

## **Clearing and settlement Code of Conduct: frequently asked questions**

**Q: Why does the Commission think that a Code of Conduct ("Code") will serve the purpose of establishing a true single market in the post-trading area better than a Directive?**

A: The chosen approach is a gradual one, which tries to involve all major players in the sector. This approach has a number of advantages. First, it is targeted and based on the active involvement of all infrastructure service providers and other major players. It should therefore bring results much sooner than, for example, a Directive that would take significant time to draft, negotiate and implement. Some estimate that this may easily take five years or so.

Second, it is more flexible: it allows for additional action if and when this might be necessary. This is especially important in the present situation, with rapid changes occurring in the EU financial markets (e.g. the possible consolidation of stock exchanges) which will certainly have an impact on the post-trading sector.

Third, it allows for the effects of recent legislative measures with an impact in the post-trading area, such as the Markets in Financial Instruments Directive (MiFID), to be fully realised and appreciated before considering the introduction of further measures in the post-trading environment.

**Q: What are the objectives of the Code?**

The Code aims at enhancing transparency and increasing competition in the post-trading sector.

**Q: Which measures are included in the Code?**

The Code includes measures aimed at ensuring price transparency, access and interoperability, unbundling and accounting separation and an independent monitoring process; these are all crucial economic principles applied in every infrastructure sector that the Commission has opened up in the past.

**Q: The Code does not address prudential issues. Aren't they considered as important?**

A: These issues are very important and they need to be addressed properly and quickly. The Commission believes that the ESCB-CESR standards, if adopted and implemented, could provide the common regulatory and supervisory framework that would facilitate the integration of the post-trading market and insure proper mitigation of risks.

**Q: When will the Code take effect?**

A: For each group of measures the Code will set a specific deadline for implementation: some of the measures will have to be implemented shortly after the signing of the Code, while for the more complex measures, more time will be granted. Thus price transparency will need to be implemented by the end of 2006, interoperability and access by the end of June 2007, and unbundling and accounting separation by the beginning of 2008.

**Q: What kind of financial instruments does the Code cover?**

A: Initially, the Code applies exclusively to equities. Once the Code has entered into force, the signatories of the Code will consider the extension to other asset classes as well as any differing provisions which may apply. The signatories may however – and the Commission encourages them to do so – apply all or some of the provisions of the Code to other instruments if they so wish.

**Q: Which services are covered by the Code?**

A: All post-trading services are covered by the Code. Some elements of the Code are naturally applicable to trading activities as well.

**Q: Which institutions does the Code apply to?**

A: The Code applies to all signatories, i.e. stock exchanges, CCPs (Central Counterparties), CSDs (Central Securities Depositories) and the 2 EU ICSDs (International CSDs).

**Q: Does the Commission envisage extending the scope to other service providers?**

Once the Code has fully entered into force, the Commission will carry out a review process to assess whether the objectives of the Code have been met. This process will involve consultations with all the relevant stakeholders. One of the things that will be considered during this exercise will be the appropriateness of extending the Code to other service providers.

**Q: Does the Code envisage unbundling of post-trading services offered by infrastructures in their intermediary capacity, along with full transparency of costs and revenues of different services, as envisaged in the April 2004 Communication on Clearing and Settlement?**

A: The Code envisages the unbundling of core and non-core post-trading services offered by infrastructures and the transparency of costs and revenues of the different services.

**Q: What is the relation between the Code and the overall Commission policy on post-trading activities?**

The Code is only a part, though an important one, of the Commission's overall policy in this area. The Commission's overall efficiency and prudential goals can only be achieved through concerted action on a broad front – from the Commission, the Member States, the infrastructure providers and users.

So it is important that the work on dismantling the so-called Giovannini barriers not covered by the Code is accelerated. This means more progress to be made by the private sector and to remove, in particular, the public sector barriers.

**Q: What is the relation between the Code and TARGET2-Securities?**

A: The Code and TARGET2-Securities are complementary to each other; both aim at achieving a more efficient and integrated post-trading market in the EU. A [document](#) produced by the Commission and the European Central Bank explores more in detail the relation between these two initiatives.