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Clearing and Settlement: Legal Certainty Group Advice

On 6 September 2006, the Legal Certainty Group made available its [advice](#)

to the European Commission on issues of legal uncertainty relating to the integration of EU securities clearing and settlement systems. In its advice, the Group, which was [established](#) in early 2005, considers the following three issues:

(1) The absence of an EU-wide framework for the treatment of interests in securities held with an intermediary. The Group advises that new legislation is needed about the legal effects of book entries made on securities accounts and that such legislation should aim at the minimum harmonisation of Member States' laws. The advice sets out the core principles of the new legislation in relation to, for example, book entry rights and the duties of account providers. The advice also identifies issues that should be considered by policy-makers, for example, the regulatory response that might be triggered by the new legislation. An [annex](#)

to the advice provides practical examples of legal uncertainty in the way that Member States' laws interact.

(2) Differences in national legal provisions affecting corporate action processing. The Group will provide advice on this once specific legal issues have been exposed by the trade groups investigating this issue within the workload of CESAME and the final shape of the Commission's proposal for a directive on the exercise of shareholders' voting rights is

known.

(3) Restrictions relating to the issuer's ability to choose the location of its securities. The Group advises that these restrictions exist, and that new legislation would be needed to abolish them. However, the Group does not set out any principles or design for such legislation, as this issue requires further study.

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