

Ari Voipio

3.5.2002

SUMMARY OF SOME CONTRIBUTIONS FROM FINLAND

ESCB – CESR: A CALL FOR CONTRIBUTIONS FROM INTERESTED PARTIES MARCH 15, 2002

Contributions from the Finnish Association of Securities Dealers¹, the Finnish Bankers' Association² and HEX Plc³ have been delivered to the ECB and the CESR secretariat respectively via e-mail. In addition to these the Financial Supervision has received additional contributions from Nordea Bank⁴ Finland / Custody Services and the Taxpayers Association of Finland (TAF)⁵ in Finnish. This memorandum tries to summarise these two in English. The original contributions are attached to this summary.

Nordea Bank Finland / Custody Services

The contribution is written by Mr Janne Palvalin, lawyer. He can be reached for further clarification if the need arises by email: janne.palvalin@nordea.com or phone +358 9 165 51012.

2.1 Nature of the recommendations

The nature of the standards should be as clear as possible. They should be implemented in a similar fashion in each country to avoid competition implications. They would be to the benefit of the customer as well.

The structural differences make this however difficult. Too tight a regime should not hinder development of market structures. This might be achieved by framework regulation at the EU level with some room for national implementation.

2.2 and 2.3. Addressee and Scope

The standards should be addressed to all parties. The primary target could be regulators, systems and systems operators who in turn could implement them in their systems and rules. This way the standards might be made binding to all parties irrespective of their status.

From the Finnish point of view the standards should address all instruments as the legal definition of an instrument is rather broad in the securities markets act.

¹ <http://www.apvy.fi>

² <http://www.pankkiyhdistys.fi>

³ <http://www.hex.fi>

⁴ <http://www.nordea.com>

⁵ <http://www.veronmaksajat.fi>

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2.4. Objectives

Risk mitigation and investor protection are good goals. Cross border efficiency should be sought by lowering legal obstacles rather than by creating new regulation. Participants should not be forced to make unnecessary and costly investments. Level tariffs for cross border and domestic transactions should in particular be avoided were costs differ.

Level playing field is already quite good with respect to legal requirements. Problems are mostly related to differences in systems structures. Renewal and unification of these requires investments and should be allowed to happen at a pace dictated by market forces rather than regulation.

2.7 Settlement Cycles

Unified settlement cycles are best from an operational point of view. T+3 works well and there are no major pressures to shorten it except maybe if the US shortens settlement cycles.

2.8 Structural issues

Custodians, CSDs and CCPs should be treated as businesses whose actions are motivated by business goals. Some actors have natural monopolies, which they should not be able to misuse e.g. by competing with non monopolistic players in their line of business or by hindering market entry.

TAF

The contribution is signed by Mr Teemu Lehtinen, CEO and Mr Jussi Sainio, Lawyer. They can be contacted by e-mail veronmaksajat@veronmaksajat.fi or by phone +358 9 618 871

The Taxpayers Association of Finland would like the clearing, settlement and custody systems to facilitate for the investors easier tax declaration by keeping record of investor trades for this aim.

They also point out that cross border transactions may be used to avoid taxes.