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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 - *General approach (Declaration for the minutes)*

DECLARATION BY FRANCE

“While recognising the efforts of the Presidency to reach an overall compromise in order to start negotiations with the European Parliament, France regrets the current compromise constitutes an important step back in two main points.

First, the authorisation procedure in Article 53 is not satisfying. CSDs which will provide banking services on a cross-border basis are systemically important market infrastructures with, furthermore, a risk of incurring banking risk to their “core” services. That is the reason why we advocate for an authorisation procedure which may involve fairly all Member States whose national market may be directly affected by a risk of fail or bankruptcy of this CSD. The Parliament proposal which provides a binding mediation of ESMA when at least one of the authorities concerned object to the authorisation is much more appropriate in this way than the Presidency proposal which provides only, when requested by a simple majority of authorities, a non binding mediation of ESMA.

Secondly, and as already mentioned recently for another important financial regulation (the Market Abuse Regulation), this compromise falls short from fully harmonising the sanction regimes in the Single market. Member States will have an option not to introduce administrative sanctions and will be able to create new criminal measures for sanctioning breaches to the regulation within the two years. Once more, we would like to recall that administrative sanctions have proven to be the most efficient and swiftest way of sanctioning financial breaches as well as facilitating the cooperation between national authorities.

In this respect we consider that the Presidency compromise, in spite of achieving major steps forward, still lacks of ambition and consistency with the objective of the regulation to increase safety and harmonization in the securities settlement system. We hope that these points would be duly taken into account in the course of the inter-institutional trialogue."