

Post Trade Securities Topics in current Initiatives and/or upcoming Regulations

(Swiss SPTC working paper)

Initiative, Regulation, Topic	Short description of potential PT Impact and/or PT Topics	Activities/Involvement of the Securities Industry respectively of SPTC members	
<p>I</p> <p>CAJWG (Corporate Actions Joint Working Group)</p> <ul style="list-style-type: none"> • E-MIG • T2S CASG Standards <p><i>Corporate Actions Processing Standards: Is dealing with Barrier 3 referring to national differences, the operational problems that are characterised by the variety of rules in the cross-border environment. CAJWG standards are a set of Europe-wide agreed best practices and is based on a private sector initiative.</i></p>	<p>European Best Market Practices on Corporate Actions Processing</p> <p>->T2S Requirements based on CAJWG Standards</p> <p>->Annual compliance reviews in all European markets (incl. CH) on the CAJWG level and separately also on T2S CASG standards level</p>		<p>Separate agenda topic at Swiss SPTC meetings -> see minutes of the meetings -> E-MIG Meeting Nov 2016 (SPTC 37, Agenda Point 7)</p> <p>Link to CAJWG Standards: http://www.afme.eu/globalassets/downloads/briefing-notes/afme-cajwg-standards-revised-version-2012-updated-2015.pdf</p>
<p>R</p> <p>CCP Resolution & Recovery</p>	<p>EU Commission proposal: Clearing process (-> influence, amendments, new requirements for normal and/or crisis mode)</p>	<p>2016/12</p>	<p>Separate Agenda topic of Swiss SPTC (Regulatory Developments) PT n.a.</p> <p>SPTC 37: See Regulatory Developments, Agenda Point 5; SPTC 37: Clearing Issues, Agenda Point 4</p>

R	<p>CMU (Capital Markets Union)</p> <p>Primary focus on SME's financing models (growth of European markets)</p> <p>-> EPTF (European Post Trade Forum): Advisory committee of the EU Commission; mandate for PT topics until 2018)</p> <p><i>Discussing the next steps to Growth in Europe: EU Commission has outlined a plan to promote and develop the EU market, particular focus on SME financing, long term investments, securitisation markets and approach on EU insolvency laws. EPTF has been set up to deliver a report on existing barriers and how those could be overcome.</i></p>	<p>Harmonisation activities across Europe are receiving renewed momentum in the context of EU Commission; CMU's action plan (based on EPTF's analysis):</p> <ul style="list-style-type: none"> (I) review the remaining, or any new barriers to integrated post-trade environment in the EU; (II) provide technical advice to the Commission on follow-up actions. <p>Harmonisation initiatives cover a number of issues that are currently under post-trade and financial integration of EU public authorities and private post-trade market actors. Topics include issues such as securities rights and conflict of laws, securities registration procedures, shareholder transparency, withholding tax procedures, settlement finality, settlement discipline regime.</p>	<p>2016/07</p> <p>2016/11</p> <p>2016/11</p> <p>2016/11</p> <p>2016/12</p>	<p>ECSDA Report on the Registration of Securities Holders</p> <p>AFME: Industry Roundtable on Registration of Securities Holders -> target to achieve Industry agreement for EPTF; Not achieved – follow-up will follow</p> <p>UNIDROIT / Geneva Securities Convention: Consultation via ECSDA on a legislative guide SPTC 37: monitor development from a BEG prospective</p> <p>T2S HSG Consultation on Market Claim: Taxable or indemnity – proposal to EPTF for EU TAX authorities SPTC 37: no solutions expected whether in the short nor in the long turn</p> <p>EPTF (e.g. via ECSDA): Questionnaire in the context of SLL and book-entries; securities accounts, securities ownership, different jurisdictions, conflict of laws etc.</p>
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R	<p>CSDR (Central Securities Depository Regulation)</p> <p><i>Regulation of CSDs as systemically important market infrastructures</i></p> <p>Nov 2016: CSDR level 2 standards are considered to be final on 11 Feb 2017 and enter into force Feb or Mar 2017 (except fail settlement and buy-ins)</p>	<ul style="list-style-type: none"> • Impact on CSDs and CSD participants • Europe vs. Swiss/national regulation -> GAPS? • Third Country Equivalence • Authorisation of (third country) CSDs • Asset Segregation Rules (omnibus vs. segregation) • Mandatory fail penalties/buy-ins • Transparency of internal transactions (internalisation) 	<p>2015/08</p> <p>2015/10</p> <p>2016/06</p> <p>2016/09</p> <p>2016/11</p> <p>2016/11</p>	<p>ISSA: Financial Crime Compliance Principles for Securities Custody and Settlement (Roadmap/time-line for implementation to follow in Jan 2017) Link to Principles: http://www.issanet.org/pdf/2015_08_27_ISSA_Financial_Crime_Compliance_Principles_final.pdf</p> <p>ECSDA: Account Segregation Practices at CSDs Link: http://ecsd.eu/wp-content/uploads/2015_10_13_ECSDA_Segregation_Report.pdf</p> <p>ECB-T2S CSDR Task Force: List of CSDR Items for Clarification (focus on penalties) Link/Doc: Currently no official doc available</p> <p>AFME principles on Asset Segregation, Due Diligence and Collateral Treatment Link to Principles: http://www.afme.eu/en/reports/publications-and-data/publications/afme-principles-on-asset-segregation-due-diligence-and-collateral-management/</p> <p>EBA and ESMA (e.g. via ECSDA): Consultation on suitability requirements of members of the management body (guidelines for assessment of members of key functions holders) -> relevant for compliance of CSDR requirements)</p> <p>ECSDA Consultation/Clarification on buy-ins – cooperation with other associations (AFME, EBF, ICMA, EACH, FESE etc.) -> “Uncertainty/Clarification Items” Link/Doc: Currently no doc available</p>
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			2016/12	ECSDA Consultation on “new barrier” re Art 54 for non-domestic settlements (Commercial Bank Money Settlements)
			2016/11	ECSDA Consultation on Contractual links of CSDs in the context of CSDR and Issuer/Investor CSD approach; current situation with focus to harmonise the future setups
I	<p>FATF (Financial Action Task Force)</p> <p><i>Intergovernmental organisation to develop policies to combat money laundering and terrorism financing. The recommendations are usually transposed into local laws like Anti-Money Laundering Directive in Europe and/or Swiss regulation</i></p>	<ul style="list-style-type: none"> • Paying Agency Function: additional disclosure requirements of certain shareholders • Adaptation of Dividend Process of “non book-entries” and/or physical coupon/dividend claim by beneficial owners 	2015/12	Swiss SPTC and Swiss/banking agreed on information letter to Swiss banks to clarify some legal and/operational uncertainties in GwG, OR and BEG)
			2016/12	PT n.a. (SwissBanking informed about a new assessment, Plenary meeting in Oct with publication of report in Nov/Dec 2016; new requirements expected 2018)
	FinfraG (&CSDR)	<p>General uncertainty on the implementation of FinfraG Art 73</p> <ul style="list-style-type: none"> • Segregation of assets/account structure • Scope/area of application • Parallelism to CSDR Art 38 • Definition of indirect participants 	2016/08	AFME letter to FINMA asking for clarification
			2016/09 and 10	SIX SIS letter to FINMA asking for clarification
			2016/11	Swiss Banks (CS, UBS, ZKB, JB) asking for clarification

				SPTC 73: Answers from FINMA still pending, expected by end December
I	Fintech, DLT (Distributed Ledger Technology), a.o.	Target: Observe and remain involved in discussions of the various associations to timely recognize and contribute to PT developments	2016/07 2016/12 2016/12	ECSDA Consultation on ESMA paper on Distributed Ledger Technology -> answer to ESMA on 2 Sep 2016 <i>For information purpose only Fintech presentation on SKSF Securities Conference: "Die Schweiz und Fintech" Presentation on SKSF Securities Conference: Hyperledger Fabric: Making Blockchain Open for Business</i> http://www.scfs.ch/ see Part 2 – Wertschriften-Konferenz 2016
R	FMI Resolution and Recovery	Settlement process (-> influence, amendments, new requirements for normal and/or crisis mode)	2016/12	PT n.a. Wird in Zukunft mit sicherheit ein Thema warden. CSDR keine Bank sondern eine Infrastruktur
	FTT (Financial Transaction Tax)	PT topics (Tax issue with potential processing issues; service issue)	2016/12	PT n.a .

R	<p>Fund Regulation</p> <p><i>Regulating the investment fund industry</i></p> <p>AIFMD / UCITS V</p> <p><i>Since 2013, the alternative investment industry has been regulated through AIFMD. There is a focus on investor protection and increased liability for depositories. This is also reflected on UCITS instruments through the 5th revision of UCITS Directive</i></p>	<ul style="list-style-type: none"> • Asset Segregation Rules • Liability and new requirements for Depository Banks 	2016/12	<p><i>Q4 2016 guideline from ESMA in terms of account structure expected -> pp to Q1 2017</i></p>
I	<p>ISSA (International Securities Services Association)</p> <p><i>Globally oriented Trade Association</i></p>	<p>ISSA Financial Crime Principles</p> <p>ISSA Inherent Risks within the Global Custody Chain (1992 -> update 2016)</p> <ul style="list-style-type: none"> • Enhanced KYC and KYCP and due diligence requirements • Enhanced controls of Omnibus a/c setups 	<p>2015/08</p> <p>2016/11</p>	<p>ISSA: Financial Crime Compliance Principles for Securities Custody and Settlement <i>(Guidance for implementation to follow Q4 16/Q1 17)</i></p> <p>ISSA: Consultation and review process to update the ISSA report</p>

R	<p>SFTR Securities Financing Transaction Regulation</p> <p><i>Regulation to increase transparency in the securities financing industry by mandatory reporting and revision of certain contracts</i></p>	<ul style="list-style-type: none"> Enhanced KYC and KYCP requirements (settlement data fields) Enhanced reporting / disclosure requirements 	2016/10	ESMA Consultation on SFTR level II technical standards; ECSDA responded where it refers to CSDs Section 4.3.8 (p114-117) about settlement fields relating to SFTs
R	<p>SRD Shareholder Rights Directive</p> <p><i>EU measure prioritizing rights of shareholders to company information</i></p>	<ul style="list-style-type: none"> Duties for intermediaries towards shareholders: <ul style="list-style-type: none"> New requirements on the information flow (from issuer via intermediaries to shareholders and vice versa) Legalisation of CAJWG Standards (->Level 2) Legalisation of GMJWG Standards (-> Level 2) Enhancements/Adaptation of GM Standards? Third Country Equivalence New disclosure requirements (e.g. shareholder identification; fees around shareholder identification) 	2016/12	8.12.16: EU Council and EU Parliament agreed upon text of the review -> industry review on impact and consultations will follow after publication of final text (expected within next weeks)

black = old input;

green = input since last Swiss SPTC Meeting for the current meeting;

red = current SPTC meeting input

ANNEX

Acronyms

AFME	Association for Financial Markets in Europe
AIFMD	Alternative Investment Fund Managers Directive
BEG	Bucheffektengesetz
CAJWG	Corporate Actions Joint Working Group
CASG	Corporate Actions Sub-Group (ECB level ->Sub-Group of T2S Advisory Group; T2S-CASG)
CCP	Central Counterparty
CMU	Capital Markets Union
CSDR	Central Securities Depository Regulation
DLT	Distributed Ledger Technology
EACH	European Association of Clearing Houses
EBA	European Banking Authority
EBF	European Banking Federation
ECB	European Central Bank
ECSDA	European Central Securities Depositories Association
EPTF	European Post Trade Forum
ESMA	European Securities and Markets Authority
E-MIG	European Market Implementation Group
FATF	Financial Action Task Force
FESE	Federation of European Securities Exchanges
FMI	Financial Market Infrastructure
FTT	Financial Transaction Tax
GMJWG	General Meetings Joint Working Group
GwG	Geldwäschereigesetz
HSG	Harmonisation Steering Group (ECB level ->Sub-Group of T2S Advisory Group)
ICMA	International Capital Market Association
ISSA	International Securities Services Association
KYC / KYCP	Know Your Customer / Counter Party
PT	Post Trade

T2S	Target2-Securities
SFTR	Securities Financing Transaction Regulation
SKSF	Schweizerische Kommission für Standardisierungen im Finanzbereich
SLL	Securities Law Legislation
SME	Small and medium-sized Enterprises
SRD	Shareholder Rights Directive
UCITS	Undertakings for Collective Investment in Transferable Securities
