

CODE OF CONDUCT AND PRINCIPLES

FOR NZFMA MEMBERS

2022



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Disclaimer

Members and any other organisation or individual following policies and procedures as outlined in this Code should satisfy themselves as to the applicability to their specific circumstances.

Nothing in this Code should be taken to be providing, legal, taxation, accounting, or any other form of general or personal advice and as such individuals or organisations should seek professional advice as they deem necessary.

Whilst every effort has been made to provide a comprehensive set of guidelines, NZFMA does not accept responsibility for the completeness of this Code and is not responsible for any errors or omissions. Furthermore, NZFMA expressly disclaims liability for the consequences of any action or inaction taken as the result of following this Code.

INTRODUCTION

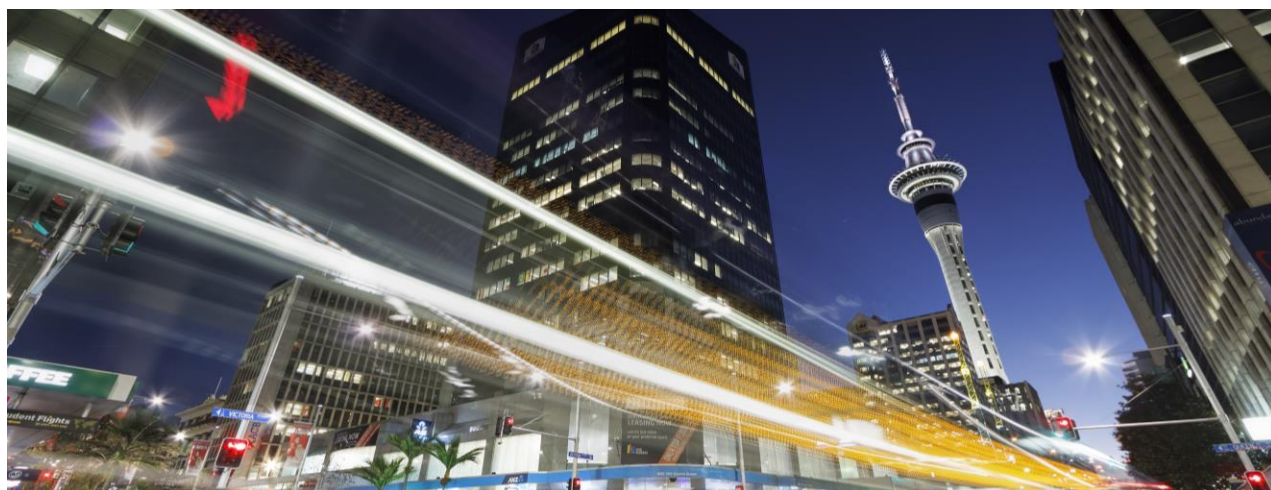


The New Zealand Financial Markets Association (NZFMA) core purpose is to support its members and other wholesale financial markets participants to enhance the quality and reputation of New Zealand's wholesale, over-the-counter (OTC) financial markets. Wholesale financial markets are an integral feature of the economy and perform the vital function of facilitating the efficient use of capital and management of financial risk.

The NZFMA Board of Directors endorse the best practices contained in this Code and trust they will assist participants to organise their business in a way that will reinforce good market conduct, as well as help promote overall market integrity.

Why does NZFMA have a Code

The aim of the Code is to assist NZFMA Members in setting high standards of behaviour when conducting business with customers, counterparties and colleagues in the OTC and exchange-traded markets, and when providing financial services to retail and wholesale customers. The Code provides a framework to assist in making decisions and judgements where there is no clearly articulated rule or legal requirement, or where interpretation of principles-based law or rules is required. The Code supports behaviours that put the interests of clients, the firm and the wider community ahead of personal or individual interests.



Who does the Code apply to

All NZFMA Member organisations (“Members”) are encouraged to use this Code as the basis for more detailed procedures and sometimes higher standards that may apply within their organisation. A good corporate culture encourages individuals to make appropriate judgements and is an important driver of conduct in financial markets. Culture has a direct bearing on public trust and confidence in the fairness and efficiency of our financial markets.

Members should strive to implement an organisational and business culture that ‘sets the tone from the top’ by communicating clear expectations about the behaviour and conduct of all their staff and providing incentives that support these outcomes. This Code should help Members by articulating important elements of the common shared values, beliefs and standards that the organisation and its staff should operate in accordance with.

Scope of the Code

For the avoidance of doubt, nothing in this Code has the force of law nor is it binding on Members. This Code is intended to assist Members in understanding the regulatory environment in which financial market participants conduct their activities. Additionally, NZFMA notes that the Bank of International Settlements has published the *FX Global Code*, and NZFMA acknowledges and supports these principles and intends this Code to compliment the *FX Global Code* for use in foreign exchange transactions in the New Zealand markets.

This Code does not attempt to address all possible circumstances or activities in which Members engage. Rather it addresses those which NZFMA considers warrant further attention. This includes identifying particular conduct which may have been problematic in the past, where leaving something to good judgment may not be entirely sufficient, or simply where the expectation from regulators, counterparties or the market for certain behaviour warrants specific consideration.

The Code should be read and applied in the context of each Member’s business. Some parts of the Code may not be relevant in all cases. It is the responsibility of Members to make themselves familiar with this Code, and at all times conduct themselves in a manner that reflects positively on the industry.

Market participants who are not Members are encouraged to use this document as a reference and conduct their business in the manner outlined. If any reader of this Code has doubts about the correct procedures to be adopted or terminology to be used, guidance should be sought from senior management of their Member organisation.

For a more general guide on conduct, Members should understand the expectations of the Financial Markets Authority (FMA) and the principles of good conduct outlined in the FMA's guidance note *A guide to the FMA's view of conduct* (February 2017) available on the FMA's website. The guide includes questions to assist Members to evaluate their conduct in practice.

The Ethical Principles and the Guidelines

These Guidelines are intended to assist NZFMA Members in their understanding and application of the NZFMA Code of Conduct and Principles. The Guidelines are not exhaustive - they do not describe every business activity that a Member undertakes, nor do they address every situation that may arise in the course of providing financial services.

The Ethical Principles are inter-related and several may apply in a single situation. The Guidelines should be read and applied in a manner that is consistent with legal obligations and any rules that govern conduct and behaviour in financial markets. The Ethical Principles and these Guidelines are also designed to operate in conjunction with Members' own internal Codes of Conduct (however described).

The NZFMA Code of Conduct and Principles sets a minimum framework that Members should interpret and apply in a way that is meaningful to them. In most cases, Members' internal Codes will contain more detailed requirements that are specific to the Member's business activities.

It is also the responsibility of Members to set their own behavioural expectations for staff and to structure their managerial, oversight, reporting and remuneration arrangements in a manner that supports the achievement of those expectations. Accordingly, the NZFMA Code of Conduct and Principles does describe or require specific outcomes in relation to these matters.

Structure

The Guidelines are structured as follows:

- 1.0 – outlines the principles applicable to all in the industry**
- 2.0 – focusses on oversight roles and functions**
- 3.0 – focusses on front office activities, including dealing and advice**
- 4.0 – focusses on middle office and operations.**

Appendix 1 in the Guidelines describes the New Zealand regulatory environment

Definitions

NZFMA: New Zealand Financial Markets Association Incorporated

NZFMA members: Financial Market Members, International Members, Partner Members, Affiliate Members and Financial Intermediary Members

EP: Ethical Principles

AML/CFT: Anti-Money Laundering and Countering Financing of Terrorism

BKBM: Bank Bill Reference Rates

THE ETHICAL PRINCIPLES



A sound ethical framework determines how an entity involved in financial markets should act in the conduct of their business affairs, taking account of their responsibilities to their firm and the broader community. Presented below is a set of Ethical Principles for the industry that Members are expected to adopt in all of their dealings in the New Zealand financial marketplace:

1. Accept responsibility to conduct business affairs in a way that serves the broader community interest in having financial markets that are stable, trusted and efficient.
2. Establish a business culture that sets clear expectations about appropriate conduct and behaviour.
3. Understand and observe applicable laws and regulations when carrying out activities in financial markets, and interpret them according to principles of fairness, honesty and integrity.
4. Act fairly and honestly when dealing with clients and counterparties.
5. Equip all staff to have the required skills, experience, resources and support to perform their job competently and professionally.
6. Equip all staff to perform their job with integrity
7. Act in a respectful manner towards colleagues.
8. Act within delegated authority, and in accordance with risk parameters defined by each Member for its business.
9. Ensure the integrity and confidentiality of records.
10. Identify and manage potential conflicts of interest.
11. Observe market standards and conventions, good practice and conduct expected or required of participants in markets when engaging in any form of market dealing.
12. Take reasonable steps to avoid any acts, omissions or business practices that could damage the reputation of the organisation or the industry, or which may adversely impact on the New Zealand economy and society.



EP 1

Accept responsibility to conduct business affairs in a way that serves the broader community interest in having financial markets that are stable, trusted and efficient.

- NZFMA Members should form judgements and act in a way that meets their responsibility to contribute to the efficiency and integrity of financial markets.
- NZFMA Members should be reasonable in their assessment of measures that may improve the efficiency and integrity of financial markets and, have regard to the broader benefits of such measures.
- NZFMA welcomes the assistance of Members in formulating our policy positions, representing the industry by participating on committees, and responding to other ad-hoc requests for assistance. Ready and regular access to the specialist knowledge retained in the membership is important, and NZFMA encourages Members to make their organisations available to assist where appropriate.
- Members are discouraged from engaging in activities that may distract them from focussing on participating in the New Zealand financial markets in a fair and efficient manner. This may arise from being involved in one or more activities additional to their prime role purpose, or by being in a situation where there may be a real or perceived conflict of interest.

EP 2

Establish a business culture that sets clear expectations about appropriate conduct and behaviour.

- Boards and senior management should take responsibility for setting clear expectations about conduct and behaviour in the firm, and defining the appropriate behaviours that align with that culture. If necessary, the kinds of behaviours that do not align with that culture should also be articulated. There should be clarity and consistency for staff at all levels about expected behaviours and conduct.
- Remuneration structures should be designed to support and reward appropriate behaviour, as well as commercial performance.
- Personnel at all levels within the business should be accountable, and be seen to be accountable, for their contribution to maintaining the right culture in the firm.

EP 3

Understand and observe applicable laws and regulations when carrying out activities in financial markets, and interpret them according to principles of fairness, honesty and integrity.

Inside information and information barriers

- By simply being employed in financial markets, Members may routinely come across information that is not generally available and if widely known would have a material impact on the price or value of a financial product. This information is known as inside information, and trading on the basis of inside information is forbidden by law.
- Members should consider the need for clear policies forbidding trading, or inducing others to trade, on the basis of inside information.
- Additionally, Members should have in place appropriate controls, known as “information barriers” to quarantine employees in possession of inside information from trading or advising functions, or passing that information to others.
- If an employee who is not behind an information barrier acquires inside information, he/she should strictly avoid communicating the information to other persons, and promptly inform his/her compliance team.

Anti-Money Laundering and Counter Financing of Terrorism (AML / CFT)

Money laundering is the process of converting the proceeds of illegal activities so that the funds can be used in mainstream commercial activities. Money laundering is illegal and Members must not engage in this activity.

To minimise the possibility of a Member being involved in money laundering, they must understand details of exactly who the legal counterpart to a transaction is, and their rationale for entering into the deal. This requirement is encapsulated in the phrase “Know Your Client” and it is expected Members should adhere to this standard.

In addition to the above, Members who are reporting entities for the purposes of the *Anti-Money Laundering and Countering Financing of Terrorism Act 2009* must establish and maintain an AML/CFT programme.

Anti-competitive behaviour

The *Commerce Act 1986* deals in part with particular issues or types of conduct as they relate to competition or consumer protection law. In broad terms, it seeks to prohibit conduct that may threaten the competitive process.

Examples of prohibited conduct include:

- entering into or giving effect to contracts, arrangements, or understandings that have the purpose or effect of substantially lessening competition;
- entering into or giving effect to a cartel provision (which include price fixing, restricting output, and market allocating);
- taking advantage of market power; and
- resale price maintenance

Members should understand the anti-competitive issues that might affect their business to ensure anti-competitive behaviour is not occurring. Breaches of the *Commerce Act 1986* may result in substantial penalties. Individuals who intentionally engage in cartel conduct may face imprisonment of up to seven years. See NZFMA's *Competition Law Compliance Policy* for further information.

Members are also expected to comply with the conduct expectations of the FMA as outlined in the FMA's guidance note *The Bank Bill Benchmark Rate and closing rates: Guidance note for market participants (October 2017)* available on the FMA's website.

Treating clients and customers fairly

Clients and customers should be treated fairly and in a non-discriminatory manner at all stages of their relationship with a financial services provider. Treating clients and customers fairly should be embedded in the corporate culture of all Members.

Clients should be provided with access to financial solutions that are as simple as possible, creative, and accord with their needs.

Further, all clients should receive advice that is in their best interest and explains to them the benefits, risks, characteristics, and direct or indirect costs of any investment choice offered to them.

In some cases, Members will have fiduciary obligations to clients. These obligations must be carefully observed, given the potential consequences for both the Member and the client of a failure to perform these obligations.

It is expected that Members will have controls in place to ensure that the risk of products being inappropriately targeted or mis-sold is minimised. This is especially relevant where consumers are sold structured products which may have features that can be difficult to understand, such as different pay-off profiles, or expose the client to additional considerations such as counterparty risk.

While the Ethical Principles set out in this Code apply in relation to both retail and wholesale clients, Members and providers who service retail clients have a higher duty of care under the regulated financial advice regime set out in Part 6 Subpart 5A of the *Financial Markets Conduct Act 2013*, and must ensure that they meet all relevant statutory requirements including complying with the FMA's *Code of Professional Conduct for Financial Advice Services* and provision of the relevant disclosure statements.

In addition, it is suggested that Members adhere to the FMA's framework *Customer vulnerability – our expectations for providers*.



Client order precedence

Central to clients maintaining confidence in the efficiency of the New Zealand financial markets is the expectation that a client order or instruction will be treated fairly, both in relation to other client orders and in relation to any principal trading conducted by a market participant.

At a minimum it is expected that market participants will have in place procedures to ensure that a client order is not disadvantaged in favour of a house order, and that a client order may have precedence over a house order in accordance with relevant laws and market rules.

Other factors that a robust policy may address include how a client order involving discretion by the market participant is handled; processing orders in price/time priority; a prohibition on front-running a client order; and prior disclosure to clients of trade allocation policies.

Conduct during the period between the end of the rate set window and publication of BKBM

Market participants are required to provide relevant disclosures and information to a client before negotiating a client order, thereby allowing the client to make an informed decision as to whether to transact or not. Given BKBM is a key benchmark rate, market participants need to be mindful of the delay between the rate set window and publication of BKBM with regard to this requirement.



EP 5

Equip all staff to have the required skills, experience, resources and support to perform their job competently and professionally.

Staff

It is recommended that Members have policies in place to enhance and maintain staff skills, professionalism and competence. Representatives of Members are strongly encouraged to qualify for, and maintain, NZFMA accredited individual status or other relevant qualifications, and engage in ongoing continuing education and professional development applicable to their role.



Remuneration and incentives

NZFMA recommends that Members have remuneration and incentive policies in place that are consistent with and promote effective risk management practices and behaviours, including adherence to this Code.

The remuneration/incentive structure should recognise and manage conflicts of interest and promote fair outcomes for clients and promote trust in the industry, in addition to controlling risks for the firm and supporting financial system stability. Items that may be considered in such a policy include who is covered by the policy performance measures, fixed and variable components of remuneration, vesting periods, and clawbacks.

Drugs and alcohol

Individuals should not perform services for Members or clients if their judgment is, or it is possible that their judgment may be, impaired by drugs or alcohol. Members should be alert to possible signs and effects of drug or alcohol abuse and offer support to their employees as considered appropriate.

Trading for personal account

Members should consider strict controls over trading in securities or related instruments by their employees for their personal accounts. To avoid the possibility of adverse perceptions, it is suggested that when formulating policies, special care should be taken to consider instances where the staff member trades those securities or related instruments on the staff member's own account or executes client orders in those products.

Consideration should be given to extending controls for personal account trading to the immediate family and other entities where a representative has the ability to influence the decision-making process.

Specific controls that a Member may choose to consider implementing may include pre-authorisation, approval being granted for a limited period before re-authorisation being required, and a holding period requirement such as prohibiting day trading.

EP 6

Equip all staff to perform their job with integrity.

Use of mobile phones, social media and other communication tools

Members should consider implementing a clear policy governing the use of mobile phones, social media and other communication tools by all staff in the office environment. This should both cover company owned and private devices, and should explicitly cover under what circumstances devices can be used to transact, or confirm transactions, as well as advising clients via a mobile phone or other device. Orders should generally be received on a recorded device.

The risks (real or perceived) of inappropriate communication occurring in a business environment should be actively managed through clear policies about the use of personal devices. The increasing trend towards “bring your own device” within some firms can make a general prohibition on the use of personal devices for business related conversations impractical. Members should consider how they will be able to access mobile phone records and communications on any form of device if needed (subject to relevant privacy laws) where they allow employees to conduct business on personal devices.

The use of social media and other forms of communication should be appropriately monitored. Members and employees should be mindful that most communication mediums are traceable and discoverable. All forms of communication should contain acceptable language and be professional in nature.

NZFMA recognises the convenience afforded by mobile phones and other devices, and their place in a business continuity/disaster recover scenario and recommends that their use should conform to the principles of transparency, accountability and good behaviour.

EP 7

Act in a respectful manner towards colleagues

Different cultural backgrounds, age, gender and values should be respected.

Behaviour towards colleagues and peers, both internally and externally, in any form of communication should be respectful. Harassment and unfair discrimination should not be tolerated, and has no place in the culture of any NZFMA Member.

EP 8

Act within delegated authority, and in accordance with risk parameters defined by each Member for its business

The limits of responsibility and decision-making for all roles that may entail the Member or its clients being exposed to risk should be clearly defined. The approval process required to go outside those limits, if there is such a possibility, should be clearly articulated and understood by relevant staff.

EP 9

Ensure the integrity and confidentiality of records.

Confidentiality

For the efficient functioning of the New Zealand financial markets, participants must be assured that any information intentionally divulged to, or learnt by, another market participant remains confidential as may be appropriate. A trusting relationship with a client can only be developed on the understanding that the client's information will not be used inappropriately. Members should consider ensuring that their employees have been appropriately trained to deal with situations that may require anonymity and/or discretion.

Notwithstanding the contents of these Guidelines under the section titled "Inside Information and Information Barriers", Members should consider having documented procedures to safeguard confidential client information and prevent such information from being distributed beyond those authorised areas which need this information to perform their job function. Examples of confidential information include, but are not limited to, client account details and other standard settlement instructions; size and frequency of trading; open positions; products or services used; and intended transactions.

Members should consider having documented procedures to investigate any suspected breaches of confidentiality. Where appropriate, such procedures should also include the possibility of sanctions for individuals concerned.

In many instances employees will be exposed to confidential information at the firm they are employed by or may possess sensitive information about the operation or business processes of the firm. These employees should maintain the confidentiality of this information during and after their employment with a particular organisation.

Confidentiality continued....

Representatives should not visit the front, middle or back office workplaces of competitors, or invite representatives from other firms to their office in the absence of a clear and legitimate business need. Appropriate controls should be in place that are known and understood by staff.

Personal information must only be collected and stored when necessary as required by law, or under the Member's internal policies and procedures. The *Privacy Act 2020* regulates the collection, use, storage, and disclosure of individual personal information.

Individuals should not attempt to ask or in any way pressure others for confidential information. Any attempt to coerce disclosure of confidential information should immediately be reported to management or compliance. The only exception to this is where the passing of confidential information is required by law. In this instance, it is suggested that the circumstances in which information is passed are properly documented.

Documentation

Documentation should be executed by authorised signatories and exchanged prior to a transaction occurring.

Wherever possible, these documents should use standard terms and conditions. Examples of standard documentation that NZFMA encourages Members to use can be found on the NZFMA's website and on the websites of other relevant industry and regulatory bodies.

Great care should be taken in negotiating transactions where standard documentation does not exist. Similarly, where it is proposed that a trade is entered into with modifications to standard terms, such changes should be negotiated before the deal is finalised.

All legal documentation and master agreements should be stored in a secure manner.

Accuracy of records and data management

Members should have policies in place to ensure that company records, both paper and electronic, are retained in sufficient detail to accurately reflect any transactions they engage in for their own account or on behalf of clients.

Aside from specific transaction data, Members may have policies to retain other records such as e-mail, instant messaging, SMS messages, memos and other documents. Documents should observe professional standards of language and content. Further, consideration should be given to the fact that data or records may be reviewed by a third party who will rely literally on the content without the benefit of recollection or context.

Records should be kept in a readily accessible format, and retained for the minimum statutory period. Where deals are open for longer than this term, consideration should be given to retaining records for the life of the transaction.

Data should only be destroyed in accordance with a clearly defined data management policy. This policy should consider including a prohibition on destroying any company record that may relate to market misconduct, or the subject of an internal or external investigation or proceeding.

Suspected wrongdoing

Members should encourage a culture that accepts the reporting of market irregularities as normal and appropriate business practice and have in place policies and procedures to support this.

Suspicious about unprofessional, unethical or potentially illegal behaviour should be raised with senior management and/or compliance in line with documented procedures. Staff should be aware of these procedures and be confident that they can raise concerns that will be acted upon, if warranted. These procedures should include, amongst other matters, the appropriate mechanism for reporting to a regulatory body if necessary.

Where a representative suspects wrongdoing by the Member who employs them, a clearly defined “whistleblower” policy to escalate the matter may be of assistance, including allowing for external reporting of the matter where appropriate.

Gifts and entertainment

Although it is recognised that gifts and entertainment may be offered or received in the normal course of business, excesses should be discouraged and avoided. Members should have established procedures to measure the form, frequency, and value of gifts and entertainment. These procedures should relate to both gifts and entertainment received, and given.

Particular care must be taken by Members to ensure that the provision of gifts, entertainment, or anything else of value is not construed as an inducement for the purposes of retaining business, inducing a party to conduct business through a Member, or to influence a decision-making process, especially in relation to officials of government or other regulatory authorities.

Under no circumstances is a Member or their representative to solicit gifts or entertainment from another financial markets participant.

Actions that may constitute corruption, and attempts to unduly influence business outcomes or obtain personal advantage through inappropriate behaviour or extravagance should not be tolerated as part of the culture of a NZFMA Member.

Observe market standards and conventions, good practice and conduct expected or required of participants in markets when engaging in any form of market dealing.

Segregation of duties

Front office traders and dealers should not be able to take part in the processing or settlement of transactions, except to input information that is required for those processes. Members should take particular care to ensure that front office staff do not have the ability to modify cash flows relating to transactions.

Middle office and operations staff ideally should have separate reporting lines to front office, with clearly defined roles and responsibilities. Members should consider whether it is appropriate for front office staff to have managerial responsibility for middle office or operations staff.

Procedures manuals

Each Member should consider the relevance of comprehensive documented requirements for each area of their business. Procedures manuals should be written in plain English and in a manner that would allow an inexperienced individual to complete the job function, albeit at a possibly reduced capacity. Procedures should be regularly reviewed, and whenever a new product or service is introduced.



Observe market standards and conventions, good practice and conduct expected or required of participants in markets when engaging in any form of market dealing.

Trading platforms (see also Access to Front Office)

The use of electronic trading platforms to access markets is becoming increasingly common. Front office systems can integrate with and populate downstream platforms, or offer a full front-to-back solution. As such, it is critical that market participants have controls in place to govern access of staff authorised to use platforms. To this end it is recommended that system access be granted by non-front office staff; that user specific IDs and passwords be assigned; and that the sharing of passwords be prohibited.

Careful consideration should be given to issues such as:

- If a third party vendor is used to provide a trading platform, the terms of engagement and in particular the level of support provided;
- The adequacy of staff training in the use of the system prior to being granted system access;
- Mechanisms to allow (where relevant) all trades and amendments to be uniquely identified and time stamped; and
- Kill switches that immediately disable any or limit market connectivity.

A trading platform must not be used to degrade the integrity of the market, by posting fleeting orders for example. Any market participant that has responsibility for executing a transaction must ensure that at all times they do all they can to maintain a fair and orderly market. NZFMA encourages the use of trading systems to enhance market integrity by using pre-trade filters to prevent orders that may potentially disrupt the market from being released.

Take reasonable steps to avoid any acts, omissions or business practices that could damage the reputation of the organisation or the industry, or which may adversely impact on the New Zealand economy and society

Media policy

Members should have a clearly articulated media policy that identifies the authorised spokespeople for their organisation and encourages commentary that is constructive, proportionate and moderate in tone, having regard to the interests of financial market participants and users.

Members should avoid making statements that may reflect poorly on the New Zealand financial markets, unless there are valid reasons to do so. Members should be cognisant of the effect of media commentary on investor confidence in the markets.

Members must also be aware of the use of social media forums such as Facebook, Twitter, or LinkedIn. Information shared via social media will reflect upon individuals, the Member and the industry, and care must be taken not to bring the industry into disrepute. Those using social media need to consider their responsibility for information they distribute via these mediums, and be aware that it is both public and discoverable.

Individuals must be cognisant of, understand, and comply with the media relations policies of their employer which may include restricting the ability of individuals to contact or make comment to the media.

Other business activity

While NZFMA acknowledges individuals will have interests outside their employment, care must be taken to ensure those activities do not impinge upon their job function.



Take reasonable steps to avoid any acts, omissions or business practices that could damage the reputation of the organisation or the industry, or which may adversely impact on the New Zealand economy and society

Cybersecurity, business disruption, business continuity and disaster recovery

NZFMA is committed to promoting and facilitating the development and maintenance in New Zealand of efficient and competitive markets for financial instruments and other related transactions.

Cyber attacks are a major threat to financial markets and so participants should ensure they have appropriate cybersecurity measures in place and provide regular training on cyber security.

Members should anticipate situations that would cause their operations to be disrupted, define a business continuity strategy, have a supporting business continuity plan (BCP), and test this plan regularly.

Related to business continuity is disaster recovery. As the name suggests a disaster is a more severe event than that which might fall under a BCP. Members should consider their need to have in place a Disaster Recovery Plan (DRP) to allow them to function and meet their market obligations as closely as possible in a crisis situation.





EP 1

Accept responsibility to conduct business affairs in a way that serves the broader community interest in having financial markets that are stable, trusted and efficient.

Senior management are responsible for setting the entity's core values and ensuring that an appropriate business culture exists within their organisation.

An organisation's business and risk culture should support appropriate behaviour and judgements and permit testing of business practices, within a sound governance framework.

Notwithstanding the above, it is expected that all staff, including front office, acknowledge their responsibility for keeping the business safe, maintaining market integrity, and protecting the interests of clients by embracing participation in risk management policies such as the "Three Lines of Defence".

EP 5

Equip all staff to have the required skills, experience, resources and support to perform their job competently and professionally.

Fit and Proper

The Member should satisfy itself that its directors and senior management are fit and proper to carry out the activities of its business.



Adequate risk management environment

A financial services business is expected to have in place policies and procedures commensurate with the scale and complexity of their activities to measure, analyse, and report risk. Such policies and procedures should be able to identify, analyse, measure, mitigate, and report relevant risks.

A risk appetite statement or similar should be prepared and consideration given to making it publicly available.

To ensure that risk management policies are effective, risk, legal, compliance, and other staff who are responsible for internal control functions are to be sufficiently skilled to understand the products being offered to clients, client activity, and any principal trading strategies being used.

Further, staff involved in an oversight function should be empowered to bring any concerns to the attention of senior management. Items that may be considered in a regular review include unusual profit/loss results; high capital needs; trades that account for a large percentage of daily turnover or other unusual levels of activity in particular products and/or in relation to particular customer accounts; changes in securities lending requirements; and elevated numbers of settlement fails. With respect to these and other items, participants are encouraged to define thresholds which, if triggered, would result in a mandatory review of activity.

Market participants should have resources to review trades and trading behaviour, with an emphasis on ensuring that market activity does not impinge upon the efficient working of the market. This applies to any trades entered as principal, and also to those transactions executed on behalf of clients.

The use of electronic trading platforms is becoming more common. To prevent problematic activity, individuals in control functions should have a level of understanding regarding the functionality of these platforms that enables them to carry out their oversight functions effectively.



EP 10

Identify and manage potential conflicts of interest

Audit and review

Market participants should consider having an independent internal audit and review function, supplemented by regular external audit of business activities embedded in their risk management regime.

Internal and external audit should have a clearly defined scope, including a review of controls to ensure adherence to regulatory requirements, and to ensure that an adequate and effective risk management environment exists.

An effective audit will incorporate the views of relevant stakeholders, as well as the findings of previous audits.

Where issues are identified that require action or remediation, they should be rated in terms of seriousness and a remediation plan put in place. The plan should include an assessment of the outcomes of the actions taken.

EP 11

Observe market standards and conventions, good practice and conduct expected or required of participants in markets when engaging in any form of market dealing.

Capital

All market participants must have sufficient resources to conduct their business activities in a manner that ensures market integrity.



3.0

FRONT OFFICE GUIDELINES



EP 1

Accept responsibility to conduct business affairs in a way that serves the broader community interest in having financial markets that are stable, trusted and efficient.

Members should strive for full compliance with all rules, principles, conventions and other requirements that apply to the financial markets activities they undertake. This should include mechanisms to identify non-compliance and misconduct or other inappropriate behaviour swiftly, and to take appropriate disciplinary or other action.

EP 3

Understand and observe applicable laws and regulations when carrying out activities in financial markets, and interpret them according to principles of fairness, honesty and integrity.

Behaviours that may constitute market manipulation or any other form of market misconduct, or that may result in an inappropriate benefit for the firm at the expense of a client should not form any part of the accepted business culture within a firm.



Know your client

Clients should be on-boarded in accordance with the Member's policies and procedures before transactions are executed on their behalf. This review will involve middle and back office staff and will include, amongst other things, the collection and recording of standard settlement instructions, confirmation methods, credit limits and exact legal identity of the client.

Member firms should have a policy that governs whether a transaction for a client can be executed without first ensuring that the client is a valid entity, and have risk management controls in the event that this is permitted.

In some instances such as a corporate transaction, client anonymity is desirable. In this example, it is recommended that credit, legal, or another independent body involved in the oversight function interpose themselves between front office and corporate, verify the legitimacy of the client and transaction, and confirm this to front office prior to order placement.

Integrity of research

Where a Member offers research to their client base, that research should be objective, clear, fair and not misleading. Analysts have an obligation to place the interest of their clients before those of their employer, or any personal interests they may have.

To assist the prevention of any perceived conflict of interest, it is recommended that participants adopt transparent procedures governing the role of analysts in their business.

Analysts should be required to disclose their interests in any company which they are responsible for researching and/or making recommendations and appropriate restrictions should be applied to their ability to trade shares in those companies (e.g. limited to periods after annual announcements).

Separate reporting lines and a remuneration structure that is not linked to other investment banking activities such as corporate finance or trading are also suggested, as is having firm information barriers in place (see Inside Information).

EP 4

Act fairly and honestly when dealing with clients and counterparties.

Information management

Members should have policies to ensure that any information obtained by a representative is handled appropriately, including steps to be taken where an individual suspects they may have come into possession of inside information.

EP 5

Equip all staff to have the required skills, experience, resources and support to perform their job competently and professionally.

Authorisations of staff

It is recommended that all staff have unambiguous instructions given to them by management that detail at a minimum what transactions, instruments, terms, limits, markets, and trading platforms they are authorised to engage in or use.

EP 6

Equip all staff to perform their job with integrity.

Recording of telephone conversations and electronic messages

It is strongly recommended that verbal and electronic conversations between front office dealers/traders, brokers, advisers, and clients be recorded. Members should consider taking steps to inform counterparties and clients that conversations will be recorded, as well as adhering to provisions of the *Privacy Act 2020*.

There should be a clear policy:

describing how long records are retained for (see Accuracy of Records and Data Management);

- describing who has access to the recordings and in what circumstances;
- forbidding the alteration of any recordings; and
- imposing controls to prevent the selective activation/deactivation of recording.

These controls will assist when such records are needed for dispute resolution. (See also Use of Mobile phones).

Trade entry

It is recommended that all transactions be entered into a record system as soon as possible after the transaction is executed.

Prompt trade capture facilitates the settlement process hence increasing the efficiency of the market, and also allows middle office and operations internal partners to perform their role in a fully informed manner.

Trades may be executed after market hours, or after the cut-off for an end-of-day run. In these instances it is expected that participants will have adequate procedures in place to ensure accurate risk measurement and settlement of such transactions.

Trade amendment

Once in a record system, it is recommended that a transaction is never deleted. Should a transaction need to be amended for any reason, front office staff should consider entering an equal and opposite trade to reverse the original trade, with an appropriate comment, and then input a new correct trade.

If this procedure is not followed, at a minimum there should be an automated record of any trade amendment, including deletion. Observing this procedure will ensure there is always a full and accurate history of all transactions.

Off premises dealing

Members should consider discouraging their employees from trading when they are not in their usual office location. However, there are occasions where staff may need to transact after hours and/or when out of the office. In those instances Members should consider having a list of persons authorised to trade off-premises, with clear guidelines stipulating permitted instruments and limits allowed.

Access to the front office

Members should have appropriate controls in place to restrict front office systems access to those employees who use them in their role. Particular care should be taken to ensure that dealers or traders do not have access to systems used by debt and equity capital markets or corporate finance units.

Relevant employees are to be aware that access is restricted and not admit either internal partners or external parties to physical premises, or give access to systems without following documented procedures (see Confidentiality).

Access to front office technology

Members should carefully consider the appropriate controls over their front office systems including but not limited to:

- mechanisms to ensure password security;
- allocating each front office representative a unique technology profile that may be reviewed at least annually by management;
- recording of requests to access to front office systems, and approval by management (or other authorised personnel);
- restricting access to make system changes; and
- restricting developers' access to production systems unless via an auditable change management and version control process.



Observe market standards and conventions, good practice and conduct expected or required of participants in markets when engaging in any form of market dealing.

Members should strive for full compliance with all rules, principles, conventions and other requirements that apply to the financial markets activities they undertake. This should include mechanisms to identify non-compliance and misconduct or other inappropriate behaviour swiftly, and to take appropriate disciplinary or other action.

Special terms and conditions

Use of Master Agreements facilitates the execution and settlement of trades.

If a transaction is proposed that requires a change to terms of a Master Agreement, Members should consider the appropriateness of such changes being documented prior to the trade occurring.

Disputes

All parties to a dispute should treat each other in a professional and courteous manner when attempting to resolve the issue.

Once a dispute has been raised, all parties should endeavour to resolve it without delay in an equitable manner. Further, Members should not take advantage of information relating to the dispute to the detriment of the other party or the market.

In instances where the dispute involves an excess of funds for settlement, no party should benefit from having surplus free funds available. In particular any interest earned on surplus funds should be reimbursed to the party that paid out the funds.

There are market integrity rules and market operator requirements surrounding disputes and/or trade cancellation in relation to exchange traded products, and participants in those markets must comply with those requirements.



MIDDLE OFFICE AND OPERATIONS GUIDELINES



EP 3

Accept responsibility to conduct business affairs in a way that serves the broader community interest in having financial markets that are stable, trusted and efficient.

Client on-boarding

A trade should not be executed for a client before the client has been properly identified as a counterpart, including any "Know Your Client" regulatory requirements, client contacts, standard settlement instructions, master agreements executed, confirmation methods, settlement limits, authorised dealers, permitted instruments, limits, and any other information as required.

EP 6

Equip all staff to perform their job with integrity.

Middle office and operations staff perform key roles in ensuring that transactions and other business activities undertaken by the firm meet the criteria and limits that are set by the firm for those activities. Middle office and operations staff should be supported and appropriately trained to perform their roles without interference and to challenge errors, inconsistencies, and other out-of-the-ordinary events.

EP 9

Ensure the integrity and confidentiality of records.

It is critical a Members' staff have a clear understanding of the need for confidentiality about a client's identity, trading strategies, open positions, credit lines available, and any other sensitive information.

Particular care should be taken to document the relationship between Members and their clients, including what instruments and limits are authorised and under which agreements. Any limits should be clearly defined and examples of how limits are calculated should be provided. It is recommended that trades be processed electronically wherever possible.

Trade records

Records of all trades are to be maintained for the minimum statutory period. Data should be kept in a readily accessible format.

Details to be retained include time of order entry; time of execution; execution details; who placed the order; time of any amendment or cancellation; counterpart or executing broker; and any other detail as required by regulations.

Trade confirmations

Members should ensure they have processes in place to validate and confirm details of a transaction at different stages of the transaction lifecycle. There should be clear policies prohibiting front office staff from being involved in the settlement process (see Segregation of Duties).

Trades should be confirmed to clients as required under legislation and any relevant market integrity rules, and where possible all trade matching and confirmations should be done electronically, using standardised formats, and with as high a level of automation as possible. Internal trades within the same entity should be subject to the same rigour as transactions with an external counterparty.

Standard Settlement Instructions (SSIs)

Reliable settlement is critical to the proper functioning and integrity of the market. Members should have arrangements in place to ensure all obligations to other participants are met. SSIs should be managed effectively and efficiently to minimise the risk of errors or failed settlements.

Observe market standards and conventions, good practice and conduct expected or required of participants in markets when engaging in any form of market dealing.

Market to Market

Members should have a clear methodology detailing how any inventory is marked for risk and valuation purposes. For example, where official closing prices are published by an exchange, consideration should be given to using these levels to value trading positions.

Where no official mark exists, inputs into a valuation should be collected separately to the front office, and a valuation performed, again separately to the front office. Clear distinction should be made between any front office valuation or risk measure, and that calculated by middle office. It is strongly recommended that front office measures are used by front office only, and any data used in the books and records of a firm be derived by middle office.

Consideration should be given to implementing procedures to check for out of market rates, as well as for ensuring trades for related entities are conducted on an arms-length basis. Risk and finance staff should have the appropriate skills to value instruments. Any decisions to reserve or provision a portion of the value of a position, and subsequent release of such provisions, should be subject to appropriate procedures.

To avoid conflicts of interest, any request from a client for a position valuation should be considered and performed by middle office. Under no circumstances should front office staff be responsible for providing clients with revaluations of positions where the firm is the client's counterpart.

Netting

The use of automated bi-lateral netting agreements is strongly recommended as part of standard procedures.



EP 12

Take reasonable steps to avoid any acts, omissions or business practices that could damage the reputation of the organisation or the industry, or which may adversely impact on the New Zealand economy and society.

Settlements

NZFMA encourages consistent and predictable settlement processes, as settlement failures disrupt the market, inhibiting liquidity and efficiency for all users. Members should have systems in place to accurately identify the status of trades, including details of the counterparty, settlement instructions, payment information and cut-off times. Where appropriate, straight through processing should be used to reduce settlement risk.

Where payments are to be made to a third party rather than the ultimate beneficiary, market participants should consider exercising special care to assess compliance with AML/CFT requirements. Prudent management would suggest that contingency plans are in place to cater for the possibility of unexpectedly high settlement volumes or other unanticipated market events.



APPENDIX : THE REGULATORY ENVIRONMENT

Regulatory Requirements

New Zealand's financial markets are supervised and regulated by a number of entities. It is expected that industry participants will be aware of the requirements of these and other bodies as it relates to their business and have in place policies and procedures to ensure conformity with requirements.

1. The Financial Markets Authority (FMA) is the financial markets conduct regulator in New Zealand. Members are expected to comply with the FMA's guidance note relating to conduct: *The Bank Bill Benchmark Rate and closing rates: Guidance note for market participants (October 2017)* available on the FMA's website.
2. The Reserve Bank of New Zealand (RBNZ) has responsibility for monetary policy, payment system oversight, and is the prudential supervisor of banks, insurers and non-bank deposit takers.
3. The Council of Financial Regulators members are FMA, Ministry of Business, Innovation and Employment, RBNZ, the Commerce Commission and The Treasury.
4. The Department of Internal Affairs, the FMA and the RBNZ are the joint regulators responsible for countering money laundering and the financing of terrorism.
5. The principal legislative acts governing the structure and conduct of securities markets and their participants are the *Financial Markets Conduct Act 2013*, the *Financial Markets Supervisors Act 2011* and the *Financial Markets Authority Act 2011*;
6. The Commerce Commission is responsible for enforcing competition, fair trading and consumer credit contracts laws.
7. The Office of the Privacy Commissioner is responsible for individual's privacy rights under the *Privacy Act 2020*.
8. The Inland Revenue is a New Zealand public service Department and is the principal revenue collection body for the New Zealand Government. It has responsibility for administering the New Zealand tax regime.
9. Licensed financial markets and clearing and settlement facilities (both in New Zealand and elsewhere, and however authorised or regulated) in which Members participate have rules that Members must comply with.

In addition to the above, NZFMA notes the increasing globalisation of regulatory reform and acknowledges the desire to harmonise requirements where possible. In this context, it is suggested that industry participants also take into account the impact to their business of offshore initiatives.

FURTHER INFORMATION

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