

An Exposition of the FX Code

OALP Finance and Capital Markets Newsletter

INTRODUCTION

Further to the exposure draft of the Nigerian FX (FX) Code (FX Code) issued to the public on 2 October 2024, the Central Bank of Nigeria (CBN) on 28 January 2025 launched the FX Code as a guide to the banking industry to promote ethical conduct in the Nigerian Foreign Exchange Market (Nigerian FX).¹ The FX Code with a retrospective effective date of 2 December 2024, is grounded on six guiding principles, namely, (i) ethics, (ii) governance, (iii) execution, (iv) information sharing, (v) risk management and compliance, (vi) confirmation and settlement processes, and applies to all Market Participants² including Authorised Dealers³, Banks and Other Financial Institutions licensed by the CBN under the Banks and Other Financial Institutions Act 2020 (BOFIA).

These six guiding principles, alongside 52 sub-principles, align with international standards⁴ while addressing challenges unique to the Nigerian FX market. They are aimed at enhancing transparency, promoting economic stability, establishing clear regulatory guidelines for all FX transactions and creating a more structured and predictable FX environment. It is expected that the FX market which is designed to become the benchmark for conduct across all participating institutions, will address previous market inefficiencies and provide a robust

framework for both Authorized dealers and other Market Participants.

This Newsletter provides an overview of the principles stipulated in the FX Code, whilst also highlighting the potential impact of the FX Code on the Nigerian FX Market.



ETHICS

Market Participants are required to strive for the highest ethical and professional standards in their conduct of business in the FX Market⁵, while ensuring that they identify and eliminate potential conflicts of interest such as personal relationships, Personal Dealings,⁶ gifts or corporate entertainment that may compromise their ethical and professional judgment in the conduct of business relations in the FX Market. This principle is aimed at achieving the following :



ensuring that Market Participants act honestly and fairly in dealing with Clients and other Market Participants in a consistent and transparent manner,⁷ while placing the responsibility of maintaining high standards of behavior on the Market Participants and their personnel;⁸

1. The FX Code accessed at <https://www.cbn.gov.ng/Out/2025/CCD/Nigeria%20FX%20Code>
2. Market Participants as used in the FX code refers to FX Authorised dealers and approved entities active in the FX Markets as a regular part of its business and is engaged in the activity of the purchase or sale of one currency against another.
3. Section 41 of the Foreign Exchange (Monitoring and Miscellaneous Provisions Act) defines an authorized dealer as any banks licensed under the Banks and other Financial Institutions Act, and such other specialized banks issued with licensed to deal in foreign exchange.
4. The FX Global Code, accessed at https://www.globalfx.org/uploads/fx_global.pdf
5. FX Market refers to the wholesale foreign exchange market
6. Personal Dealing refers to a situation where personnel deal for their personal account or indirect benefit
7. Principle 1, paragraph 1.2, 1.3, 1.5 & 1.6 of the FX Code
8. Principle 2, paragraph 2.1 & 2.2 of the FX Code
9. Principle 2, paragraph 2.3 of the FX Code

Market Participants are further required to set up appropriate and effective mechanisms to eliminate or manage these conflicts as they arise. This includes establishing information barriers (for example, physical segregation of certain departments and/or electronic segregation), altering the duties of personnel when such duties are likely to give rise to conflicts of interest, establishing declaration policies and/or records for identified conflicts of interest;⁹

where the conflict cannot be avoided or effectively managed, Market Participants are encouraged to disclose the conflict to the affected parties, enabling them to make an informed decision.



GOVERNANCE

Market Participants are required to put in place governance frameworks which provide clear responsibility for and comprehensive oversight of their FX Market activities. This framework is expected to be designed in a manner that aligns with the business strategy goals and financial soundness of each Market Participant's FX market activity,¹⁰ ensuring the Market Participants display professional & ethical conduct with regard to their FX market activities.¹¹ The principle further requires Market Participants to set up remuneration structures which are consistent with the Market Participant's professional conduct,¹² as well as setting up appropriate policies and procedures to handle improper practices effectively. The governance framework should include the following

- an operational structure with clearly defined and transparent lines of responsibility for the market activity of such Market Participant, providing effective oversight for activities to be undertaken based on appropriate management information, fostering an environment that allows for personnel of the Market Participant to challenge senior management on decisions to be taken;¹³
- ensuring all relevant personnel (including senior management) participate in articulating desired practices, and become aware of disciplinary actions that may result from unacceptable behaviors of the Market Participant's policies;
- ensuring the Market Participant applies the mix of pay components, such as fixed and variable in setting up remuneration & promotion structures, and the form and timing of payment for the variable pay component; and lastly put in place independent control functions to assess and respond to improper practices.



EXECUTION

Market Participants are expected to clearly communicate whether they are acting as an agent or principal for a client.¹⁴ They are required to manage orders and execute transactions in an orderly and transparent manner, taking into consideration the specific needs of each client's order.¹⁵ Market Participants are prohibited from using strategies that could cause artificial price movements in the FX Market. Additionally, they are required to promote transparency by publishing disclosures about their FX business, making it clear to clients that the transaction price includes any mark-up.¹⁶ This principle seeks to ensure that Market Participants achieve the following:

- properly communicating with the client regarding the nature of their relationship
- ensuring that transactions are conducted at prices or rates based on the prevailing market conditions at the time of the transaction
- providing relevant information to a Client before negotiating a client order;
- properly educating their Client on how orders are handled, prior to executing such orders, whether electronically or manually, as well as other factors that could affect the Client's bid; and
- establishing a transparent order execution policy clearly setting out information on how the Market Participant intends to provide prompt, fair and expeditious client service delivery.

9. Principle 3, paragraph 3.2, 3.3 & 3.4 of the FX Code

10. Principle 3, Paragraph 3.6, 3.7 & 3.9 of the FX Code

11. Principle 4 of the FX Code

12. Paragraph 5 of the FX Code

13. Principle 6, of the FX Code

14. Principle 8 & 9 of the FX Code

15. Principle 10 of the FX Code

16. Mark-up is the spread or charge that may be included in the final price of a transaction in order to compensate the Market Participant for risks taken, costs incurred, and services rendered to a Client.



INFORMATION SHARING

Market Participants are required to clearly identify and appropriately limit access to confidential information such as FX trading information and non-disclosure agreements except under specific circumstances.¹⁷ Market Participants are expected to properly guide their personnel on the appropriate modes of communication, without compromising confidential information. This principle seeks to achieve the following:

- Permitting the disclosure of confidential information to agents, trading platforms, and other Market Participants to the extent necessary for the execution of a transaction;
- Ensuring Market Participants are being mindful not to provide misleading information to protect confidential information as they are expected to decline answering questions that would put them in such situations.
- Ensuring Market Participants exercise a duty of care when providing information to clients about the status of their orders. This is especially important when there are multiple orders, to protect the interests of other Market Participants.¹⁸



RISK MANAGEMENT AND COMPLIANCE

Market Participants are required to set up internal risk management and compliance frameworks to identify, manage and report risks associated with the FX Market.¹⁹ This framework is to be designed in a manner that provides for:



a risk management function which analyzes and oversees risk taking activities;



an independent compliance function that ensures that the risk management is in accordance with applicable laws and standards whilst also providing for mechanisms in place to independently review the effect of and adherence of such risk management and compliance functions.



setting up adequate processes to manage risk exposures in the FX Market, while implementing contingency plans for unforeseeable market disruptions; and



accurate record of their market activity to facilitate transparency such as conducting know-your-customer (KYC) checks, thereby preventing unauthorized transactions and other criminal activities such as money laundering and terrorist financing.



CONFIRMATION AND SETTLEMENT

Market Participants are expected to establish robust frameworks aimed at monitoring trades in normal and peak conditions whilst ensuring that legal and other documents should be in line with operational procedures, particularly those verifying and settling trades, such as getting clearance from the CBN before conducting any novation, amendments, and/or cancellations of transactions. Market Participants are to ensure the review, and allocation of block transactions as well as identify and resolve confirmation and settlement discrepancies.²⁰

The Framework aims to achieve the following:

- the utilization of Standing Settlement Instructions (SSIs) by Market Participants to specify where a transaction will be settled after it has been executed
- To enable Market Participants request for direct payments whilst also ensuring that adequate mechanisms are put in place to manage funding and avoid problems in the settlement process;
- Enabling Market Participants to timeously reconcile accounts and identify settlement discrepancies and submit compensation claims.

17. Principle 17 & 18 of the FX Code

18. Principle 20.8 of the FX Code

19. Principles 22, 23 and 24 of the FX Code

20. Principle 39, 40, 42 & 45 of the FX Code

COMPLIANCE WITH THE FX CODE & REPORTING OBLIGATIONS

The FX Code is issued in exercise of the CBN's statutory powers granted under the CBN Act 2007 and BOFIA 2020, and all Market Participants are mandated to comply with the provisions of the FX Code. Therefore, Market Participants are required to conduct a self-assessment and submit to the CBN a report on the institution's level of compliance with the FX Code by January 31, 2025, after which all Market Participants are required to submit a detailed compliance implementation plan that is approved and signed by their Board along with the extracts of the Board meeting approving same, to the CBN.

Market Participants will be required to submit a quarterly report to the Financial Markets Department (FMD), on the level of compliance to the FX Code within 14 days after the end of every calendar quarter, with the first report due by March 31, 2025. Notably, the CBN may take appropriate enforcement and other administrative action including monetary penalties as provided for under the CBN Act 2007 and BOFIA 2020 against any Market Participant for failure to comply with the FX Code.

Notwithstanding this seemingly stringent approach, the FX Code contains a statement of commitment evincing the intention of the market participant to align its activities with the principle of the code, implying that the enforcement of the code has been left to the Market Participants, thus creating ambiguities as to the compliance strategy expected by Market Participants.

CONCLUSION

The Nigeria FX code recently launched by the CBN embodies crucial principles of transparency, efficiency, and professional conduct, aiming to foster a well-regulated and vibrant FX market. To effectively achieve these objectives, the FX Market activities must meticulously align with the Code's principles. It is important to note that while the code prescribes principles that should be adhered to, it is not intended to water down the effect of extant regulations on Foreign Exchange in Nigeria. This alignment is fundamental to mitigate systemic risks, and promote a more stable, vibrant, transparent, and efficient FX Market that supports Nigeria's economic growth.

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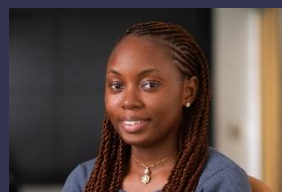
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