



5 April 2007

By e-mail

To

- EACH: Ann Flodström
- ECSDA: Joël Mérére
- FESE: Jukka Ruuska, Judith Hardt

## Code of Conduct

### Key elements of the access and interoperability conditions – the market users' view

The undersigned securities associations remain committed to contribute actively to the successful implementation of the European Code of Conduct for Clearing and Settlement.

Following our offer of 2<sup>nd</sup> March of an ex ante **cooperation with the infrastructure** in defining the access and interoperability conditions and procedure, you agreed to meet us on 28<sup>th</sup> March. We thought the meeting constructive, providing us with a good understanding of your intentions and capabilities. We also believe that price transparency will be enhanced once service unbundling and accounting separation comes into effect in December this year.

At that meeting we urged the infrastructure to establish an institutionalised dialogue with us. In the immediate context, our objectives are to reach (ideally by 30<sup>th</sup> June) solutions supported by both the infrastructure and market users and to establish a means to overcome conflicts of views within and among the infrastructure associations.

In the light of your agreement to cooperate we set out below the **key elements** of the access and interoperability conditions and procedure from the view of market users:

1. Our goal remains more efficient, more integrated markets, achieved through the reduction of cost and complexity. **The access and interoperability provisions are the core part of the Code of Conduct** because price transparency, service unbundling and accounting separation will remain of little value without competition and users' choice, facilitated in this way.
2. Our members attach great importance to the establishment of a **competitive environment for CCP services at the major European securities exchanges**. In the short term, creating real choice for users between several **interoperable CCPs** at Deutsche Börse, Euronext and The London Stock Exchange complemented by the choice of **interoperable (I)CSDs** should therefore be a primary target in implementing the Code of Conduct.

3. The Code distinguishes between access and interoperability solutions. For us, **access solutions** are (i) adequate solutions for less transaction intense relations between infrastructures or (ii) a first and swift step towards interoperability. Providing access to new entrants to the market in trading, clearing or settlement is certainly an important test of whether or not the market in question has become more competitive.
4. In the context of the Code of Conduct, we understand there has been extensive discussion of the term '**business case**'. For us, actual (or expected) **market demand** is an essential element in any business case for a provider of infrastructure services. Practical interoperability solutions should be supported by market users with an adequate aggregate market share.
5. **Interoperability** requires a **truly level playing field** for the partners of such interoperability and their customers; in the case of CCPs this extends to margining and collateralisation. In this context our members attach great importance to an early agreement for effective interoperability between LCH.Clearnet and x-clear in the context of the London Stock Exchange, virt-x and SWX, building on the experience of existing arrangements for multiple clearing houses.
6. Access and interoperability must not be jeopardised nor rendered impossible by currently existing **legal, fiscal and regulatory arrangements**. Rather, such legal, fiscal and regulatory arrangements should be changed to allow easy implementation of access and interoperability. In the spirit of the Code, infrastructure providers and market users should cooperate to contribute to such change.

The undersigned associations remain committed to contribute actively to the successful implementation of the Code of Conduct and are ready to continue to work with you on these and other issues.

Kind regards

EPDA  
European Primary  
Dealers Association

ESF  
European Securities  
Forum

ICMA  
International Capital  
Market Association

LIBA  
London Investment  
Banking Association



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