

FOCUS - Example of a principles-based code of ethics structure

Compli-Serve SA

Principle 1: Competence

Individuals across the financial services industry shall develop and maintain the relevant knowledge, skills and behaviour to ensure that their activities are conducted professionally and proficiently. This includes acting with diligence, as well as obtaining, and regularly updating, the appropriate qualifications, training, expertise and practical experience.

Principle 2: Integrity

Organisations and individuals across the financial services industry shall be honest and open in all their dealings. This includes behaving in an accountable and trustworthy manner, and avoiding any acts that might damage the reputation of, or bring discredit to the industry at any time.

Principle 3: Fairness

Organisations and individuals across the financial services industry shall act responsibly and embrace a culture of fairness and transparency. This includes treating those with whom they have professional relationships with respect and ensuring that they consider the impact of their decisions and actions towards all stakeholders.

Principle 4: Confidentiality

Organisations and individuals across the financial services industry shall protect the confidentiality and sensitivity of information provided to them. This includes using it for its intended purposes only and not divulging information to any unauthorised persons, including third parties, without the necessary consent from those involved unless disclosure is required by law or regulation.

Principle 5: Objectivity

Organisations and individuals across the financial services industry shall not allow any conflict of interest, bias or undue influence of others to override their business and professional judgment. They shall declare, to those concerned, all matters that could impair their objectivity.

FSPs should embed the principles in this Code in their governance, policies and everyday conduct

Step 1: Adoption

The Board of Directors of organisations should require their organisations to adopt and uphold an Ethics Code in its entirety. Where an organisation does not have an existing written code of ethics, it should produce one based on the principles in this Code perhaps and, where appropriate, enhance it accordingly for its purpose an environment. Where an organisation has an existing written code of ethics, it should review the code and, where appropriate, harmonise and enhance it to meet the principles in this Code.

Step 2: Commitment

Leaders, beginning with the Board of Directors, and managers of organisations across the FSI should demonstrate sustained commitment towards the principles in this Code by continuously striving to uphold them and to communicate their importance to all concerned parties, including employees, agents and relevant third parties such as vendors,

Step 3: Implementation

Requiring new and existing employees, agents and relevant third parties such as contract workers or outsourced parties who provide financial services to or on behalf of the organisation to sign a commitment to uphold the principles in this Code. This requirement may be addressed in appropriate contracts of employment or engagement

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- providing or encouraging the provision of appropriate training and refresher programmes on the principles of this Code for new and existing employees, agents and relevant third parties such as contract workers or outsourced parties who provide financial services to or on behalf of the organisation;

- having policies and procedures that reinforce the adherence to the principles of a Code and that clearly outline and describe the implications and repercussions of any violation of the principles in the Code by an employee, agent and relevant third party such as a contract worker or outsourced party who provide financial services to or on behalf of the organisation.

This may be fulfilled through the organisation's disciplinary policy and procedure and/or other relevant policies and procedures such as internal policies and procedures that relate to third party arrangements and agreements.

Having an effective performance management system that encourages the adherence to the principles

Perhaps appointing a designated senior level person or establishing a committee within the organisation, to be charged with the handling of ethical issues, including the adoption and implementation of a Code. The designated person or committee should report to the Board of Directors, and ensuring a conducive environment for employees, agents and relevant third parties such as vendors, suppliers, contract workers or outsourced parties, to raise ethical concerns without fear of repercussions through the development of clear 'speak-up' and 'whistle-blowing' policies and procedures.

Step 4: Publish and Publicise

Organisations across the FSI should publicise this Code widely within the organisation and externally, including to customers and clients as well as shareholders. This may entail -

- publishing this Code using a combination of methods, including in the organisation's annual, sustainability or other appropriate reports as well as on its websites;
- ensuring this Code is visible and easily accessible in the work place; and
- translating this Code into other languages as appropriate.

Step 5: Impact Measurement

Organisations should develop a set of indicators that enables the monitoring of the impact of this Code across their business operations. The impact measurement should validate the degree of adherence to the Code and assist the Board of Directors and managers to identify and address any gaps. Where organisations use customer or employee satisfaction surveys, they should gather feedback on whether the principles of this Code are being followed or practised.

EXAMPLES

Principle of Competence

1. You are a sales representative of a financial services company. After providing a sales presentation to a potential customer, the potential customer asks several questions about your company's services. You are able to answer most of the questions but there are some where you do not know the answer or are unsure. You want to make a good impression and you do not want to seem unprepared, so you gloss over the facts and skirt around some issues.

Comment: You did not have the knowledge required in this particular instance and acted not in the best interest of your potential customer. There is a risk you may have presented inaccurate information by glossing over the facts and this could be damaging for the potential customer. A lack of competence often means that your potential customer is not given proper service. If you do not understand the service you are selling, you should not sell them. In this situation, you should explain that you need to do more research on those products and/or services and will follow up promptly at a later stage.

2. Your organisation has been issued an unusual market activity query by the regulator. You immediately respond to the regulator without checking with the relevant departments which resulted in an inaccurate statement made. This results in a reprimand to the organisation.

Comment: You should engage with the relevant departments and consult the compliance and legal departments to determine whether there has been an instance of an unusual market activity before responding. Organisations should ensure that there is a process to follow before responding to such queries from regulators. To ensure that the principle of Competence is adhered to, the following are some key questions to ask:

- Are you up-to-date with recent regulatory and legislative developments?
- Are you and your staff sufficiently trained for the job?

- Are you acting within your ability, skill, capacity and authorisation?
- Are you aware of how to update or correct any gaps in skills/ knowledge?
- Are you willing to ask for help when you need it?
- Do you understand the product you are selling or the service you are offering?
- Are you dedicating sufficient time to do your job well?
- Have you received sufficient training to demonstrate competence in this area?

Principle of Integrity

1. You own some shares in Company X. In your effort to increase the share price of Company X, you log on to several investor chat rooms on the internet to start rumours that Company X is about to expand in anticipation of receiving a large government contract.

Comment: Although you have acted in your personal capacity and not as an employee, you have not acted with integrity and your action may be illegal. You have the intention to mislead market participants and influence the price of a particular share by disseminating false information about Company X.

2. You are a senior manager of a bank in charge of the corporate lending department. You are responsible for the oversight of the approvals of loans, loan documentation, risk assessment, valuation and models and all other areas associated with corporate banking. You have delegated each of the tasks mentioned above to specific teams. It has recently been brought to your attention that a particular loan that did not pass the risk assessment test had been approved and that you had signed off on it. The loan is now being processed for documentation and the client had been informed that the loan was approved.

Comment: As a senior manager, you may delegate tasks to your subordinates but your overall responsibility cannot be delegated. You should still be responsible for the oversight of the tasks you have delegated and held accountable for the failings in the area of your overall supervision. You need to investigate this error and be accountable for the approval of this loan. To maintain your personal integrity and the integrity of your organisation, this mistake should be rectified. Rectification may vary according to your organisation's policies. For example, some organisations may choose to inform the client that the loan was wrongly approved. In any event, safeguards must be in place to ensure that such mistakes are not repeated in the future. To ensure that the principle of Integrity is applied at all times, the following are some key questions to ask:

- Are your actions and statements honest and truthful?
- Are you acting in an open and honest manner?
- Are you trying to cover up your mistakes?
- Are you prepared to challenge anything that does not conform to what is right?
- Are you trying to manipulate the market?
- Are you using your position for personal gain?
- Have you spread market rumours or misled the market?
- Are you compromising your ethical values to achieve other organisational goals?
- Are you following the organisation's internal procedures and policies?

Principle of Fairness

1. At a promotional event, a bank representative pressured a customer into signing up for a credit card on the spot. The representative emphasised that it was the last day of the promotion and that the customer would receive a free toaster oven if he signed up for the credit card on that day. The customer signed up for the credit card reluctantly that day, but realised later that it was not suitable for his lifestyle needs.

Comment: The bank representative should not unduly influence the financial decisions of customers by applying aggressive sales tactics. Part of treating customers fairly is that customers are given sufficient time to understand the information provided and consider the recommendations made. Committing to unsuitable financial products can be detrimental to customers' financial well-being.

2. You provide broking services and deal with securities and manage the portfolios of a number of high-net-worth individuals. A significant portion of your fee is based on trading commissions. You engage in extensive trading for your clients to ensure you attain the minimum commission level required by your organisation. The securities purchased and sold for the clients are not appropriate and does not fall within their risk portfolio.

Comment: This is a breach of the exchange rules. You are also not treating the customer fairly by using their resources to benefit yourself at their expense. The clients did not need to invest beyond their stated objectives and needs. To ensure that the principle of Fairness is observed at all times, the following are some key questions to ask:

- How can we provide value to our customers?
- Are your sales and marketing material written in a way which is a fair reflection of the product and/or service you are offering?
- Are all charges made clear?
- Are you deliberately withholding any material information that might affect a customer's decision?
- Does your organisation seek feedback from customers?
- Do you and your organisation take complaints and feedback seriously?
- Is there a procedure in place that is swift and effective?
- Are you or your organisation engaging in any unfair commercial practices?
- Are you deliberately giving a false impression of your industry peers to your customers? Are your customers or potential customers worse off as a result of your action / decision / product / service?

Principle of Confidentiality

1. You had a bad day at work and expressed your frustration with your customers on your social media page by making derogatory comments about how demanding they were. In your post, you identified and named your employer and the nature of the transaction, without naming the client.

Comment: Although you did not name the client your action still amounts to a breach of confidentiality. A breach of confidentiality can result in serious consequences (be it financial, reputational, or legal) for you, your organisation and your customers. You must be careful of what you post on social media at all times.

2. You go into a conference room at work and noticed a draft of your organisation's annual report on the table. You read the financial report, which will not be made public until next week, and realised that your organisation had a very profitable year. You believe that the share price of your organisation is going to increase when the financials are made public. Based on this information, you buy some shares before the price goes up.

Comment: This is insider trading and is a serious offence. You must not misuse confidential and sensitive information for personal gain. If you found the document unattended and in an inappropriate place, you should immediately deliver the said document to an authorised person, and report the breach of confidentiality to your organisation's compliance department.

3. You collected customer data one night during an on-street promotional activity in which the customer signed a credit card application form. You then pass the customer's personal data to a colleague working for an affiliate insurer within the same group as your organisation.

Comment: The confidential and sensitive information provided to you was for a specific purpose i.e. credit card application. You cannot pass this information to a third party without the customer's consent.

4. You have been asked by a customer to change the address on her personal accounts to her current address. You made a mistake and the statement was sent to the wrong address (the apartment next door). The statement was delivered to and opened by the inhabitant of the next door apartment, who happened to be your customer's landlady. The landlady saw that your customer had a large overdraft. Since your customer was a month behind in rent, this information caused the landlady to stop renting to your customer.

Comment: Although this mistake was a small, accidental and clerical slip, it caused a breach of confidentiality. This was a case of inadvertent disclosure. Although the landlady should not have opened a statement not addressed to her, you have still caused the breach of confidentiality. Steps must be introduced to ensure that every effort is made to ensure that confidential information is correctly sent to the intended party.

5. You played an important role in developing an innovative new insurance product that will be launched this week. A friend, who happens to work for another insurance company, asked about some of the features of this anticipated new insurance product. You are really proud of the role you played and would like to tell your friend about some of the features of this product.

Comment: Information on this product is confidential and sensitive. Such information, whether it is business, product, customer or employee related, must be kept confidential. You must not disclose the information except to those who are authorised to have access to the information. Disclosing the details of the new product before it is launched is a breach of confidentiality.

6. You are a fund manager of a large asset management company who manages the private retirement funds for certain corporations. You receive a research report from the research team at your company stating that the profit margin of a listed Company X is expected to be high in the next two years. Based on that information, you make plans to buy a large amount of Company X's shares for the private retirement fund portfolios you manage. You know that such a substantial purchase will likely boost the share price of Company X, so you decide to place an order for yourself through an external broker before sending out the purchase instruction to the dealing room for your private retirement fund portfolio.

Comment: This is front running. You are knowingly dealing in the same securities for yourself before you execute purchases in the same securities for the portfolios under your management. You are misusing confidential and sensitive information for your own gain. To minimise the risk of sharing confidential information to third parties without consent, the following are some key questions to ask:

- Are you going to access, share or discuss confidential information for a legitimate business purpose?
- In what context will the information be disclosed?
- Have you or someone you know personally gained from misuse of confidential information?
- How easy is it for others to access such confidential information (either in electronic or physical form)?
- Are you considering sending an email to your personal email account or to others with confidential information? Is it prudent to do so?
- Are you vigilant and do you guard against inadvertent disclosure of confidential information?
- Can your discussions about confidential information be overheard by outside parties?

Principle of Objectivity

1. You need to engage a consultant for the project financing where your bank is involved. You are considering your cousin because of her extensive and relevant experience and knowledge in the field.

Comment: This situation could present an actual conflict of interest. Even if there is no actual conflict of interest, there may be a perceived conflict of interest. Disclosure must be made before proceeding to appoint your cousin as a consultant. It would be prudent to inform other relevant parties such as the HR Department and/or immediate authority of the relationship.

2. A main shareholder of your organisation introduces a big company who is interested in a loan. The financing department, in wanting to please the shareholder, approves the loan without performing the relevant checks.

Comment: Your organisation must always be objective and impartial in all its dealings. The financing department should make the relevant checks such as credit risk and proper due diligence, regardless of the customer or his connections.

3. You are an equity analyst who covers a particular industry. You have concluded that the stock of Company X in that industry is overpriced at its current level. You are however concerned that a negative relationship with Company X will hurt your relationship with Company X's CEO – a close working professional relationship that you have nurtured over the years.

Comment: Your analysis must be objective and based solely on consideration of Company X's fundamentals. You must not let any bias or pressure affect the objectivity of your analysis. To ensure that objectivity is always maintained, the following are some key questions to ask:

- Will acting for this party compromise your position, be to the detriment of this party or another party?
- Why are you being offered this gift or being entertained or offered hospitality?
- Can your actions be construed as doing something in return for favourable treatment, to influence a business outcome or to gain any business advantage?
- Are your opinions and statements objective?
- Is this in the best interest of your client or your bonus / commission?
- Are your personal relationships influencing business decisions?