

# EU-Legislation on legal certainty of securities holding and transactions

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# Process

1998-2008	Giovannini Reports, LCG Advice, FCD, SFD, MiFID, SRD, Hague, Unidroit
12/2008	Decision of Commissioner McCreevy to prepare legislation in the field of Barriers 13, 15, 9 and 3
01/2009	Start of work. Establishment of a Commission inter service steering group
03/2009	Additional advice from Legal Certainty Group
04-05/2009	8 weeks Public consultation of all stakeholders (financial industry, consumers, etc.)
06/2009	Additional advice from Legal Certainty Group
07/2009	Start of Commission formal procedures for the adoption of a legislative proposal
12/2009	Adoption by the College as a Commission legislative proposal

# Table of Contents

## **Draft Legislation**

**Title I – Definitions and Scope**

**Title II – Book-entry securities**

**Chapter I – Substantive law governing acquisition, disposition and connected matters (Barrier 13)**

**Chapter II – Processing of rights flowing from securities (legal aspects Barrier 3)**

**Chapter III – Conflict of laws regime (Barrier 15)**

**Chapter IV – Duties of account providers**

**Title III – Location of securities (Barrier 9)**

**Title IV – Final provisions**

# Comparative Table

Draft Legislation	Neighbouring texts
Title I – Definitions and Scope	– [elements drawn from all texts mentioned below]
Title II – Book-entry securities	
Chapter I – Substantive law governing acquisition, disposition and connected matters (Barrier 13)	⇔ <ul style="list-style-type: none"> <li>– Part I of LCG 2008 Advice</li> <li>– substantive law aspects of FCD</li> <li>– 90% of Unidroit draft Convention</li> </ul>
Chapter II – Processing of rights flowing from securities (legal aspects Barrier 3)	⇔ <ul style="list-style-type: none"> <li>– Part II of the LCG Advice</li> <li>– Shareholders' rights Directive</li> <li>– 5% of Unidroit draft Convention</li> </ul>
Chapter III – Conflict of laws regime (Barrier 15)	⇔ <ul style="list-style-type: none"> <li>– Article 9 FCD, SFD (also BanksWUD)</li> <li>– Hague Securities Convention</li> </ul>
Chapter IV – Duties of account providers	⇔ <ul style="list-style-type: none"> <li>– MiFID</li> <li>– Recommendation 3 of LCG 2008 Advice</li> <li>– 5% Unidroit draft Convention</li> </ul>
Title III – Location of securities (Barrier 9)	⇔ <ul style="list-style-type: none"> <li>– Part III of LCG 2008 Advice</li> </ul>
Title IV – Final provisions	----

# Overview of 5 options

Option 1	Taking <b>no action</b> in this field.
Option 2	Improvement of the situation by promoting amelioration of the law of Member States on a voluntary basis (in particular through adoption of a <b>recommendation</b> ).
Option 3	Addressing the issue in the form of a <b>directive</b> .
Option 4	Addressing the issue in the form of a <b>regulation</b> .
Option 5	Leaving the issue to <b>international Conventions</b> (Unidroit draft Convention, Hague Securities Convention).