
3 November 2017 CP17/37 on Industry Codes of Conduct and Discussion Paper on FCA Principle 5

Q1: Do you agree that the FCA should support the take-up of industry codes through the general approach described? If not, how should the FCA consider codes for unregulated markets developed by industry practitioners?

Yes: we fully agree FCA supporting the take up of industry codes of conduct through conduct and prudential regulation as well as through the implementation of the SM&CR regime as this offers the most effective framework to demonstrate firms' adherence with standards of market codes. We note that although the product markets concerned may not be regulated, financial institutions operating in them are subject to regulation and supervision.

Q2: Do you agree with our proposal to recognise certain industry codes of conduct in unregulated markets? If not, please provide your reasons.

Yes: we agree with the proposal to FCA publicly recognise particular industry codes as this will demonstrate support of the proper market standards. In addition, this will provide the industry with certainty of the standards to adopt in the unregulated markets. Many of our members firms have themselves signed the relevant Statement of Commitment and made these public further demonstrating their recognition of the principle objectives of the code.

Q3: What challenges do you foresee for the FCA or industry with recognising certain industry codes?

The industry fully supports raising standards, but the challenges faced are keeping them updated as the market and behaviour evolves.

The other questions are that firms need to consider is whether they need to identify who will authorise the commitment for the firm:

- Will they sign on behalf of a specific business line, location or the whole firm.
- Will firms and individuals feel comfortable signing the commitment and adhering to the principles? The FCA has stated that firms and staff will not be required to sign any particular codes however the SM&CR places personal accountability on individuals and can only be done so through attestations to the principles of the code.

Firms will also need to consider how the code is adhered to when undertaking the unregulated activity with unregulated firm. We believe that this would best be done through to Pillar 2 SREP process where the effectiveness of code observance can be monitored.

Q4: Do you agree with the proposed changes to the FCA Handbook designed to give effect to our proposals? If not, please provide your reasons.

In addition to the inclusion of the recognised industry codes in Decision Procedures and penalties manual and Enforcement we recommend some addition in the SYSC 4.7 Senior

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Management as these codes will be the responsibilities of the respective individuals who will be accountable for adherence to the code.

Q5: Do you agree with our proposed process for recognising certain industry codes? If not, how should we amend it?

We agree with the criteria's for recognising certain codes as these address FCA's statutory objectives and operational objectives. We note the process used in the FX GCC and FEMR and their subsequent roll out and believe that a comprehensive approach to both regulated and unregulated markets, ideally on an international basis, is optimal.

Q6: Do you agree with the criteria proposed for deciding which codes to recognise? If not, what additional or alternative criteria should we consider?

We suggest the Codes should not impose legal or regulatory obligations on regulated firms (Reference FX GCC) and should not substitute for regulation.

Q7: Do you believe the FCA should consider extending the application of Principle for Businesses 5 (A firm must observe proper standards of market conduct) to unregulated as well as regulated activities? If not, please state why.

We support the approach of extending the application of Principle for Business 5 – Market Conduct: A firm must observe proper standards of market conduct, to all authorised firms financial market activities outside the regulatory perimeter. All our member firm have already adopted this practice throughout their firm to all individuals irrespective of whether they are undertaking a regulated activity or unregulated activity. We ask whether FCA are going to receive and investigate STORs sent in Spot FX if they extend Principle 5 to unregulated activities?

Q8: What benefits and challenges do you believe this would pose to FCA authorised firms, the FCA or financial markets more generally?

The benefits relate to the mitigation of bad behaviour and conduct exposed by the financial crisis and preparing financial markets for future developments. The challenges will revolve around the internal implementation of the code(s) in individual firms and how regulators will observe and assess their impact for example will FCA receive and investigate STOR sent in for unregulated activities to assess firm's compliance with Principle 5.

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