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REPORT

From:	Presidency
To:	Permanent Representatives Committee (Part 2)
Subject:	Proposal for a Regulation of the European Parliament and of the Council on improving securities settlement in the European Union and on central securities depositories (CSDs) and amending directive 98/26/EC - <i>General approach (Declarations for the minutes)</i>

DECLARATION BY FINLAND

“The openness and transparency of financial markets is a crucial objective for the rules of financial services. Finland considers it very important that the openness and transparency of the securities markets is maintained as high as possible and the current Finnish rules concerning the publicly available shareholder information can remain and authorities’ access to relevant information is safeguarded.

The proposed CSDR Regulation compromise does not include rules that fully safeguard the publicly available shareholder information in accordance with the Finnish national requirements. Therefore, Finland cannot give support for the currently proposed compromise for the Regulation, and we stress the importance to strengthen these provisions during the negotiations with the European Parliament and before the adoption of the Regulation.”

DECLARATION BY AUSTRIA

“The Austrian constitutional law presently does not allow for administrative pecuniary sanctions in the amount provided for in Article 59 a para 4 lit. f and g CSDR. Therefore, we cannot currently commit to the implementation of this provision, as implementation would require an amendment to constitutional law. It is not predictable whether such an amendment to the Constitution will be adopted.”

DECLARATION BY ITALY, THE NETHERLANDS, SPAIN AND PORTUGAL

“Central securities depositories (CSDs) are crucial players in the financial markets, performing services that allow, at a minimum, the registration, safekeeping, settlement and consequently the efficient processing of securities transactions.

In many ways, CSDs are a central point for the entire market. By virtue of their unique function, CSDs are systemically important post-trading infrastructures for the market they serve. Therefore, there is a strong need for an appropriate regulatory framework.

The EU legislation shall address the pan-European dimension of the CSDs’ activities, taking into account their significant systemic importance and the critical services for the securities market they perform. In such a context, the viability of a CSD and the risks taken by it are not just a national matter. Moreover, the cross-border dimension of CSD activities is expected to grow even more after the adoption of the Regulation under discussion.

Therefore, to address the European scale of CSDs’ business, Italy, Netherlands, Portugal and Spain have a strong preference for the binding mediation of ESMA to be kept under Article 53 in case of conflict among national competent authorities involved in the authorization of CSDs to provide ancillary banking services.

Bearing in mind the rationale behind the Presidency’s compromise and the urgency to adopt this piece of legislation, mainly in view of the advent of TARGET2-Securities, the abovementioned Member States are able to support the mandate to negotiate on the basis of the proposed global package and expect these subjects will be revisited in the course of the inter-institutional dialogue.

Furthermore, Italy, Netherlands, Portugal and Spain are also concerned by the fact that, as the Presidency recently pointed out, the procedure for authorizing banking services will mainly affect operating CSDs and not affect future CSDs that would establish themselves in the EU after the adoption of the regulation. These Member States hope this aspect would be revisited by means of renewed authorization processes and/or another solution acceptable to all.”
