

ISSA



Survey on Current Practices for Beneficial Owner Disclosure

Results Summary

July 2020

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Table of Contents

1.	Executive Summary	3
2.	Background and Objectives	4
3.	Approach	5
4.	Survey Results	6
4.1	Respondent Demographics	6
4.2	Market Mechanics	7
4.3	Disclosure	8
4.3.1	Method	8
4.3.2	Parties	10
4.3.3	Purpose	11
4.4	Information Access	12
4.4.1	Register	12
4.4.2	Upon Request	13
4.5	Information Collection	14
4.5.1	Information Levels Stored	14
4.5.2	Content	15
4.6	Announcements	16
4.6.1	Initiating Parties	16
4.6.2	Methods	16
4.6.3	Frequency of Announcement	17
4.6.4	Frequency of Ad Hoc Requests	17
4.7	Data Format	18
4.7.1	Format Used	18
4.7.2	Consistency	18
4.8	Enforceability	19
4.9	Costs	20
4.10	Industry Trends	21
4.10.1	Probability of Change	21
4.10.2	Evolution in Disclosure Process	22
5.	Conclusion and Key Findings	23
5.1	Summary	23
5.2	Common Practices	23
5.3	Challenges	23
5.4	Acknowledgements	24
6.	Appendix	25
	Glossary of Terms	25

1. Executive Summary

With the broader industry drive to improve corporate governance and transparency, beneficial owner disclosure has recently become a topic that is gaining increased attention from regulators, issuers, market infrastructures and service providers. At the same time, processes to request, collect and transmit shareholders information have traditionally suffered from lack of automation and standardisation.

To understand the present situation and ensure that any improvements could be focused, the ISSA Corporate Actions Working Group («CA WG») conducted a survey, during the latter part of 2019, on Beneficial Owner Disclosure. The key aim of the survey was to capture a snapshot of disclosure processes and the challenges that are currently in place around the world.

With the help of the World Forum of CSDs, the ISSA CA WG collected data and insights from 34 CSDs and ICSDs. The survey touched on areas covering general market mechanics, disclosure triggers, information access, disclosure purpose and contents, announcements process, timeframe, data format & flow, enforceability, costs ownership and upcoming trends. Where relevant, the survey also attempted to identify whether there was any variation in practices between different asset classes (equities, public debt, corporate debt).

The core basics - including who can request a disclosure, what rationale motivates the request and what type of information is required - were found to be relatively consistent across markets, asset classes and disclosure types.

However, the findings highlighted a disparity of practices and the need for further alignment and harmonisation in certain key areas; such as taxonomy of beneficial owners, implementation guidelines and reporting mechanisms and formats. The results also showed that it is expected that technology will play a key role in the evolution of disclosure processes. Additionally, scalable and effective solutions will depend on the developing regulations, especially in the context of emerging cross-border regulations such as the Second Shareholders Rights Directive («SRDII») in Europe.

2. Background and Objectives

The disclosure of beneficial ownership information continues to be a matter of significant importance to issuers and a major focus of regulators. Transparency of beneficial ownership is key to issuers understanding their ownership and communicating with the owners. It is also a fundamental requirement in helping countries to, not only detect and prevent tax evasion, but also to thwart other financial crimes.

There is ongoing focus by multiple regulators and public bodies alike on this topic:

- OECD and IDB (The Organisation for Economic and Development and The Inter-American Development Bank) – who have provided a tool kit that can be used by countries to implement structures that enable identification of beneficial owners
- FATF (The Financial Action Task Force) - who has established standards on transparency in order to prevent financial crime
- EU 4th Money Laundering Directive – which requires EU firms (and non-EU firms with substantial holdings within the EU) to maintain accurate and up to date information on beneficial ownership
- The Second Shareholders Rights Directive («SRDII») – which requires the disclosure of shareholders information throughout the intermediaries chain when requested by the issuers.

Like other sectors, the securities services industry needs to play its part in ensuring that transparency requirements are met. During 2019, the International Securities Services Association (ISSA) Corporate Actions Working Group therefore decided to conduct a survey of the major market infrastructure firms around current practices on investor transparency and shareholder information disclosure.

The core objective of the survey was to obtain a snapshot of the beneficial ownership disclosure processes that are currently in place around the world. The results of the disclosure processes would then be reviewed to identify common practices across the respondents, as well as highlight challenges that the industry could focus on in order to further improve transparency.

3. Approach

The ISSA CA WG prepared a survey entitled «Current Practises for Beneficial Ownership Disclosure». The survey, co-signed by ISSA and the World Forum of CSDs, was distributed to the securities services market infrastructure firms. Recipients of the survey included both domestic CSDs and ICSDs.

The survey touched on areas covering general market mechanics, disclosure triggers, information access, disclosure purpose and contents, announcements process, timeframe, data format & flow, enforceability, who bears the costs of maintaining the register and / or handling the request disclosure as well as upcoming trends. Where relevant, the survey also attempted to identify whether there would be any variation in practices between assets classes (equities, public debt, corporate debt).

4. Survey Results

4.1 Respondent Demographics

The first question asked for confirmation of the region where the respondent of the questionnaire is based. From the initial letters sent out, the ISSA CA WG received responses from a total of 34 securities market infrastructure firms (CSDs and ICSDs). Responses from each region are shown in Figure 1 below.

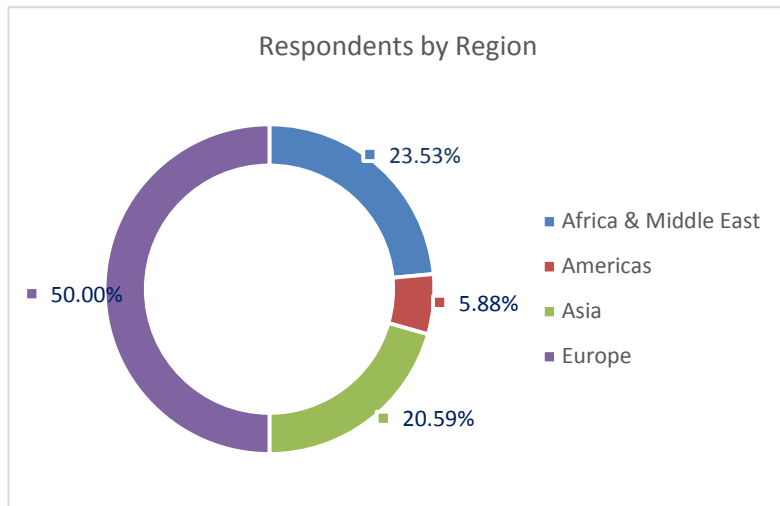


Figure 1: Respondents by Region

4.2 Market Mechanics

This question focused on the types of account that are allowed at the CSD to hold different financial instruments. As can be seen from Figure 2, there are a number of market variances:

- Almost 50% of markets allow both omnibus and segregated accounts
- A quarter of markets are omnibus markets only
- 15% of markets allow only segregated accounts
- 9% allow both omnibus and segregated accounts, but with restrictions dependent on whether the investor is foreign or domestic

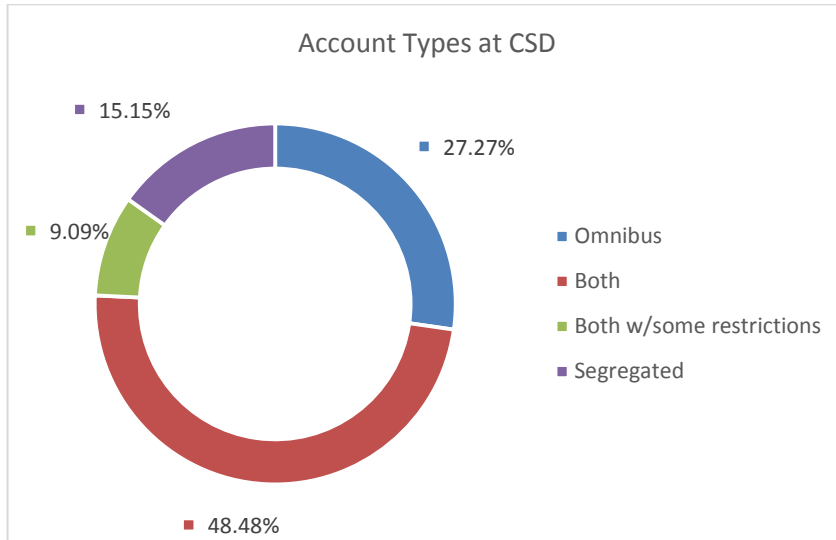


Figure 2: Account Types at CSD

As can be seen in Figure 2, the mandatory segregation of accounts represents a minority practice. Additionally, it is often coupled with additional requirements or restrictions for either domestic and/or foreign investors. Further, looking at regional differences, mandatory segregation of accounts is most prevalent among Asian, Middle Eastern and African markets as shown in Figure 3 below.

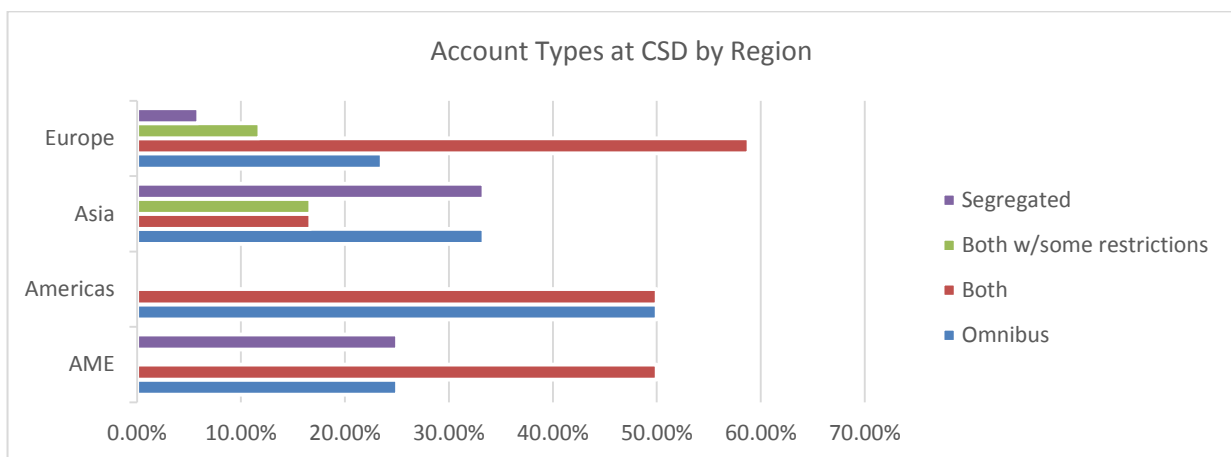


Figure 3: Account types at CSD by Region

4.3 Disclosure

There were three questions in the survey which were aimed at gaining a better understanding of disclosure requirements through identifying how a disclosure request can be triggered (the method), who can trigger a disclosure (the party) and why a disclosure is requested (the purpose).

4.3.1 Method

Overall, for the method, responses received were largely consistent across asset classes as well as in each region. Key findings show:

- The most frequently used method – by a large majority - is a request being triggered by an issuer announcing a disclosure request as a corporate action event
- The second most frequent method is disclosure, as a result of trading activity. This is typically as a result of reaching a certain threshold of ownership
- Short selling activities are rarely being tracked through disclosure requirements
- Other methods cited by respondents included tax authorities, regulators and court orders requests

The key findings for disclosure triggers for equities are:

- 61% of disclosure requests are triggered via issuers announcing a disclosure request as a corporate action event
- 15% are triggered via trading activity
- Very low tracking on short selling
- Disclosure upon reaching a threshold is more prevalent than when there is no threshold

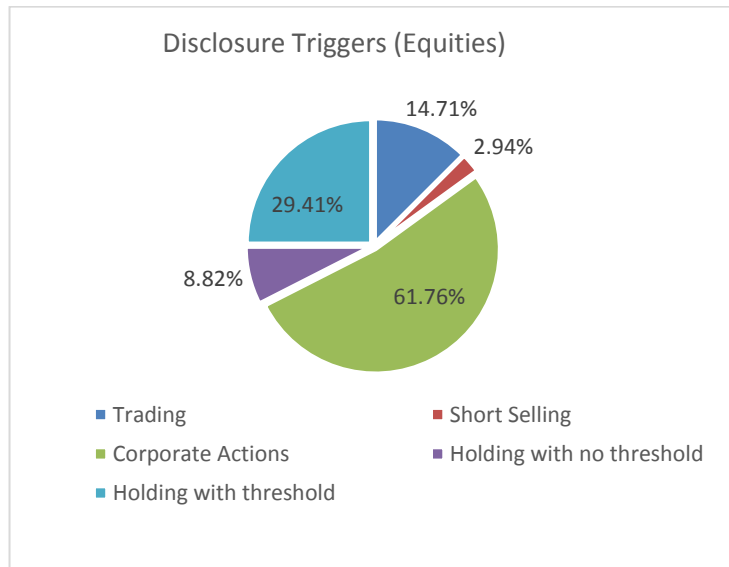


Figure 4: Disclosure Triggers (Equities)

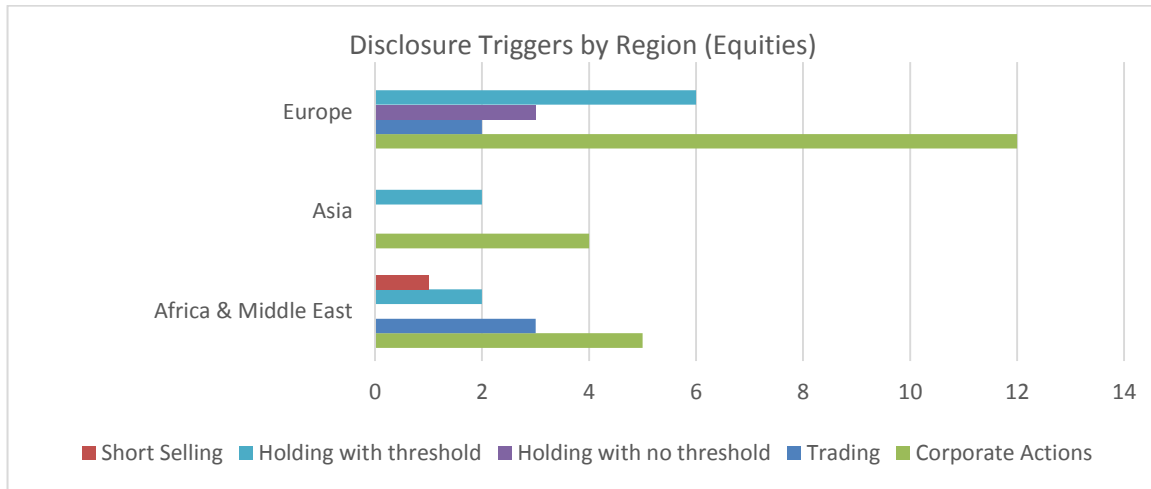


Figure 5: Disclosure Triggers by Region (Equities)
 (Note: No responses were received for this question from Americas’ survey participants)

The key findings for disclosure triggers for fixed income are:

- 56% of disclosure requests are triggered via issuers sending a corporate action announcement
- 12% are triggered via trading activity
- No disclosure on short selling
- Balanced mix of disclosure with no threshold and upon threshold

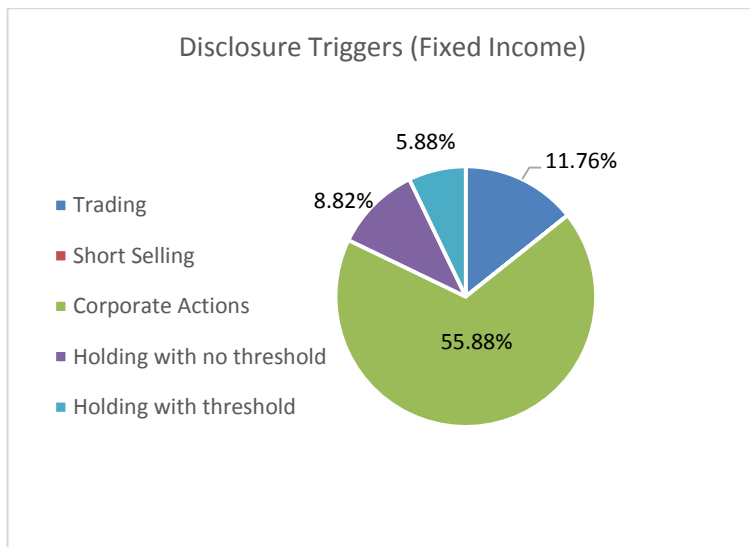


Figure 6: Disclosure Triggers (Fixed Income)

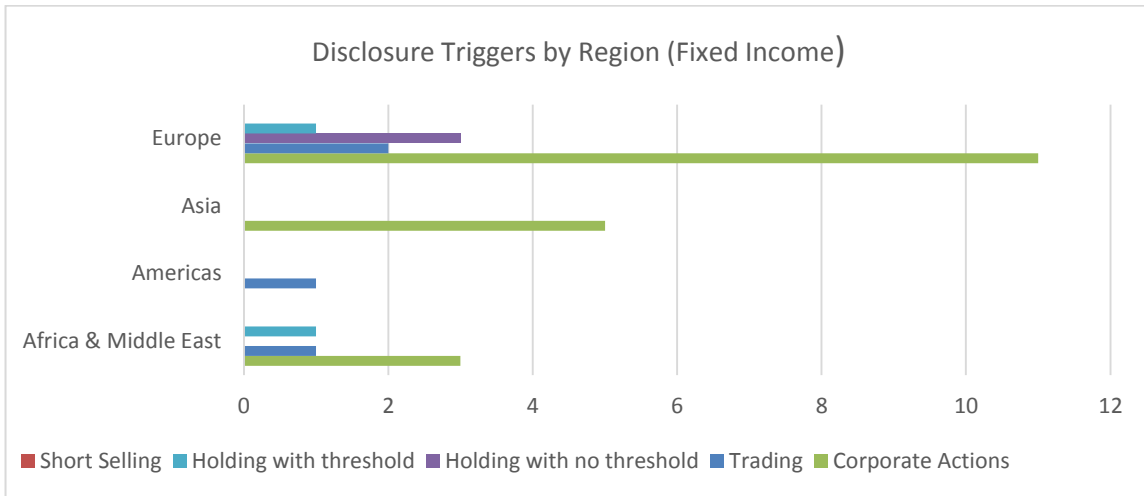


Figure 7: Disclosure Triggers by Region (Fixed Income)

4.3.2 Parties

Multiple parties have the right to trigger an upon request disclosure. As expected issuers and regulators are the most frequent requestors across all regions and instrument types. Other requestors include the courts, law enforcement and auditors.

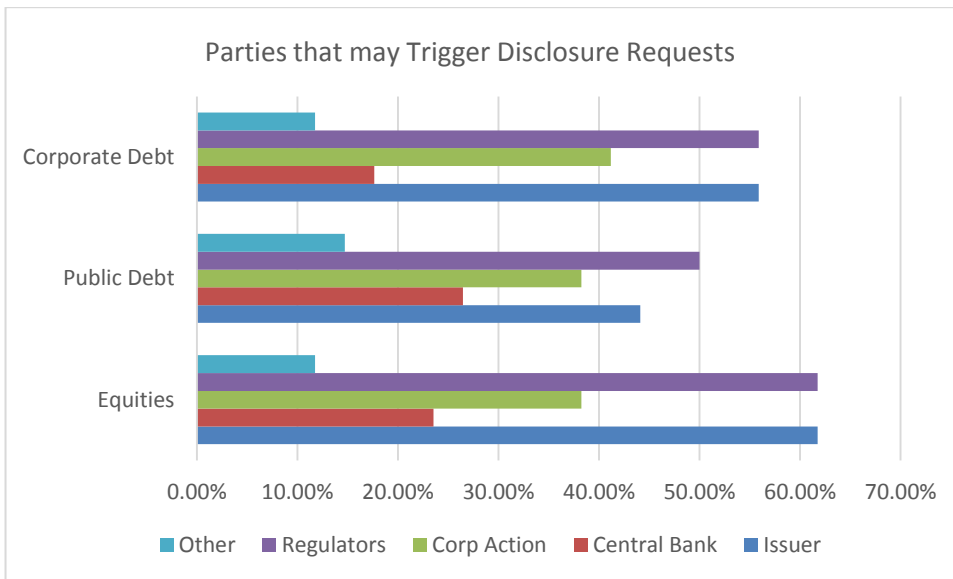


Figure 8: Parties that may Triger Disclosure Requests
 (Note: More than 1 response can be provided per asset class. Percentages are expressed against total number of respondents)

4.3.3 Purpose

Responses received indicate that the underlying purposes of the disclosures are consistent across regions. The split by purpose in Figure 9 shows:

- Combined together, AML and KYC are the most frequent purposes
- Other categories are also evenly cited as underlying reasons for requesting disclosures

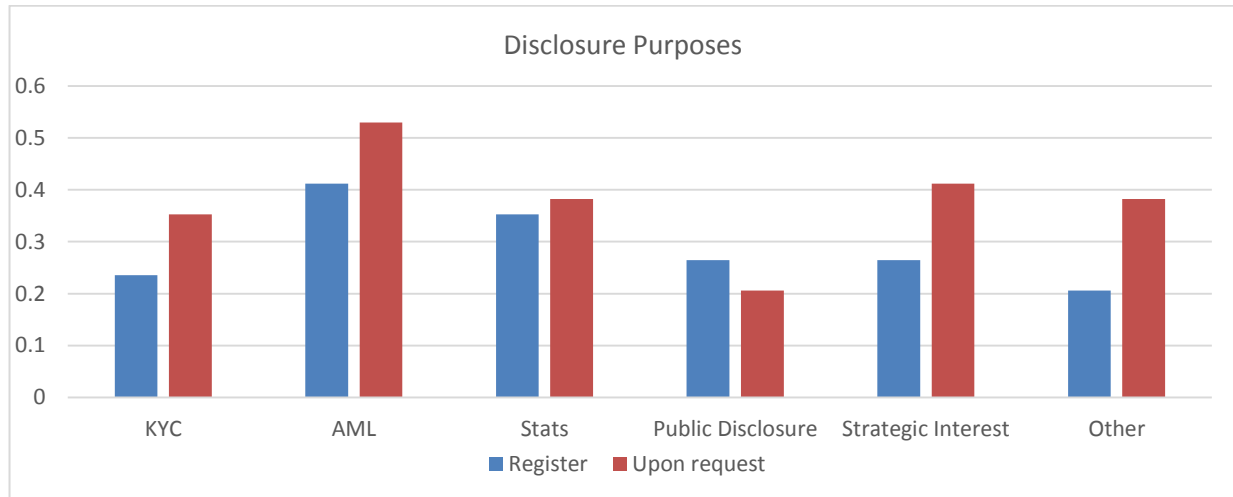


Figure 9: Disclosure Purposes

(Note: More than 1 purpose can be provided. Percentages are expressed against total number of respondents)

4.4 Information Access

Two questions in the questionnaire focused on access to information; in terms of who is able to access the register and who may access upon request content.

4.4.1 Register

Access to the information collected in the registers is generally restricted to designated parties and not openly available to the public. As the responses collected showed very little regional variance, the aggregated data is summarised in Figure 10 below.

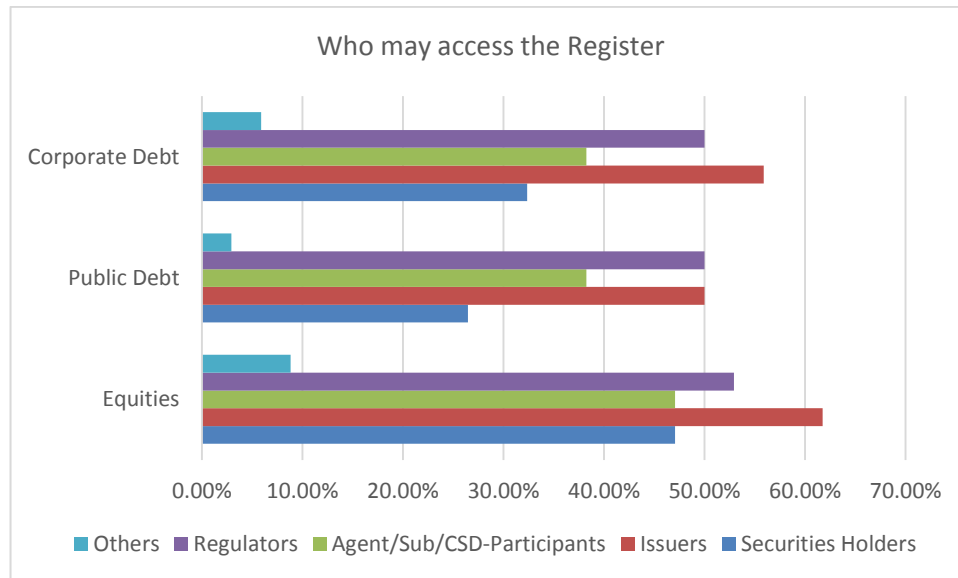


Figure 10: Who may access the Register

(Note: More than 1 response can be provided per asset class. Percentages are expressed against total number of respondents)

There are some variances by asset class:

For equities:

- Issuers are the most frequent category that can access register
- However, regulatory bodies, securities holders and CSD participants have also access to the register in almost 50% of the responses

For public debt:

- Access is less open than for equities
- Issuers and Regulatory bodies are the most frequent category that can access the register
- A much smaller proportion (compared to equities) of markets allow access to security holders and CSD participants

For corporate debt:

- Access is less open than for equities
- Issuers and Regulatory bodies are the most frequent category that can access register
- A smaller proportion (compared to equities) of markets allow access to security holders and CSD participants

4.4.2 Upon Request

Access to the information collected during the upon request disclosure process is also generally restricted to designated parties and not openly available to the public. Across asset classes, regulators and issuers are the most recurrent parties to have access. CSDs have access in less than 30% of the responses. As the responses collected showed very little regional variance, the aggregated data is summarised in Figure 11 below.

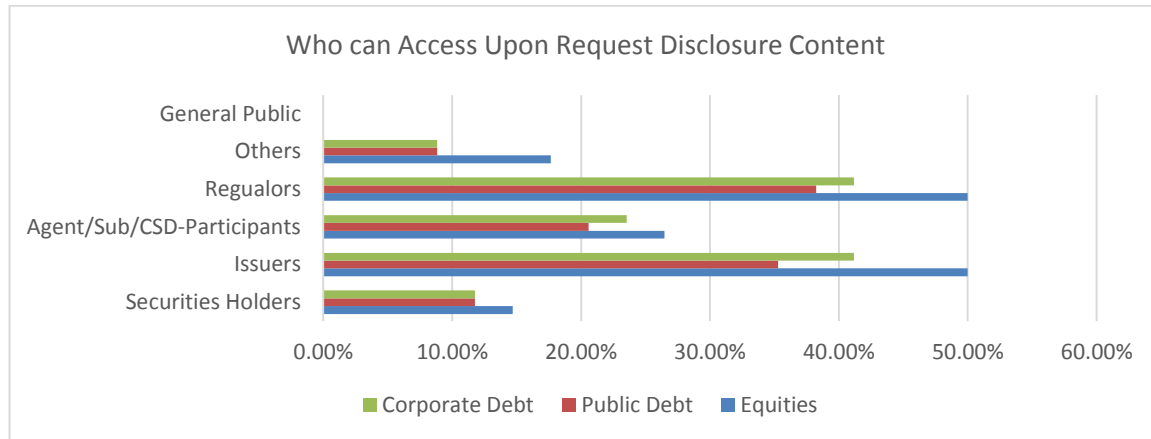


Figure 11: Who can Access Upon Request Disclosure Content

(Note: More than 1 response can be provided per asset class. Percentages are expressed against total number of respondents)

4.5 Information Collection

The following section covers questions that were asked about the level of information that is stored within the register or collected for upon request disclosure situations; as well as the actual content itself.

4.5.1 Information Levels Stored

The level of information stored in the register or collected for upon request disclosure situations include:

- CSD-1 level: information on accounts held directly in the CSD
- CSD-2 level: information on accounts held in the books of a custodian who, in turn, holds the positions in an account at the CSD
- Final beneficiary
- Any combination of the above

Based on the responses, the information that is stored within the relevant register, or collected for upon request disclosure, shows a high disparity in terms of the levels of information required. This is shown in Figures 12 and 13 below.

Nevertheless, at an aggregate level, 70% of registers hold final beneficiary information. Responses also show very little difference between instrument types.

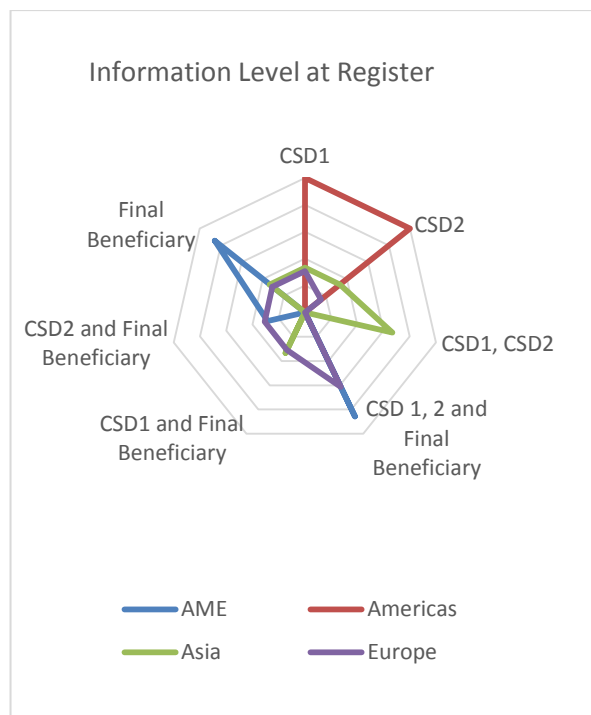


Figure 12: Information Level at Register

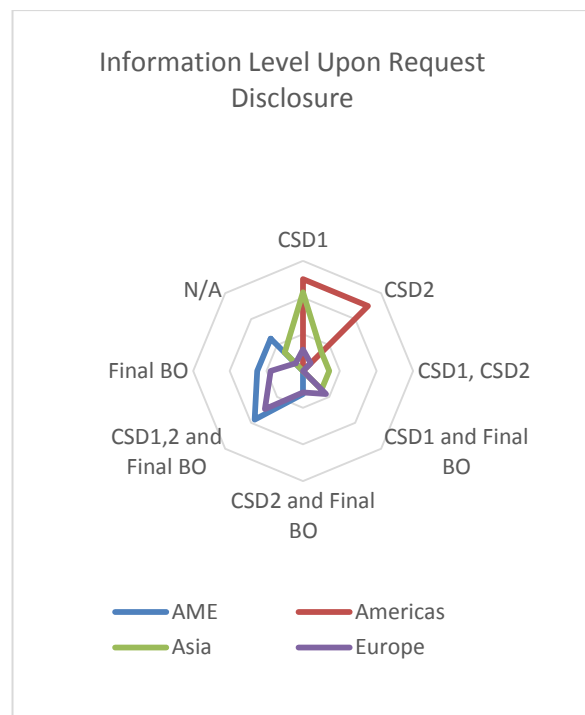


Figure 13: Information Level Upon Request Disclosure

4.5.2 Content

When comparing data stored in the registers and collected through the upon request disclosures, there was little difference in the content or across instrument types.

While many data points can be stored in the register, holders name and addresses as well as securities balances are, without much surprise, the top 3 information / data elements held.

Registers		Upon Request Disclosures	
Type of Information	Frequency	Type of Information	Frequency
Holder Name	76.47%	Holder Name	79.41%
Securities Balance	76.47%	Securities Balance	79.41%
Full Address	76.47%	Full Address	73.53%
ID/Company Number	64.71%	ID / Company No.	61.76%
Nationality	61.76%	Nationality	58.82%
Date of Birth / Incorporation	52.94%	Account number at CSD / Sub-Custodian	50.00%
Account Number at CSD / Sub-Custodian	52.94%	Legal Status	41.18%
Legal Status	50.00%	Account Type	41.18%
Account Type	50.00%	Date of Birth / Incorporation	38.24%
Contact Details	47.06%	Contact Details	38.24%
Security Restrictions	44.12%	Security Restrictions	35.29%
Name Fund Mgmt. Co.	26.47%	Name Fund Mgmt. Co.	32.35%
LEI	20.59%	Investment Type	26.47%
Investment Type	17.65%	Other	23.53%
Other	11.76%	LEI	20.59%

Figure 14: Charts of Data Points held in the Register and included in the upon request disclosures

4.6 Announcements

In the questionnaire there were three questions about upon request disclosure announcements. These focused on who initiated the disclosure request, the method for communicating the request and the frequency of requests.

4.6.1 Initiating Parties

As Figure 15 below indicates, the issuer is the most frequent party to initiate upon request disclosures. However, apart from the issuer, across the various regions and markets, there is a lack of consistency in who the initiating party may be.

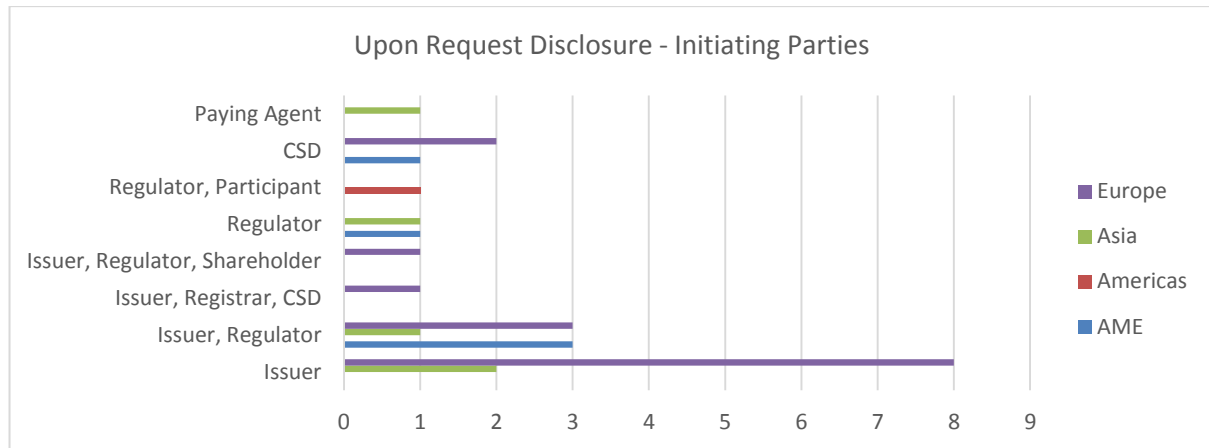


Figure 15: Upon Request Disclosures – Initiating Parties

4.6.2 Methods

The communication channels and formats for announcing an upon request disclosure are still through a proprietary format in more than half of the respondent markets. As can be seen in Figure 16 below, in 75% of the cases, they are also relying on non-straight through channels (e.g. email, fax, physical form). Only one third of the responses include SWIFT ISO 15022 and/or 20022.

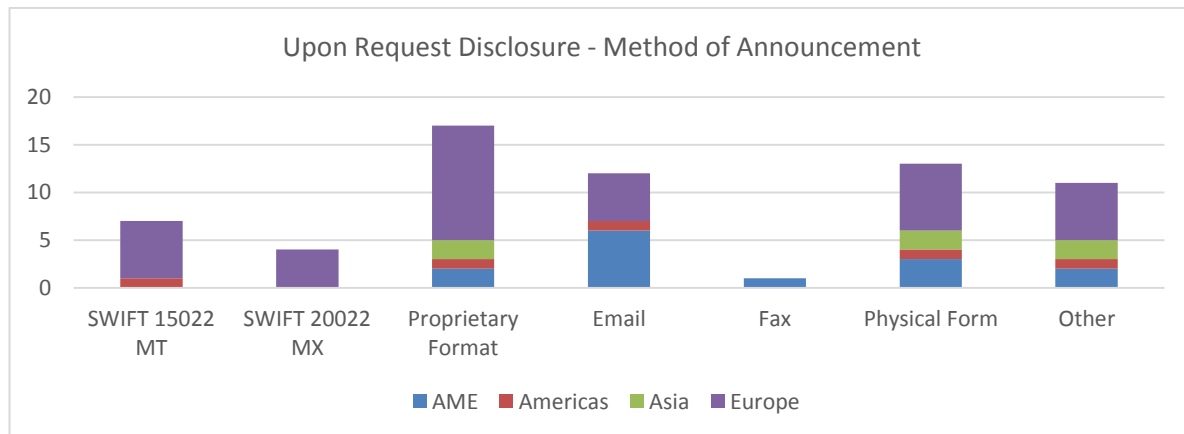


Figure 16: Upon Request Disclosure – Method of Announcement

4.6.3 Frequency of Announcement

Per the responses collected, upon request disclosures are mainly initiated on an ad-hoc basis. Periodic announcements are far less frequent, among which a quarterly announcement is the most frequent period.

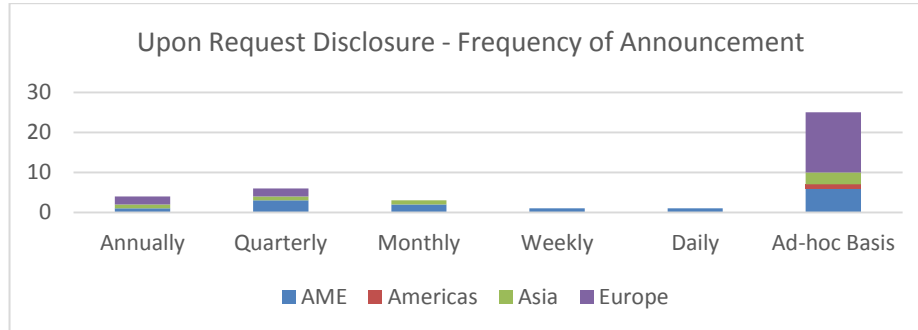


Figure 17: Upon Request Disclosure - Frequency of Announcement

4.6.4 Frequency of Ad Hoc Requests

Across all respondents, 50% of disclosures are requested 2 to 12 times a year for a given security. It is also worth noting that, in European markets, the most common frequency is currently once per annum and in the Americas less than once per year.

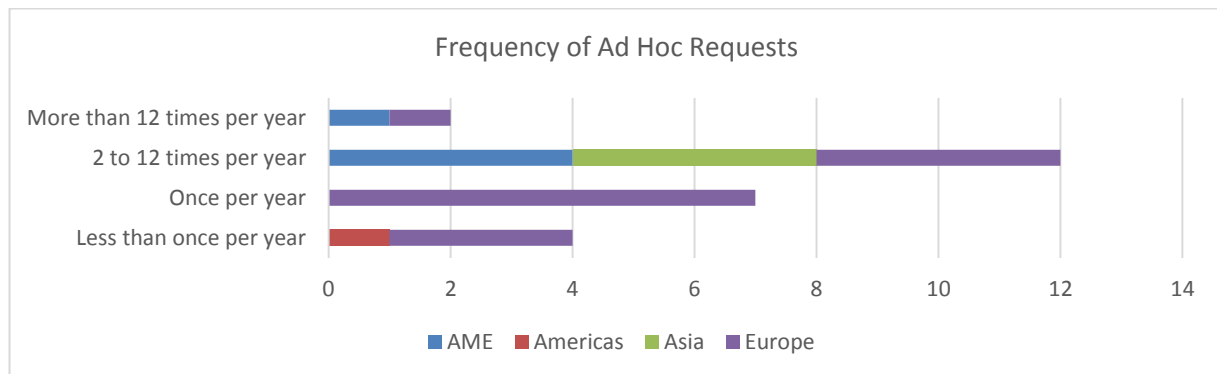


Figure 18: Frequency of Ad Hoc Requests

4.7 Data Format

The following section covers two questions that were asked about the data formats that are used in each market. These included the actual format used as well as the consistency of the format across the chain.

4.7.1 Format Used

Responses indicate a wide range of formats used across the board, and very often, multiple formats can be accepted in a market:

- Only a minority of markets use SWIFT ISO 15022 or 20022
- Proprietary formats are still very prevalent
- A large majority of markets are still using email or physical transmission

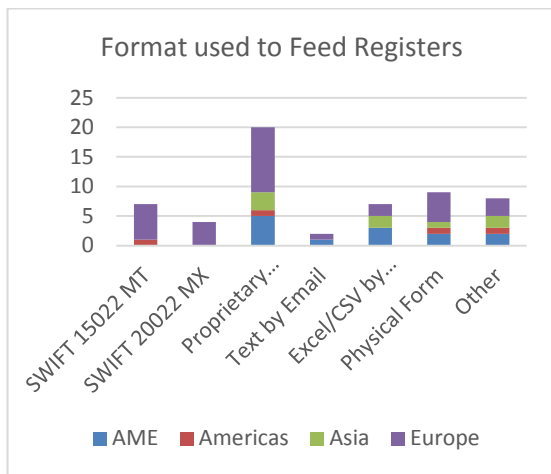


Figure 19: Format used to Feed Registers

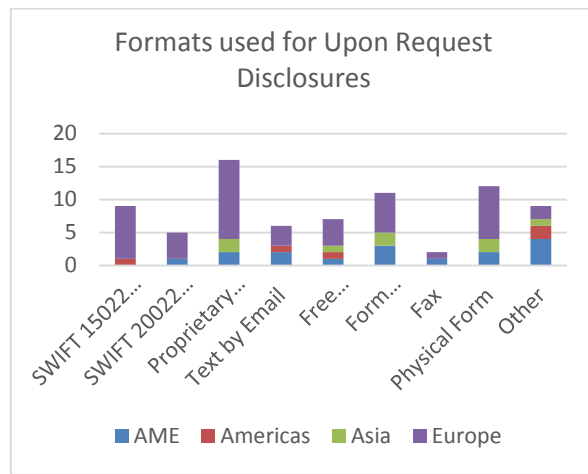


Figure 20: Formats used for Upon Request Disclosures

4.7.2 Consistency

Almost half of respondent markets have indicated that the data format is consistent across the chain. However, responses from European respondents are much more mixed, which may potentially create additional challenges for implementing a consistent and harmonised approach in the context of SRDII.

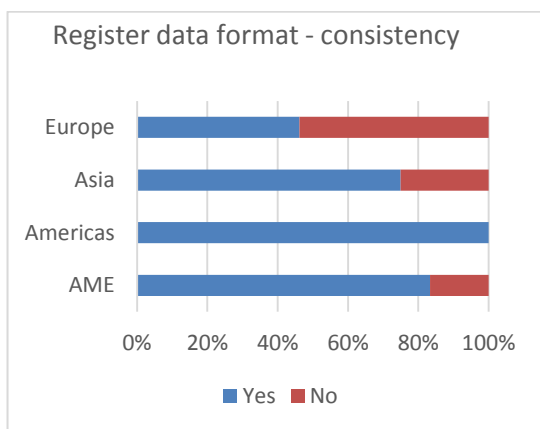


Figure 21: Register data format – consistency

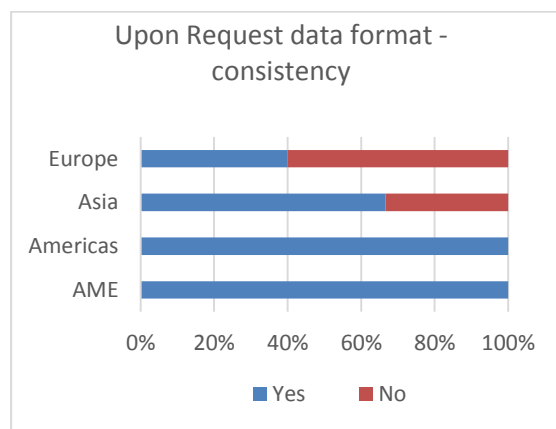


Figure 22: Upon Request data format – consistency

4.8 Enforceability

This question focused on whether intermediaries and final beneficiaries are obliged to send register updates and respond to upon request disclosures. For both situations, the majority of the responses indicate that data submission is processed on a mandatory basis; but that no penalties are applied for non-compliance. At an aggregated level, upon request disclosures are more often subject to penalties than register updates.

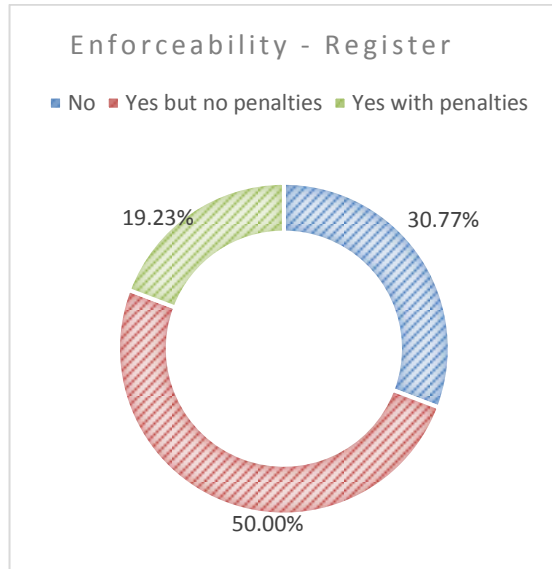


Figure 23: Enforceability – Register

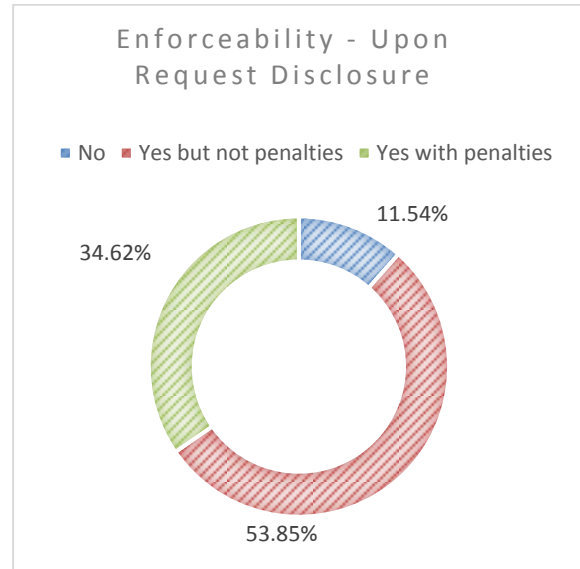


Figure 24: Enforceability - Upon Request Disclosure

4.9 Costs

According to the respondents, costs to maintain the register and support upon request disclosures are most frequently covered by the issuers or their registrars. Where costs are borne by other parties, these would typically fall onto the CSD participants.

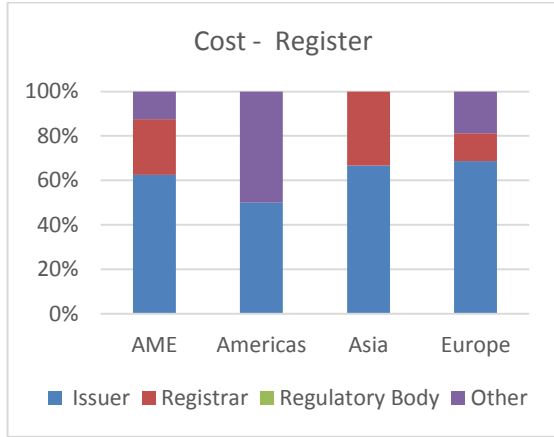


Figure 25: Cost – Register

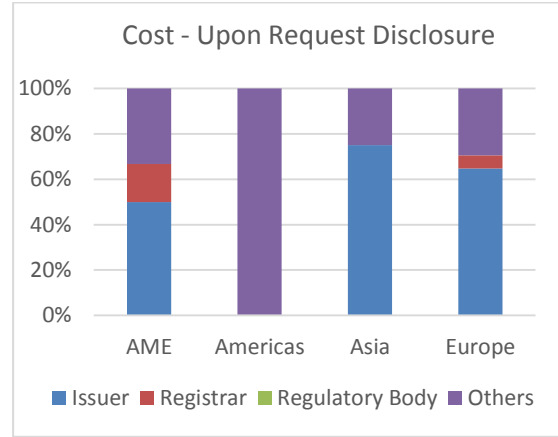


Figure 26: Cost - Upon Request Disclosure

4.10 Industry Trends

The final two survey questions concentrated on trends that the respondents felt would take place during the next five years.

4.10.1 Probability of Change

When asked about the likelihood of changes in the next 5 years in terms of process flows, reporting formats, transmission channels and systems, respondents expect that equities will be the asset class that has the highest probability for upcoming changes as seen in Figure 27.

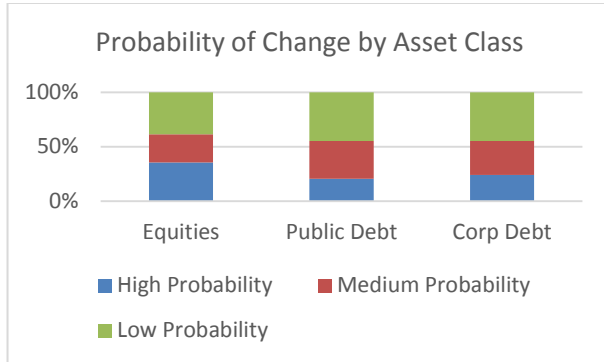


Figure 27: Probability of Change by Asset Class

As can be seen in Figure 28, comparing responses across regions, Europe and Africa and Middle East have a greater expectation of change. At the opposite end of the spectrum, Asia and the Americas anticipate a lower expectation of changes over the 5 year time horizon.

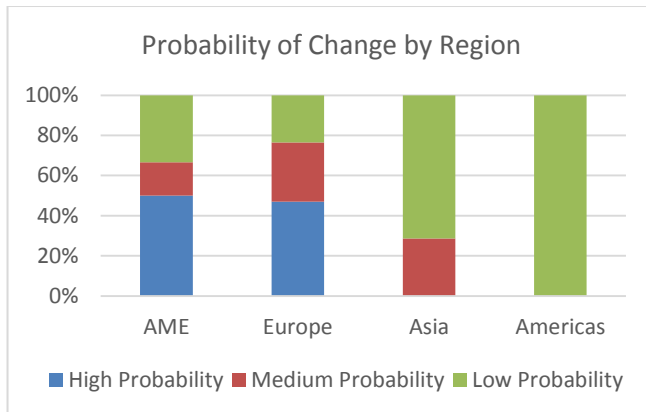


Figure 28: Probability of Change by Region

4.10.2 Evolution in Disclosure Process

The final question covered what elements could potentially influence the evolution in the disclosure mechanism in the next five years. As expected, regulation is the most cited category that will influence changes. Technology and the appetite for further standardization complete the top 3 reasons for future changes as shown in Figure 28 below.

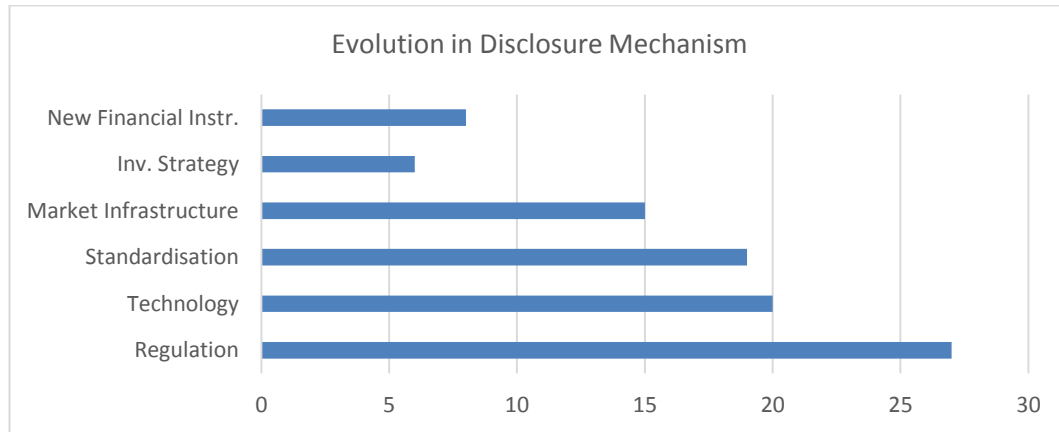


Figure 28: Evolution in Disclosure Mechanism

5. Conclusion and Key Findings

5.1 Summary

With the broader industry drive to improve corporate governance and transparency, beneficial owner disclosure has recently become a topic that has gained increased attention from regulators, issuers, market infrastructures and service providers. At the same time, the key beneficial owner disclosure processes - such as requesting, collecting and transmitting shareholder information - have traditionally suffered from a lack of automation and standardisation.

Through this survey, the ISSA CA WG has looked to provide a snapshot of current practices across the globe. It has been possible to identify where practices are fundamentally consistent, whilst also highlighting some of the challenges that will require further attention and focus if improved corporate governance and transparency requirements are to be met.

5.2 Common Practices

At first glance, it is re-assuring to see that basic practices are relatively consistent across respondent markets:

- Disclosures requests are primarily initiated by issuers and regulatory bodies
- Requests are also mostly triggered by a corporate action event request, on an ad-hoc basis, and are most frequently meant for AML / KYC requirements
- Data content (i.e. key information requested in a disclosure) and data access restriction requirements are very consistent

The responses collected also show little variation in practice across asset classes (equities, public debt and corporate debt) or request types (i.e. through register and upon request).

5.3 Challenges

Whilst basic practices are relatively consistent across different markets, asset classes and request types, the findings indicate that there is still significant room for further alignment and harmonization of other practices across markets and regions in this space. Whilst the disparity of practices may well be the symptom of a lack of standardisation among jurisdictions - such as a common taxonomy and definition of beneficial ownership records or reporting formats - this fragmented approach creates challenges for all participants in the chain. It could also create additional challenges in the enforcement of consistent cross-border practices.

In the future it is anticipated that there will be three key elements that will drive evolution in beneficial owner disclosure. However, the results of this survey show that there will be a number of challenges which service providers will need to address if each of these changes are to be successful.

- **Regulation**
Nearly all respondents feel that regulation is likely to be the biggest influencer of change in the beneficial owner disclosure process. In the context of regulation and SRDII, the responses collected show that there are varying pre-SRDII practices among European markets. This should not be overlooked in the context of ensuring a consistent implementation of the Directive across member States.
- **Technology**
Technology, such as the use of automated and machine readable solutions, is also expected to play an influential role in the evolution of the disclosure mechanism. However, where practices are so disparate, this will create significant challenges to both service providers and their technology partners. SWIFT messages using ISO15022 and ISO 20022 standards may see an uptick in the future, especially in markets with a stronger regulatory push for automation.

-
- **Standardization**
As mentioned above, technology is expected to influence beneficial owner disclosure in the future. However, the ability and effectiveness of service providers to automate so that they can scale-up, in anticipation of a possible increase in the frequency of requests, will depend greatly on the emergence of harmonised practices. For instance, although the types of data required are common, the formats used remain very local and proprietary in nature.

5.4 Acknowledgements

The ISSA CA WG would like to thank all respondents for their participation, questions and suggestions. Special thanks from the WG also go to ISSA's CEO office, the World Forum of CSDs and to the secretariats of the responding CSDs and ICSDs for their instrumental help in facilitating and coordinating the entire survey process.

6. Appendix

Glossary of Terms

The Glossary of Terms was included with the survey questionnaire for reference purposes. It is very largely based on previous publications from the International Securities Services Association (ISSA), and in particular on the report "Inherent Risks within the Global Custody Chain" published in February 2017. Several other sources have been consulted for reference and verification of consistency:

- European Securities and Markets Authority (ESMA) Report on shareholder identification and communication systems
- European Central Security Depository Association (ECSDA) reports on account segregation and registration
- Swift ISO 20022 definition
- Computershare report - transparency of share ownership, shareholder communications and voting in global capital markets (2015)
- Target2 Securities (T2S) taskforce on shareholder transparency publication

Bearer securities: Securities whose owners' names are not recorded in a register and whose possessions are determined through a relationship with an intermediary. In other words, the recording of the securities in a securities account (at an intermediary or a CSD) is the sole evidence of ownership. Since there is no register recording ownership in these securities, the title of ownership is transferable merely by delivering the securities to the account of the buyer. The securities can be immobilized, dematerialized, or in some increasingly rare cases, held in physical form.

Bearer physical securities: Bearer securities held and transferred in physical form (paper).

Beneficial owner: See final beneficiary

Central Securities Depository (CSD): A specialist financial organization holding securities such as shares either in certificated or uncertificated (dematerialized) form so that ownership can be easily transferred through a book entry rather than the transfer of physical certificates.

Central Securities Depository (CSD) books: The view on securities ownership, as recorded by the CSD. Depending on the market, the books may contain the final beneficiary names or the names of intermediaries, holding the securities on behalf of final beneficiaries.

CSD-1 level information: Synonym to Central Securities Depository (CSD) books. Information on accounts held directly in the CSD (e.g. account name, number of securities held in the account...).

CSD-2 level information: Information on accounts held in the books of a custodian who, in turn, holds the positions in an account at the CSD. Depending on the length of the custody chain, this information may or not contain the details of the final beneficiary.

Dematerialized securities: Securities that have no certificates and where all trading takes place based on electronic book entries.

End investor: See final beneficiary

Final Beneficiary (also known as end investor, beneficial owner, final layer, ultimate beneficial owner):

- A party (natural or legal person) that is entitled to the rights of ownership of property even if the securities are held or recorded in the CSD in another name (e.g. trustee or nominee)
- In the context of securities, the term is usually used to distinguish this party from the recorded holder (a nominee for example) that holds the securities for the final beneficiary. The final beneficiary of an asset, who may or may not be the client of the custodian/CSD
- The investor may be a legal person, in which case the final beneficiary is considered to be this legal person rather than the natural person(s) controlling it

Final Beneficiary Register:

- Register that contains the information on the final beneficiaries and their holdings
- In markets where only final beneficiary accounts may be opened at the CSD, the Final Beneficiary Register will be identical to the CSD books. The trigger for the register in such case (see register definition) is the settlement activity in the CSD

Final layer: See final beneficiary

ICSD (International Central Securities Depository): An ICSD is a central securities depository that settles trades in international securities such as Eurobonds.

Intermediary level register: Register containing information and holdings of intermediaries (or possibly of final beneficiaries if the custody chain is short). The register typically does not guarantee that the holders are the final beneficiaries.

Nominee Account: See (Segregated) Omnibus account

(Segregated) Omnibus account for domestic intermediaries (Also known as Nominee account for domestic intermediaries):

- Account opened, by domestic intermediaries, in the name of a custodian at a CSD or subcustodian that holds cash or securities on behalf of multiple clients. The ultimate ownership of all the assets in the account are shown by the account holder (custodian) in the custodian's books of records
- The omnibus accounts may be segregated according to specific rules while still pooling holdings of multiple clients (e.g. pooling of final beneficiaries of a certain nature, fiscal status...)

(Segregated) Omnibus account for foreign intermediaries:

- Also known as Nominee account for foreign intermediaries
- Account opened, by foreign intermediaries, in the name of a custodian at a CSD or subcustodian that holds cash or securities on behalf of multiple clients. The ultimate ownership of all the assets in the account are shown by the account holder (custodian) in the custodian's books of records
- The omnibus accounts may be segregated according to specific rules while still pooling holdings of multiple clients (e.g. pooling of final beneficiaries of a certain nature, fiscal status...)

Physical Securities: Securities whose ownership is evidenced by the possession of a physical certificate and whose transfer requires the physical delivery of the certificate to the buyer.

Register:

- Official list of the securities owners and number of securities held for a fund, bond or equity issuance. The register is used to ensure that not more securities are issued than have been authorized and is updated on regular basis to reflect any changes of ownership. The register typically contains the name and number of units held by the investors and additional identification data (address...)
- For the purpose of this survey, the register includes the recurrent forms of information maintenance, which do not require to be asked (as opposed to upon request disclosures). These will nevertheless have pre-defined triggers that determine what, when and how information should be reported. Examples of triggers can be reaching a holding threshold, the event of a change of ownership...

Registrar: Party responsible for maintaining the register

Registered securities: Shares where legal title is determined by being recorded on a company's register.

Segregated Final Beneficiary account for domestic holders, including proprietary accounts (Also called Designated Accounts):

- An account opened for a single domestic final beneficiary that may have a specific purpose to segregate holdings. (i.e. tax purpose or identify specific ownership etc.)
- The final beneficiary may be the account holder (proprietary account) or a different party (intermediary account)

Segregated Final Beneficiary accounts for foreign holders, including proprietary accounts (Also called Designated Accounts):

- An account opened for a single foreign final beneficiary that may have a specific purpose to segregate holdings. (i.e. tax purpose or identify specific ownership etc.)
- The final beneficiary may be the account holder (proprietary account) or a different party (intermediary account)

Ultimate beneficial owner: See final beneficiary

Upon request disclosures:

- Any information collection process on securities holders that requires an announcement, which makes it known to the custody chain. The disclosure process will generally have a deadline, by which the responses have to be submitted and a record date (date at the end of which the holdings are determined)
- Such disclosures will have a «requestor»: The party initiating the disclosure process (certain nature, fiscal status...)