ICMA
International Capital Market Association

European Commission
DG MARKT

attn Mr. David Wright, Deputy Director General

B-1049 Brussels
Belgium

by e-mail

London, January 17th, 2008

European Code of Conduct for Clearing & Settlement
Discussion on Extension to Other Asset Classes

Dear Mr Wright, *dear David,*

We are grateful for the opportunity to provide comments as input for the discussions at the forthcoming Brussels meeting of the Code of Conduct Monitoring Group and the preceding meeting interfacing with market participants. As you and your team are undoubtedly aware, there is intense cooperation among several leading associations in the financial sector that all represent a widely overlapping constituency of investment banks domiciled and/or active in the EU, focussing however on different areas of the market.

Resulting from our primary viewpoint of the trading in international fixed income securities, we would like to make the following points:

- Results achieved by the Code in the area of cash equities trading and post-trading must not be jeopardised by any efforts to extend the Code.
- While in cash-equities trading and post-trading the Code has been quite successful to date, its further implementation requires continued attention by the MOG and by market participants.
- Any extension discussion has to be preceded by a market failure and impact analysis. This analysis must differentiate appropriately among the “other asset classes”, notably between bonds and derivatives, and – within these – at least between “national” and “international” bonds and between exchange-traded and OTC-traded derivatives, respectively. The particular nature of the market in international bonds (its wholesale character, its cross-border nature, its particular post-trade structure) must be given appropriate consideration.
- While the single and barrier-free market in Europe for clearing and settlement of international bonds is certainly not yet fully achieved, we argue that the main deficiencies do not lie in areas primarily addressed by the Code. In addition, there is a functioning dialogue between the major providers and industry where steady

improvements of services have been and are being discussed in a productive way. We welcome the intention expressed by a number of (I)CSDs to apply the principles of the Codes to other business areas beyond cash equities.

- As we understand at the same time that the exchange-traded derivatives industry is facing severe problems of cost, efficiency, and anticompetitive behaviour, we urge the Commission to depart from any earlier intentions to first analyse the extension of the Code to bonds and then, in a second stage, to derivatives, and to focus on those areas where market failures are most manifest and action is therefore most needed.
- As the Commission is aware, the private sector has over the past years had remarkable success in addressing and removing several post-trade barriers. While these efforts will continue, action is now requirement from the public side in the areas of legal and tax barriers. The CESAME structures have provided a most helpful framework for this work. We would find it highly desirable if these could be maintained and appreciate the strong support from the Commission in this regard.

Again, we draw your attention to congruent and complementary comments that you receive from other associations such as SIFMA/EPDA, ESF, LIBA, FOA, and ISDA, and members of their and our membership. We remain of course available to you for any further discussion on these and related matters. On our side, it is Nathalie Aubry (nathalie.aubry@icmagroup.org, Tel. +44 20 7510 2704) who will follow post-trade related issues in the future.

Yours sincerely,

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