



GOVERNING COUNCIL
93rd session
Rome, 7-10 May 2014

EN

UNIDROIT 2014
C.D. (93) 5
Original: English
May 2014

Item No. 6 on the agenda: Transactions on Transnational and Connected Capital Markets - Principles and Rules Capable of Enhancing Trading in Securities in Emerging Markets

(prepared by the Secretariat)

<i>Summary</i>	<i>Examination of steps to develop a future legislative Guide on principles and rules capable of enhancing trading in securities in emerging markets</i>
<i>Action to be taken</i>	<i>Take note of the activities undertaken by the Secretariat</i>
<i>Mandate</i>	<i>Work Programme 2014-2016</i>
<i>Priority level</i>	<i>Medium</i>
<i>Related documents</i>	<i>Annual Report 2013 (C.D. (93) 2); UNIDROIT 2013 - S78B/CEM/3/Doc. 2</i>

INTRODUCTION

1. The final session of the diplomatic Conference to adopt a Convention on Substantive Rules regarding Intermediated Securities (the Convention), Geneva 5-9 October 2009, established a *Committee on Emerging Markets Issues, Follow-Up and Implementation* (the Committee) to assist in the national implementation of the Convention.

2. The UNIDROIT General Assembly thereafter, at its 65th session in 2009, included work on drafting a Legislative Guide containing principles and rules capable of enhancing trading in emerging markets in the UNIDROIT Work Programme (A.G. (65) 10, §§ 18 et 26). In turn, the Governing Council, at its 89th session in 2010, took note of steps planned by the Secretariat with a view to preparing the Guide, but assigned medium/low priority to this work until completion of the Principles on Close-Out Netting.

PREPARATORY WORK AND MEETINGS OF THE COMMITTEE

3. At its 92nd session (2013), the Governing Council took note of the steps undertaken by the Secretariat from 2010 to 2012, including the preparation of an Accession Kit, which was intended as a first step to assist States in the implementation of the Convention (UNIDROIT 2010 - S78B/CEM/1/Doc. 3). That work was split in two separate documents, a declarations Memorandum (UNIDROIT 2011 - DC11/DEP/Doc. 1 rev.), and a document on Information for Contracting States in respect of the Convention's references to sources of law outside the Convention (UNIDROIT 2010 - S78B/CEM/2/Doc. 2). These documents were presented and discussed by the Committee at its first two meetings, the first held in Rome, 6-8 September 2010 and the second in Rio de Janeiro, 27-28 March 2012. On both occasions the meetings were preceded by a colloquium aimed at providing inputs necessary to help determine the scope, content and structure of a Legislative Guide, in addition to discussing the implementation and follow-up for the Convention.

4. The Committee meetings particularly stressed the importance of formulating principles focusing on private law aspects of securities trading, but participants indicated that given the complexity of the subject matter, consideration and close coordination with other aspects (including regulatory law) and other Organisations would be required. Inputs received by the Committee also indicated that the future Guide should not be a uniform law text, but simply a document setting out various options on a number of issues fundamental to securities trading in general, and to the proper implementation of the Convention in particular.

5. Upon adoption of the Principles on Close-Out Netting at its 92nd session, the Council elevated the priority given to the work on drafting the Legislative Guide (from Medium/Low to Medium). This decision was approved by the General Assembly at its 72nd session (December 2013), which included the Legislative Guide in Work Programme of the Organisation for the 2014-2016 triennium at this higher level of priority (UNIDROIT 2013 - A.G. (72) 4).

6. At its 92nd session, the Governing Council also requested that the Secretariat convene a third meeting of the Committee, to build on the advances of the previous meetings regarding implementation of the Convention, as well as to agree on the preliminary structure and content of a Legislative Guide and the working method for drafting this instrument. The third meeting was hosted by the Capital Markets Board of Turkey and held in Istanbul from 11 to 13 November 2013. It followed the same format of the first two meetings, with a Colloquium to discuss securities trading in emerging markets. On this occasion the general theme for the Colloquium was "The Regulatory Framework for Intermediated Securities in Emerging Markets – the Role of National Law and the Geneva Convention" (see Document S78B/CEM/3/Doc. 1). The Colloquium was followed by the meeting of the Committee to discuss the status of the Convention, and the topics to be considered for the Legislative Guide and future work of UNIDROIT on securities trading.

THIRD MEETING (ISTANBUL)

7. The first two days of the meeting in Istanbul consisted of the Colloquium on Financial Markets Law, held on 11-12 November 2013, to consider actions taken by emerging markets to create a favourable environment for trading in intermediated securities, with particular emphasis on enhancing financial integrity under national law. The Colloquium focused particular attention on the disparities between national law and the Geneva Securities Convention, the need for national and cross-border insolvency rules, the potential effect of corporate governance systems on securities trading, and the role of specialized investment instruments. It also covered the impact of the UNIDROIT Principles on the Operation of Close-Out Netting Provisions in reducing systemic and counter-party risk in emerging markets and the manner in which they may be incorporated into national law (for a detailed programme of the Colloquium and agenda of the meeting, see Annexe 1).

8. The Committee meeting itself, held on 13 November 2013, first welcomed the participation Turkey as a member since May 2013, at the invitation of the other Committee members.¹ Other countries also attended the Committee meeting in Istanbul² and the proposal was then made to transition to an open-committee format moving forward. This proposal was accepted by consensus of the Committee.

9. The Committee then considered the follow-up and promotional measures undertaken by the Secretariat, as well as legislative measures undertaken by the States to implement the Convention in emerging markets. In this respect, the Committee received the reports from the Secretariat on measures taken to promote the Convention, and reports from Brazil, Cameroon, China, India, South Africa and the European Union on legislative (and other) measures taken to incorporate the provisions of the Convention into national legal systems.

10. The Committee then focussed its attention to the scope and structure of the Legislative Guide by discussing the annotated outline presented by the Secretariat (see document S78B/CEM/3/Doc. 2). This document, prepared in consultation with the informal working group set-up by the Committee at its second meeting, covered the universe of public and private law subjects related to securities trading in emerging markets. The intent of the broad outline was to provide the Committee with a full picture of regulatory/public law and transactional/private law topics from which to select those most relevant to the content of the Guide.

PROPOSAL ON THE WAY FORWARD

11. To narrow the broad content of the annotated outline, a group of States presented a proposal focused mainly on private law issues, but which included some regulatory aspects with direct relevance to party transactions. Upon presentation of the document, it was proposed that the Committee commence drafting of the Legislative Guide based on the structure and content of this proposal, which consisted of three substantive sections (see Annexe 2).

12. Pursuant to the proposal, the first section of the future Legislative Guide would cover non-convention law, which would consist of ownership rights, trusts, securities entitlements and regulation and oversight. The second section would cover Alternative/Paradigmatic Structures of an IM Holding System, which would present the various types of holding systems across the globe, and present best practices that can serve as models in the different scenarios. The third section would cover Alternative/Paradigmatic Attributes of IM Holding system, which would describe the types of assets covered, the nature of intermediated securities, the level in the intermediated system at which the account-holder is identified, the nature of the property interest in the security, and the scheme for providing distributions, voting, information and other corporate actions.

¹ The Committee on Emerging Markets Issues and Implementation is co-chaired by Mr Alexander Pinheiro dos Santos (Brazil) and Ms Niu Wenjie (China). Members are: Argentina, Cameroon, Chile, France, Greece, India, Japan, Nigeria, Republic of Korea, South Africa, Turkey, United States of America and the European Union. Indonesia, the European Central Bank, EuropeanIssuers, the Hague Conference on Private International Law and the Trade Association for the Emerging Markets have been granted observer status.

² The Committee meeting in Istanbul was attended by the following States: Armenia, Brazil, Cameroon, China, Czech Republic, France, Germany, Ghana, India, Italy, Japan, Mexico, Philippines, Poland, Republic of Serbia, Russian Federation, Saudi Arabia, Slovak Republic, Sri Lanka, South Africa, Thailand, United Kingdom and United States of America; as well as the following organisations: Bank of International Settlements, European Central Bank, EuropeanIssuers, European Union, International Bar Association, International Finance Corporation, International Monetary Fund, International Swaps and Derivatives Association, United Nations Commission on International Trade Law, and The World Bank.

13. Such proposal was accepted by consensus by the Committee and would henceforth serve as the basis for setting the scope of the Guide and organising its content and structure.

ACTION TO BE TAKEN

14. *With the aid of the inputs received in the third meeting of the Committee on Emerging Markets Issues and the agreement on the scope, structure and content, the Governing Council is invited to consider the activities to be undertaken to develop a Legislative Guide on principles and rules capable of enhancing trading in securities in emerging markets.*

ANNEXE 1

**COMMITTEE ON EMERGING MARKETS ISSUES,
FOLLOW-UP AND IMPLEMENTATION****3rd meeting – Istanbul, Turkey
11-13 November 2013**

-- COLLOQUIUM --
11-12 November 2013

**ENHANCING FINANCIAL INTEGRITY:
THE GENEVA CONVENTION AND THE UNIDROIT PRINCIPLES ON CLOSE-OUT NETTING UNDER NATIONAL LAW**

Marmara Hotel Taksim
Istanbul, Turkey

11 November 2013

8:30-9:30am **Registration**

9:30-10:00am **Opening Session**

- Welcome Address: *Vahdettin Ertaş, Chairman, Capital Markets Board, Turkey*
- Opening Remarks: *José Angelo Estrella-Faria, Secretary-General, UNIDROIT*

10:00-1:00pm **SESSION 1: Intermediated Securities in the National Law of Emerging Markets**

(part one) **GENERAL APPLICATION OF THE CONVENTION: 10:00-11:15am**

- Moderator: *Francisco Javier Garcimartin, Professor, Universidad Autonoma de Madrid, Spain*
- Application and Implementation of the Geneva Securities Convention in Emerging Markets: *Hideki Kanda, Professor, University of Tokyo, Japan*
- Transnational Securities Law, beyond the Geneva Securities Convention: *Thomas Keijser, Senior Researcher, Radboud University, The Netherlands*
- Intermediated Securities Loans and Repurchase Transactions in light of the Geneva Securities Convention: *Thiebald Cremers, Legal Advisor Public Affairs, BNP Paribas, Brussels*

– *Comments/Questions by Participants*

11:15-11:30am **Coffee break**

(part two) NATIONAL APPLICATION OF THE CONVENTION: 11:30-1:00pm

- Implementation of the Geneva Securities Convention's Principles and Concepts in the South African Financial Markets Act and Central Depository Rules: *Jeannine Bednar-Giyose, Director, Fiscal and Intergovernmental Legislation, National Treasury; and, Maria Vermaas, Head, Legal and Regulatory, Strate (South Africa's Central Securities Depository), South Africa*
- Securities in Book Entry Form under Greek Law: Recent Developments in the spirit of the Geneva Securities Convention: *Dimitris Tsibanoulis, Legal Counsel, Bank of Greece and Managing Partner, Tsibanoulis and Partners, Greece*
- Operation of Intermediated Securities in Turkey: Best Practices and Challenges: *Kubilay Dağlı, Chief Expert, Department of Intermediary Activities, Capital Markets Board, Turkey*
- Harmonization of Turkish Law with EU Legislation in the area of Intermediated Securities in light of the new Capital Markets Law: *Aslı Küçükgüngör, Chief Expert, Strategy Development Department, Capital Markets Board, Turkey*

– *Comments/Questions by Participants*

1:00-2:30pm **Lunch break**

2:30-4:15pm **SESSION 2: Insolvency of Securities Intermediaries in the National Law of Emerging Markets**

- Moderator: *Charles Mooney, Professor, University of Pennsylvania, United States*
- Regulatory and Supervisory Measures to Prevent Intermediary Insolvencies and Shortfalls in Securities: *Charles Mooney, Professor, University of Pennsylvania, United States*
- The Insolvency of Lehman Brothers: *Guy Morton, Freshfields, Bruckhaus Deringer, United Kingdom*
- Insolvency of Securities Intermediaries in the National Law of Emerging Markets: *Elsie Addo Awadzi, Legal Department, International Monetary Fund*
- Insolvency of Securities Intermediaries under Turkish Law: *Nusret Çetin, Senior Legal Expert, Department of Legal Affairs, Capital Markets Board, Turkey*

– *Comments/Questions by Participants*

4:15-4:30pm **Coffee break**

4:30-6:00pm **SESSION 3: Corporate Governance and Securities in the National Law of Emerging Markets**

- Moderator: *Guy Morton, Freshfields, Bruckhaus Deringer, United Kingdom*
- Corporate Governance and Shareholder Rights in Emerging Markets: *Melsa Ararat, Professor, Sabanci University, International Corporate Governance Network*
- Promoting a Standard Approach via the Corporate Governance Development Framework: *Deborah Eskinazi, International Finance Corporation, World Bank Group*

- Corporate Governance Standards in the European Union: *Susannah Haan, Secretary General, European Issuers, Brussels*
- Corporate Governance in Turkey: *Ayça Sandıkçioğlu, Chief Expert, Corporate Finance Department, Capital Markets Board, Turkey*
– *Comments/Questions by Participants*

12 November 2013

10:00-1:00pm **Session 4: Specialized Investment Instruments in the National Law of Emerging Markets**

(part one) SPECIALIZED INVESTMENT INSTRUMENTS: 10:00 -11:15am

- Moderator: *Klaus Löber, Bank for International Settlements, Switzerland*
- Commercial Trust in Common Law and Civil Law Jurisdictions: *Maria Chiara Malaguti, External Counsel, Ministry of Foreign Affairs, Italy*
- Commercial Trust Uses in Emerging Markets: *Hideki Kanda, Professor, University of Tokyo, Japan*
- Collective Investment Schemes under Turkish Legislation and Practice: *Selin Silahyürekli, Expert, Department of Institutional Investors, Capital Markets Board, Turkey*
– *Comments/Questions by Participants*

11:15-11:30am **Coffee break**

(part two) SPECIALIZED INVESTMENT INSTRUMENTS: 11:30-1:00pm

- Exchange-Traded Funds (ETFs) in Emerging Markets: *Jose Maria Garrido, Senior Counsel, The World Bank*
- Asset-Backed Securities under Brazilian Legislation and Practice: *Nora Rachman, Securities Expert, Brazil*
- Non-Intermediated Securities in Emerging Markets: *Spyridon Bazinas, Senior Legal Officer, United Nations Commission on International Trade Law*
- Swaps and Derivatives in Emerging Markets: *Peter Werner, Senior Director, International Swaps and Derivatives Association, United Kingdom*
– *Comments/Questions by Participants*

1:00-2:30pm **Lunch break**

2:30-5:00pm Session 5: Close-Out Netting in the National Law of Emerging Markets

(part one) GENERAL APPLICATION OF THE UNIDROIT PRINCIPLES : 2:30-3:45pm

- Moderator: *Rose Mary Abraham Kurisummoottil, Deputy Director, Capital Markets Division, Ministry of Finance, India*
- Close-out Netting Impact on Systemic and Counter-Party Risk: *Klaus Löber, Bank for International Settlements, Switzerland*
- Core Features of the UNIDROIT Principles on Close Out Netting: *Philipp Paech, London School of Economics, United Kingdom*

– *Comments/Questions by Participants*

3:45-4:00pm Coffee break

(part two) NATIONAL APPLICATION OF THE UNIDROIT PRINCIPLES : 4:00-5:00pm

- Enforceability of Close-Out Netting Provisions: What is at Stake and What are the Proposed Principles: *Alban Caillemer du Ferrage, Partner, Jones Day and Professor Associate, University of Paris 2, France*
- Possible Effects of Application of Close-Out Netting Provisions in Turkey: *Ümit Yayla, Managing Partner, Yayla and Guven Law Firm, Turkey*

– *Comments/Questions by Participants*

5:00-5:30pm Closing Session

- Closing Remarks: *José Angelo Estrella-Faria, Secretary-General, UNIDROIT*
- Closing Remarks: *Wenjie Niu, Co-Chair, Committee on Emerging Markets Issues*
- Closing Remarks: *Vahdettin Ertaş, Chairman, Capital Markets Board, Turkey*

Committee on Emerging Markets Issues, Follow-up and Implementation
Third Meeting - Istanbul, 11 – 13 November 2013 (S78B/CEM/3/Doc. 1)

ANNOTATED AGENDA

1. Opening of the meeting
2. Adoption of the Agenda
3. Colloquium on Financial Markets Law
4. Consideration of follow-up and promotional measures to implement the UNIDROIT Convention on Substantive Rules for Intermediated Securities
5. Consideration of State legislative measures to implement the UNIDROIT Convention on Substantive Rules for Intermediated Securities, in particular in emerging countries
6. Consideration of the preparation of a Legislative Guide on Principles and Rules Capable of Enhancing Trading in Securities in Emerging Markets
7. Consideration of activities to promote the dissemination and national implementation of the UNIDROIT Principles on the Operation of Close-Out Netting Provisions
8. Other business

Annotations to the Agenda

Item No. 1 – Opening of the meeting

1. The Committee on Emerging Markets Issues, Follow-Up and Implementation (hereinafter “the Committee”), established by the diplomatic Conference to Adopt a Convention on Substantive Rules regarding Intermediated Securities, will hold its third meeting in Istanbul, on 11–13 November 2013. The meeting will be opened on Monday, 11 November 2013, at 9 a.m., and will close on Wednesday, 13 November, 2013, at 6 p.m. The venue of the meeting will be The Marmara Hotel (Taksim) [<http://taksim.themarmarahotels.com>]. Other practical and logistical information can be accessed on the UNIDROIT website at:
<http://www.unidroit.org/english/studies/study78b/main.htm>.

2. The first two days of the meeting (11 and 12 November 2013) will take the form of an open Colloquium on Financial Markets Law (agenda item 3). The third day of the meeting (13 November 2013) will consider the other items of the provisional Agenda, and will be open to the members of the Committee, delegates of other States, representatives of organisations, and invited observers.

Item No. 3 – Colloquium on Financial Markets Law

3. The Colloquium on Financial Markets Law, to be held on 11-12 November 2013, will consider action taken by emerging markets to create a favourable environment for trading in intermediated securities, with particular emphasis on enhancing financial integrity under national

law. The Colloquium will discuss the disparities between national law and the UNIDROIT Convention on Substantive rules for Intermediated Securities (hereinafter “the Geneva Securities Convention” or “the Convention”), the need for national and cross-border insolvency rules, the potential effect of corporate governance systems on securities trading, and the role of specialized investment instruments. The Colloquium will also discuss the impact of the UNIDROIT Principles on the Operation of Close-Out Netting Provisions (hereinafter “The Principles on Close-Out Netting”) in reducing systemic and counter-party risk in emerging markets and the manner in which they may be incorporated into national law. A detailed programme will be circulated in due course.

Item No. 4 – Consideration of follow-up and promotional measures to implement the UNIDROIT Convention on Substantive Rules for Intermediated Securities

4. The diplomatic Conference that approved the Geneva Securities Convention, requested UNIDROIT, in its capacity as Depositary of the Convention, to make all appropriate efforts to organise activities with a view to promoting awareness and understanding of the Convention and assessing its continued effectiveness in light of relevant contemporary developments in market circumstances and trends in market regulation, and also with a view to encouraging the Convention’s early entry into force and its signature, ratification, and acceptance (UNIDROIT 2009 - CONF. 11/2 – Doc. 41, Resolution No. 3). The Committee and the Secretariat will present the follow-up and promotional measures taken to implement the Convention.

Item No. 5 – Consideration of State legislative measures to implement the UNIDROIT Convention on Substantive Rules for Intermediated Securities, in particular in emerging countries

5. The UNIDROIT Secretariat prepared an Accession Kit intended to advise potential contracting parties on how to best incorporate its provisions into their domestic legal systems, as a first step to assist States in the implementation of the Convention (UNIDROIT 2010 - S78B/CEM/1/Doc. 3). An initial draft of the Accession Kit was submitted to the Committee at its first session in 2010, which requested dividing the Kit into two separate documents: one, a declarations Memorandum (UNIDROIT 2011 – DC11/DEP/Doc. 1)); and, two, a document on Information for Contracting States in respect of the Convention’s references to sources of law outside the Convention (UNIDROIT 2010 - S78B/CEM/2/Doc. 2). The latter document was presented and discussed at the second meeting of the Committee in 2012 and, at the request of the Governing Council, further developed based on comments from experts and other organisations.

6. The Committee will receive State reports on the legislative measures taken to incorporate the provisions of the Convention into State legal systems, with particular emphasis on emerging markets, will discuss the utility of the document on Information for Contracting States in respect of the Convention’s references to sources of law outside the Convention (UNIDROIT 2010 - S78B/CEM/2/Doc. 2) in national implementation efforts, will finalize the draft of the document, and will examine the manner in which it may be incorporated into a Legislative Guide (agenda item 6).

Item No. 6 – Preparation of a Legislative Guide on Principles and Rules Capable of Enhancing Trading in Securities in Emerging Markets

7. The UNIDROIT General Assembly, at its 65th session in 2009, following the diplomatic Conference that approved the Geneva Securities Convention, included the drafting of a “legislative guide containing principles and rules capable of enhancing securities trading in emerging markets” (A.G. (65) 10, §§ 18 et 26) in the UNIDROIT Work Programme. The Governing Council, during its

89th session in May 2010, then requested the examination of potential efforts to draft a Legislative Guide, assigning medium/low priority until drafting on the Principles on Close-Out Netting was completed.

8. Upon adoption of the Principles, at its 92nd session in May 2013, the Governing Council took note of the advances achieved at the first and second meetings of the Committee and elevated the priority given to the work on drafting the Legislative Guide. The Council also encouraged the Committee to establish the scope, content and methodology at its third meeting in November 2013. For that purpose, the Committee, at its second meeting, set-up an informal working group to draft a proposal on these issues for consideration by the full Committee at the third meeting.

Item No. 7 – Consideration of activities to promote the dissemination and national implementation of the UNIDROIT Principles on the Operation of Close-Out Netting Provisions

9. The UNIDROIT General Assembly included preparation of principles and rules on netting of financial instruments in the triennial Work Programme of the Organisation as a matter of high priority, at its 67th session, in December 2010. The Secretariat convened a Study Group, which presented draft Principles to a Committee of governmental experts in 2012, which in turn finalised draft Principles on the Operation of Close-out Netting Provisions at its second session in February 2013 and presented them for approval of the Governing Council at its 92nd session in May 2013. The Governing Council commended the Committee of governmental experts for completion of the draft Principles on the Operation of Close-out Netting Provisions and adopted them, together with the accompanying comments. The Governing Council also requested the Secretariat take steps to promote the widespread dissemination and national implementation of the Principles, to be discussed by the Committee.

– END –

ANNEXE 2**Proposal on the way forward**

accepted by consensus by the Committee on Emerging Markets Issues, Follow-Up and Implementation at its 3rd meeting (Istanbul, November 2013)

The initial goal should be to identify the major systemic and structural issues and policy choices involved in (i) establishing an intermediated securities holding system or (ii) evaluating existing systems. The effort should be confined to addressing issues and matters not resolved in the Geneva Securities Convention (GSC) but should be undertaken with the GSC text and Official Commentary firmly in mind. Also early on the insolvency law treatment of intermediated securities should be addressed. See Part VI.b. of the Secretariat's Annotated Draft Outline (see document S78B/CEM/3/Doc. 2).

As the work progresses the Secretariat's Draft Outline now before the Committee will prove to be enormously valuable in identifying details that must be addressed and the relationship of various system structures to the principles established by the GSC. It also provides an excellent checklist for the Committee's consideration of matters that should or should not fall within the scope of the project and for setting priorities for the project.

I. Non-Convention Law (national legal systems)

- A. Ownership rights
- B. Co-ownership rights
- C. Trust
- D. Securities entitlement
- E. Securities regulation and regulatory oversight
- F. Other

II. Alternative/Paradigmatic Structures of IM Holding System

- A. One IM (CSD) with non-IM managers between AHs and IM (CSD) and AHs identified at IM (CSD) level (China)
- B. Multiple IMs with ultimate AH identified at CSD level at end of every settlement cycle (Brazil)
- C. Each AH in chain (including IMs) identified only at level of relevant IM (US)
- D. B-type system but with periodic (as opposed to real-time) identification of AH at CSD/issuer level (Japan)
- E. Multiple IM With the ultimate AH identified at the level of the ultimate IM
- F. Etc.

III. Alternative / Paradigmatic Attributes of IM Holding Systems

- A. Types of financial assets covered
- B. Nature of IMs
 - 1. Single IM with delegation of certain duties [China; Brazil]
 - 2. Any bank or securities firm
 - 3. Other
- C. Level in intermediated holding system at which account holder is identified
 - 1. Issuer
 - 2. CSD
 - 3. Ultimate intermediary
 - 4. Only the relevant intermediary
 - 5. Relation with the issuer in the various systems
- D. Nature of property interest resulting from credit (GSC Art. 11) or other transfer (GSC Art. 12)
 - 1. Interest in security to exclusion of any IM (i.e., IMs have no property interest, e.g. Japan)
 - 2. Bundle of rights against relevant IM or other IM (e.g., CSD) and interest in underlying security to extent necessary to satisfy rights against relevant IM and to exclusion of creditors of relevant IM (e.g. U.S.)
 - 3. Enforceability of proprietary rights against third parties
 - 4. Fungibility versus traceability of interests
- E. Scheme for providing distributions, voting, information, other corporate actions
 - 1. Pass through from issuer down chain of IMs
 - 2. Distributions from issuer/CSD directly to account holder
 - 3. Right (or not) of AH to prohibit disclosure of identity to CSD, issuer, or person other than relevant IM (or right of issuer to know identity of AHs)
 - 4. Person against which rights are enforceable (e.g., issuer, CSD, relevant IM)