



6 July 2007

## **Monitoring Compliance with the Code of Conduct dated 7<sup>th</sup> November 2006 – Access and Interoperability Guideline**

**A joint report by the European Primary Dealers Association, the European Securities Forum, the International Capital Market Association, the London Investment Banking Association ('The Associations')<sup>1</sup>**

1. This is the second report to the MOG by the Associations, which deals primarily with access and interoperability but also with price transparency and service unbundling and accounting separation.

### **Access and interoperability**

2. We appreciate the efforts made by the market infrastructures ('MIs') in relation to the Access and Interoperability Guideline ('Guideline'). We believe that access and interoperability are fundamental to the success of the Code of Conduct.
3. We also recognise that the MIs have met our request to establish an institutionalised dialogue with market users in the past weeks and months. Since the MOG met on Friday 20<sup>th</sup> April, we and the ECSAs met the MIs Associations on 9<sup>th</sup> May and 6<sup>th</sup> June. Some of the Associations also took part in a conference call on 27<sup>th</sup> June.
4. We are pleased that our requests have largely been taken into account in the Guideline. These requests have consistently been communicated on several occasions since end of 2006 and formally submitted to the MIs in our document 'Key elements of the access and interoperability conditions – the markets users' view', dated 5 April 2007. (A further copy is attached for ease of reference.)
5. Given that our key requests have been met, we accept the Access and Interoperability Guideline document with one exception described below.

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<sup>1</sup> Assosim, the Italian association of intermediaries, supports this report. In addition, we have kept AFEI and the SSSA fully informed in respect of our joint work.

6. Paragraph 9 (denying a CCP the right to request a transaction feed from a trading platform that does not use a CCP) as formulated is unacceptable to us. We discussed alternative wording with the MIs in the conference call on 27<sup>th</sup> June. We explained that it was a major issue, but not a 'show stopper'. We are disappointed that the wording discussed in that conference call has not been inserted into the final version of the Guideline.
7. We expect that all signatories of the Code of Conduct will sign the Guideline. We shall be grateful if the MI Associations could report progress continuously to the MOG until the process is complete.
8. With respect to the legal, fiscal and regulatory arrangements that prevent or impede the effective implementation and application of the Guideline, we call on the MIs to establish a detailed list of such arrangements and expect public sector authorities, as outlined by Commissioner McCreevy in his speech of 26 June in Brussels, to remove such barriers or limitations in a timely manner.
9. In our view the development of real, working access and interoperability solutions continue to be of high importance. Particular focus is on CCP to CCP interoperability cases where market demand is proven.
10. Firm dates have now been agreed between the London Stock Exchange, LCH.Clearnet, x-clear and Euroclear UK and Ireland (formerly CrestCo) for the introduction of competitive clearing for UK equities, subject to continued market demand. ESF and LIBA continue to monitor the situation closely.

#### **Price transparency, service unbundling and accounting separation**

11. The Associations support the work the ECSAs are carrying out on price transparency. Of more immediate interest to our members, however, are the lower tariffs being announced, together with proposals for the payment of 'ex post' rebates. Practical benefits like these are the best evidence that the Code of Conduct is having the desired effect.
12. We remain concerned that we have still seen no evidence of work on service unbundling and accounting separation. We urge the MI Associations to continue the institutionalised dialogue with market users also in this third phase.