

DEMATERIALIZATION

<p>Belgium</p>	<p>General All Belgian entities may issue securities under the bearer form (embodied in a physical paper). Those bearer securities may circulate on accounts and therefore be transferred without physical movement if they are deposited with the Belgian central depository “C.I.K.” or its affiliates. Beyond those bearer securities circulating like dematerialised securities, Belgian law allows the issue of purely dematerialised securities for the Belgian State, local authorities and the Belgian companies. Furthermore, so-called “billets de trésorerie” and “certificats de dépôt” may be issued by respectively large companies and banks. Those purely dematerialised securities are represented by inscriptions in the accounts of the clearing system of the NBB, its participants and sub-participants. The Belgian Company Law has been modified in order to allow all companies to issue purely dematerialised shares and bonds but this modification has not yet entered into force.</p> <p>The nature of the property right is in both cases the same: a) where the securities are fully dematerialised and b) where the securities are immobilised: the depositor/accountholder is co-owner of the pool of securities of the same kind held by the financial intermediary (i.e. the institution where the account is held) with the relevant securities settlement system or with other financial intermediaries.</p> <p>The members of the SSS are obliged to segregate the securities held for their own account and those held for the account of their clients. This segregation consists in the holding of two different accounts with the SSS. Upon default of the financial intermediary, the accountholders can claim back their securities from the SSS. This is a collective claim from all accountholders to the securities of the same kind held in the client-account of the FI with the SSS. If the amount standing to the client account does not suffice, the securities standing to the FI’s own account will be used to reimburse its clients.</p> <p>Statutory provisions Law of 2 January 1991 Law of 22 July 1991 Law of 6 August 1993 Co-ordinated Belgian Company Law of 30 November 1935.</p>
<p>Denmark</p>	<p>General Securities may be issued and transferred in dematerialised form. Depository requirements are set up by each authorised central securities depository. Such rules shall ensure that all parties involved are treated equally and shall be approved by the Danish Financial Supervisory Authority. There are no specific formalities required on how to establish an agreement of transfer or pledge of dematerialised securities. However, rights pertaining to dematerialised securities shall be registered with a central securities depository in order to be protected against legal proceedings and transferees.</p> <p>Statutory provisions Articles 19-22, 59 and 66 of the Securities Trading Act.</p>

<p>Germany</p>	<p>General German law provides for securities transferable by book-entry in an immobilised form (“Sammelverwahrung”) rather than a dematerialised form, thus requiring the issue of a global note (“Globalurkunde”). The legal foundation for these securities are paragraphs 5 ff. of the German Deposit Act (“Depotgesetz”). A special regime, allowing for full dematerialisation, is established for federal debt instruments which are registered in book-entry form with the German Federal Debt Office (“Bundesschuldenverwaltung”). Since the 1980’s, the respective Federal Debt Register (“Bundesschuldbuch”) is maintained as a fully electronic book-keeping system. The Federal Debt Office is entitled to issue dematerialised securities by virtue of the Reichsschuldbuchgesetz and two respective Regulations. The registration proves the right; it does not create it. The same legal basis is applicable for Debt Certificates issued by the ECB through application of Article 10 (2) of the Headquarters Agreement and its subsequent implementation under German law. It is possible for corporates to issue dematerialised securities on the basis of freedom of contract, but the “securities” so created would in effect be mere contractual claims. The transfer and the pledging of German book-entry securities is neither restricted nor falling under any specific additional formalities.</p> <p>Statutory provisions Paragraphs 5 ff of the Depotgesetz. Reichsschuldbuchgesetz (1910). Anleihegesetz (1951) (which declared two Regulations from 1940 and 1942 applicable under the law of the Federal Republic of Germany).</p>
<p>Greece</p>	<p>General The dematerialisation of securities refers only to listed securities and distinguishes between government securities and corporate securities.</p> <ul style="list-style-type: none"> - The dematerialisation of government securities was introduced by Law 2198/1994 and is optional. Dematerialised government bonds are traded on a gross basis in an electronic trading system (HDAT, see Article 26 of Law 2515/1997) between primary dealers. Also secondary dealers can participate under certain circumstances. Furthermore, dematerialised government bonds can be traded over the counter between banks/investment firms in a book-entry form. They are also listed in the Athens Stock Exchange (ASE), however, at the present time, trading is not possible due to electronic inefficiencies. The trades are being cleared by the Central Securities Depository (CSD). - The dematerialisation of listed corporate shares was introduced with Articles 39-61 of Law 2396/1996 as amended by Law 2533/1997. It is mandatory, as the concept of an optional dematerialisation of corporate bonds has not been given effect yet. Shares issued as or converted into dematerialised ones are registered, without serial numbers, in the records of the CSD, and are controlled by registrations in these records in accordance with the procedure set out in the System of dematerialised shares. In the records registered shares appear at the name of the owning shareholder. As relates to bearer shareholders, the shares appear at the name of the custodian (bank or investment firm). At the records kept by the custodian, the bearer shares appear at the account of the owning shareholder. <p>Statutory provisions Law 2198/1994 Law 2396/1996 Law 2515/1997</p>
<p>Spain</p>	<p>General The Real Decreto 505/1987 of 3.4.1987 (“Creacion de un Sistema de Anotaciones en Cuenta para la Deuda del Estado”) introduced the possibility of fully dematerialised public debt securities, with the Banco de Espana acting as central depository.</p>

	<p>Article 5 of the Law on Securities Markets of 28.7.1988 (Ley 24/1988 del Mercado de Valores - LMV- to a II) extended the possibility of dematerialisation to all kind of securities (public and private). A Royal Decree of 14.2.1992 made compulsory the dematerialization of any security to be admitted for trading in any organised market, and today all kind of negotiable securities (equity, debt securities, mortgage-backed securities, commercial paper and shares in collective investment funds) traded in organised markets in Spain are fully dematerialised.</p> <p>Issuance of fully dematerialised securities is subject to the following requirements (in addition to filing of prospectuses, disclosure obligations, register of mortgage bonds, and administrative clearances):</p> <ul style="list-style-type: none"> - granting of an ‘escritura pública’ (i.e. notarial deed) by the issuer, where all particulars of the issuance are reflected, inclusive of the central depository on whose register the securities are to be recorded; - qualified issuers are exempted from the said ‘escritura’: public debt issuers and international organisations may substitute the ‘escritura’ by publishing in the Official Gazette the details of the issue; in addition, the legislative reform introduced in November 1998 to the LMV has authorized the Government by Royal Decree to extend the scope of exemptions from the requirement of the ‘escritura’, by instead allowing, like the public issuers, publication of all details of the issuance in the Official Gazette; - the constitutive effect of the issuance occurs when the issuance is registered with the central depository; - fully dematerialised securities pertaining to the same issuance are fungible (i.e. no individual identification of each security, but only by series of issues); - transmission and pledge of the security has effects <i>erga omnes</i> upon the registration of the operation in the registers of the central depository; - any registered holder of securities is entitled to obtain (i) from the acting Notary a copy of the ‘escritura’ of issuance, and (ii) from the central depository a certificate of its entitlement to the securities; both titles permit the holder to start summary judicial proceedings against the issuer in cases of default, and in the event of insolvency to rank the debt above non-notarised debts. <p>In order to determine the nature of the registration into an account with a securities settlement system it is important to make a difference between domestic securities and foreign securities:</p> <ul style="list-style-type: none"> - with respect to domestic securities registration (together with some other requirements) is necessary to create the securities; - with respect to foreign securities which are going to be listed in a Spanish organised secondary market foreign securities must be deposited abroad with a depository in order to immobilise such securities. The Spanish central securities settlement system will be part in the process to create securities in book-entry form listed in the Spanish organised secondary market, but the registration into an account of these securities really proves the right on securities deposited with the foreign depository. <p>Segregation is required to any member of the system in connection with securities belonging to itself and those belonging to its clients and among securities belonging to different clients.</p> <p>Insurance is not legally required but it is a market practice generally accepted.</p> <p>When segregation is dully made holders are protected in case of insolvency of any member to the system in which securities are registered.</p> <p>Statutory provisions Real Decreto 505/1987 of 3.4.1987 Law on Securities Markets of 28.7.1988 (Ley 24/1988 del Mercado de Valores - LMV-) Royal Decree of 14.2.1992</p>
<p>France</p>	<p>General French legislation has been providing for a regime of dematerialised securities since 1941. SICOVAM is the central depository for securities listed in the Paris stock exchange, Banque de France for Treasury Bills. SICOVAM, Banque de France or any credit institution may act as a book-keeper for short/medium term</p>

	<p>notes and non-listed/non-quoted securities. Securities are transferred from the securities account of one intermediary (only credit institutions, securities firms and a limited number of other institutions –e.g. central banks– may open securities accounts in central securities depositories) to the securities account of another intermediary on a transaction basis or on a net basis, whatever the underlying transaction may be (outright sales, repos, transfers). Transfer is not restricted by other formalities than registration in the account.</p> <p>Statutory provisions Article 94-II of the Law 81-1160, Article 19-II of the Law 91-716 and Article 102 of Law 96-597.</p>
Ireland	<p>General Irish regulations make provision for the transfer without a written instrument, and the evidencing otherwise than by a certificate, of title to a unit of security in accordance with a computer-based system and procedures meeting certain defined criteria.</p> <p>Statutory provisions The Companies Act, 1990 (Uncertificated Securities) Regulations 1996</p>
Italy	<p>General In 1998 the “Disposizioni per l’introduzione dell’Euro nell’ordinamento nazionale ... della legge 17 dicembre 1997, n. 433” authorised the government to implement a set of rules regulating dematerialised securities. Those are now managed by brokering companies; authorised brokers only may transfer them. Banca d’Italia and also CONSOB (Commissione nazionale per la societa’ e la Borsa) are the two institutions which have supervisory competence and may adopt complementary legislation.</p> <p>Dematerialised form is mandatory with regard to public debt instruments, and listed shares. The transfer of title is executed by the custodian in a virtual way, while the pledge is registered in a special account by book-entry, instead of being noted on the physical certificate. Nature of registration: the book-entry into an account replaces the existence of the security; therefore the book-entry neither creates nor proves the right on the securities, but in itself substitutes the securities.</p> <p>Entitlement / segregation: the holders of securities continue to maintain their rights and/or claims set out by the Italian civil code in respect of such securities. Furthermore, the CONSOB Regulation number 2723 dated 18 February 1987 states, at art. 34 that Monte Titoli “in its capacity as custodian may take out an insurance policy and acquire, if necessary, guarantees (“garanzie diejussorie”) as well, to cover damages towards the depositors as a consequence of eventually stolen, mutilated, lost or destroyed certificates deposited or travelling abroad.</p> <p>Statutory provisions Decreto Legislativo 24 giugno 1998, n. 213</p>
Luxembourg	<p>General Most securities are dematerialised and no legal problem has arisen in this context. However, only a few provisions explicitly mention dematerialised securities. However, the term has been introduced to Luxembourg legislation by the Regulation of 8 June 1994 according to which dematerialised securities are credited to the depositors’ account and can be transferred to another account. Also the law of 24 December 1996 does allow the issuance of only written confirmations of registration, even though it principally foresees the issuance of certificates. Thought is given to the question whether a more detailed form of legal implementation</p>

	<p>could improve legal certainty.</p> <p>Statutory provisions Regulation of 8 June 1994 (Mem. A-52 du 27 June 1994, p. 1001) Law of 24 December 1996 (Mem. A 95 of 30 December 1996, p. 2911).</p>
<p>The Netherlands</p>	<p>General National legislation allows for dematerialised securities. The Giro-based Securities Transfer System Act of 1977 put into effect a generally applicable giro-based securities transfer system. The implementation of the Act is in the hands of Necigef, the Central Securities Depository in the Netherlands. Member institutions – a large number of banks and brokers – maintain security deposits at Necigef . The Securities Transfer System Act was developed for securities under the bearer form. The introduction of this system eliminated deliveries in physical form for these securities. Since 1991 global notes/bonds (one bearer note embodying all securities) are also incorporated in the system of the Securities Transfer System Act. Investors have a right to delivery of securities that are part of the global note. In case this right is exercised, a security is split off from the global note and it is registered in an annex to the global note. Since 1998, a fully dematerialised Giro -based system has been developed outside the scope of the Securities Transfer System Act for the deposit and clearing of registered securities like commercial paper and medium term notes. This system is administered by NIEC, a sister company of Necigef. The Securities Transfer System Act of 1977 is currently being revised. After discussion between the Ministries of Justice and Economic Affairs and Necigef, it has been decided to develop a fully dematerialised system for (registered) securities in the Securities Transfer System Act. There’s no deadline yet for the current drafting work.</p> <p>Statutory provisions Giro-based Securities Transfer System Act of 1977 Securities Transfer Act of 1997 Civil Code</p>
<p>Austria</p>	<p>General Austria’s legal order foresees dematerialised securities since 1987. The depository requirements are the same as for collective safekeeping of securities. The Austrian CSD as well as the credit institution are responsible for the bookkeeping, the latter with regard to the individual shares in a dematerialised security held by individual customers. For the transfer as well as for the pledge of a share in a dematerialised security the same formalities as for collective safekeeping are required; furthermore the general principles of civil law are to be applied. Securities deposited at the Austrian CSD by credit institutions can be transferred by order.</p> <p>Foreign securities are also eligible in dematerialised form. Austria is a book-entry and bearer market. Hence there is no registration. The Austrian CSD runs one omnibus account for each participant. All holdings are considered as customers’ assets held on their behalf by the participants. It is not possible to establish separate accounts for the customers’ securities. By law, participants are requested to segregate their own assets from their customers’ assets in their own accounts. The Austrian Deposit Law states in paragraph 9 (2) that there is the legal presumption that if a custodian entrusts the securities to a third party in Austria, then such third party shall know that the securities do not belong to the custodian (limited assertion of lien and retention rights). So no lien or retention rights for the</p>

	<p>custodian are possible on that account and in case of custodian's bankruptcy the beneficial owner can segregate its securities according to the book entry segregation and securities statements.</p> <p>Statutory provisions Depotgesetz: Article 1.3, 24 (see BGBl. Nr. 424/1969, as amended by BGBl. Nr. 650/1987).</p>
<p>Portugal</p>	<p>General Since 1991, Portuguese law allows for dematerialised securities. The issuer must register all dematerialised securities in an account with the Securities Central Body (INTERBOLSA). The registry shall contain all observations related to the securities including, but not limited to, any pledge. The issuer must keep, on its own registers, a control account representing all the issuance. The transfer of dematerialised securities is realised by debit on the owner's account and credit on the buyer's account. Physical securities can be transformed into dematerialised ones without limitation. When required for cross-border negotiation, dematerialised securities can also be converted into physical securities.</p> <p>Statutory provisions Main law: Securities Market Code, approved by Decree Law number 142-A/91, of 10 April 1991.</p>
<p>Finland</p>	<p>General Finnish book-entry securities legislation came into effect on 1st August 1991. Finnish companies whose shares are subject to public trade are required to transfer their shares to the book-entry securities system at the request of register holder representing the issuer.</p> <p><u>Segregation</u>: Securities are considered as non fungible goods, i.e. they can be segregated according to the title. However, securities having the same title, can not be segregated from each other. The nature of entitlement to securities is therefore a traceable proprietary right to certain book-entry securities, which are held in the book-entry account.</p> <p>In the current Finnish legal environment, securities are basically held either in segregated account in the name of the beneficial owner or in a nominee registered omnibus account in the name of the nominee. A beneficial owner, whose book-entry securities are held in an individual beneficiary account, i.e. in the account which is solely designated for the safe keeping of the assets of one beneficial owner in its own name, has a proprietary right to the said securities. Should the assets be nominee registered, as the case often is when cross border investment is made, the account holder which often operates in its capacity as global custodian has the ultimate power to use the rights belonging to the owner in respect of book-entry securities which are held on the referred omnibus account (excluding however the administrative rights, <i>inter alia</i> a right to participate and to vote in the shareholders meeting).</p> <p><u>Registration</u>: The Finnish book-entry system is a registration system that does not create any such rights that did not exist before. An acquisition registered in a book-entry account and a right pertaining to a book-entry and registered in the book-entry account shall have priority over an acquisition, and right not registered in the account. If mutually conflicting interests pertain to the same book-entry, the right first registered in the book-entry account shall have priority over a right registered later.</p> <p><u>Pledge</u>: If entries registered in a book-entry account are pledged there will be a registration made on the book-entry account in question. Such registration pertains to the book-entry account as a whole. Where such registration is to apply only to certain book entries a separate book-entry account shall be opened for them and then pledged. A pledge is registered in an account at the request of the beneficiary. A condition for registration is the written permission of the account holder. The registration of the pledge means in practice that the entries in question are blocked in the system in a way that they cannot be transferred before the registration of the pledge is removed.</p>

	<p>Statutory provisions Section 25, 26 and 26a of the Act on book-entry System (and 30 a of the Act on book-entry Accounts)</p>
<p>Sweden</p>	<p>General Already the Shares Account Act provided for dematerialised securities, which were held in dematerialised paperless form as book-entry rights in a securities settlement system, the VPC. At the request of a Swedish natural or juridical person who wished to issue unilateral instruments of debt intended for general trading, the Securities Register Centre determined that the instruments of debt were to be registered in a VPC-register. The Securities Register Centre could decide that even other financial instruments than those referred to had to be registered in a VPC-register. Transactions were to be made through an account-operating institute only, for which VPC was legally responsible. The Act on Registration of Financial Instruments, which covers all types of financial instruments, has abolished the monopoly of VPC to register securities with legal effect. Companies that comply with the general conditions of the Act can now be authorised as central securities depositories (CSDs) which are co-operating with VPC and other CSDs and with their correspondents in other countries under the framework of the New Act. Central Banks of other countries can therefore participate directly in the activities of VPC and other Swedish CSDs and they can also register ownership of financial instruments and collateral security arrangements directly, including pledges and liens. A National Central Bank and also the European Central Bank do first need to be appointed by the CSD concerned as a share account institution, though, which is an entity entitled by a CSD to effectuate registration measures in securities register – whereby the arrangement with Share Account Institutions can be compared to membership requirements in other securities settlement systems. The New Act allows the registration of foreign paper-based financial instruments. It defines registration as the relevant act for transfer of ownership of securities in order for that to become effective vis-à-vis third parties. It also provides protection for a bona fides acquiror of securities from the point in time of registration.</p> <p>Statutory provisions Act on Registration of Financial Instruments</p>
<p>United Kingdom</p>	<p>General Trading in debt securities issued by UK companies has to be in material form. However legislation does allow for certain categories of securities to be held and transferred in dematerialised form. For government bonds, and certain other sterling unregistered debt issues, the Stock Transfer Act 1982 permits dematerialisation and is the legal basis for the Central Gilts Office (“CGO”) and the operation of Bank of England. This will be the case until full merger of CREST and CGO (scheduled for second quarter of 2000) following which CGO traded instruments will be governed by the USRs. For certain other securities there are provisions in the Companies Act of 1989 that allow the UK government to make legislative provision for dematerialisation. These powers have been used to permit paperless settlement of equities and certain debt securities in the CREST system (The USRs are the relevant secondary legislation). CREST deals with shares and other securities issued by companies registered in England and Wales, Ireland and Isle of Man. CREST has also established links with other European CSDs to allow settlement of “European” securities (the international links of CREST are not fully operational yet). Money market instruments (Treasury bills, bank bills, CD’s, commercial paper) are in general immobilised rather than dematerialised (in the Bank’s Central Money Markets Office), and following the transfer of operational duties of the Bank to CRESTCo in 1999, settlement of money market instruments can be done in dematerialised form through CREST. In other cases, specific primary legislation setting out the terms of issue does not permit dematerialisation (e.g. the Treasury Bill and the Bills of Exchange Act). Debt securities subject to the ETRs or the Bank’s Market Notice are generally required to be evidenced by a certificate in physical form, although, subject to certain conditions, this may be in the form of a global note. It is intended to remove these requirements. Following transfer of operational duties of the Bank in the CGO, CRESTCo (the only “approved system” for legislative purposes) will maintain book entry records of securities and gilts. The transfer of securities is in general governed by the terms of the issue concerned, by the rules of the system in which they are transferred and, in the case of registered securities, by the registration procedures. There may be specific formalities to be observed by the pledgor of securities over and above those imposed by the rules of the relevant system. In particular in some cases the pledge (where in the form of a charge) must be registered with the Registrar of Companies.</p>

Statutory provisions

Stock Transfer Act 1982

Companies Act 1989

Uncertificated Securities Regulations 1995 (“USRs”)