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# Update on changes to Euroclear procedure for beneficial ownership certification under US law

Effective 3 February 2003, as described in Newsletter 2002-N-084, Euroclear introduced a new procedure for collection of electronic instructions for certification events under US law. Since the introduction of this procedure, Euroclear has received requests from issuers and their counsel to allow the use of the previous procedure for collection of electronic certification instructions until the US Internal Revenue Service's (IRS) position on the new procedure has been clarified.

## **Procedure for certification events as of 28 April 2003**

Effective 28 April 2003, in order to provide a service that meets the needs of the entire market, Euroclear will make available the procedure for collection of electronic instructions for certification events under US law that was in effect prior to 3 February 2003.

This means that, as of 28 April 2003, Euroclear will again require Participants to provide an electronic certification instruction for such events by the certification date, unless an issuer has requested that the procedure described in Newsletter 2002-N-084 be applied.

This change affects the following corporate actions:

- certification requirements for exchange (corporate action notification 400 via EUCLID, or MT 564 and MT 568 via SWIFT ISO 15022); and
- certification requirements for payment of income or principal (corporate action notification 410 via EUCLID, or MT 564 and MT 568 via SWIFT ISO 15022).

Participants are advised to check their corporate action notifications for each certification event to confirm the applicable procedure.

## Impact for Participants

Unless an issuer requests otherwise, the procedure in effect prior to 3 February 2003 for collection of electronic certification instructions will apply. Euroclear will therefore block uncertified holdings after the certification date:

- in the absence of a certification instruction on the certification date; or
- if a Participant sends an instruction indicating in field :35A: (EUCLID) or field :36B: (SWIFT ISO 15022) the portion of its holding for which it is unable to confirm beneficial ownership certification.

To avoid their positions being blocked, Participants should confirm the permitted status of the beneficial owner(s) by sending an instruction with certification code **A** in field :77R: (EUCLID) or field :70E: (SWIFT ISO 15022) for the totality of their holding.

## Future developments

Please note that Euroclear has initiated discussions with the IRS on this matter and hopes to receive written guidance from the IRS in the near future.

## Documentation

Please refer to Newsletter 2002-N-084 dated 9 December 2002 for full details on the procedure introduced on 3 February 2003. For further information, please also refer to *The Operating Procedures of the Euroclear System*.