



EUROPEAN CENTRAL BANK

EUROSYSTEM

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# Single Code: state of play

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## 1. Comments overview

- Foreword feedback
- Ethics feedback
- Info sharing feedback
- Execution feedback
- Confirmation and settlement

## 2. Next steps

## 3. Analysis of adherence mechanisms and increasing awareness

# 1-Comments overview

## Key Themes

- 1,280+ individual comments (1,450+ last round)
  - 13% general/intro (6%)
  - 11% ethics (8%)
  - 15% info sharing (19%)
  - 38% execution (35%)
  - 22% confirmation and settlement (31%)
- Focus on market colour, principal vs agent, pre-hedging and mark-up
- Remove/replace legalistic language in line with recommendation of the Central Bank Lawyers Group

# 1-Comments overview: foreword feedback

## Key Themes

- Adherence content to be elsewhere, not in Code text
- Desire for more historical context on the global effort (e.g. Preamble)
- Focus on definition of Wholesale FX Market Participant
  - What does “active”, “regular” mean?
  - Scope of application: Should these entities be included?
  - Benchmark administrators: **no**
  - Affirmation and settlement platforms: **yes**
  - Futures exchanges and CCPs: **yes**
- Definition of terms in glossary (e.g. “Trading Venues”, “Quasi-sovereigns”, “Supranationals”, “Aggregators” etc.)

# 1-Comments overview: ethics feedback

## Key themes

- A divergence of view on content: both too much detail and too little:
  - Give a clear indication of the 'line' between “Ethics” and “Governance”
  - For the FXWG: should the Ethics section include guidance on policies, training etc or focus solely on the expected behaviours?
- Lack of clarity in the application of the principles to individuals, senior management and firms:
  - Develop a more logical and structured approach to the application of the principles at each level

# 1-Comments overview: info sharing feedback

## Key themes

- **Definitions:**
  - “need to know” principles – loose definition could result in safe harbour
  - “Confidential Information” – to align with FCA’s definition?
  - “valid business reasons”: too vague
- **Sharing of market colour:**
  - Sharing of own positions/information permissible?
  - Reporting of inappropriate market colour?
  - Example on “misleading” information too broad.
- **Treatment of central banks when sharing information:**
  - Challenge for market participants to know which function of a central bank is asking for market information: reserve management or policy purposes?
  - Expectations for distinctions to be documented?
- **Role of examples:**
  - Challenge to arrive at a widely-accepted set
  - Suggestions to include examples on liquidity and discussion of rumours

# 1-Comments overview: execution feedback

## Key themes

- More detail needed on principal/agent distinction -> *again major focus in fatal flaw comment*
- Also need to distinguish between principal trading as price-making and principal-based order handling
- The term 'market participant' is too broad in some instances

# 1-Comments overview: execution feedback

- Principles #1, #2, #3: Disclosures, order handling
  - Drop the suitability requirement
  - Term & Conditions should be shared/disclosed instead of ‘agreed’
  - ‘Inappropriately’ trading on stop-loss orders
- Principle #4: Pre-hedging
  - Principle is much less prescriptive than before.
  - Better definition of pre-hedging and more clarity around ‘anticipated’ orders needed
  - Text stating that pre-hedging “... should be intended to provide the client with a better outcome” be restored
  - Text needs to be clearer on how transparency is to be provided to clients



# 1-Comments overview: execution feedback

- **Principle #5: Transactions intended to disrupt the market**
  - Unchanged from previous draft.
  - Still unclear to many what transactions are in scope. Why only 'high risk' transactions? Are examples needed?
  - Remove text on conflicts of interest.
- **Principle #6: Mark-up**
  - What is the appropriate degree of transparency?
  - List of factors that might determine mark-up too granular
  - Disclosure of mark-up required in some cases and examples needed (e.g. stop loss, profit taking)

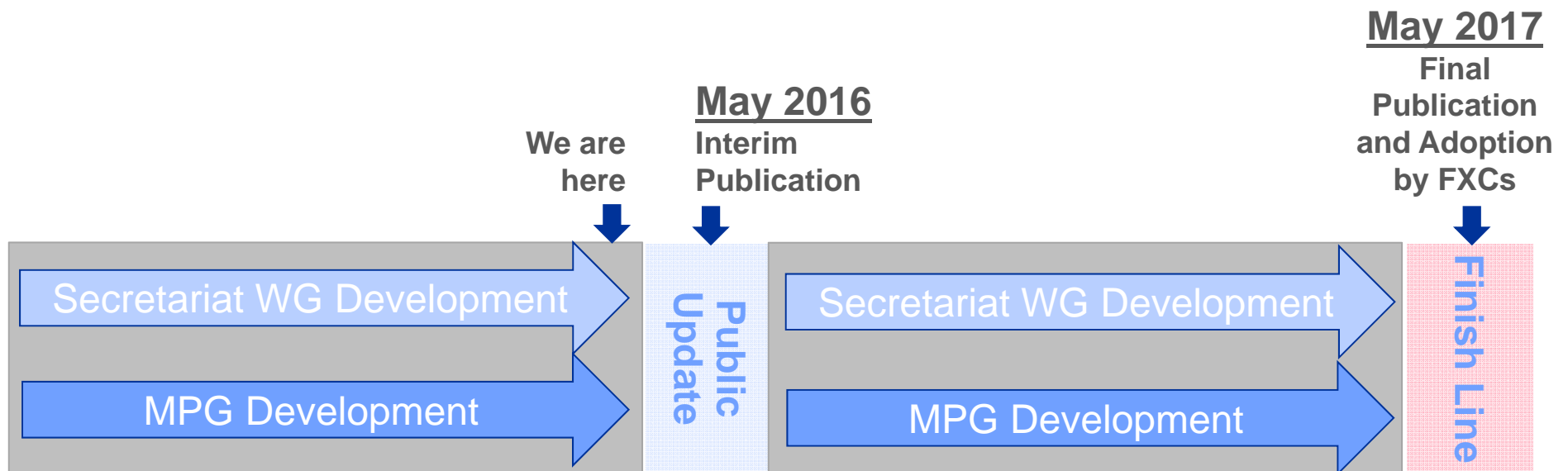
# 1-Comments : confirmation and settlement

## Key themes

- Balance between the operational capabilities of large FX dealers and small buy-side institutions
  - Add '*wherever possible*' in some cases (e.g. STP)
- Level of details:
  - Move some parts to annex
- Timing around confirmations:
  - Promptly?
  - '*as soon as practical depending on the type of trades. For example, electronic trades should be confirmed within two hours*'
- Moving some parts to other sections of the Code
  - Revise in Phase 2

## 2-FXWG: Next steps

- Revised draft for fatal flaw circulation 18-22 April cob
- FXWG meeting in Basel on 7 May
- Global FXC in New York on 25 May
  - publication
  - public update (on Code and adherence framework)
- Beyond May: Phase 2 (electronic trading etc...)



## 2-Increasing awareness

### Engagement with:

- **EACT** (18 March 2016)
- **EFAMA** (18 March 2016)
- **ESMA** (28 April 2016)
  
- **MOC** (14 April 2016)
- **BMCG** (21 June 2016)



## 3-Further analysis of adherence mechanisms

### Focus of on:

- FXC membership
- Access to infrastructure (e.g. CLS, EBS)
- Adherence to the Code as an additional selection criteria for FX counterparties of central banks

### *FXC membership :*

#### FXCs: Potential common approach:

- endorse the Code
- announce in May 2017 the commitment of members to adhere
- announce that attestation of adherence is one of the criteria for obtaining and maintaining membership
- to publish member attestations on website
- to align Terms of Reference where appropriate

#### FXCs: Potential discretionary approach:

- to set the timeframe for adherence
- to determine the form and level of attestation
- to determine the mechanisms for monitoring adherence
- to adopt approach to non-adherence