

Survey with AMI-SeCo NSGs on barriers to digitalisation in post-trade services – key takeaways and next steps

As agreed in the December 2020 AMI-SeCo meeting the Harmonisation Steering Group (HSG) launched a survey with National Stakeholders Groups (NSGs) to identify existing barriers to digitalisation / electronication in securities post-trade services also based on the experience of the COVID-19 restrictions and lockdowns. The survey focused on 4 areas (withholding tax processing, corporate events, KYC / customer onboarding and handling of physical securities). The following is a high-level summary of the key take-aways from the outcome of the survey and the proposed next steps. A full report with the detailed feedback to the survey is also shared with the AMI-SeCo in parallel to this note.

Key findings:

- The survey broadly confirms the assumptions / previous findings discussed in the December 2020 AMI-SeCo meeting that requirements for using / submitting physical (paper) documents with wet ink signatures as the form document authentication is the most salient barrier in responding markets. In many cases the requirements stem from law but in some cases they are simply a result of legacy market practices or practices of the relevant authorities.
- Requirements regarding physical / in-person attendance of users of post-trade services or their agents seem to be a barrier mainly in the context of general (shareholder or bondholder) meetings, and much less so in the context of customer onboarding or processing of withholding tax (reclaims / refunds). It is also worth highlighting that processing of corporate events other than the attendance and voting in general meetings have not been reported as a main issue which is also due to the contribution of European harmonisation corporate actions processing to the overall efficiency of these processes.
- The existence and usage of physical securities is mainly relevant in the form of immobilised global notes (paper securities in definitive / individual certificates form exist in many jurisdictions but their usage is marginal). Global notes prevent the use of fully digital procedures in the issuance process. Global notes are used in a few jurisdictions due to the lack of a legal regime allowing full dematerialisation but more commonly they are used in many jurisdictions in the context of cross-border issuance to prevent potential legal uncertainties stemming from conflicts of laws.
- The survey relied on feedback from NSGs¹ and hence it had a focus on barriers at national level. However, several respondents highlighted that the barriers are even more severe for cross-border service provision when the need to comply with several legal regimes complicates the use of digital procedures even further/
- Overall, the post-trade industry could flexibly adjust to COVID-19 related restrictions in Europe. However, in many countries this was made possible only via relaxing of national legal requirements (e.g. deadlines for annual meetings, etc.) or company by-laws regarding the form of and communication related to general meetings and withholding tax processing.

¹ Altogether 15 NSGs (Austria, Cyprus, Czech Republic, Germany, Spain, Finland, France, Hungary, Italy, Lithuania, Netherlands, Poland, Portugal, Slovenia, Slovakia) replied to the questionnaire in some cases also conveying the views of the individual NSG members.

Proposed next steps

Based on the outcome of the survey, the AMI-SeCo is invited to

- a) communicate the findings in a letter to the European Commission also highlighting that several ongoing initiatives on the Commission's side present a good opportunity (Planned initiatives under the CMU Action Plan on withholding tax and shareholder engagement, the Digital Finance Strategy, the review of the eIDAS Regulation) to help remove the sources of such barriers at European level. The findings may also provide a useful background to the Commission in its communication with Member States on these and potentially other relevant initiatives.**
- b) mandate the HSG to continue investigation of existing barriers focusing on the barriers related to the cross-border provision of post-trade services building on the experience of the global custodians and other international service providers represented in the HSG and the AMI-SeCo.**