



1 September 2006

Code of Conduct ESF's principles and requests

1. Process of defining (i) the roadmap and (ii) the details of the Code of Conduct

- The **key objective** of the roadmap and the details of the code of practice shall be **increased efficiency** of the post trading activities in Europe; this process shall not be deviated by discussions on issues like market models and market architecture.
- The processes to define the roadmap as well as its ultimate benefits shall be available to **all constituent members of the European Union**.
- Given the ambitious time table, the process shall focus on (possibly a smaller number of) **rewarding targets** and respective solutions that shall be defined in **reasonable detail**.
- Although the securities infrastructure providers are deemed the prime addressee of the European Commission, **consent of major market users** shall be indispensable.
- Therefore an institutionalised **cooperation and coordination** between infrastructure and market user associations shall be set up at the beginning of September 2006 at the latest.
- ESF shall **represent market users** and will, where practically possible, liaise with other market user associations in Europe.

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2. Elements for a Code of Conduct

A. Price transparency

- **Price transparency** shall foster **competition** and stimulate **innovation** rather than regulate monopoly services.
- **Tariff structures and fee schedules** shall be **simplified and standardised**, using common terminology based on industry set standards in relation to fee types and volume definitions.
- **Rebate and fee reduction schemes** shall be fully disclosed.
- Examples of **bills / invoices** shall be provided and explained where the invoice structure and format represents 'best practice'.

B. Interoperability

- **Interoperability** is not an end in itself but serves as a means to deliver increased **competition** and **users' choice**, particularly at CCP level.
- **Highest cost efficiency gains** are expected from competition / interoperability connecting (i) Exchanges to CCPs, (ii) CCPs to CCPs and (iii) CCPs to CSDs, rather than CSDs to CSDs. Efforts should primarily be focused on interoperability at **CCP level** (CCP to CCP).
- The **interoperability protocol and the principles for effective rights of access** shall not jeopardise or inhibit innovation and shall neither isolate specific parts of the European Union from one another nor isolate Europe from other capital markets.
- Individual decisions to **implement** interoperability shall be based on a sound **business case** with a reasonable pay-back period of investment cost and a proven case of **actual usage by market users** derived from prior consultation.
- A process of **risk assessment** shall ensure that interoperability solutions, particularly at CCP level, shall not adversely change the risks to the industry and to market users.
- **New member states** shall in principle be included in the interoperability protocol and the principles for the effective rights of access.

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C. Separate accounting, Service / Price unbundling

- *Separate accounting and price unbundling shall ensure **non-discriminatory access to markets** and enable market users to **choose from competing offerings**.*

E. Governance

- *The process of **monitoring and verification** of commitments related to the code of practice shall be coordinated with the monitoring of the removal of the Giovannini barriers, including in particular the removal of the barriers for which public sector authorities at national level are accountable.*
- ***ESF** strongly requests to be **part of the body vested with the monitoring and verification** providing thereby the depth of practical know-how and experience of its members.*

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