a German legal product (Girosammelverwahrung)



Mr. Manuel Conthe
President
Comisión Nacional de Mercado de Valores
Paseo de la Castellana, 19
E-28046 Madrid

London, 12 October 2004

Registration process in Spain

Dear Sirs

The activities of the European Securities Forum, representing major users of European securities markets, focus on the harmonisation, standardisation, liberalisation and integration of clearing and settlement in Europe. They are embedded in and build on the analysis and recommendations of the Giovannini Group at European level and of The Group of Thirty internationally and pursue the same objectives as ESCB-CESR and the European Commission expressed in their relevant documents earlier this year.

In May 2003 we published the document 'Integration of Clearing & Settlement in Europe – ESF's Call for Action', in which we outlined specific objectives of our work and requests prioritised by our members. *The elimination of the registration process in Spain* is one of these objectives as our members deem this process, as currently in force, one of the most formidable barriers to efficient cross border clearing and settlement in Europe.

In pursuing the aim to reach an agreement in principle to eliminate the current technical, operational and legal barriers in support of the registration process, we held numerous discussions in Spain in the last twelve months, particularly with Iberclear, the Spanish Central Securities Depository; we found these discussions equally productive and encouraging and therefore decided to continue this initiative in the context of our Action Plan for 2004.

In order to avoid the impression of an undue interference with regulatory matters in Spain we so far have refrained from contacting you directly. However, we now believe it is right to appeal to you for the following reasons:

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We understand that, as publicly announced, Iberclear has become the manager of the two Spanish technical platforms, one of which, CADE, is already operating under the general principles used by other European CSDs for the clearing and settlement of securities. Should this same set of principles be applied to the second technical platform, SCLV, it is believed that this positive step would suitably address, and consequently resolve, the market issues relating to the registration process which currently exists for equities, thus removing those impediments that currently stand in the way of efficient cross border equities clearing and settlement for market users that do not themselves provide clearing and settlement services in Spain. However, according to our information, an implementation of this concept seems unlikely for the time being.

ESF members (see attached list), both international investment banks and global custodians, who are major market users and act as intermediaries for international investors and who use the services of international or Spanish agent banks at this time, have repeatedly expressed highest interest in the elimination of the existing technical, operational and legal barriers supporting the registration process which would most certainly result in increased investment and higher trading volumes.

We believe that the Spanish authorities and the major international and domestic agent banks active in the Spanish market have a concurring interest as this is fully in line with the overall objective of the European Commission and the project vested in the CESAME Group, i.e. to create an efficient, safe and integrated clearing and settlement industry in Europe. Moreover, the objective expressed in the Communication of the European Commission, regarding *'the liberalisation and integration of existing Securities Clearing and Settlement through the introduction of comprehensive access rights at all levels and the removal of existing barriers to cross-border clearing and settlement'* is unequivocally supported by all relevant constituencies.

We therefore respectfully urge you to pursue the above mentioned concept and its implementation as soon as practically possible as this will be an important milestone in the liberalisation and integration of clearing and settlement in Europe.

Please do not hesitate to contact us for any further information you might require or for a meeting in person at which we would be pleased to outline our objectives and activities in greater detail.

Yours sincerely

Joan Beck
Chairman

Werner Frey
CEO

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Enclosure

List of ESF members

Copy to:

Mr. Yavier Ariztegui, Director General, Banco de España
Mr. Antonio Zoido, Chairman, BME – Bolsas y Mercados Españoles
Mr. José Maria Narváez, CEO, Iberclear
Mr. Jacques-Philippe Marson, CEO, BNP Paribas Securities Services
Mr. Raymond A. Parodi, Managing Director, Citigroup
Mr. Roberto Vicario, BBVA
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24 June 2005



Registration process in Spain - A request for change

(This document has been worked out by an ESF working group reflecting the position of ESF; at a meeting held in Madrid on 31 May also BNPP, Citibank and BSCH in their capacity as agent banks in the Spanish securities markets agreed to its contents)

1. Background

1.1. The elimination of the equities related registration process - a constantly high priority of ESF members

In May 2003 The European Securities Forum published its first action plan which reflects the priorities of its members, major users of European securities markets, to reduce the cost and risk of clearing and settlement in Europe. As the current equities related registration process in Spain is deemed one of the most formidable barriers to efficient cross border post trade processes in Europe, the request of its elimination has continued to be part of ESF's Action Plans since that date.

1.2. Clearing and settlement in the limelight of the agenda of European Union authorities

The significant excess cost and risk caused by the fragmented clearing and settlement systems has given rise to increasing attention by private and public sector institutions at international and European level since 2002. The publications of the recommendations of the Group of Thirty, of the reports of the Giovannini Group and of the Communication of the European Commission as well as the set up of the Clearing and Settlement Advisory and Monitoring Expert Group (CESAME Group) by the EC are a reflection thereof.

The objective stated by the European Commission: 'the liberalisation and integration of existing Securities Clearing and Settlement through the introduction of comprehensive access rights at all levels and the removal of existing barriers to cross-border clearing and settlement' is unequivocally supported by all relevant constituencies. However, high level objectives need to

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be broken down into concrete measures to make these objectives reality - we deem the registration process in Spain to be part of such required actions.

1.3. Cooperation between agent banks and their customers to develop a common market view

Discussions held earlier this year with BNPP and Citibank in their capacity as service providers to ESF members in Spain as international agent banks, resulted in the consent to join forces to enter into a close cooperation with a view to change the current registration system, a requirement already specifically mentioned by BNPP in their Contribution to the Communication from the Commission in September 2002.

It was also agreed that including BSCH and BBVA in the initiative is crucial with a view to establish a consolidated market user position.

2. Objectives

The current registration process in Spain is to be changed in a way

- to meet the objectives of the Giovannini Reports and the European Commission by
 - eliminating the existing technical, operational and legal barriers
 - reducing the costs significantly as a result of such elimination, bringing thus the Spanish market in line with other European markets
 - facilitating the possibility of remote access
- to promote further growth of increased investment and higher trading volumes in the Spanish equities market.

3. Deficiencies of the current registration process

The following deficiencies characterise the current registration process:

- Substantially more costly (possibly also to agent banks) when compared with other European markets due to
 - very manual and time consuming process
 - required additional resources (settlement and IT)
 - requirement to cross into correct registration names
 - re-registration requirements in case of change of custodian with potential negative implications on corporate action events
- Difficulties related to OTC trades:
 - raises the number of fails to / from OTC clients while a put-through is being done, also due to lack of transparency in the matching process

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- delays caused by required crossing in the market into correct registration names, risks of additional costs (buy-in, borrowing)
- difficult / impossible to sustain a large volume of trades due to crossing requirement
- Impedes modern efficiency increasing instruments, e.g. netting, STP matching and pre-settlement matching for OTC transactions
- Impedes trading / arbitrage strategies potentially preventing investment in Spain
- Impedes remote membership in CSD
- Creates wrong perception of actual investors
- No guidelines or regulation on whether the buyer or the seller is correct with a registration difference
- Limited collateral utilisation (stock loan) due to limited number of clients who will not receive the stock in a name other than their own

4. Essential characteristics of a replacing solution

- Ideally, remove the registration in line with other European markets allowing nominee concept on the basis of 'know your customer principle' applying to custodians and intermediaries
- Minimum requests:
 - Complete separation of any registration requirement from clearing and settlement process
 - Registration names no longer a matching requirement
 - Delivery to other market counterparts without need to re-register in their name
 - Need for brokers to report registration to the exchange on t+1 to be abolished
 - Technical references (RRs) for short selling purposes to be limited to trade date of the last transaction
 - Information to regulatory bodies to be provided by CSD

5. Expected implications

- Change of legislation (Royal Decree) required
- Restructuring of account systems / collapsing of registration accounts by agent banks / local custodians
- Change of systems and information flow at CSD (information on underlying clients on request)

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25 May 2006

Note on tax issues prepared by the EFS Tax Group

The purpose of this note is to outline some of the issues where we feel that the EU Commission can bring some pressure to bear on national governments to improve procedures on operational issues to simplify and introduce certainty for custodians and persons making reclaim. The long term aim of the ESF group would be to achieve relief of source across all reclaim markets with a medium term goal of achieving a uniform reclaim process across Europe that would be transparent, easy to use and quick. While we recognize that this may be some way off we feel that in the short term progress could be made in certain jurisdictions where our members have encountered particular problems.

We set out some of the issues under country headings below:

France and Italy

Presently certificates of residency are required to be renewed annually. A one time certificate would considerably ease the administrative burden and is already in place for the French and Italian bond market, why not the equity market.

Sweden

For Swedish purposes SICAV's are generally entitled to the benefit of double tax conventions, however SICAV's are not entitled to relief at source while other shareholders are. This is anomalous.

Portugal

In order to benefit from withholding tax reduction at source on dividend payments through the application of the DTT between UK and Portugal Custodians have to be provided with documentation showing the beneficial ownership. The new Portuguese legislation states that, whenever there is a "continued contracted relationship" between the withholding tax agent and the beneficiary of the income the forms to benefit from reduction at source may be valid for a period of 1 year for dividend payments. The form to enable the reduction at source to take place has not yet been published. Therefore relief at source at the moment cannot be used. The standard reclaim process takes 2

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years to be paid out. The relief at source procedure needs to be put in place so that the framework for relief at source can actually be used.

Norway

Norway has retrospectively provided for exemption from withholding tax distributed to corporate shareholders resident in the European Economic Area (EEA). However it is not the corporate which decides whether it is available for exemption but the Norwegian Tax Authorities. The Norwegian Tax Authority appears to be reluctant to give general answers on new cases and prefer to work on documented file. This is the reason the Norwegian Tax Authorities would like the reclaim to be introduced in order to define if such entity is eligible or not. Only after the eligibility has been established does the set up at account level become possible. We would like to see the documentary requirements to establish eligibility relaxed and the requirements to show beneficial ownership of the positions in which the reclaims are being made to be specifically set out.

Hungary

The nominee concept has long been recognised, however, where there are private individuals behind a nominee the Hungarian requirement is that the dividend should be registered in the individuals name and not the nominee. This cuts across the purpose of having a nominee.

Generally

There appears to be a general move towards the provision of beneficial ownership details in order to obtain treaty relief, e.g. the new process in Finland. While this of itself is not necessary an issue the time frames imposed by the tax authorities are. For example in Finland breakdowns need to be provided by Record Date + 1. This is also an issue with quick refund procedures. Custodians generally operate omnibus accounts to hold stock segregated according to treaty rate or residence and accept the responsibility for making sure the right people are in the right account. Given this acceptance and the custodians' willingness to reverse errors on a 24 hour turnaround the time periods are unnecessarily restrictive and act as a letter to the process being usable.

Markets where the above issue is relevant :

- Finland
- Portugal – quick refund process where COR's are required within 28 days.
- Spain – relief on bonds COR's required within 10 days.
- Italy and France – RAS procedure breakdown by PD + 1.
- France will not accept the usual UK Certificate of Residence but require an annex authorised by the UK Tax Authority. Identical documentation with each market would be helpful, as would the standardisation of the quick refund process.

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We believe that by addressing these few inefficiencies the efficiency of the market can be greatly enhanced.

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