Shareholder Identification and Registration

Report by a Working Group mandated by the
European Post Trade Group

December 2015

1. Introduction

1.1 European Post Trade Group / EPTG

Tasks and Composition

The European Post Trade Group (EPTG) has been set up in 2012 on the recommendation of the European Group on Market Infrastructure. It is a joint initiative between the European Commission, the ECB, ESMA and the industry. Its members are representatives of the key players involved in post trade issues which participate in the group's work as experts. The initiators intended to drive the dismantling of barriers to cross border safety and efficiency including identifying new issues that have developed since the second Giovannini report in 2003. The mandate also comprises encouragement to propose to compliment the legal framework in those areas as well as the work of the ECB on its Target Securities project. [1]

The EPTG has set up an action list and several initiatives have been commenced. [2]

1.2 EPTG Working Group Shareholder Identification and Registration

Tasks and Composition

During the discussions in meetings of the EPTG several issues have been identified to warrant further attention including shareholder identification and questions of "registration" procedures and the relation to settlement. Two sponsors have been designated and a Working Group has been set up.[3]

This Working Group was set the task to do a fact-finding exercise with respect to the two issues to identify the concerns and expectations of market participants to develop a pan-European model for both in order to propose procedures not to interrupt straight through processing (STP) in cross border exercising of shareholders rights and cross border settlement.

[1] http://ec.europa.eu/finance/financial-markets/clearing/eptg/index_en.htm

[2] The European Post Trade Group (EPTG) Annual Report 2013, p. 12 seq. This report has the date December 2015.

[3] Paul Bodart (T2S, Advisory Board); Paola Maria Deantoni (SG Securities Services, Italy); Christine Strandberg (SEB, Sweden); Florentin Soliva (UBS, Switzerland); Olivier Connan (SWIFT, Belgium); Marc Younes (until 7/2015) and Thiebald Cremers (BNP Paribas, France); Michael Kempe (Capita Asset Services, London); Ramon Hernandez Peñasco (Emisores Espagnoles, Spain)

The group sees itself as a successor to the T2S Task Force on Shareholder Transparency which has delivered its final report on 28th February 2011[4] and also in the context of the Joint Working group on General Meetings[5]. Those initiatives have shown a need for a better and pan-European solution for, and a strong interest in, shareholder identification and registration questions.

2. Description of the issues under review

2.1. Economic and Legal Concept

Shareholders are members of a company. The historical model is that all members are known to the company and know each other. Over time the finance need of growing companies and the increasing demand of persons looking for opportunities to invest money expecting a return lead to a significant increase in the number of shareholders for companies and to two different legal concepts, one being that shareholders should be registered with and known to the company and the other being that shareholders could acquire their position as an investor and a shareholder in a company by acquiring a physical certificate (a bearer share) evidencing the participation in a company and stay unknown to the company. Sometimes the company would obtain knowledge of the shareholder when they wished to exercise their shareholders´ right, e.g. voting rights in a general meeting.

The bearer share usually had the following characteristics: (i) the bearer was unknown to the company (thus "société anonyme" in France); and (ii) the participation was evident in a physical share certificate and the holder of this certificate was deemed to be a shareholder and actually became a shareholder by acquiring this certificate under applicable law rules, normally security law rules based on rights in rem concepts. Several changes have occurred in the last decades. The vast majority of European shares are now dematerialised in the sense that physical certificates are not commonly held anymore by shareholders but have been replaced by electronic bookings of shares into security accounts. Local securities law frameworks have been adapted accordingly.

In addition, trading has taken proportions that were not imaginable a few decades ago. Finally, whilst companies are growing larger, investments are becoming more and more

[4] http://www.ecb.europa.eu/paym/t2s/progress/pdf/subtrans/st_final_report_110307.pdf. Please also see the comprehensive domestic market survey of shareholder transparency practices as compiled by the T2S Task Force on Shareholder Transparency at: https://www.google.com/url?q=https://www.ecb.europa.eu/paym/t2s/progress/pdf/subtrans/st_analysis_regimes.pdf

[5] Which has drafted "EUROPEAN MARKET STANDARDS FOR GENERAL MEETINGS "(see: http://www.ebf-fbe.eu/european-industry-standards/. The standards have been endorsed by market participants and their associations.

international. As a by-product of these two changes, nominees and sub custody have grown in importance and practice. Where this has grown, the disconnect between investor and issuer has grown, meaning that whilst each intermediary has clearly identified clients and their ownership in their systems this is not transparent to issuers. As a result, we are today in a situation where a bearer share or a share registered in the name of a nominee (see below) are shares where everybody in a custody chain except the issuer knows who is "the end investor" identified in his books or another intermediary in the chain that is his client. This needs to be put against the background of a desire to encourage investors to better exercise their rights, the increasing powers of the General Meeting (cf. Revision of the Shareholders Rights Directive) and against the growing need to identify shareholders.

The concept of registered shares is that shareholders are known to the company, and in most European member states where this concept exists the register is updated when they acquire or sell shares and any acquisition or sale of shares is disclosed to the company[6]. The company has to maintain a shareholder register in which it has to book any change in shareholdings and in shareholders. Most European member states have company laws which provide for only the person being entered into the share register deemed to be a shareholder. Historically, registered shares were also materialised in physical share certificates but recently this has often been replaced by electronic bookings into security accounts when acquiring shares[7]. Most European member states have well working domestic solutions for forwarding the data of an investor having directly invested money into a share ("end investor as defined by the market standards for General Meetings[8] and by the T2S Task Force[9].

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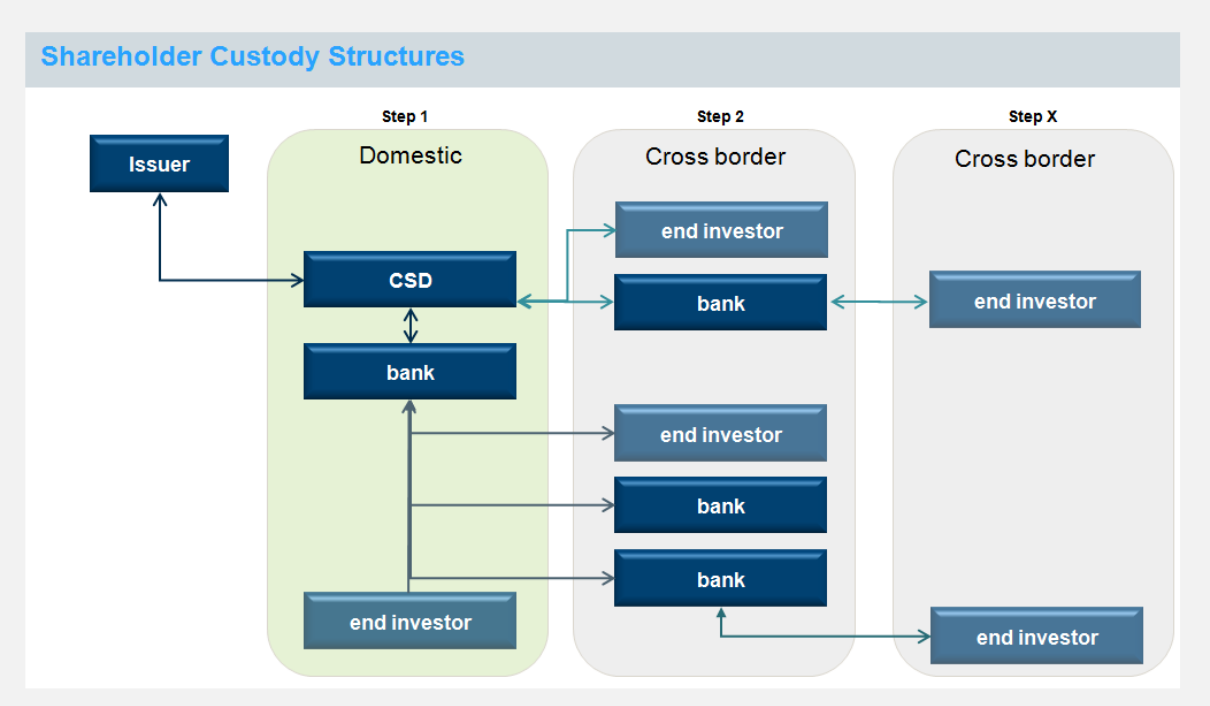
[6] Italy has the concept that a shareholder's register is updated not in connection with acquisition or sale of shares but when a general meeting or a corporate action takes place. At that moment, the intermediary is obliged to communicate in a special format the relevant information to the issuer enabling the issuer to update and maintain a shareholder´s register

[7] The CSDR mandates dematerialization by 2025 across all EU states, but this does not necessarily concern the relationship between issuer and end investor.

[8] As defined by the market standards on general meetings of 2010 the definition of end investor is as follows: "end investor shareholder is the natural legal person who holds shares for its own account, not including the holder of a unit in a UCITS (undertaking for collective investment in transferable securities)." The end investor is normally an "account holder" i.e. has a securities account with a bank or another intermediary which may also be a securities account holder upper-tier in a custody chain until it reaches a securities account at the CSD. The "shareholder" is the natural or legal person recognised as shareholder under the applicable corporate law of the issuer, which should not but may differ from the "end investor" and is therefore the person that formally (but if this is not the end investor, not economically) may exercise the voting and dividend rights. The terms end investor and "beneficial owner" are widely used synonymously although "beneficial owner" is a US law concept under the UCC which cannot be fitted perfectly into the European legal system. It seems that under this concept the ownership (or "title" or "right in rem" which has effects against all persons = erga omnes) in a security is taken away from the end investor and transferred to an intermediary and replaced by a contractual right of the end investor against that intermediary not having effect erga omnes. Under European law the "legal owner", i.e. the natural or legal person that acquires the legal title to the security as the result of the securities transfer (settlement) according to the applicable securities laws should always be the end investor in order to protect their interests and their investment.

[9] **T2S TASKFORCE ON SHAREHOLDER TRANSPARENCY - FINAL REPORT TO THE T2S ADVISORY GROUP, at: see footnote 4**

While the forwarding of data for registered shares functions well in a domestic situation where an end investor maintains a security account with an intermediary (often a bank) in the country where the issuer is domiciled such forwarding of data is sometimes more complicated and often less efficient cross border. This leads to a situation that not all end investors would be registered in a share register (where the end investor is required to be entered into the register which is not required in all markets) but intermediaries like custody banks, providing custody services for end investors or other intermediaries. Cross border custody chains involving several intermediaries are common, starting at the Central Security Depositary (CSD), normally involving global custodians and other custodians down to the end investor and the last intermediary providing security account services for this end investor. The following simplified graph shows that situation which is similar for bearer shares and for registered shares with respect to the custody chain. Custody chains may contain several intermediaries between the issuer and the end investor. Experience seems



to show that in a majority of cases of large institutional investors there are up to 4 intermediaries including the CSD[10], the number of intermediaries varying depending on domestic or cross-border nature of the investment. In some cases, there are more than 4 intermediaries. Generally, the Global custody market has shown signs of concentration over the last decades, and securities holding chains have become shorter.

[10] For the purposes of this report we make no difference between markets where the CSD is an intermediary and markets where this is not the case.

"Bank" in all graphs shall mean bank, broker, or other intermediary of all kind providing securities accounts.

Intermediaries tend to use "omnibus" or "pooled nominee" accounts at CSD or (other) intermediary level in which they book the securities of more than one investor. The investor rights towards the intermediary associated with each type of account may be different and a matter of contract between intermediary and client. Such structure is often accompanied by the acting of this intermediary providing the "omnibus account" vis-à-vis the next intermediary in the custody chain upper tier as "agent" or "trustee" for the investors who own the securities. Intermediaries argue that omnibus accounts are easier to administer; investors have concerns about the ownership rights, their ability to decide on the use of the securities, the exercise of shareholders' rights when they are not registered with the issuer as the end investor and the legal position they have in case of insolvency of an intermediary. The CSD Regulation[11] obliges CSDs to offer to their participants accounts which "enable" a segregation of assets between the participants own assets and the participant's clients' assets, but the use of segregated accounts is not mandatory.

2.2 Shareholder identification

Today the vast majority of European share companies have non-domestic investors among their shareholders. For bigger European companies, it is very common to have more than 50%, sometimes more than 75% of their shareholders domiciled outside the country of domicile of the company itself. This is the sign of open minded companies, open capital markets and a worldwide economy.

While this usually welcomed by companies, there are other aspects of cross border shareholdings which merit review:

- Only informed shareholders can freely exercise their rights but the process of informing shareholders cross border is currently not working properly. Although some non-domestic investors/shareholders have a direct relationship with issuers, the majority across Europe use an intermediary and evidence suggests the process of informing shareholders cross border is currently not working properly. Most retail shareholders

[11] REGULATION (EU) No 909/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012, OJ 257/1 of 28.8.2014

using an intermediary do not even receive a meeting notice from an issuer as it is often not part of the common global service offer of a bank or other intermediary in the matter of asset servicing. The end investors could be informed by issuers if their names and addresses were known to the issuers which is mostly not the case cross border although in some markets it is a matter of law that information rights can be provided as long as the issuer has been informed of the requirement for a given investor. Furthermore, it should be noted that the Corporate Actions process works relatively well in a cross border context. The reasons may be the fact that corporate actions are often part of the "standard" service of an asset servicer, the risk to an intermediary of processing a corporate action is higher and potentially corporate actions benefit from wider use of standardised electronic messages leading to improve straight through processing between intermediaries.

- Sometimes end investors[12] have to be known to the company in order to be able to exercise their rights, especially voting rights. Some issuers require such identification when shares are voted.
- Some European member states (e.g. Italy, France, Spain) offer additional rights to loyal shareholders, for instance bonus dividends or preferential or double voting rights but only if the end investor is a long-term investor. In order to determine such long-term engagement, they must be known to the company.[13]
- Under several European company laws companies have the right to ask for disclosure of the end investors. Non-compliance may lead to losing or blocking shareholder rights or benefits.
- There is also a tendency to encourage investors to exercise their rights better in general meetings (cf. planned revision of the Shareholders Rights Directive), therefore, it may be more important to communicate with shareholders directly but it will definitely be vital to ensure end investors receive the communication.

For all this shareholder identification is essential. Whilst some issuers may not see identification of all their shareholders as a priority, it may be essential for others. It is important to enable issuers who need shareholder identification to achieve this practically and efficiently.

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[12] As defined by the market standards on general meetings of 2010 the definition of end investor is as follows: "end investor shareholder is the natural legal person who holds shares for its own account, not including the holder of a unit in a UCITS (undertaking for collective investment in transferable securities)."

[13] Some investors argue against this approach and refer to the principle "one share – one vote" which they may see affected by such corporate law instruments meant to encourage long term ownership and a long-term investment horizon.

2.3 Registration

Registration of end investors when acquiring registered shares in a company is necessary in major European markets in order to be considered a shareholder and to be able to exercise all or several of their shareholders rights. In other markets, it is not the end investor but the 'first' holder which is considered the "shareholder". Either way, the shareholders register, whether being maintained by a Central Securities Depositary (CSD), the issuer or an issuer's agent, needs to be maintained and updated using ultimately the data of trades – or when booked into the securities accounts of an end investor – of holdings in registered shares.

This could be linked to:

- the trade and settlement information from the CSD and/or;
- the settlement information of any intermediary; and /or
- the subsequent booking of holdings into the securities account of an end investor

as created by the intermediary of the end investors having sold or bought shares. The purpose of registration is to fulfil the function of keeping the central register for the issuer of registered securities which – in most European member states - should provide information on end investors and the register could also be used to recognise the shareholder rights as defined by several markets and allocate privileges to shareholders such as double voting rights and bonus loyalties.

- Today several models exist in Europe where: registration occurs at the same time as settlement (UK), registration and settlement are linked (France), where settlement comes before registration and triggers registration (Germany) or where settlement and registration are de-synchronised (Italy).[14] There are also different processes used across Europe for creating and forwarding the registration data of the end investor or if applicable law allows, a nominee in lieu of the end investor. Under the current planned structure of T2S with its planned finality of settlement in the T2S platform there is a concern that registration of the end investors could be affected or that finality of settlement may be jeopardised when there is no clearly defined European solution.

[14] See footnote # above, Italy takes the approach that registration is necessary in connection with a corporate action or a general meeting.

Sometimes the need for registration of the end investor in a share register in order to exercise shareholder's rights is referred to by international custody banks using the term "re-registration". This refers to a practice of international custody banks to reverse the registration of the end investor after the shareholder's rights have been exercised although this end investor has not sold the shares and replace the names of end investors with their own names thus creating the need to "re-register" the end investor for the next occasion they wish to exercise their shareholder's rights, esp. voting rights or dividend rights. There is no legal need for this practice, on the contrary in some European member states it can be considered a violation of applicable laws to erase the name of the end investor in the share register if this end investor has not sold shares. It is claimed this practice is necessary in order to allow for easier settlement of trades in shares when using omnibus accounts with several intermediaries in the custody chain. If throughout the custody chain segregated accounts would be used such de-registering may not be necessary. However, a technical solution should, if possible, also try to address that concern.

3. Facts and Current Status of the Markets

In the following the terms "direct" and "indirect" holdings are used in the sense that "direct holding" means an account or a similar relationship of an end investor with the issuer or the issuer CSD and "indirect holding" means an end investor having an account with an intermediary which may have itself another account with a CSD or another intermediary which itself may hold an account with a CSD or another intermediary (this being referred to as the custody chain); the resp. share(s) are booked into all those accounts.[15]

3.1. Direct and Indirect Holding Systems and Registration

A brief review of the different models used for securities custody structures and holding shares in Europe shows:

- **Direct holding systems type 1 (e.g. Sweden) and registration/identification**

  If a company becomes affiliated with the Swedish CSD, all shares issued by that company must be registered on accounts in the CSD. Investors, both Swedish and non-

[15] One could also use "direct" as a reference to a system in which the holder of a security has "title" in the security (which may be materialised or dematerialised) and "indirect" as a reference to the US "entitlement system" where the end investor does not hold title in a share but title is transferred to a bank and the end investor given another (probably only contractual) right against the intermediary instead. One could also differentiate between "transparent" systems where the end investor would always been known to the issuer and not transparent systems where the end investor is not known to the company.

Swedish, may choose to hold their CSD-affiliated securities on their own securities accounts in the CSD (owner-registered) or to hold them on a custody account with a member of the CSD, which in turn holds the clients' CSD-affiliated securities on nominee securities accounts in the CSD (nominee-registered). The shareholder register is composed of all CSD accounts with a position in the share. The register is thus updated automatically upon settlement.

CSD members holding securities on behalf of clients are not considered the legal owners of these securities; the owners of the securities are evidenced in the books of the nominees. Nominees have an obligation to report their clients, the underlying holders, to the CSD whenever so requested (so-called nominee reporting). This allows issuers to be informed of all their shareholders, regardless if the shares are held in owner or nominee accounts. However, the nominee reporting obligation only affects members of the Swedish CSD, and hence shareholders which are not clients of a Swedish nominee may choose to not be known by the issuer.

For most operational purposes, nominees act as their clients' proxy and receive dividends, execute corporate actions, etc. For general meetings however, only the actual shareholders/beneficial owners may be registered. For this purpose, a temporary share register is created for each general meeting, and nominees enter their clients (automatically, or upon specific instruction) into this share register before a set deadline. The CSD enters all owner-registered holdings automatically into the share register before it is finalised.

Since the share register deadline is the same as the record date, the process is difficult to achieve for shareholders holding via multiple levels of intermediaries. In addition, registration in the temporary share register is not sufficient to be allowed to vote at the general meeting; the shareholder must also notify the company of its intention to participate, usually with the same deadline as shareholder registration. Finally, Sweden is almost entirely a physical participation market, and the shareholder, or its appointed representative, must attend the meeting in person. In practice this procedure is claimed by intermediaries to be burdensome and not certain to put all end investors wishing to exercise their voting rights in a position to do so.

- **Direct Holding Model Type 2 (e.g. Spain)**

The Spanish holding and registration system is structured in two levels: (i) The Central Register managed by the CSD whose accounts are only held by professional participants ("Participants") which are banks or other intermediaries; and (ii) the Detailed Register managed by each Participant holding securities in the name of its

clients. Both registers are updated on the basis of daily trade and settlement data. Domestic investors are usually direct clients of Participants while non-domestic end-investors use other banks which are normally clients of Participants. Spanish law provides that the person entered into any of such Registers is the shareholder and therefore the only person entitled to exercise the shareholders' rights (dividends, voting rights, etc.). Economic rights attached to the shares are exercised through the Participant in whose Detailed Register the shares are entered. As to general shareholder's meetings, shareholders receive the agenda from some issuers or mostly from Participants as part of the services rendered by the latter under the relevant securities administration agreement. Spanish law allows both: (i) end-investors to instruct the relevant intermediary appearing as account-holder in the Detailed Register on their behalf as to the exercise of voting rights; or (ii) the relevant intermediary to delegate the vote to the end-investor or to any other person designated by the end-investor.

- **Indirect holding systems (e.g. Germany and France) and registration/ identification (Type 3)**

  Some European member states do not have direct holding systems where the end investors would hold bank accounts directly with the CSD but systems where the CSD provides accounts only to professional participants/first level clients e.g. custody banks and other financial institutions like other CSDs of other countries. Usually domestic investors in those countries would be clients of those participants of the CSD[16] while non-domestic end investors may not be direct clients of those participants but use other banks which are either themselves clients of the first level account client of the local CSD or clients of their clients. Those custody chains comprise normally three to four, sometimes between two and – in rare cases - up to 10 intermediaries between the CSD and the end investor. Custody banks / intermediaries are often not domiciled in the same jurisdiction and their account providing services may be subject to other laws than the laws of the issuers or other custody banks in the custody chain.

  Also, a common practice is for custody banks to not set up segregated accounts for each of their clients but to maintain omnibus accounts in which the securities of several of their clients, sometimes several thousands of their clients comprising securities of

[16] Actually banking reorganisation may create new scenarios where also domestic custodians are holding domestic securities through a specialised Bank that is the CSD participant.

several hundreds of issuers, are booked. In some of those countries the exercise of shareholders rights, especially voting rights, may be subject to requirements of disclosing the end investor to the company thus requiring forwarding of the end investor data to the company, normally as of record date. Under the CSD Regulation[17] it is compulsory for custody banks to "offer" to their clients who asks for segregated securities accounts for each client, but it is not compulsory to set them up. And even when such custody bank (intermediary) maintains a segregated account for a specific investor, when that custody bank sub-holds the securities with another (global or sub-) custodian, the custody bank often holds client's securities in omnibus custody accounts in the books of another custodian in the custody chain. This creates different situations per level of the intermediary chain.

- **Other Indirect holding model (e.g. Italy) with no Standing Register (Type 4)**

  The CSD participants, normally banks, would provide security accounts for their clients, be it end investors or other banks. No constantly updated (using trade or settlement data) "standing" register is established but a register with the data of the end investors and (in certain cases) nominees (incl. the bank client of the CSD participant and – based on general European rules - incl. an indication that is an account for the benefit of a third party) has to be established on special occasions, when a general meeting takes place or corporate action is executed. The data for those registers are being forwarded by Italian banks for end investors holding accounts with them and, in case of a general meeting, which have asked to participate. When shares are held through a non-Italian bank issuers may ask for end investor identification on a voluntary basis. Those data, or if the end investor is not disclosed, the data of the intermediary, is put into the shareholders´ register.

- **Mixed Holding Model with (Standing) End Investor and/or Nominee Registration (Type 5)**

  Some member states (e.g. United Kingdom and Ireland) have holding systems and legal rules under which only the person entered into the share register is the "shareholder". While investors have the opportunity to hold shares directly on the register either in dematerialised or materialised form, several investors use an intermediary. The current split by numbers of shareholders is that approximately

[17] REGULATION (EU) No 909/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 OJ L 2571/ 28.8 2015

85% of registered persons and thus "shareholders" are end investors with 15% being intermediaries. Unsurprisingly, however, the majority of the capital of issuers is held via intermediaries (approximately 85% of capital on behalf of their clients and their clients´ clients, including all end investors banking with those intermediaries. Registration (of the end investor or the nominee) takes place at the time of settlement in the UK (the "electronic transfer of title" model which means that the legal record of title is part of the CREST system) and with up to a two our time lag in Ireland. Although investors will use the services of an intermediary to purchase or sell shares they are under no obligation to hold their shares with that intermediary. The investor can arrange to be put directly into the register. In the UK, part of the share register is maintained by the CSD and this part is then mirrored on the companies register, usually maintained by an issuer agent known as a registrar. It is not necessary to forward end investor/shareholder data in order to exercise shareholders' rights. However, issuers may have the requirement to obtain end investor data e.g. for engagement purposes. Empiric evidence shows that many non-UK shareholders not banking with UK banks are served via an intermediary chain and would normally not be entered into the share register.

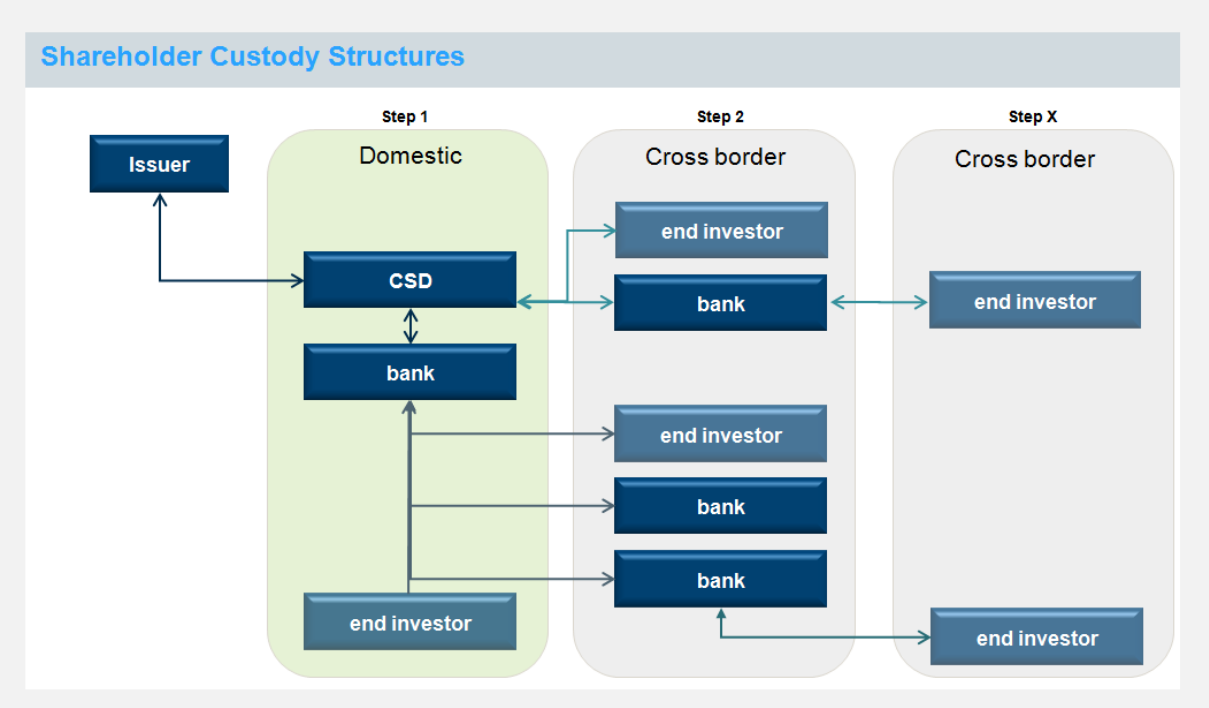
3.2 Shareholder identification rules

Irish and UK law provides for the company having the right to ask anyone who it believes to hold shares in the company to disclose whether the shares are held on their own account or for someone else. The notice can request that all relevant information e.g. underlying investors and their holdings (including proxy/investment advisors, if applicable[18]) must be disclosed. This process appears to work across borders. Generally, information is returned to the issuer within 48 hours and the issuer can take measures against any intermediary who does not comply.

Similar legal rights for the company to ask for shareholder identification or the identification of persons having an interest in the company exist in several European member states. In some member states a disclosure request can be aimed at any person believed to have an interest in the shares, in others it has to be directed to the nominee shareholder as evidenced by the share register and if the response is that the shares are held for another person this person may then be asked the same question. In some European member states (e.g. United Kingdom, Germany) the non-disclosure of end investor data on request of the issuer may lead to impediments for the exercise of shareholders' rights, be it voting rights of dividend rights.

[18] As seems to be the case in the UK acc. To sec. 793 Companies Act 2006, see also footnote 27 below.

3.3 Typical cross border holding patterns and custody chain



3.4 Settlement concepts and registered shares

In some European member states registration occurs with settlement (e.g. UK), follows quickly afterwards (e.g. within 2 hours in Ireland) or the registration of an end investor acquiring shares in a registered share company is sometimes linked to settlement (e.g. France). In France and in case of a company with obligatory registered shares (valeurs essentiellement nominative = VEN) settlement of trade and the forwarding of the data of the end investor via a message called BRN (Bordereau de Référence Nominative) are linked to the existence of a special accounting called “comptabilité de retention”. In this case, all settlement entries must be linked to BRN and they can be accounted on the issuer register only when both messages have been sent. This has been set up to allow for a greater match between custody positions and register bookings but in practice some may regard the system as inflexible and leading to delays in registration

In other European member states (e.g. Germany) settlement is executed in the systems of the CSD (Clearstream Banking e.g.) which books the settled positions into the accounts of its first level participants. Those accounts have three different sub-segments which are used to administer the time period between trade and settlement, normally two days. As a result of settlement, a domestic first level CSD participant would book registered shares acquired by an end investor having a security account with that participant into a sub-segment of its

own account with the CSD and into the securities account provided to the end investor. This booking automatically triggers a standardised electronic message in the CASCADE system of Clearstream which is collected by Clearstream and all such messages are being sent to the share register of the issuer in the evening of any settlement day in a single data file which is then automatically processed by the share register and confirmed back to the CSD during the night. For domestic end investors, this system leads to a constant updating of the register but at the same time allows for internal netting of settlement of trades within any bank or its systems.

In other European member states (e.g. Italy) settlement is completely detached from registration. Settlement takes place in the electronic systems of the CSD. The booking of securities into the security accounts of end investors is done by the CSD participants, banks or other intermediaries.

3.5 Practical issues

The main aspects in the discussion of the Working Group of those different systems are:

- All parties involved in a trade of registered shares, whether buying or selling wish certainty and finality of the trade and its settlement as soon as possible: EU law stipulates that settlement must occur within two business days of the trade in the majority of cases.
- End investors acquiring shares who wish to have the right to exercise shareholders rights as evidenced in a security and not being subject to additional burdensome procedures.
- Issuers[19] want to know the identity of their shareholders especially when they exercise their shareholders´ rights, e.g. in the time of an AGM, for legal reasons among others.
- For registration purposes (in a standing or ad hoc register) the data of the end investor should be accurate and electronically forwarded and processed.

The relationships between parties involved and the time horizon of both the trade and settlement on one side and the exercise of shareholders rights on the other side, may be different. To the Working Group it does not seem necessary to apply the same conditions to both. It is possible to regard a trade and settlement as final between the parties of the trade even if that does not necessarily include as a condition the registration of the acquiring end investor in the share register of a company. On the other hand, the end

[19] Most issuers seem to want this but there may be issuers which may place less importance on this aspect.

investor acquiring a registered share should be put in a position to exercise or instruct to exercise the rights as evidenced in this share as soon as possible. The Working Group therefore recommends the model that the end investor data should be forwarded to the company as soon as possible after a trade has been settled, where the applicable law requires this. But the data should be forwarded on every occasion it may be necessary under applicable law for the exercise of a shareholders right or the company requests an shareholder/end investor disclosure.

The use of a holding chain with several custody banks / intermediaries has certain aspects. Those aspects differ for registered and bearer shares.

3.5.1 Registered shares

As described above the normal pattern of international cross border custody chains would comprise several intermediaries (often custody banks), one usually being the first level participant of CSD, the others being clients of this first level intermediary and clients of their clients. Also normally omnibus accounts would be used by most of those intermediaries to hold assets for the benefit of third parties i.e. their clients containing references to another custody bank, a nominee, and so on along the custody chain. Often it is only at the level of the last intermediary providing a securities account directly to an end investor segregated accounts are found but a number of intermediaries run designated accounts at all levels of the chain.[20]

In some markets (e.g. Ireland and UK) there is no need to identify the end investor for voting purposes as they are not the shareholder under local law. Their voting intentions / requirements will be collected and managed by the shareholder as defined by local law.

For voting in these markets the shareholder will collect and collate the voting intentions throughout the custody chain either using the chain or a service provider and then vote accordingly.

In most markets this exercise by the company is necessary for companies in order to comply with applicable corporate law which provides for an obligation of the company to only allow **shareholders** to exercise voting rights. In case of legal requirements to the end that end investors have to be identified to the company in order to either register them in a normal or ad hoc share register or to fulfill requirements that when voting the end investor has to

[20] For the purpose of this report we leave aside the US system under which end investors would not hold title in the securities they believe to have acquired but only are given a "securities entitlement" which seems to be not a right in rem but only a contractual right between them and their securities account provider.

be disclosed the end investor data normally would be forwarded in the custody chain. This is not enough because the unambiguous synchronisation of any such data of the nominee shareholder entered into the shareholder register would require absolute certainty as to the custody chain and its parts. For instance in an example with three intermediaries between the first level participant in CSD which is entered as nominee in the share register and the bank providing the securities account to the end investor the nominee shareholder and the company would need the information on the holdings and the relationship between all intermediaries concerned in order to unambiguously reconcile and synchronise the exercised voting rights of shares claimed to be owned by the end investor with the nominee position in the share register which can only be done when the respective positions of any intermediary in the chain at any level are also forwarded for reconciliation purposes to the issuer or its agent.

This exercise has to be performed as of a set record date, meaning a certain defined moment in time e.g. seven days before the date of the general meeting at 24 hours in the time zone of the issuer.[21]

In the past intermediaries have expressed concerns over the forwarding of data not only of the end investor but also of other intermediaries in the chain, especially their own clients to the next intermediary chain upper tier with respect to commercial aspects and banking secrecy agreements and obligations they may have to their own clients. Some intermediaries have expressed concerns that some of the data should not be made available to other intermediaries in the custody chain in order to address such concerns.

3.5.2 Bearer shares

When shareholders´ rights evidenced in bearer shares (be it in material form or in book entry form) are exercised companies have a legal obligation to verify that the persons claiming to hold such shares actually are shareholders in the company. To that end in most European member states that allow bearer shares the intermediary providing a securities account to the end investor has the obligation to certify the holdings of this end investor. This can either be done

[21] In case some parts of the custody chain are domiciled in the US or in Asia in practice could mean to use the close of business on the same calendar day date even in other time zones assuming that the starting point of the custody chain is always a CSD in the same time zone as the issuer.

- by giving the name and address of the end investor and enabling him to approach the company directly with the view to attending the general meeting or exercise the voting rights in another form, or
- the intermediary of the end investor would exercise the voting rights on behalf of the end investor (or ask another representative to do this via proxy) without necessarily disclosing the identity of the end investor, if applicable law allows for that option.[22]

In indirect holding systems especially with custody chains comprising several intermediaries it has to be made sure that votes are only exercised once and not several times by several intermediaries in the custody chain. Currently the voting data are passed to the issuer in the custody chain those checks have to be done at each level of the custody chain by each intermediary involved which in turn forwards the votes to the next intermediary upper tier in the custody chain until it reaches the company.

The unambiguous reconciliation of those positions is needed in case that for bearer shares previous shareholder identification rights or transparency obligations have not been complied with because such would usually have as an effect that shareholders rights, especially voting rights are suspended. Companies and custody banks have obligations not to count such votes. That means that also for bearer shares the unambiguous reconciliation and synchronisation of shareholdings would be needed.

3.6 Conclusions and Aspects of a Solution

Any solution to provide the data of the shareholder / end investor both for identification and/or registration should take into account that it should be able to cater for:

- the permanent or ad hoc registration of the end investor as a shareholder in markets where this is necessary; and
- identification of end investor as response to shareholder disclosure requests, directed at nominees and end investors[23], and
- if such data is necessary for exercising votes, for end investors to give instructions when they are not the “shareholder” as defined by applicable law.
- For some markets (e.g. the UK) it may be advisable to also identify other parties with a relevant “interest” in the security e.g. proxy/investment advisors.

[22] In Italy for example bearer shares are only allowed for “savings shares” and when exercising rights from those shares the details of the shareholder are forwarded even when a representative is appointed.

[23] It may be considered helpful to also identify investment and proxy advisors where the investor outsources those responsibilities in order to improve the options for direct contacts with the person(s) responsible for exercising shareholders´ rights.

and it should be

- usable in direct or indirect holding systems equally,
- usable to identify the shares of an end investor in the custody chain unambiguously no matter whether segregated or omnibus accounts are used. This comprises the synchronisation of holdings in the shares in question in the custody chain including the CSDs bookings and the share register of the issuer.

4. Conditions and Necessary Features of a Solution

4.1 Legal requirements

The Working Group has identified some common aspects of different corporate laws and practices across Europe which should be taken into account when defining a proposal for a technical solution. This includes:

- The ability for an issuer to collect the data to identify each investor in the chain up to and including the end investor as of a given date and moment during that day is necessary. This includes at a minimum the full name and, full postal address. Depending on local law it may also need to include date of birth, country or tax information relating to MiFID2, CRS or FATCA and the day of acquisition of the shares.[24]
    - The number of shares of each intermediary and the end investor[25].
    - Name and contact details of any associated proxy or investment advisor (if applicable) who may be appointed to act on behalf of the investor and having an "interest" in the shares.[26]
    - The qualification of a holding as "own holdings" or "nominee holdings" or a third party holding accordingly to applicable legal or bye-law requirements.[27]

[24] Day of acquisition is needed in many European member states in order to constantly updating the shareholders´ register.

[25] Name and contact details for Investment/Proxy advisor may be useful, see fn. 19 above.

[26] The UK Companies Act 2006 provides in its sec. 793 for the following: "Notice by company requiring information about interests in its shares (1) A public company may give notice under this section to any person whom the company knows or has reasonable cause to believe (a)to be interested in the company's shares, or (b)to have been so interested at any time during the three years immediately preceding the date on which the notice is issued."

[27] Sometimes referred to as „third party holding". This term may be misunderstood because the shares may not be considered "held" by the "nominee" under applicable corporate law. One should also differentiate between "nominee" holding, which means that a person not being the economic and/or legal owner of a security is entered into the records of a share register, and an "omnibus account" which means that several end investors/shareholders are booked into one account by an intermediary. Those entries may include "nominees" and very often the intermediary providing this "omnibus account" is entered into the book of the next intermediary in the custody chain as a "nominee".

- Information on the financial intermediary including custody banks and CSDs (the CSD where securities are held should be in the reporting file header), including name, address, BIC and LEI (legal entity identifier).[28]
- Name and address of the issuer and ISIN and / or LEI (legal entity identifier).[29]

All those information should be given as of a certain moment in time defined by the issuer in order to allow for synchronization of such information in the custody chain in an unambiguous manner.

4.2 Status of IT systems and interactions of relevant parties, CSDs and custody banks

Message formats in this area are not harmonised across Europe and this was identified as one of the Giovannini barriers. Whilst at the CSD and intermediary level there is a high degree of automation the messages used are not consistent across markets and are not used by many end investors.

Currently, responses to shareholder identification requests or responses to legal requirements of disclosing end investor data when votes in shares are exercised are not be standardised across European member states and different forms, data formats or procedures exist across Europe with some member states having high degrees of domestic harmonization (e.g. Germany and Italy).

Any technical solution would thus best be realised with an open standard and format in order to be usable and accessible for all existing IT systems and standards. If this was not the case intermediaries, CSDs and issuers would probably have to invest into changes in their IT systems and software. The more adaptable a new solution is to existing IT systems the more open a new technical solution or standard is for being used by existing IT systems, the better for a speedy and cost effective implementation of such solution.

4.3 Report of the T2S Taskforce Shareholder Transparency

In the report of the Taskforce of February 2011 two different technical solutions were discussed to respond to the shareholder identification question. A ”decentralised” solution and a “centralised” solution using T2S were laid out. The “decentralised” solution is

[28] Both pieces of data may be needed until the LEI is fully implemented. The LEI is unambiguous because it defines a legal or natural person. The BIC may be used by several legal persons at the same time thus impeding correct allocation of holdings in a custody chain and making correct shareholder identification very difficult or even impossible.

[29] The ISIN and LEI of the issuer may be needed for the intermediaries in order to properly process the data either in the custody chain or when using a direct or shorter way of communicating the data to the issuer or its agent.

described to consist of direct links between CSDs without involving T2S. In this solution, the so called first layer information referring to information on the participants in a CSD would be exchanged.[30] Subsequently all legal or natural persons shown in the information gained using the direct links could be approached with a view to declare that they hold the shares on their own account or for someone else as a nominee. Such nominee could then be approached in a third step and so on until the end investor is identified.

The centralised solution was laid out to include the T2S platform in itself without direct link between CSDs.

Both proposed options have in common that the information in the 1st phase would only yield information on the 1st level accounts, the participants of the CSDs; the information on subsequent levels in the custody chain on the end investor would have to be obtained using a shuttle procedure, going forth and back to persons identified in responses to the request for giving information on holders in a security.

The report goes on to say that there are common elements necessary for the two solutions to work efficiently:

> "The decentralised solution can, in principle, be operational immediately and independent of the launch of T2S. But the Taskforce found that there are a number of issues which need to be tackled in order for it to work efficiently. Furthermore, it was found these issues would also be relevant for the centralised solution."

The Task Force found that

1. "the lack of standardised and machine-readable formats for sending disclosure requests and receiving disclosure responses was a serious hindrance to the efficient operation of the decentralised model;
2. the lack of harmonised market practices between the various players in the holding chain obstructed the smooth operation of the disclosure process; and
3. legal uncertainty among intermediaries as to whether they can share their clients' holding data is a significant obstacle."[31]

[30] In this case, the declaration whether the account in question is a proprietary account or an omnibus account may help to process the necessary data faster in the custody chain.

[31] Final Report, p. 13

The focus of the report is shareholder identification. In the end the report also clearly pointed out that access to, or use of, settlement information would be needed in order to upkeep the register. It states:

> **"Settlement information**
>
> The Taskforce concluded that the most urgent need is to find a solution for exchanging cross-border holding/balance information and this has been the focus of this report. But the Taskforce also recognised that, in some markets, having access to settlement information is important and even a legal requirement."[32]

The Working Group believes that the findings in the report of the T2S Taskforce are still valid, very useful and can be taken as a basis for the definition of the necessary features for a solution which should address all technical questions of shareholder identification, registration and the exercise of shareholders rights by the end investor.

Two additional aspects warrant consideration when assessing the solutions as proposed by the T2S Taskforce. In both the direct and the indirect model shareholder identification requests would be directed to a first level participant of a CSD or holder outside a CSD which would need some time in order to respond. In practice this could take under 48 hours (which is the current practice in some markets) or as much as 2 or 3 weeks.[33] Then the issuer would review the data received and approach nominees disclosed to him in that response with the same question. In the worst case it can take up to 12 weeks to arrive at the end investor but in other markets it can take hours or a few days. Empiric evidence shows that not all intermediaries are in a position to respond easily to requests referring to record dates for shareholder identification relating to current or holdings in the past. That information is not easily accessible in the IT systems of some intermediaries. That would result in the shareholder identification exercise to be frustrated. An optimal solution would have a harmonised electronic process that allows parties to interact for a given security either for a specific holding or for all holders to be approached at the same time and, where applicable, before the record date of the shareholder identification exercise. This would enable the issuer to obtain reliable data in good time. For example, for a record date set by the issuer in markets where end investor data is needed.

[32] Final Report, p. 23

[33] The time necessary is usually shorter in case a pre-announcement has been sent out to intermediaries.

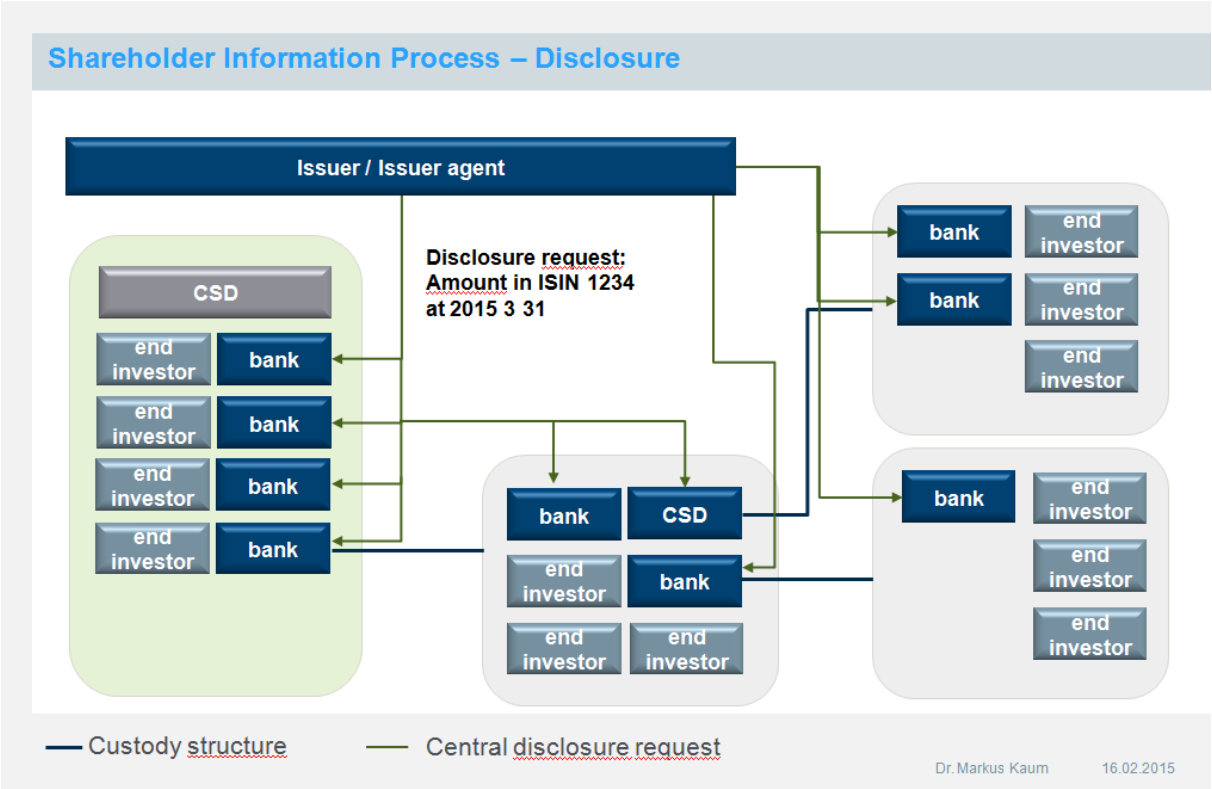
The T2S working group agreed various processes could be used. Some intermediaries have expressed concerns of confidentiality of the data of their clients when the data is passed on to the next intermediary in the chain upper tier. Whilst the data could be encrypted it needs to be considered and reviewed whether this an optimum solution for all processes.

4.4 Other Solution Option / A "Hub Platform"

Besides the two solutions proposed by the T2S Taskforce report the Working Group has discussed another model which can be described as "hub model" in relation to end investor information required for a specific event. In this model, the issuer or an issuer agent would send out shareholder identification requests simultaneously to all CSD's and other intermediaries involved setting a defined record date in the future. All intermediaries and CSDs would respond to this by giving the information on the total numbers of shares of an issuer and the details of all their clients which hold such shares indicating whether they hold the shares on their own account or on someone else's account. The issuer or issuer agent would then synchronise the information in order to unambiguously link the information on the end investor to the information on a nominee as registered in the share register, if necessary. This solution has the advantages:

- It gives all parties involved time to prepare the systems to collect the necessary data but
- it does not require 10 to 12 weeks to yield results
- it addresses confidentiality concerns
- it does not require intermediaries upper tier to collect the data of their clients and synchronise it with their own data.

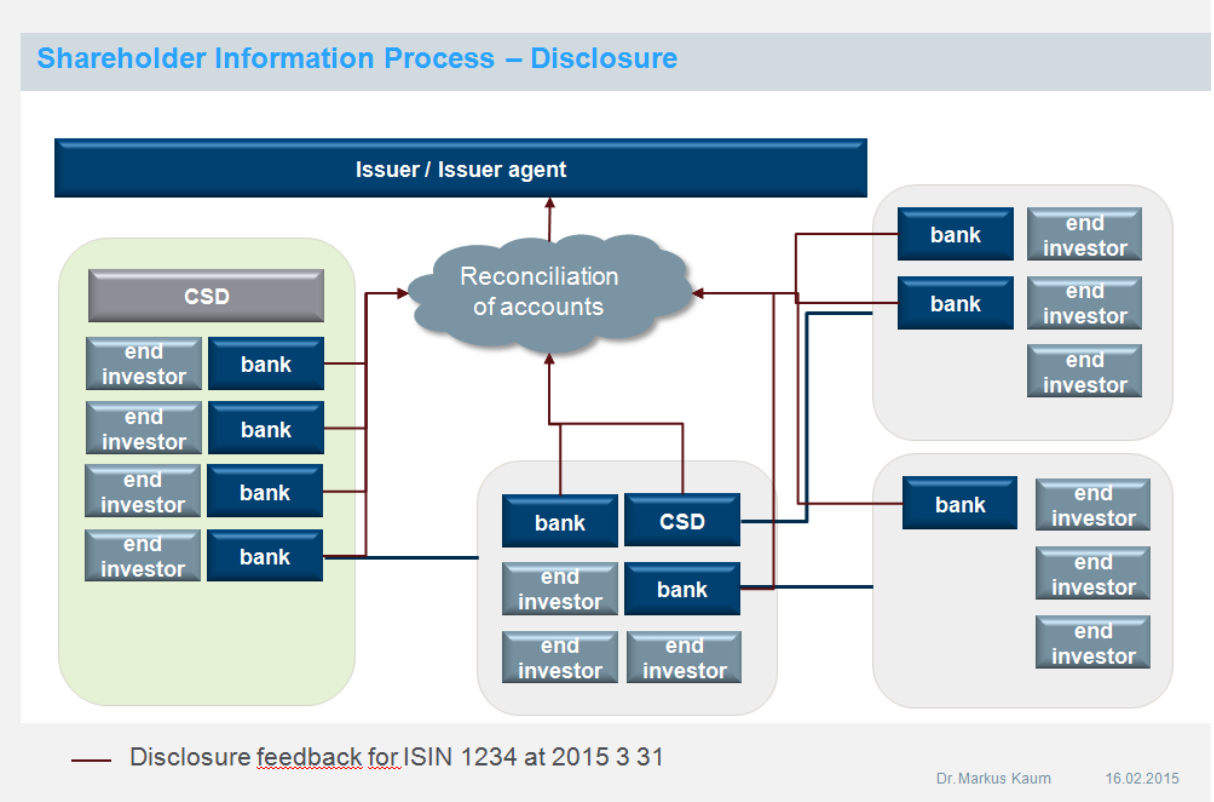
This solution can best be described in the following diagram



The synchronisation (or reconciliation) would mean:

- The intermediary would send the data of all its clients as of a moment in time as specified and set by the issuer or its agent;
- all data sets received would then by synchronised, i.e. the data of any person (nominee or other intermediary) be linked to the data of their clients and so on in the whole custody chain until for each share (subject to a threshold, if applicable) a string of data is established showing the matching of the record in the register / shareholder disclosure request with the data of the end investor(s) and
- with the underlying data of all intermediaries in the custody chain for the resp. share(s).

4.5 Registration



As outlined above in several European member states well working systems exist for forwarding the date of end investors in connection with the settlement of trades. The Working Group believes that those systems may continue and expand their potential within the context of a general solution. However, where such a link between settlement and forwarding the data for registration purposes does not currently exist there should not be a requirement to introduce it if there are other options available. The option to use shareholder identification data as defined below in section 5 also for registration purposes should be explored further.

Sometimes the term “re-registration” is used then referring to exercising rights especially in countries where such exercise of rights requires the registration of that end investor in a share register. This term refers to the practice that nominees would register the end investor in order to exercise shareholders´ rights and then deregister the same end investor although he has not sold his shares and putting their own name as a nominee name on the register and then reverse this the next time shareholders rights exercise require registration of the end investor. Some issuers and investors see this as a consequence of the current practice and the IT systems having been developed to support it and procedures by some intermediaries which may not deliver results which are in compliance with applicable laws. Intermediaries using this practice claim a continuous registration of the end investor would make administration of accounts and trade and settlement of those trades in shares more

difficult when using omnibus accounts in a custody chain comprising several levels and intermediaries. This is the result of custody structures with IT systems and software which are not harmonised and not all intermediaries maintaining first level accounts with a CSD in which the shares in question are booked. Intermediaries holding those first level accounts with CSDs feel they are restricted from freely using the balance on those accounts for settlement of all their clients trades when they have registered end investors in a share register.

Since this practice is not proven to be in line with applicable laws and seems to be caused by the current IT systems structure and procedures the Working Group believes the concerns may be addressed by introducing a solution for reliable speedy and cost-effective shareholder identification which can also be used for registration purposes. The Working Group proposes to further review the option that the forwarding of information on the end investors having acquired shares or having sold shares need not necessarily be linked to settlement where such procedures are not already in place. This question is therefore saved for further review after a technical solution as contemplated by this report has been implemented.

5. Concept and Technical Requirements for Possible Solutions

The Working Group proposes to focus on the following aspects of the technical solution which it believes to be implemented in any of the proposed concepts as outlined above. This comprises the contents of messages, the format of messages, the format of interfaces and open system concepts and cost questions.

5.1 Contents of messages

Shareholder identification messages

There is a necessity to have a standard content of the message independent form the carrier. The proposed data elements in Shareholder Disclosure Request and Response are described as follows:

Shareholder Disclosure Request message (Issuer to CSD or Nominee)

Description	mand. / opt.	Kind	Length	Field Description
Disclosure-Request – Reason for message				
Disclosure-Event	O	alpha numeric	4	(RQST) Keyword to indicate
Disclosure-Request	M	alpha numeric	4	(DSCL)

ISIN	M	alpha numeric	12	
Name ISIN	O	alpha numeric	35	
Request No.	M	alpha numeric	24	
Event data				
Disclosing Record date	O	Date (YYYYMMDD)	8	“close of business“ (COB)
Deadline for disclosing	M	Date (YYYYMMDD)	8	“close of business“ (COB)
Threshold for disclosing	O	numeric	15	Threshold > x in shares
Party to disclose (Nominee)				
ID for known Shareholder	M	alpha numeric	24	
LEI	O	alpha numeric	20	
BIC	O	alpha numeric	11	
Name 1	O	alpha numeric	35	
Name 2	O	alpha numeric	35	
Name 3	O	alpha numeric	35	
Street	O	alpha numeric	35	
Post code street	O	alpha numeric	10	
city	O	alpha numeric	35	
country	O	alpha numeric	2	ISO-Country code
Post code post box	O	alpha numeric	10	
Post box	O	alpha numeric	10	
country	O	alpha numeric	35	
e-mail	O	alpha numeric	255	
Fax	O	alpha numeric	30	
ID	O	alpha numeric	35	ID Nominees
Contact Name 1	O	alpha numeric	35	
Contact Name 2	O	alpha numeric	35	
Contact Name 3	O	alpha numeric	35	
No. shares	O	numeric	15	In share register
Date no. shares	O	Date	8	YYYYMMDD
Underlying holder				
ID for known underlying holder	O	alpha numeric	24	ID for known holder
LEI	O	alpha numeric	20	
Name 1	O	alpha numeric	35	
Name 2	O	alpha numeric	35	
Name 3	O	alpha numeric	35	
o shares disclosed	O	numeric	15	

Shareholder Disclosure Response message

Fieldname	mand. / opt.	Kind	Length	Field Description
Disclosure (=Event type Answer)				

Disclosure-Event	M[34]	alpha numeric	4	(RPLY) Keyword to indicate
Disclosure	M	alpha numeric	4	(DSCL)
Request-/Disclosure-ID („Event“)				
ISIN	M	alpha numeric	12	
Name ISIN	O	alpha numeric	35	
Request No.	M	numeric	24	
Disclosing positions (BO) – repeating block				
ID	M	alpha numeric	35	ID in the disclosing system
LEI	O	alpha numeric	20	mandatory for legal persons (companies and intermediaries)
Name 1	M	alpha numeric	35	
Name 2	O	alpha numeric	35	mandatory for natural persons
Name 3	O	alpha numeric	35	
Citizenship	M	alpha numeric	2	ISO-Country code
Date of birth	O	Date YYYYMMDD	8	mandatory for natural persons
Street	M	alpha numeric	35	
Post code	M	alpha numeric	10	
City	M	alpha numeric	35	
Country	M	alpha numeric	2	ISO-Country code
Post code post box	O	alpha numeric	10	
Post box	O	alpha numeric	10	
country	O	alpha numeric	35	
e-mail	O	alpha numeric	255	minimum post- **or** email address[35]
Person or company	O	alpha numeric	1	
Nominee/Beneficial owner	M	alpha numeric	1	Selection: N, B
No shares	M	numeric	15	
Date no. shares	M	Date YYYYMMDD	8	record date
BIC	O	alpha numeric	11	
IBAN	O	alpha numeric	34	
Asset Manager Name 1	O	alpha numeric	35	
Asset Manager Name 2	O	alpha numeric	35	
Asset Manager Name 3	O	alpha numeric	35	
Contact Name 1	O	alpha numeric	35	(if Nominee)
Contact Name 2	O	alpha numeric	35	(if Nominee)
Contact Name 3	O	alpha numeric	35	(if Nominee)

[34] If disclosure event: mandatory; if no disclosure “event”: not needed.

[35] In Italy currently the law provides for the address of “residence” of the shareholder which may differ from where they actually live. This needs to be addressed since the purpose of the identification and registration is to enable a direct contact between issuer and shareholder which may only be possible when using the postal (or electronic postal) address

The data fields listed above are necessary but sufficient for shareholder identification purposes no matter which model is used, be it a centralised or decentralised, an indirect or direct model.

5.2 Format of Messages

The T2S Taskforce had suggested to propose that SWIFT or ISO 15022 or 20022 messages be develop a new messaging type for both, the identification requests as well as response. So far, the specific messages are not offered for use in the markets. The Working Group encourages SWIFT to reconsider the issue and to develop and offer such message types.

However, the proposed contents of messages can be delivered in several current data formats, SWIFT, HTTPS, Excel, XML or other formats. Any solution should be able to receive process and deliver messages in any current data format.

5.3 Open Systems and Interfaces

In an environment where intermediaries and participants use different IT systems and procedures and software a solution should make use of existing IT systems and software to the utmost extent possible. A solution should also try to limit the necessary adaptation of existing systems to the lowest possible extent and to not force intermediaries to change the existing systems.

However, that means that in order to be able to communicate with other and different IT systems and software each CSD and intermediaries should provide open interfaces in order to receive and to send data messages to other parties involved in the process. Those open interfaces should be able to receive and process and send data messages containing the information outlined above under 5.1.

To that end testing interfaces with intermediaries the existing service providers could be used. For instance, if an intermediary or CSD already forwards information on the holdings of its clients to a service provider (for other purposes) such interface could be used to deliver shareholder identification data either to that or another service provider. The system should be open, with open interfaces to all other systems so existing systems can continue to be used.

5.4 Costs related to Shareholder Identification / Guidelines

Any new (mandatory) measure will entail costs and the burden of cost will have to be attributed. This has different aspects and one could look at the cost issue primarily from the perspective of the cost for the issuer, or from the perspective of its owners (= the end investors), or from "the intermediaries' perspective, i.e. whether, or to what extent, the issuer or the intermediaries' clients will have to remunerate issuers or intermediaries for the burden (cost) of having to ask for or for providing the requested information. At present, national remuneration principles are diverging... In the context of the project of a revision of the Shareholders´ Rights Directive the European Commission has proposed a basis for level II measures comprising the cost aspect. This may include the cost of developing and implementing systems and of running systems.

The Working Group believes that this is a good proposal may achieve the pan-European solution and suggests the following principal shall be taken into account when drafting that legislation:

- Issuers should have the right to know their ownership structure.
- Providing shareholder identification data is necessary for the smooth running of markets;
- if issuers or intermediaries are to be reimbursed only necessary cost should be reimbursable;
- necessary costs are the costs related directly to the provision of the data using existing data are already stored for other purposes and standardised messaging contents and formats and interfaces;
- the person ultimately responsible for covering the cost should have the right to choose the way which is used for providing the information in order to encourage competition among solutions.

6. Recommendations of the Working Group

Our findings and recommendations for a solution to address shareholder identification and registration questions in the context of disclosure of end investors, maintaining a shareholder register and the exercise of shareholders rights are:

a) The data necessary and sufficient to address those issues are very similar if not identical. A solution should therefore comprise the necessary data to address all those issues.

b) The necessary data of end investors are already stored within the systems of at least one financial intermediary, normally the custody bank providing the securities account directly to the end investor.

c) Additionally, the data of other intermediaries in a custody chain including the central securities depositories are needed in order to unambiguously synchronise securities holding records of a register, CSDs and other intermediaries and end investor securities account.

d) A solution should be European, harmonised, limited to necessary data and capable of electronic processing by all parties concerned.

e) A solution should use as far as possible existing IT systems and processes but at the same time take into account imminent future developments, especially standardisation projects and European or international frameworks like T2S.

f) Such solution shall therefore focus on defining data fields which contain the necessary information of the end investor and intermediaries. It should also aim to define data formats and strive to use state-of-the-art technology.

g) Such solution should be neutral on information flow channels and enable competition between service providers.

h) A solution should be simple and cost efficient and allow for discretion of the person ultimately responsible for covering the cost of its use to decide which communication channels are used.

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