

Code of Ethics and Code of Conduct

Australian Financial Markets Association





Code of Ethics and Code of Conduct

PREAMBLE

The Over-the-Counter (“OTC”) markets in Australia have an established tradition of providing financial products and services to clients and counterparties, facilitating the effective management of capital and risk. Those who use these markets must have complete confidence in the integrity, professionalism and competence of them and of the participants with whom they deal. Accordingly, in order to ensure this confidence is maintained, it is essential that the right culture is driven from the top down, clearly understood and regularly reinforced.

It is recognised that personal integrity and professionalism cannot be created or preserved by written rules alone, but also depend on the understanding and judgement of individuals. By clearly articulating ethical principles for acceptable standards of behaviour in the OTC markets, the AFMA Code of Ethics is intended to raise awareness of the issues and promote responsible decision-making. Its companion, the Code of Conduct, provides rules of behaviour derived from these principles

The Code of Conduct does not attempt to address all possible circumstances in which the various principles in the Code of Ethics apply. Rather it addresses those which AFMA considers warrant specific articulation. This includes identifying particular conduct which may have been problematic in the past, where leaving something to good judgement may not be entirely sufficient, or simply where the expectation from regulators, counterparties or the market for certain behaviour warrants specific mention.

These Codes have their genesis in 1991, when AFMA published the inaugural ‘Organisation Code of Conduct’. In 1996, following a major review of the financial markets environment, Individual and Organisation Codes were produced. A Code of Ethics was released in 2002. The present document continues this process of review and improvement.

The Codes apply to all AFMA Member organisations (‘Members’) and the individuals who represent them (‘Representatives’). Members must conduct their business according to the Codes, and are encouraged to use them as the basis for more detailed procedures and sometimes higher standards that apply within their organisation. Where two codes are used by an organisation, the more comprehensive (or applicable in the circumstances) will apply.

If any Representative has doubts about the correct procedures to be adopted or terminology to be used, guidance should be sought from senior management of their Member or reference made to the AFMA *‘Financial Markets Core Accreditation Module’*.

January 2011



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Responsibilities of Senior Management

Members should have written policies and procedures approved at an appropriate level of senior management, governing the role and responsibilities of personnel active in the OTC markets. Best practice requires that Members' Representatives are adequately trained and supervised so that their conduct is consistent with current market practices and complies with internal policies and procedures, including the Member's code of conduct, and/or legal and regulatory requirements.

1. REPUTATION

Code of Ethics

It is the responsibility of Members and Representatives, regardless of experience or position, to ensure that his, her or its actions reflect positively upon the industry. Neither Members nor Representatives shall undertake any action that will bring the reputation of the Australian OTC markets into question or disrepute.

Code of Conduct

Any breach of either a Member's codes or the AFMA Codes has the potential to damage both the reputation of the Member and the market. The reputational consequences of behaviour (on both the Member and the market) must always be foremost in the mind of Members and Representatives. Members and their Representatives must strive to follow the spirit of the Codes, not simply abide by the strict letter of them. They have a responsibility to understand these Codes, as well as all applicable laws and regulations. Representatives must recognise that they are in a position of trust and responsibility.

1.1 Organisations' Compliance Policies

Representatives must give due regard to their organisation's compliance policies. The Compliance Department is responsible for ensuring that policies and procedures are regularly updated to reflect changes in legislation or regulation, and must be consulted if a Representative is unsure as to the correct course of action.

1.2 Public Communication

All communications with the media or public should be considered to be 'on the record'. As all communications are discoverable (including internal communication) Members and Representatives should consider the consequences of possible disclosure of their communications. Representatives must be cognisant of, and comply with, the media relations policies of their organisation.



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1.3 Relationships with regulators/auditors

All communication with regulators and auditors should be considered as public communication (see clause 1.2).

Members should deal with regulators/auditors promptly and professionally, understanding the possible impact of their actions on both their business and the industry.

2. RESPECT FOR RULES

Code of Ethics

Members and Representatives shall act in accordance with all applicable laws, regulations and industry standards. No Member or Representative shall undertake, or assist another to undertake, any action which violates applicable laws, regulations or industry standards.

Code of Conduct

2.1 Anti Money Laundering

Members must establish, maintain and monitor policies and procedures to verify the identity of potential counterparties and to prevent dealing being used to facilitate money laundering. Members and Representatives must identify and report suspicious transactions to the appropriate authorities.

2.2 Inside Information and Insider Trading

Trading in certain financial products when in possession of inside information is prohibited by law. Inside information is information that is not generally available and is price sensitive to a financial product.

Members must establish and maintain effective procedures (known as 'Chinese Walls') to quarantine inside information from trading or advising functions.

Where a Representative who is not behind a Chinese Wall acquires inside information, that Representative must promptly inform management and withdraw from any transaction which is affected by, or potentially affected by, such information.

Members and Representatives must not trade in relevant financial products, when in possession of inside information.

2.3 Artificial markets & market manipulation

Members and Representatives must conduct their trading activities in a fair and orderly manner and maintain the integrity of financial markets.



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Representatives must not carry out trading that:

- will interfere with the normal supply and demand factors in the market for a financial product;
- has the potential to create artificial markets or prices; or
- is not based on a genuine trading or commercial intention.

Representatives must not knowingly assist a client to undertake any activity of this kind.

Members must provide their Representatives with clear guidelines on the proper conduct of their trading activities.

2.4 Out-of-market rates

Representatives must not effect transactions at out-of-market rates, except where the transaction has an acceptable underlying commercial rationale. Members must ensure strict controls are in place to guarantee that out-of-market arrangements do not conceal improper conduct.

Where a Member allows the use of out-of-market rates, such as in some swap structures, historic rate roll-overs or synthetic financial products, the rationale underlying such transactions must be clearly identifiable and Members must ensure that proper audit trails exist.

2.5 Segregation of Front and Back Office Duties.

Members must ensure that internal policies and procedures regarding segregation of front and back office duties are strictly adhered to, in order to prevent any instance where trading personnel are in a position to issue or receive confirmations or make and receive payments.



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3. RESPECT FOR PERSONS

Code of Ethics

Members and Representatives shall ensure that their dealings with others exemplify and actively foster an environment of mutual trust and respect. Members and Representatives shall not behave in a manner that is prejudiced, discriminatory or harassing.

Code of Conduct

3.1 Harassment

Representatives must not engage in behaviour that is harassing.

Harassment is any behaviour that is unwelcome, unsolicited, offensive, abusive, belittling or threatening. Its effect is to offend, upset, humiliate or intimidate an individual or a group. Harassment may be related to gender, race, age, marital status, religion, sexuality or disability. Harassment is not always intentional—behaviour that is humorous or insignificant to one person may cause offence to another.

Members must establish and maintain procedures to ensure that any such conduct is dealt with promptly, thoroughly and confidentially.

3.2 Unprofessional workplace or work-related behaviour

It is the responsibility of Representatives to behave in a professional manner at all times at work or work-related activities, and not place themselves in a position which may bring them, their organisation or the financial markets into question or disrepute.



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4. CONFIDENTIALITY

Code of Ethics

Members and Representatives shall protect all information that is sensitive, confidential or private from misuse. A Member or Representative shall only use or disclose such information for the purposes for which it was collected or a permissible secondary use, unless disclosure is otherwise required by law.

Code of Conduct

4.1 Confidential Information

Notwithstanding the evolution of regulations providing for greater market transparency, from time to time Representatives will come into possession of information which they have an obligation not to disclose. Such confidential information may relate to clients, negotiations, transactions, dealings or their employers. Members must ensure that such information is adequately protected from unauthorised disclosure or misuse. Representatives must be vigilant and guard against inadvertent disclosure, such as where discussions may be overheard by outside parties.

Any attempt by a third party to coerce a Representative to disclose confidential information must be reported to senior management.

4.2 Respect privacy

Personal information must only be collected when it is necessary. It must be protected, and used only for approved purposes. Members who possess and Representatives who have access to private information must ensure that such information is not misused.



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5. HONESTY

Code of Ethics

Subject to the previous principle, Members and Representatives shall be open and truthful, both within an organisation and to clients, counterparties and stakeholders, even when that may be difficult or possibly result in loss of business.

Code of Conduct

5.1 Clear and unambiguous language

Clear and unambiguous language must always be used. Representatives must be familiar with the market's standard terminology and definitions as set out in the AFMA Market Conventions posted on the AFMA website (www.afma.com.au).

When communicating with non-professional market participants, Representatives must ensure that the use of market terminology does not cause confusion.

5.2 Firmness of quotation

Representatives must clearly indicate to counterparties whether prices being quoted are firm or indicative.

Where an indicative price is quoted, it should be realistic, reflecting the full characteristics of the transaction.

5.3 Rumours and false, misleading or deceptive representations

Representatives must not initiate rumours or make false, misleading or deceptive representations. However, disclosure of the existence of rumours may be acceptable, provided the content is not represented as fact.

Representatives must ensure that, where they suspect a client has misunderstood any aspect of a transaction, any incorrect interpretation is corrected.

5.4 Collusion

Representatives must not attempt to act secretly, or collude to influence a revaluation or market price.

Senior management should be alerted to any unusual activity that may suggest such collusion.



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6. FAIRNESS

Code of Ethics

Members and Representatives shall conduct business in a manner that is objective and impartial. Fairness requires managing one's own prejudices and interests to ensure that biases or conflicts do not compromise professional conduct.

Code of Conduct

6.1 Incorrect quotes or prices

Representatives must not take advantage of an obviously out-of-market price.

There will be times where it appears a price has been incorrectly calculated. When this occurs, the price-maker must be offered an opportunity to re-price. If the price-maker subsequently confirms a willingness to deal at the original price, the deal can be concluded.

6.2 A deal is a deal

Where a deal has been concluded, it should not be cancelled or amended without mutual agreement between the counterparties, unless such cancellation is in accordance with established and/or mandated trade cancellation policies governing the transaction.

6.3 Don't use credit limits to get out of a deal

Representatives must not cite the non-availability of credit limits for the purpose of avoiding a deal with a counterparty or completing an agreed deal under any circumstance where this is not the case.



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7. CONFLICTS OF INTEREST

Code of Ethics

Members and Representatives shall be sensitive to potential conflicts of interest, and always appropriately disclose or manage them, even if this requires removing oneself from a transaction that leads to a conflict. Members and Representatives shall not misuse their position, or information they acquire by virtue of their position, for personal or corporate gain.

Code of Conduct

7.1 Conflicts of interest

Members must establish policies and procedures to identify avoid and manage actual and potential conflicts of interest, with respect to both business and personal conflicts.

7.2 Gifts and entertainment

Although it is recognised that gifts and entertainment may be offered in the normal course of business, excesses should be discouraged. Members must have established procedures for dealing with gifts and entertainment in order to avoid real or perceived conflicts of interest.

7.3 Improper payments

Representatives must not use their positions to seek personal gain (including a benefit to family members or other associates) from clients or potential clients, nor should they engage in any act that could be interpreted as seeking or receiving a bribe, secret commission or questionable payment.

7.4 Trading on own account

Members must apply strict controls to, and monitor, Representatives trading on their own account, especially in their own or a related market. Such personal trading can be perceived as involving front running or insider trading, and can create real or perceived conflicts of interest.



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8. COMPETENCY AND CONTINUAL SELF-IMPROVEMENT

Code of Ethics

Members and Representatives shall strive to exemplify best practice in the use of technical skills and knowledge, and shall seek continually to improve upon skills and knowledge through appropriate education and training.

Code of Conduct

8.1 Dealer Accreditation

Representatives must be appropriately competent and trained to perform their professional responsibilities.

Representatives are strongly encouraged to qualify for, and maintain, AFMA Accredited Individual status.

8.2 Allocation of responsibilities

Members must have procedures in place which require their Representatives to assume responsibility for understanding these Codes and the rules of their Member organisation.

Representatives must be provided with a clear description of their duties and responsibilities and management's expectations of them.



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9. RESPONSIBILITY FOR ACTIONS

Code of Ethics

Members and Representatives shall accept responsibility for their decision-making processes, the actions (or inaction) that they choose to take, and the foreseeable consequences that arise from those decisions.

Code of Conduct

9.1 Don't act in an irresponsible manner

Members must develop policies and procedures in relation to the use of drugs and alcohol. If the consumption of alcohol or drugs impairs a Representative's judgement, he or she must not engage in any financial markets activity for so long as he or she is impaired.

Members and Representatives must be aware of the risks involved, and of the disciplinary action that will be taken, in the event of breaches of these policies.

9.2 When something goes wrong, don't try to hide it

Representatives must at all times act in a professional and honest manner. This principle extends to the willingness to admit to making mistakes, especially where those mistakes may impact on the commercial integrity of their organisation, their counterparties or the market.

Timely correction of errors can mitigate any consequent loss and reduce the likelihood of the need for lengthy investigations at a later date.

9.3. Mechanism for complaints

Effective and transparent mechanisms must be put in place by Members to ensure breaches of these Codes are brought directly to the attention of senior management.

This applies to issues raised by external parties and matters internal to an organisation.

9.4. Whistle Blowing

Members should encourage the development of a culture which accepts that reporting irregularities is part of a normal business environment.

Members should have effective and clearly defined whistle blowing processes in place for reporting breakdowns in the normal escalation process.



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Members must ensure that those who escalate such issues are afforded protection from sanctions or discrimination.

9.5. Information to the Board

All material information must be escalated to the Board in a timely, clear and concise manner to ensure that the Board has all the information it reasonably needs to make informed decisions in relation to Financial Markets.