

THE
TRANSPARENCY
TASK FORCE

**Codes of Conduct & Codes of Ethics
in Financial Services**

White Paper prepared by the
Transparency Task Force
Market Integrity Team

Release date: 11 July 2018

CONTENTS

Executive Summary	page 3
Part I : Background and Approach	page 7
Part II : The Findings of the Codes Review	page 12
Part III : The Codes of Tomorrow	page 19
Appendices	page 23
Appendix 1 : Summary of Participants	page 23
Appendix 2 : The Results Summary	page 24
Appendix 3 : Participants' definitions of principles and values	page 27
Appendix 4 : TTF MIT FCA CP17/37 response	page 30
Appendix 5 : Research Document links listing	page 34
Appendix 6 : The BFO Oath	page 38
Appendix 7 : Codes of Ethical Business Practice	page 39

Ideas to Raise Levels of Professionalism Across the Financial Services Industry

Executive Summary

Background

The Market Integrity Team (MIT) of the Transparency Taskforce (TTF) was set up with the idea of constructively critiquing existing codes of conduct (or ethics) to establish how they can be used more effectively to influence positive behaviours across the Financial Services industry, so helping to enhance the culture of professionalism in financial services and improve the industry's reputation.

This White Paper is the output of the MIT's survey of participating organisations' codes, and consists of three parts:

- Background and approach
- the findings of the Codes Review
- the Codes of Tomorrow

Aims

The aim of the Code of Conduct survey/initiative is to have an honest conversation amongst participants about what an effective code looks like; what supporting documents and structures are needed; how the values within codes are supported within organisations; how adherence to values and standards is then monitored; and how breaches are dealt with.

By reviewing participants' codes through a process of assessment and self-assessment the intention is to get a deeper understanding of what an effective code contains, how it is presented to ensure that it acts as the foundation for positive behaviour, and how it is then embedded, monitored and enforced, and so to be able to offer suggestions of good (even best) practice.

The aim is that by going through this process participating organisations will take the opportunity to constructively critique their own codes against a common set of standards to identify gaps where/if they exist, relevant to their own organisation's approach.

The basic premise for the Codes initiative is that everyone who conducts financial transactions should behave more 'professionally' in the sense of aspiring to higher standards of behaviour and competence than required by regulation. The scope of this initiative is to look at ethics and standards of behaviour, rather than competence.

Codes of Conduct or Ethics

An ethical culture is created by the organisation's leaders who manifest their ethical values in their attitudes, behaviours and the formal and informal systems of the organisation.

The International Federation of Accountants provides the following working definition of a code:

"Principles, values, standards, or rules of behaviour that guide the decisions, procedures and systems of an organisation in a way that (a) contributes to the welfare of its key stakeholders, and (b) respects the rights of all constituents affected by its operations."

The MIT is therefore reviewing the role professional bodies, trade associations and standards boards (the Code making bodies, referred to as 'organisations') can play in strengthening individual accountability through codes of conduct (as opposed to professional standards or rules), i.e., Codes. The MIT identified areas of the market where individuals are not covered by a Code of Conduct at all, and welcomed the consultation from the Financial Conduct Authority, to review voluntary written codes of conduct for unregulated financial market activity by FCA authorised firms (CP17-37).

While codes will be individual to sectors and organisations the aim is to create a common set of standards to judge their effectiveness against. The intention is that resulting ideas on best practice will be encapsulated within a Publicly Accessible Specification (PAS) to be developed with the British Standards Institute.

Methodology

The initiative looked at voluntary codes which seek to raise the bar on standards over and above compulsory regulatory codes.

Seventy-four high-profile organisations were identified by MIT as being potential code-making bodies, with 88 percent contacted directly by the team and invited to participate in the Codes review over the period from July 2017 to February 2018.

The MIT identified thirty-one professional bodies, thirty-two trade bodies, five standards boards, and six observing bodies.

Over two-thirds (50) agreed to participate in the review.

In collaboration with participants a Question Bank was created to determine the elements that make up a good code, asking questions such as:

- Does a code exist?
 - If so does it apply at firm or individual level?
 - How is it constructed and used?
- What does the code cover?
 - Is it values or rules based?
- Do organisations act when things go wrong?

The MIT then requested that the participants self-assess their Code against the Question Bank via a secure and confidential internet connection. The questions and responses are shown in Appendix 2.

Ethical behaviour is the visible manifestation of underlying positive ethical values and beliefs that support the common good of society and best interests of individuals. Ethical behaviour is good for business and all stakeholders and involves demonstrating respect for key moral principles that include honesty, fairness, equality, dignity, diversity and individual rights.

Outcomes

Twenty-eight of the fifty participating organisations make their Codes freely and publicly accessible on-line via their website. Twelve organisations are seeking support in producing their own code. The remaining organisations may or may not have a Code.

Organisations that self-assessed their codes included a cross section of sectors of the industry. Of the third of publicly accessible code-makers that self-assessed their code against the Question Bank:

- Most included the key provisions expected in a quality Code;
- Fewer had succinct values-based codes, with some still adopting a 50+ page rule book;
- Fewer still showed evidence of effective training, monitoring of observance to the Code and its review.

The MIT recognised the huge progress made in some sectors, most notably the Banking Sector in the wake of the global banking crisis. Exemplary Codes and guidance have been put in place through the efforts of organisations such as the Chartered Banker Institute and the Chartered Banker Professional Standards Board.

While compulsory codes provide standards or rules of behaviour that might be considered the bare minimum for professionals, opportunities remain for further raising the bar.

The MIT concludes, in support of the many studies on this subject, and judging from the prevalence and contents of Codes across the financial services industry, that:

- The use of Codes to define an ethical environment or culture, and their effective implementation, needs to be part of a broader learning process that requires inculcation, reinforcement and measurement.
- Codes are more effective when they are values-based with guidance than multi-page rules-based documents.

The survey showed varying approaches to the way:

- Codes are drafted: Values based versus Rules based
- Codes are presented: Succinct, well-articulated, regularly updated, easily accessed and easily remembered versus long and legalistic, giving the impression of sitting outside a wider culture of ethics
- Codes are focused on protecting the spectrum of stakeholders versus protecting the reputation of the organisation.

Recommendations

This White Paper provides some insights into shortcomings on Codes but far more importantly, it goes on to consider solution-orientated ideas that may help to prevent unethical conduct in the financial services market; ideas include the need to:

- **Take a “whole system” approach to conduct risk, use the exemplary Codes and guidance recently developed in sectors such as banking, and apply the structures across the whole financial industry;**
- **Focus on the importance of identifying the true core ethical values of the organisation in order to provide a foundation for an effective Code**
- **Use a Publicly Accessible Specification (PAS) developed with the British Standards Institute, setting out procedures for creating an effective code, and overseeing its development, implementation, monitoring adherence to the Code, and its review;**

- **Take a fresh look at people risk, culture risk and conduct risk; individually and collectively; properly incorporate the “human capital” element to market behaviour; defeat the damaging culture of short-termism;**
- **Develop far more effective values-based, rather than rules-based, Codes, that are consistently embedded and observed, holding people accountable for failing to do so;**
- **Consider inculcation via Oaths, the introduction of Fiduciary Oaths and Fiduciary Standards for the sector;**
- **Apply a reminder system on Codes of Conduct, e.g. at renewal sign up;**
- **Aim to engage and inspire adherence to codes rather than a compliance approach.**

Conclusions

A well-designed ethics code should inspire and promote ethical values, and not just consist of a set of constraints, rules, and violations. It should focus on all stakeholders who are affected by the company’s objectives (employees, customers, suppliers¹, shareholders, as well as the community in which the organisation operates). It will also be supported by guidance, such as scenarios of common ethical dilemmas that employees may face, ethics training, and a system for feedback and questions.

Organisations that self-assessed their codes included a cross section of sectors of the industry. However the MIT would welcome more questionnaire responses on which to build its best practice recommendations, and this White Paper is a clarion call to all relevant organisations not yet included or actively participating.

Codes describe members’ responsibilities, based on a set of principles or values. Rules create obligations that members must follow.

“Give Tools not Rules”

¹ Most companies outside the financial services industry have separate Codes for Suppliers.

PART I: Background and Approach

Introduction

What do we mean by a Code?

A voluntary Code of Conduct or Ethics (Code) for a group or organisation is an agreed set of principles and rules of behaviour for the membership of that group or organisation. It helps to set a standard for the members so that they know what is expected of them when acting in their professional capacity.

The International Federation of Accountants² provided the following working definition:

"Principles, values, standards, or rules of behaviour that guide the decisions, procedures and systems of an organisation in a way that (a) contributes to the welfare of its key stakeholders, and (b) respects the rights of all constituents affected by its operations."

The Code describes the responsibilities that members have and are based on a set of principles or values. The rules create obligations that members must follow.

There will be additional guidance to the Code which sets out in detail member's obligations and generally reflects good ethical practice. It describes the procedure for the investigation of complaints and sets out the procedures for consultation, review, and approval of amendments to the Code in a separate document.

Voluntary and Compulsory Codes

Responsibilities under voluntary codes are separate from and additional to any obligations under compulsory codes set down by the regulators. Voluntary codes in general require a higher standard of professional conduct than compulsory codes. They seek to raise the bar on standards.

The Market Integrity Team (MIT) of the Transparency Task Force welcomed the consultation from the Financial Conduct Authority, to review voluntary written codes of conduct for unregulated financial market activity by FCA authorised firms (CP17-37). The consultation paper looks at formally recognising industry codes of conduct for Regulated Firms undertaking market activities not bound by the FCA's regulatory rules and principles. The intention is to put greater onus on senior managers to sign up to them.

The FCA comment; "This would place both firms and their staff under comparable obligations to observe proper standards of market conduct and help ensure we are clear about expectations of firms." That is FCA regulated firms, however signing up to industry codes would remain voluntary.

The MIT looked at a broader range of Codes, in that MIT considered voluntary codes of conduct for **regulated** and **unregulated** financial market activity by FCA authorised and non-authorised firms. The MIT support the recommendations made by the FCA in its consultation. The MIT response to CP17-37 is shown as Appendix 4 to this report.

History of Codes

Codes of Conduct as we know them today are largely the result of the implementation of the Foreign Corrupt Practices Act in the US in the late 1970's and the subsequent Federal Sentencing Guidelines. Some companies, such as Johnson & Johnson have long had "credos" or other principles laid down by their founders.

² <https://www.ifac.org/>

Codes that were written purely as a response to the expectations of regulators, as part of a compliance programme, frequently have proven to be inadequate. For example, Enron espoused core values and made compelling statements in its 64-page Code. The code would have been recognised at the time as setting out proper standards and providing a helpful explanation of proper standard of conduct. However, we now know how “ethically” many of their employees behaved. The Code was ignored and therefore unsuccessful in preventing poor behaviour.

The Codes of many financial institutions that engaged in subprime lending and packaging, selling, and investing in collateralized debt obligations involved in the global banking system crisis of 2008 contained similar lofty principles and inspirational statements.

In the year 2001, in the wake of the destruction brought about by the bursting of the dot-com bubble and the Enron accounting scandal, regulators and law makers enacted additional laws and other regulations that either encouraged or required companies to develop and adopt appropriate Codes. Despite the introduction of those corporate codes, by 2008 the global banking system faced a financial collapse.

The causes of the Global Financial Crisis are many and complex; but whatever caused it, one thing is certain – everybody would like to avoid having another one. The Crisis caused tremendous harm at an individual, societal, economic and political level. It was so severe that it caused many to question whether it proved that capitalism was fundamentally flawed.

Ten years on from the global fiscal crisis, it is a timely moment to reflect, refocus and reconsider how Codes have developed as an effective deterrent of unethical behaviour.

What was missing from Enron, and is currently lacking in many financial institutions, is the existence of an ethical culture and a sincere dedication to creating and maintaining that culture through a variety of means. According to numerous studies, having a Code without creating an ethical culture and a comprehensive ethics program is like having a Ferrari without wheels, i.e., it looks good, but you’re not going anywhere. A Code is a crucial step in establishing an effective inclusive culture. It is not a comprehensive solution on its own.

Professional Behaviour and Market Integrity

An ethical culture requires the organisation's leaders to manifest ethical values in their attitudes, behaviours and all of the systems and processes of the organisation. Those values and behaviours must be implemented throughout the organisation – not only at the top. Many other forces influence the existence of an ethical culture, outside the scope of this White Paper. However, it is apparent from studies of codes in the private sector that their effective implementation should be part of a learning process that requires training, consistent monitoring of observance to the Code, and its ongoing measurement and improvement.

Simply requiring members to read the code is insufficient to ensure that they understand it and will remember its contents, and act accordingly. Not all training appears to be effective either. Care needs to be taken to ensure training re-enforces ethical behaviours set out in codes,

One proof of the existence of an ethical culture and the effectiveness of a Code is when members feel comfortable enough to voice concerns and believe that the organisation will respond with appropriate action.

Why the Market Integrity Team was formed

Andy Agathangelou, TTF’s Founding Chair explained:

“The overall purpose of the Transparency Task Force is to drive up the levels of transparency in financial services for the benefit of consumers and to help repair the self-inflicted reputational

damage the sector has been suffering, for decades. It has become clear that many of the sector's failings have their root in a lack of market integrity, and that's a dangerous and systemic risk that needs to be mitigated. We want to shine a light on this issue in a constructive way, because it only takes a few 'rotten apples' for the well-being of the whole market to be damaged. We suspect there is ample room for improvement in how the sector manages out bad behaviour and that's why this is such an important development."

There's a ground-swell of ethically-led organisations that want to work together to drive positive change, in a manner that is complementary to and supportive of Regulatory developments. The Transparency Task Force launched the Market Integrity Team early in 2017; its work is all about raising standards of professionalism across the financial services industry.

The value and purposefulness of the Market Integrity Team's work has attracted dozens of volunteers from relevant professional bodies, trade associations and standards boards; all of whom are working together to carry out a review of existing Codes of Conduct with a view to defining and disseminating best practice.

At a time when litigation, fines and compensation payments are very much in the spotlight once again for the financial services industry, the Market Integrity Team of the Transparency Task Force has conducted an independent review of the Codes of Conduct of professional bodies, trade associations and standards boards, operating across the financial sector.

In general terms, the idea of the Code of Conduct initiative is to have an honest conversation amongst participants about whether codes can be used more effectively to positively influence behaviours – participants welcomed the opportunity to work collaboratively to constructively critique existing codes of conduct.

Background

Most organisations have a code of conduct, which is a statement of the organisation's values, and standards for proper behaviour that coincide with those values.

In August 2017, the Government response to the consultation on corporate governance reform reported that many respondents - including wider society bodies, law firms and companies themselves - stressed the importance of having a good company culture and a code of business conduct and ethics. Suggestions were made that the UK Corporate Governance Code could be amended to be explicit in expecting boards to set a company culture and to disclose whether it has a code of ethics.

In the United States, an increasing number of organisations began to adopt codes of conduct, starting with the FCPA and the Federal Sentencing Guidelines, followed by the Sarbanes-Oxley Act passed in 2002 when the NYSE and NASDAQ made them a requirement for public listing.

Codes of conduct identify and proscribe behaviour that may expose the organisation to legal liability and define and promote other ethical principles important to the organisation. By outlining specific bounds of acceptable conduct and providing guidance on how to address ethical issues that are likely to arise, a code of conduct makes ethical and legal principles more concrete for those it governs.

Since the fallout of the Global Financial Crisis, the reputation of the financial services industry has been on the back foot. Many people suffered financial and emotional distress at the hands of the industry, and those working within the sector must now repair the damage done to the reputation of their profession.

MIT approach

We are seeking to evaluate and identify poor/best practice in the sector and work together to identify gaps/contradictions in the views of the key stakeholders.

The end goal is to create a set of guidelines that identify 'best practice' and which can be used as a reference for the key stakeholders to consider when developing/updating their own codes.

It will be very difficult/impossible to create a 'one size fits all' code; and we think that would be the wrong approach anyway.

Given that each stakeholder in the industry looks at things from their own perspective, we are not trying to ensure that everyone has the same specific values. We would however comment that certain values e.g. integrity, honesty, treating customers fairly etc. should be acceptable to the vast majority of the industry's stakeholders.

One Code cannot be developed for the entire sector. For one thing, every institution has its own Code and it is right that it is so. A Code should be unique to the institution and built on the principles, values and culture of that institution. Organisations are encouraged to identify and develop their own principles and values, as the process of doing so is part of their cultural and strategic development. A strong ethical culture is a prerequisite for a sustainable business.

We are therefore reviewing the role professional bodies, trade associations and standards boards (the Code making bodies, referred to as 'organisations') can play in strengthening individual accountability through codes of conduct (not professional standards or rules), i.e., Codes. The Question Bank is designed to be completed by the Code making body.

The basic premise for the Codes initiative is that every individual who conducts financial transactions should behave 'professionally' in the sense of demonstrating exacting standards of behaviour and competence. The scope of this initiative is to look at ethics and standards of behaviour, rather than competence. Codes are key to supplementing the contribution of regulation in raising standards of professionalism.

There is a proliferation of different Codes across the sector that individuals must pay attention to, and doubtless much duplication and overlap. There are layers of Codes. Individuals may be subject to more than one Code, and occasionally this may result in conflicts when Codes collide.

Best practice suggests principles and values are identified and developed by urging the organisation's members to define the social purpose of the sector, identify their own principles and values using appropriate measuring tools and to participate in the cultural changes needed; inspiring members and individuals to look beyond profit and consider the needs of all stakeholders.

Our work is to identify exemplary Codes, i.e. best practice across the industry, and inform organisations on how Codes can be developed, and how adherence to Codes can be monitored to further increase customer assurance and confidence.

Methodology

With this in mind, the Market Integrity Team of the Transparency Task Force conducted a study of the Codes of Conduct of over 70 professional bodies, trade associations, and standards boards across the UK.

Seventy-four high-profile organisations were identified by MIT as being potential code-making bodies, with 88 percent contacted directly by the team and invited to participate in the Codes review over the period from July 2017 to February 2018.

The MIT identified thirty-one professional bodies, thirty-two trade bodies, five standards boards, and six observing bodies.

Over two-thirds (50) of the high-profile organisations agreed to participate in the review, with four organisations requesting specifically to be excluded from the review. The remaining twenty organisations failed to respond to invitations to participate.

Twenty-eight of the fifty organisations who agreed to participate in the review make their Codes freely and publicly accessible on-line via their website. Twelve organisations admitted to not having a Code. The remaining ten organisations may or may not have a Code.

The MIT created a Question Bank in collaboration with participants to determine what a good Code might look like. The MIT then requested that the participants self-assess their Code against the Question Bank via a secure and confidential internet connection.

Organisations that self-assessed their codes included a cross section of sectors of the industry. However the MIT would welcome more questionnaire responses on which to build its best practice recommendations, and this White Paper is a clarion call to all relevant organisations not yet included or actively participating to get on board with what is set to become a ground-breaking exercise.

The draft output of the Transparency Task Force review of codes was presented in the form of an early version of this White Paper at a special Transparency Symposium on 14th March, in London.

Part II outlines 'the findings of the Codes review', by considering the experience of the MIT in conducting the review against the backdrop of responses to the question bank.

Part III takes the key learnings from Part II and outlines ideas for 'the Codes of tomorrow', with specific recommendations that might improve upon the status quo.

The basic premise for the Codes initiative is that everyone who conducts financial transactions should behave 'professionally' in the sense of aspiring to higher standards of ethical behaviour and competence than regulation requires.

PART II: The Findings of the Codes Review

Introduction

How does the market enhance ethics and culture, and discipline itself? Undoubtedly, professional bodies, trade associations, and standards boards have an important part to play in strengthening individual and firm accountability through Codes of Conduct.

Professional standards go beyond regulatory requirements. Statutory Codes, i.e., regulations in isolation are insufficient, as the Regulator cannot police every person every minute of every day, demonstrated by the extensive list of scams and scandals over the years, from Maxwell to Madoff. Voluntary Codes and a focus on effective ethical cultures are key to supplementing the contribution of regulation in raising standards of professionalism.

It is clear that the bulk of the industry in the UK has recognised the need to raise levels of professionalism and the greater role professional bodies and trade associations must play.

Codes work effectively if there is the right kind of governance and culture within a firm. It appears from studies that values-based leadership delivers added benefits to all stakeholders. Reports that look at firms specifically on 'authenticity' often find that some firms have an impressive code of conduct, but their reputation is still undermined through behaviours.

As previously referred to an effective ethics policy should be driven from the top. The key to improving standards is not to simply have a Code on display in the lobby, but also to involve all leaders and managers in influencing behaviours – leading by example and to support this with training, monitoring and an open culture that learns from its mistakes. Codes should motivate professionals to aim to operate at their highest achievable standards. Our initiative has placed greater emphasis on ethics and culture than on technical competence and rules.

Our key question is how organisations are contributing to the enhancement of ethics and development of a culture of member firms, and/or the firms in which their professional members work using their code. We are also seeking to highlight instances of good and exemplary practice because there's a great deal of superb work being done by some of the organisations involved with the project, including some extremely impressive thought-leadership which we want to showcase.

The MIT asked questions such as:

- Are there any obvious gaps in what the Code covers?
- How seriously are they taken?
- When have they been used?
- Are breaches properly dealt with?
- Do they contain good practice that can be shared?

The MIT also tried to identify parts of the market where there are individuals not covered by a Code of Conduct at all. The MIT are very keen to make sure they don't replicate any work that's already being done.

The Question Bank is designed to cover:

Part A - Whether Codes are in place, and if so:

- How the Code has been constructed and is used
- Who the Code is for : firm or individual

Part B - What Codes cover:

- Do Codes support a unique set of principles (objective standards or rules) or values (subjective standards or rules)
- Asking participants to list all the principles and values which appear in their Code together with their definitions of each

Part C - How organisations act when things go wrong:

- Do organisations monitor activity to maximise adherence to their Code?
- Do organisations anticipate problems and intervene?
- Do organisations apply sanctions?

The response in respect of breaches of a Code is a vital component of its standing. If an organisation swiftly takes action against members breaching its code (in a proportionate way), then its code will stand in better stead than those that are not enforced.

The key issue is 3-fold:

1. Ensuring the obligations are set at the right level and are understandable;
2. Ensuring that action taken is proportionate to the breach;
3. Ensuring that action is taken and finalised swiftly, recognising that the more severe the sanctions are, the longer the process is likely to take (i.e. quasi-judicial + risk of reference to courts).

A code that is not monitored is unlikely to be taken seriously. Conversely a code that is too onerous and/or enforced in a draconian manner raises the risk of members leaving or the code simply being ignored. Too much of a tick box compliance approach will create cynicism and have the opposite effect from what is intended.

We are not saying that every organisation should have a 'regulatory' enforcement role but every organisation does need to have the mechanisms to implement its own code proportionate to its role in the industry. Professional discipline is a growing area of law and poorly drafted/monitored codes constitute a further reputational risk to the industry. Monitoring of adherence is a deterrent element that can be used to promote positive behaviours, but may not be the best way to achieve voluntary improvements in behaviour, for the benefit of all stakeholders.

The answer to the questions can be 'I strongly agree' if the spirit of the question is met even though a Code may use different terminology.

A key theme running through this initiative is public protection, making sure that this is at the forefront of an organisation's consideration as only through that, and the public's belief in that, will we improve the standing and trust in the financial services sector.

The Market Integrity Team of the Transparency Task Force is championing ethical practices: to enhance the culture of professionalism in financial services, for the benefit of all stakeholders.

Results

1. There are over 74 professional bodies, trade associations, standards boards, and observing organisations that represent the interest of firms or professionals operating in the UK financial services market, potentially code-makers. See Appendix 1.
2. These organisations have the potential to produce Codes, i.e., set *Principles, values, standards, or rules of behaviour that guide the decisions, procedures and systems of their membership in a way that (a) contributes to the welfare of their member's key stakeholders, and (b) respects the rights of all constituents affected by their member's operations.*
3. There were 32 Trade Bodies and Trade Associations, who have firms as members. These organisations represent the welfare of their members, but not necessarily the constituents effected by its members. In general, trade bodies and trade associations showed little appetite for participating in a review of Codes.
4. There were 31 professional bodies, who have individuals as members. It is generally expected that these organisations would benefit from having Codes in place. These organisations were in general keen to participate in the Codes review.
5. There were five standards boards that advise their members on standards and Codes.
6. There were six observing organisations, that have an interest in standards setting but do not have a membership of firms or individuals for which they have responsibilities for making Codes. They are nevertheless influencers in the market and could potentially have a part to play.
7. The MIT contacted 65 (88%) of the 74 identified organisations to invite them to participate in the Codes review, contact details were not readily available for the remaining organisations.
8. 50 (68%) organisations agreed to participate in the Codes review, 4 specifically requested to be excluded, the remaining 20 failed to respond to requests for inclusion.
9. 28 (38%) Codes were identified as published and freely available on the identified organisations website.
10. 12 (16%) organisations admitted to not having a Code, many welcoming the outputs of the MIT review to guide the creation of their own Code at some later date.
11. The MIT collaborated with participants to create a question bank to assess the Codes against generally accepted best practice. Appendix 2 shows the questions and responses.
12. From July 2017 to February 2018 organisations were invited to self-assess their Code against the Question Bank via a secure and confidential on-line portal developed and provided by Arc Benefits Limited at their own considerable expense. MIT would like to thank Arc Benefits Limited for use of this valuable facility. Each organisation was issued with secure personalised log-on credentials. No participant could see the results of other participants.

13. MIT provided instructions, video tutorials, and offered assistance to participants to aid completion. The exercise took no longer than one hour to complete for each participating organisation.
14. MIT extended the deadline for completion, appreciating that many participants had busy work schedules leading up to Christmas.
15. A review of the self-assessments identified that virtually all organisations had included the key provisions expected in a quality Code.
16. Fewer had succinct values-based codes, with some still adopting the rule book approach.
17. Fewer still showed evidence of effective training, monitoring of observance to the Code and its review.
18. The MIT conducted a review of a number of the remaining published Codes of non-respondents, and found these to vary significantly in standard, from being worthy of holding up as examples of good practice, to those which haven't been updated for a number of years and whose sole purpose seems to be to protect the organisation.
19. In general, exemplary Codes are outcomes-based and high-level, rather than rules-based and detailed.

Questionnaire Responses

The purpose of the Codes Review was not to judge individual codes, but to identify good practice. The results were analysed to identify areas that scored highly, recognise trends, and areas within codes that are commonly overlooked in order to be able to highlight best practice.

Interestingly, where codes were both self-assessed and assessed by MIT, organisations tended to score their own codes more harshly.

The table in Appendix 2 shows the full breakdown of responses - strongly agreeing/ agreeing/ neither agreeing or disagreeing/ disagreeing/ strongly disagreeing - for each of the forty five questions. This in no way implies that a “disagree” or “strongly disagree” response indicated a shortfall within an individual Code, where that response may be wholly applicable to that organisation.

An extract is shown below:

PART A - General	% Strongly Agree	% Agree	% Neither A nor D	% Disagree	% Strongly Disagree
1. Does the Code apply to an individual, such as a member (i.e. not a firm)?	70	10		10	10
2. Does the Code confirm that the individual has a duty to comply with all legal and regulatory requirements?	78	11	11		
3. Does the Code focus on outcomes, rather than rules?	56	44			
9. Did your organisation engage with members in developing the Code?	55	45			
10. Does the organisation have a formal review mechanism for its Code?	55	33		11	
12. Does the organisation provide good practice guidance to support the Code and assist individuals in meeting their obligations under the Code?	33	56		11	
13. Is the Code produced in a format that is brief, clear, and easily understood?	56	22	22		
14. Is the Code readily accessible and/or regularly communicated to relevant parties?	45	55			
PART B - Principles and Values	% Strongly Agree	% Agree	% Neither A nor D	% Disagree	% Strongly Disagree
15. Does the Code clearly convey the organisation's underlying principles and values?	56	33	11		
16. Does the Code convey the process for determining these principles and values for the organisation?		22	56	11	11
23. Does the Code require the individual to be alert to any actual or perceived conflicts of interest?	50	30			20
24. Does the Code require the individual to declare any conflicts of interest at the earliest possible opportunity to all parties that may be effected?	10	40	30		20

29. Does the Code require the individual to treat all client/customer information confidentially, considering the principles and values and legal caveats?	67	11	22		
30. Does the Code require the individual to place the principles and values before self-interest?	44	44	12		
32. Does the Code require the individual to act diligently and in accordance with applicable technical and professional standards when providing professional services?	56	33	11		
33. Does the Code require the individual to undertake continuous learning appropriate to relevant responsibilities to ensure the currency of knowledge, skills and expertise?	62.5	25	12.5		
34. Does the Code require the individual to decline to act in any matter about which the individual is not professionally competent unless the individual is able to access such advice and assistance that will enable the individual to carry out the work in a professional manner?	45	33	22		
PART C Disciplinary & Reporting Procedures	% Strongly Agree	% Agree	% Neither A nor D	% Disagree	% Strongly Disagree
35. Does the organisation have a policy on how it will deal with known breaches of its Code?	67	11	22		
36. Does the organisation have a practice for implementing the policy in a way that honours the principles and values of the organisation?	62.5	25	12.5		
37. Does the organisation have a policy that requires it to publicise known breaches of its Code in a proportionate manner depending on the severity of the breach?	25	12.5	50	12.5	
41. Does the organisation have a mechanism in its Code for 'whistle-blowing'?	12.5	12.5	25	25	25
42. Does the Code include a policy about non-retaliation for 'whistle-blowers'?		11	45	22	22
43. Has the organisation ever taken action against a member on the basis of a breach of code?	50	25	25		
44. Does the organisation have any monitoring in place to identify breaches?	25	37.5	12.5	25	

Key Findings

The key findings were as follows:

- **One-third of the organisations surveyed openly and freely publish a Code of Conduct on their website**
- **Of the third that did, one-third of organisations voluntarily provided a self-assessment of their Code against a Question Bank prepared by the Market Integrity Team in collaboration with participants**
- **Of the third of publicly accessible code-makers that self-assessed their code against the Question Bank:**
 - **Most included the key provisions expected in an effective Code**
 - **Fewer had succinct values-based codes, with some still adopting the 65-page rule book approach**
 - **Fewer still showed evidence of effective training, monitoring and review.**

The Market Integrity Team realised that whilst compulsory codes existed in regulated markets to provide some form of basic protection for key stakeholders and constituents affected by operations, not all markets are regulated.

Despite good progress in sectors such as banking, stakeholders and constituents still remain exposed to unacceptable levels of conduct risk in key areas ten years after the global banking crisis.

The MIT recognises that huge progress had been made in some sectors, most notably the Banking Sector in the wake of the global banking crisis. Exemplary Codes and guidance have been put in place through the sterling efforts of organisations such as the Chartered Banker Institute and the Chartered Banker Professional Standards Board.

Furthermore, the compulsory codes provide standards or rules of behaviour that might be considered the bare minimum for professionals. Opportunities remain for codes to further raise the bar.

The MIT finds, in support of the many studies on this subject, and judging from the prevalence and contents of Codes across the financial services industry, that the use of Codes to define an ethical environment or culture, and their effective implementation, must be as part of a broader learning process that requires inculcation, reinforcement and measurement.

It also concludes that Codes should be values-based with guidance, rather than complicated rules-based documents. The industry must realise that it cannot look solely to incomprehensible formal codes that sit on shelves to revive and sustain industry values and avert another global financial crisis.

This White Paper provides some necessary insights into shortcomings on Codes but far more importantly, it goes on to consider solution-orientated ideas that may help to prevent unethical conduct in the financial services market in PART III.

PART III: The Codes of Tomorrow

Introduction

An ethical culture within an organisation is created and fostered by top management (including the board of directors), who manifest their commitment to ethical practice through their attitudes and behaviour and the systems and processes of the organisation³. An ethical culture cannot be created where employees and other stakeholders perceive the company to be dishonest or unfair in its business dealings, or if they believe the company does not value or safeguard human lives. You can't have an ethical culture if employees don't feel comfortable discussing ethical issues or if unethical behaviour is not questioned.

Appendix 7 includes an extract from Chapter 14 of *Ethical Business Practice and Regulation: A Behavioural and Values-Based Approach to Compliance and Enforcement*, Hodges and Steinholtz, Hart Publishing 2017.

"Once they have been identified, an organisation needs to make its ethical mission and core values transparently available to all stakeholders. Everyone doing business on behalf of the organisation must know what is expected of them. Codes of ethical business practice or business principles are the cornerstone of an ethical approach; a unifying force for many policies and procedures that regulate different aspect of the organisation's ethical life. To be effective, the code must be founded on the company's values and developed in genuine consultation with employees rather than just rolled out from the headquarters. Codes must be visually attractive, carefully translated into all company languages, clear and concise and easy to access and read, fit the culture of the organisation in tone, look and feel, and be available in many formats. Developing a code internally in consultation with people throughout the organisation will ensure that it reflects the unique culture and risks it faces. It will also create a sense of ownership."

This introduces the thinking behind developing best practice and codes for organisations, based on their set of core values.

Therefore, the first step in positively influencing member behaviour must come from the top, be it a Professional Body, Trade Association, Organisation, or Limited Company board.

A comprehensive ethical program consists of:

- A genuine set of core ethical values - focusing on the importance of identifying the true core ethical values of the organisation in order to provide a foundation for an effective Code
- Development of an effective values-based, rather than rules-based, Code of Conduct, that is consistently embedded and observed, holding people accountable for failing to do so
- A well-designed easily accessible Code developed internally through extensive consultation
- The provision of guidance and tools for ethical decision making
- A system for obtaining advice and speaking up on ethical issues, and
- Training in the various areas covered by the Code.

³ McMillan, Michael. [*"Codes of Ethics: If You Adopt One, Will They Behave?"*](#). *Enterprising Investor: Practical analysis for investment professionals*.

A well-designed ethics code should inspire and promote ethical values, and not just consist of a set of constraints, rules, and violations. It should focus on all stakeholders who are affected by the company's objectives (employees, customers, suppliers, shareholders, as well as the community in which the organisation operates). It should also include short scenarios of common ethical dilemmas that employees may face and/or a list of questions that employees should ask themselves when faced with an ethical dilemma, such as:

- Is it legal and ethical?
- Is it consistent with company policy and the company code of conduct?
- Can I explain it to my family and friends?
- Would I be comfortable if it appeared in the newspaper?

Employees also need a way to voice their issues and concerns, such as a hotline they can use to seek advice on ethical issues or to raise concerns about questionable behaviour. Ethics training should also be an integral part of the program because it helps reinforce and embed the company's values and norms. In addition, ethics training should not only involve new employees, it should be conducted on a regular basis with all employees to raise awareness and sensitivity to ethical issues. The practical application of ethics in the workplace is something that managers can't afford to take on blind faith.

In summary, an ethics code is like a marriage license: unless the participants make a serious commitment, it is only a piece of paper. It is ideal for even the smallest of companies to form a document containing vital information on expectations for employees. The document does not need to be complex or have elaborate policies, but the guidance needs to explain simply what the organisation expects from each member.

Key Recommendations

Solution-orientated ideas that may help to prevent unethical conduct in the financial services market include the need to:

- Take a "whole system" approach to conduct risk, use the exemplary Codes and guidance recently developed in sectors such as banking, and apply the structure across the whole financial industry
- Focus on the importance of identifying the true core ethical values of the organisation in order to provide a foundation for an effective Code
- Develop a Publicly Accessible Specification (PAS) with the British Standards Institute, setting out procedures for creating a quality code, and overseeing its development, implementation, monitoring, adherence, and review
- Take a fresh look at people risk, culture risk and conduct risk; individually and collectively; properly incorporate the "human capital" element to market behaviour; defeat the damaging culture of short-termism
- Develop far more effective values-based, rather than rules-based, Codes of Conduct, that are consistently embedded and observed, holding people accountable for failing to do so
- Consider inculcation via Oaths, the introduction of Fiduciary Oaths and Fiduciary Standards for the sector wherever such an approach would be relevant

- Apply a reminder system on Codes of Conduct, e.g. at renewal sign up
- Aim to engage and inspire adherence to codes rather than taking a compliance approach

We do not believe that the above list is exhaustive in any way. The list has been compiled by the MIT over several months in the course of its Codes review, and we are sure that there are more conduct risks that need addressing. Furthermore, beyond what can be readily identified there are always the “unknown unknowns” that could catch every observer by complete surprise. There is much to be done.

MIT is looking at the viability of producing a Publicly Accessible Specification (Code) around the framework of a Code. Such a PAS would describe the **process** of building and tailoring a unique Code for an organisation’s specific set of principles and values, and it can be used as a benchmark against which existing Codes can be compared and refined. A PAS could provide input to relevant discussions, decision making and choice of the right course of action. The PAS is a process, not a prescriptive Code.

Once the MIT has done what they can with this initiative in the UK, we may look to see which organisations want to collaborate on a similar project overseas.

An Oath exists in other global markets, and is founded on a shared belief in the inherent ‘good’ of the banking and finance industry, for example, the Banking and Finance Oath in Australia – see <http://www.thebfo.org/About-us> or Appendix 6 to this White Paper.

Boards must set the example for management and executives to follow. Individuals within the system should no longer be rewarded for behaviour that hurts others and damages society overall, and society should aspire to depending upon the honesty and ethics of the industry.

New Codes of Conduct should change the standard of professionalism to being values-based rather than rules-based; and Codes need to be monitored and encouraged. Conduct which falls below the espoused values should be publicised (Oxfam springs to mind). Transparency and light are a great disinfectant!

We should debate the introduction of **Fiduciary oaths and standards**⁴ that move the default setting from arms-length to fiduciary, as introduced in a number of UK and overseas banking organisations. Such standards could help to change the professional self-identity of people working in the financial services industry, which itself has been a key contributor to financial instability through the culture that has flowed from that identification.⁵

⁴ The Committee for the Fiduciary Standard formed in May 2009 to advocate for the authentic fiduciary standard as established under the Investment Advisers Act of 1940. The Committee seeks to help inform and nurture a public discussion on the fiduciary standard. See <http://www.thefiduciarystandard.org/fiduciary-oath/>

⁵ *Business culture and dishonesty in the banking industry*, 2014 <http://www.nature.com/articles/nature13977>

Conclusion and next steps

The ultimate purpose of the Transparency Task Force's Market Integrity Team is to influence professional bodies, trade associations and standards boards to develop and promote Codes and associated guidance that align with the raising of levels of professionalism across the financial services industry and thereby help mitigate the risk of future misconduct.

The preparation of this White Paper has proven to be a significant first step in gauging levels of interest in and support for a Publicly Accessible Specification and the inculcation of Codes via Oaths.

MIT believe that more can be done to mitigate the risk of unethical conduct in financial services, and we therefore believe the Paper has merit as a thought-provoking discussion document.

The MIT Management team comprises Steve Conley, Bob Compton of ARC Benefits, and David Stripp.

They would like to thank all the participants that have contributed to this first step, without their help and guidance this paper would not have seen the light of day! If you would like to comment on this White Paper, contribute relevant material, add to our database by completing a questionnaire on behalf of your organisation, or join the team, please email mit@transparencytf.org

Appendices

Appendix 1

The Transparency Task Force: Market Integrity Team

Codes of Conduct Initiative: Summary of Participants

Airmic	CISI
An Economy that Works	Consumer Finance Association
APCC	Council of Mortgage Lenders
APFA	David Stripp Consulting
ARC Benefits Limited	EIS Association
AreteWork LLP	Hedge Funds Standards Board
Association for Financial Markets in Europe	ICAEW
Association of Accounting Technicians	Institute of Financial Accountants
Association of British Credit Unions	Institute and Faculty of Actuaries
Association of British Insurers	Investments and Life Assurance Group
Association of Chartered Certified Accountants	Loan Standards Board
Association of Corporate Treasurers	Mercer
Association of Financial Mutuals	New Fund Order Consulting/Association of Professional Fund Investors
Association of International Accountants	OMS LLP
Association of Mortgage Intermediaries	Pensions Management Institute
Banking Standards Board	Professional Partnerships
BCCA	Remuneration Consultants Group
British Bankers' Association	Seven Pillars Institute for Global Finance and Ethics
BSI	Simplified Money Ltd
Building Societies Association	Society of Trust & Estate Practitioners
CFA Institute	Substantive Research Ltd
Chartered Banker Institute	The Debt Resolution Foundation
Chartered Banker Professional Standards Board	The International Underwriting Association of London
Chartered Institute of Credit Management	The Investment Association
Chartered Institute of Loss Adjusters	TISA
Chartered Institute of Payroll Professionals	Transparency Task Force
Chartered Institute of Taxation and Association of Taxation Technicians	UK Accreditation Service
Chartered Institute of Public Finance Accounting	UK Sustainable Investment and Finance Association
CII	Values Based Adviser
	Wholesale Markets Brokers' Association

Appendix 2

The results summary:

PART A - General	% Strongly Agree	% Agree	% Neither A nor D	% Disagree	% Strongly Disagree
1. Does the Code apply to an individual, such as a member (i.e. not a firm)?	70	10		10	10
2. Does the Code confirm that the individual has a duty to comply with all legal and regulatory requirements?	78	11	11		
3. Does the Code focus on outcomes, rather than rules, i.e. can the Code be described as principles-based and high level, rather than rules-based and detailed?	56	44			
4. Does the Code clearly convey its relevant stakeholders who may be impacted by the individual's actions; such as client, market, industry, and regulator?	35	45	10	10	
5. Does the Code have any entry requirements?	37.5	25	12.5	12.5	12.5
6. Does the organisation take steps to ensure that members are aware of, and have read, the Code?	62.5	25	12.5		
7. Does the Code instruct the individual to refer to the Code for guidance when uncertain about the appropriateness of an action?	11	56	22		
8. Does the Code instruct the individual, where relevant, to refer to the higher standard, and if necessary the client contract, when coping with conflicts on multiple Codes?	0	33	45	22	
9. Did your organisation engage with members in developing the Code?	55	45			
10. Does the organisation have a formal review mechanism for its Code?	55	33		11	
11. Does the organisation oversee or monitor its Code?	33	56	11		
12. Does the organisation provide good practice guidance to support the Code and assist individuals in meeting their obligations under the Code?	33	56		11	
13. Is the Code produced in a format that is brief, clear, and easily understood?	56	22	22		
14. Is the Code readily accessible and/or regularly communicated to relevant parties?	45	55			
PART B - Principles and Values	% Strongly Agree	% Agree	% Neither A nor D	% Disagree	% Strongly Disagree
15. Does the Code clearly convey the organisation's underlying principles and values?	56	33	11		
16. Does the Code convey the process for determining these principles and values for the organisation?		22	56	11	11

17. If so, does the Code confirm that the individual has a duty to honour those underlying principles and values?	37.5	37.5		12.5	12.5
18. If so, does the Code clearly convey that the individual has a duty to honour those underlying principles and values over and above all legal and regulatory requirements?	20	30	20	10	20
19. Does the Code clearly convey the behaviour expected by the individual in complying with its underlying principles and values?	56	33			
20. Does the Code instruct the individual on how to balance one set of principles and values, with another? For example, an obligation to act openly or transparently needs to be considered in the context of duty of confidentiality.	25	50	25		
21. Does the Code require the individual to periodically review their decision-making practices to ensure that the principles and values of the organisation are fully honoured in practice, for both internal and operational decisions, and customer service decisions?	11	22	45	11	11
22. Have you listed all of the core principles and values included in your Codes in the table?					
23. Does the Code require the individual to be alert to any actual or perceived conflicts of interest?	50	30			20
24. Does the Code require the individual to declare any conflicts of interest at the earliest possible opportunity to all parties that may be effected?	10	40	30		20
25. Does the Code require the individual to manage conflicts on a risk-based basis?	20	20	40		20
26. Does the Code require the individual to be objective, that is alert to any actual (or potentially perceived) bias or undue influence of others?	20	50	10		20
27. Does the Code not allow bias or undue influence of others to override professional and business judgements?	33	56			11
28. Does the Code require the individual to properly screen and deal with the offer of gifts, services, or hospitality, that might 'appear to' affect professional and business judgements?	11	45	33		11
29. Does the Code require the individual to treat all client/customer information confidentially, considering the principles and values and legal caveats?	67	11	22		
30. Does the Code require the individual to place the principles and values before self-interest? For example, when seeking profits have regard to the principles and values, the interest of colleagues, and the need to foster relationships with clients?	44	44	12		
31. Does the Code require the individual to attain and actively manage a level of professional competence appropriate to relevant responsibilities?	78	22			

32. Does the Code require the individual to act diligently and in accordance with applicable technical and professional standards when providing professional services?	56	33	11		
33. Does the Code require the individual to undertake continuous learning appropriate to relevant responsibilities to ensure the currency of knowledge, skills and expertise?	62.5	25	12.5		
34. Does the Code require the individual to decline to act in any matter about which the individual is not professionally competent unless the individual is able to access such advice and assistance that will enable the individual to carry out the work in a professional manner?	45	33	22		
PART C Disciplinary & Reporting Procedures	% Strongly Agree	% Agree	% Neither A nor D	% Disagree	% Strongly Disagree
35. Does the organisation have a policy on how it will deal with known breaches of its Code?	67	11	22		
36. Does the organisation have a practice for implementing the policy in a way that honours the principles and values of the organisation?	62.5	25	12.5		
37. Does the organisation have a policy that requires it to publicise known breaches of its Code in a proportionate manner depending on the severity of the breach?	25	12.5	50	12.5	
38. Does the organisation have a policy that requires it to penalise an individual when a breach is committed in a proportionate manner depending on the severity of the breach?	50	25	12.5	12.5	
39. Does the organisation have a policy that enables it to permanently exclude from its membership any individual that commits a serious breach of its Code?	78	11	11		
40. Does the organisation have a policy in its Code that requires it to report to the key regulators in the industry e.g. FCA and PRA, serious misconduct?	22	22	22	12	22
41. Does the organisation have a mechanism in its Code for 'whistle-blowing'?	12.5	12.5	25	25	25
42. Does the Code include a policy about non-retaliation for 'whistle-blowers'?		11	45	22	22
43. Has the organisation ever taken action against a member on the basis of a breach of code?	50	25	25		
44. Does the organisation have any monitoring in place to identify breaches?	25	37.5	12.5	25	
45. Does the organisation have an Oath?			10	50	40

Appendix 3

Principle or Value	Your definitions of each principle or value
Competence	A Member shall at all times perform competent work for his or her client. Competent work requires the knowledge, skill, thoroughness and preparation reasonably necessary to perform the work, as well as performing the work conscientiously and diligently in a timely and cost-effective manner.
	Ensure have appropriate level of relevant knowledge and skill to carry out a piece of work.
Compliance	Being open and cooperative with the regulators; complying with all current regulatory and legal requirements.
Confidentiality	Treating information with appropriate confidentiality and sensitivity
	Respect confidential information from any source and not use such information for personal or professional advantage
	In general terms, there is a legal obligation to maintain the confidentiality of information which is given or obtained in circumstances giving rise to a duty of confidentiality. There are some situations where the law allows a breach of this duty.
	Respect confidential information from any source and not use such information for personal or professional advantage
	To observe the standards of market integrity, good practice, conduct and confidentiality required or expected of participants in markets when engaging in any form of market dealings.
	A Member owes a duty to hold in strict confidence all information the Member has acquired concerning the business and affairs of the Member's client in the course of the Member's professional relationship, and must not disclose such information in any way without the client's consent, unless required by law or because there is a professional obligation to disclose.
	The duty of confidentiality outlasts the professional relationship and continues indefinitely after a Member has ceased to act for a client.
Courtesy	Conduct themselves with courtesy and consideration towards all persons with whom they come into contact in the course of their professional work
	Conduct themselves with courtesy and consideration towards all persons with whom they come into contact in the course of their professional work
Diligence	Developing and maintaining their professional knowledge and acting with due skill, care and diligence; considering the risks and implications of their actions and advice, and holding themselves accountable for them and their impact.
Duty of Care	A Member shall ensure that all rules relating to the preservation and safekeeping of client property are adhered to, and shall exercise care for his or her client's property as a careful and prudent owner would in dealing with like property.

Encouragement	encourage others to attain their professional qualification and support their development
Fairness	Paying due regard to the interests of customers and treating them fairly
	treat people fairly which means observing equality and diversity laws, challenging and reporting unlawful or unfair discrimination and, where possible, adapting facilities to accommodate customers with disabilities or specific requirements
	Treat people fairly, which means observing equality and diversity laws, challenging and reporting unlawful or unfair discrimination and, where possible, adapting facilities to accommodate customers with disabilities or specific requirements
	Have I made sure that my action or decision will not result in any party being unknowingly disadvantaged or unduly advantaged?
Honesty	Acting in an honest and trustworthy manner, being alert to and managing potential conflicts of interest
	Honesty: positive and virtuous attributes such as integrity, truthfulness, straightforwardness, including straightforwardness of conduct, along with the absence of lying, cheating, theft. Being trustworthy, loyal, fair, and sincere.
	Have I been truthful about my action or decision with everyone involved, and told no lies or 'half-truths'?
	A Member shall be honest in the performance of his or her professional work and shall not knowingly provide information or make any statement which is false or misleading or engage in false or misleading conduct. A Member shall decline to act and shall withdraw his or her representation if he or she knows, or has reasonable grounds to suspect, that carrying out his or her client's instructions would involve assisting in an illegal activity.
Impartiality	Do not allow bias, conflicts of interest or the undue influence of others to override professional judgement. Do not act where there is an unreconciled conflict of interest.
	Behave in a manner consistent with the obligation to act impartially
Independence	Members who, in particular situations, describe the advice or services they offer as independent, where the use of the word independent is not defined by regulation or law, must be free and seen to be free of any influence which might limit or affect the content or scope of their advice or services.
Integrity	Treating all customers, colleagues and counter-parties with respect and acting with integrity.
	The principle of integrity imposes an obligation on all members to be straightforward and honest in professional and business relationships. Integrity also implies fair dealing and truthfulness.
	The quality of being honest and displaying strong moral values.
	Rule 4 states discharge obligations faithfully & with Integrity, but does not define.

	To act with integrity in fulfilling the responsibilities of your appointment and seek to avoid any acts, omissions or business practices which damage the reputation of your organisation or the financial services industry.
	Integrity - to be straightforward and honest in all professional and business relationships
	Act honestly and with integrity. Show respect for others. Respect confidentiality.
Objectivity	The principle of objectivity imposes an obligation on all members not to compromise their professional or business judgement because of bias, conflict of interest or the undue influence of others.
	Acting objectively in all work they undertake
	A Member shall provide objective advice and exercise independent professional judgment. A Member should not permit his or her independence, objectivity or integrity to be compromised.
Openness	Is everyone affected by my action or decision aware of the consequences?
Professional Behaviour	The principle of professional behaviour imposes an obligation on members to comply with relevant laws and regulations and avoid any action that may bring disrepute to the profession. This includes actions which a reasonable and informed third party, having knowledge of all relevant information, would conclude negatively affect the good reputation of the profession. Members should note that conduct reflecting adversely on the reputation of AAT is a ground for disciplinary action under XXX's Disciplinary Regulations
Professional Competence and due care	The principle of professional competence and due care imposes the following obligations on members: to maintain professional knowledge and skill at the level required to ensure that clients or employers receive competent professional service and to act diligently in accordance with applicable technical and professional standards when providing professional services.
Professionalism	Observing and demonstrating proper standards of market conduct at all times
	1, conducting their professional work with proper regard to the technical and professional standards expected of them 2, ensure that it is clear that they are professionally responsible for any advice which they give or services which they provide and that they can be identified as the source of the advice or services
	To strive to uphold the highest personal and professional standards at all times.
Teamwork	Where appropriate, demonstrate a willingness to work as part of a team and not in isolation
Transparency	Have I been clear and not misleading to any party involved in reaching my decision?

Appendix 4

TTF MIT FCA CP17/37 response

From: mit@transparencytf.org [<mailto:mit@transparencytf.org>]
Sent: 04 February 2018 14:12
To: cp17-37@fca.org.uk
Cc: andy.agathangelou@transparencytaskforce.org; bob.compton@arcbenefits.co.uk; david@davidstripp.com
Subject: CP17/37 Response

Dear Daniel Measor,

This response is NOT confidential.

Please find below the response on the Market Integrity Team of the Transparency Taskforce to CP17/37.

Please also find attached an explanation of the Market Integrity Team's review of Codes of Conduct across the financial industry, together with our methodology for reviewing voluntary codes - explanation of methodology and example questions.

The MIT would be more than happy to share our preliminary findings with the FCA if that would be helpful. We would be more than delighted to meet with you at your convenience to discuss our findings.

The MIT response to consultation is as follows:

[MIT Response to CP17-37](#)

The Market Integrity Team of the Transparency Taskforce (MIT) is a campaigning collaborative community of industry volunteers seeking to raise standards and levels of professionalism across the financial services industry.

MIT has identified a tapestry of voluntary and compulsory codes across the market. In some sectors both voluntary and compulsory codes apply, in other sectors there are no codes whatsoever.

Q1: Do you think we have been sufficiently clear about how we will view industry codes of conduct in our regulatory activities, including supervision and enforcement? If not, what further questions do you have about our general approach?

Yes

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

Voluntary codes should also be recognised where the sector is already covered by binding regulatory codes, with the proviso that the regulatory rules take precedence and the provisions do not contradict, contravene, or mislead.

Voluntary codes raise standards where there are no current regulatory requirements.

Voluntary codes also serve a useful purpose in regulated as well as unregulated markets. Voluntary codes seek to raise standards above the bare minimum set by compulsory codes. For example, the Chartered Insurance Institute has a framework through its Code of Conduct to raise standards of conduct to levels higher than those set by the formal and binding regulatory rules and principles set by the FCA.

The MIT would wish to see the FCA encourage the raising of professional standards across the financial industry above and beyond the minimum laid down by regulatory rule books. For example, the MIT would wish to see provisions included in Codes for the protection of whistleblowers.

The MIT would wish to see 'Recognition' extended to all voluntary codes, not just those covering unregulated markets.

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

The MIT agree with the FCA that rules should not sit-on-the-shelf but should be read and taken seriously and followed at firm and individual level. The MIT looked at three areas when reviewing voluntary codes:

- Was the code sufficiently comprehensive?
- Whether it was rule-based or principle-based (rule-based codes tended to extend to several hundred pages and sit on the shelf),
- Whether there is supervision and enforcement

The MIT work reviewing Codes of conduct in financial Services, has identified interpretation of code clauses can often be subjective.

The experience the MIT has had in evaluating codes has led to different responses based on varying interpretations of the code.

An example relates to assessment of a code (1) by the organisation that produced it; (2) by a member of the organisation who knows the code itself but also the practices of the organisation and its rule book; and (3) by someone with no previous association with the organisation or its code. The assessment of the effectiveness of the code by each was markedly different.

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.

Yes

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

Yes

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

Yes, the MIT agree with the criteria proposed. MIT strongly supports the proposals for taking on board views of stakeholders, public consultation, and public accessibility free of charge. We would add to this was the code sufficiently comprehensive, was it values-based (i.e. memorable and understood), was it monitored, enforced, and are breaches publicised.

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.

Yes

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

The criteria quoted in 3.12 (and 5.12 – 5.14) for evaluating a code are very high level and subjective.

While Codes of Conduct or Ethics are generally high level, behavioural, and succinct – two to three pages as a stand-alone document or a similar number of pages within a rule or handbook - judging their effectiveness based on reading the code in isolation can be difficult. (5.9 our recognition of a code would only cover the document itself, and not further interpretive guidance.....)

MIT has been conducting a review of codes based on a questionnaire to evaluate their effectiveness.

The experience the MIT has had in evaluating codes has led to different responses based on varying interpretations of the code.

An example relates to assessment of a code (1) by the organisation that produced it; (2) by a member of the organisation who knows the code itself but also the practices of the organisation and its rule book; and (3) by someone with no previous association with the organisation or its code. The assessment of the effectiveness of the code by each was markedly different.

The concern is not only the basis on which codes will be evaluated in order to attain a degree of consistency, but also to gain a view on how they will be followed up, and what measures are in place within an organisation to enforce the code.

Examples have been quoted of very well written and comprehensive codes within organisations whose members have been responsible for some of the worst misdemeanors.

The view is that while codes of conduct/ethics should be values based, easily understood and succinct, it begs the question of whether a code can stand alone without a handbook, rule book or supporting document if it does not cover enforcement.

The results of the MIT work to date show a number of areas that scored highly: Do Codes exist? For whom; firm or individual? And, if so, how is the Code constructed and used? (Part A)

And others which didn't - What do Codes cover? Do Codes support a unique set of principles (objective standards or rules) or values (subjective standards or rules)? Please list all the principles and values which appear in the Code together with the definitions of each. (Part B) • Do organisations act when things go wrong? Do organisations monitor activity to maximise compliance? Do organisations anticipate problems and intervene? (Part C)

The MIT would be pleased to share findings of our research with the FCA.
The MIT agree with the other benefits and challenges set out in the paper.

Benefits		Challenges
FCA Authorised Firms	Improve standards in non-regulated activities. Fewer regulatory fines and efforts to reform, less damage to reputation, market positions and loss of confidence.	Cost

Clarity about the status of industry-written codes and the application of certain FCA rules and requirements

FCA	Meeting FCA's statutory objectives, including that financial markets work well for consumers, the fair and effective operation of those markets and the avoidance of harm.	Cost of reviewing industry codes against the assessment criteria consulted upon in this consultation and engaging with code authors
Financial Markets	Fair & effective markets Increase consumer confidence in FS industry	

Appendix 5

Library of Documents Submitted to the ARC Library

Consultation Paper on Industry Codes of Conduct and Discussion Paper on FCA Principle 5
MIT Response to FCA CP17/37
PMI Code of Conduct

List of web links:

Category: About Us

[Maturity Institute](#) Pension funds must choose the right investor metrics for human capital

[TTF MIT webpage](#)

Category: Similar Projects

[Australian Banking and Finance Oath](#) For information

[BSB Annual Review 2016-17](#) Our annual assessment provides our member firms with an independent view of their approach to culture, competence and behaviour. It provides a relative (to other firms) and actual assessment of a firm in relation to nine core elements that we would associate with a good culture.

[BSB Consultation](#) the Banking Standards Board consultation that opened on 13/07/17 and closes on 29/09/17

[BSB Consultation on Fitness and Propriety](#) Consultation on the approach to fitness and propriety assessments under the Certification Regime

[BSB Professionalism in Banking](#) Banking Standards Board is seeking to raise standards in the banking industry.

[BSB Research on Professionalism](#) An independent report commissioned by the Banking Standards Board (BSB)

[BSB Statement of Good Practice](#) BSB publish good practice guidance with the aim of helping firms to raise standards of behaviour and competence

[CFA Code of Ethics & Standards of Professional Conduct](#) This is the Code of Ethics & Standards of Professional Conduct which every CFA Institute member or CFA Program candidate is required to follow.

[CFA Institute Professional Conduct Program](#) link to the public webpage that CFA Institute maintains regarding the CFA Institute Professional Conduct Program

[CII Study on Ethics Financial Regulators targeting individuals not companies](#) Sian Fisher from CII provided the link: Study on ethics Financial regulators across the globe are cracking down heavily on cases of individual misconduct, according to the 5th annual Global Enforcement Review published by the Compliance and Regulatory Consulting Practice of Duff & Phelps.

[ICAEW Code of Ethics](#) Link to web page which includes a summary of the background and aims of the code, as well as links to the code itself and various sections of it.

ICAEW Paper on ethics in organisations	You will see that codes of conduct are a part of the equation, but only part, and need to be backed up with enforcement.
ICAEW Real Integrity Report	Summarises a major research project considering how organisations can encourage integrity.
ICAEW Reporting with Integrity Report	There is some interesting commentary on page 27 regarding the role of professional bodies.
IDEA Centre University of Leeds	Worked with BSB regarding ethics
PARN Chartered Body Alliance Launched	PARN press announcement on the Chartered Alliance initiative
Professional Standards Council of Australia	There might be some interesting learning that you (MIT) could bring to your own work. A brief synopsis of what they do is as follows: We are the independent statutory bodies responsible for promoting professional standards and consumer protection. We do this through thought leadership and education, and the approval, monitoring and enforcing of Professional Standards Schemes.
Professional Standards Scheme Australia	We are the independent statutory bodies responsible for promoting professional standards and consumer protection. We do this through thought leadership and education, and the approval, monitoring and enforcing of Professional Standards Schemes.
UK Standard for Professional Engineering Competence (UK-SPEC)	To see how the engineering profession sets standards.

In 2016, the Banking Standards Board commissioned some research from the University of Leeds on the role of professional bodies and professional qualifications in banking. The main finding was that there is potential for professional bodies to contribute significantly to high standards of technical competence and ethical behaviour but that in order to do that a number of key challenges need to be addressed. The report was published in October 2017 and is available here:

<http://www.bankingstandardsboard.org.uk/wp-content/uploads/2016/10/160928-Professionalism-in-banking-publication-FINAL-WEB.pdf>

BSB advised the following:

“I wanted to clarify the BSB’s role as I think this will explain why we don’t have a code of conduct.

We are a voluntary body, funded by our members, with the remit of helping banks and building societies to raise standards of behaviour and competence. The way we do this is through two main facets; our annual assessment exercise and through our policy work.

Our annual assessment provides our member firms with an independent view of their approach to culture, competence and behaviour. It provides a relative (to other firms) and actual assessment of a firm in relation to nine core elements that we would associate with a good culture. The output of which can be seen in our [annual review](#) which we published in March 2017.

Our policy work then consists of three main areas; research, proposals and good practice guidance. We undertake research that is informed by the outputs of our annual assessment and by key developments in the industry (eg the research we commissioned on [professionalism](#) last year). We develop proposals for industry consideration (eg the

[consultation](#) we ran in the summer of 2016 on the approach to fitness and propriety assessments under the Certification Regime). We develop (in conjunction with our members and other key stakeholders) and publish good practice guidance with the aim of helping firms to raise standards of behaviour and competence (eg the [statement of good practice](#) and supporting guidance we published in February 2017 on the Certification Regime). We don't monitor or enforce these statements of good practice, rather they are intended to be facilitative and will evolve over time. As such the BSB doesn't have a code of conduct."

Chartered Banker Professional Standard Board (CB:PSB) - <http://www.cbpsb.org/code/>

Other resources:

Are you aware of the work of the [Professional Standards Councils in Australia](#)? There might be some interesting learning that you could bring to your own work. A brief synopsis of what they do is as follows:

We are the independent statutory bodies responsible for promoting professional standards and consumer protection. We do this through thought leadership and education, and the approval, monitoring and enforcing of [Professional Standards Schemes](#).

Attached is a link to the public webpage that CFA Institute maintains regarding the CFA Institute Professional Conduct Program, you will note another link there to sanctions and statistics which you may find interesting.

<https://www.cfainstitute.org/ethics/conduct/Pages/index.aspx> .

I also attach a link to the Code of Ethics & Standards of Professional Conduct which every CFA Institute member or CFA Program candidate is required to follow.

<https://www.cfainstitute.org/ethics/codes/ethics/Pages/index.aspx> .

Finally I include a link to an article I think you will enjoy but which also contains many links to other resources relating to codes, conduct and ethics.

<https://blogs.cfainstitute.org/investor/2012/02/20/codes-of-ethics-if-you-adopt-one-will-they-behave/>

CII Study on ethics:

http://www.cii.co.uk/media/7391800/good_leadership_culture_and_leadership_ciiandcmi.pdf

PARN have a helpful website (<https://www.parnglobal.com/about/staff-at-parn/andy-friedman-ceo>)

BoE Code:

<http://www.bankofengland.co.uk/markets/Documents/money/code/ukmoneymarketscode.pdf>

ICAEW:

Our paper, based on academic research on ethics in organisations. You will see that codes of conduct are a part of the equation, but only part, and need to be backed up with enforcement. <https://www.icaew.com/-/media/corporate/files/technical/ethics/real-integrity-briefing.ashx?la=en> There is also some interesting commentary on page 27 regarding the role of professional bodies. It may be relevant to note that there does seem to be a distinction between the traditional professions (law, accountancy) and other sectors in this respect. <https://www.icaew.com/-/media/corporate/files/technical/ethics/reporting-with-integrity-report.ashx?la=en>

I attach a link to our main code of ethics page, which includes a summary of the background and aims of the code, as well as links to the code itself and various sections of it.

<https://www.icaew.com/en/technical/ethics/icaew-code-of-ethics/icaew-code-of-ethics>

It is a lengthy document, in part at least because it has severe sanctions attached to it and it has evolved over a long period of time to meet the needs of the profession. I also attach a link to our research paper Real Integrity (produced with University of Leeds) which summarises a major research project considering how organisations can encourage integrity. It raises a number of questions (and tentative answers) including on the place of codes of conduct, enforcement and monitoring and I thought you might find that useful, particularly in putting together your question bank.

<http://www.icaew.com/-/media/corporate/files/technical/ethics/real-integrity-full-report.ashx?la=en>

BVC:

https://www.academia.edu/9749713/What_Are_Codes_of_Ethics_For

MIT ARC Logging In

MIT ARC Navigating survey

MIT ARC Overview

MIT ARC principles and values video

MIT ARC-aid TTF member's guide

Appendix 6

Some professionals in the Australian banking and finance industry believe it should meet the community's needs and has its full confidence thereby fulfilling its integral role in society. They have decided to sign up to an Oath.

The Oath is an effort to improve society by building trust and confidence in the financial industry through re-asserting the moral and ethical foundation of the industry beyond regulation, compliance and any professional standards and by broadening expectations and discussion to include ethics, integrity, honesty and trust.

The BFO Oath

Trust is the foundation of my profession.

I will serve all interests in good faith.

I will compete with honour.

I will pursue my ends with ethical restraint.

I will help create a sustainable future.

I will help create a more just society.

I will speak out against wrongdoing and support others who do the same.

I will accept responsibility for my actions.

Is this something the UK market might consider?

Source: BFO oath url <https://www.thebfo.org/About-us>

Appendix 7

Extract from Chapter 14 of *Ethical Business Practice and Regulation: A Behavioural and Values-Based Approach to Compliance and Enforcement*, Hodges and Steinholtz, Hart Publishing 2017

© Christopher Hodges and Ruth Steinholtz 2017 All Rights Reserved

Codes of Ethical Business Practice

Once they have been identified, an organisation needs to make its ethical mission and core values transparently available to all stakeholders. Everyone doing business on behalf of the organisation must know what is expected of them. Codes of ethical business practice or business principles are the cornerstone of an ethical approach; a unifying force for many policies and procedures that regulate different aspect of the organisation's ethical life. To be effective, the code must be founded on the company's values and developed in genuine consultation with employees rather than just rolled out from the headquarters. Codes must be visually attractive, carefully translated into all company languages, clear and concise and easy to access and read, fit the culture of the organisation in tone, look and feel, and be available in many formats.

Developing a code internally in consultation with people throughout the organisation will ensure that it reflects the unique culture and risks it faces. It will also create a sense of ownership. A code that is developed at headquarters and is imposed on the organisation is doomed to failure. Questionnaires, surveys or interviews can be used to determine what issues are of most concern to employees so that these can be given prominence in the code. In addition, it is useful to understand how people interact with company information—do they look for everything on the intranet? Would they prefer to have a hard copy of the physical document? What about an app? By the time a code is launched, it should be possible for numerous people to say 'I helped create that document'. Their contribution needn't be so extensive as to bog down the drafting process forever, but employees' views should be actively solicited and considered. Dan Ariely and Mike Norton identified the 'IKEA effect', which is the fact that our sense of ownership and value for something is higher if we have made even a tiny contribution to its creation.⁶ Finally, it is obvious that the process of soliciting input and feedback offers an opportunity to begin to educate employees on the subjects contained in the code.

Statements on how ethical values apply to the activities of the organisation should give examples of how the values apply to tasks that may be faced by staff at all levels. They need to be relevant and real for everyday tasks and decisions. Companies often include realistic scenarios or ethical dilemmas and provide guidance about how they believe an employee should behave in these situations. It is also important to include links to additional information rather than trying to include everything in the code. Drafting codes properly is a demanding task; they must be concise and at the same time contain sufficient information and guidance. This points to one of the strengths of values over rules. For example, a statement such as 'treat company property with care and respect' can replace a long list of rules that could never be exhaustive. Granted, it may be necessary for leaders and managers to have a conversation about what the value of respect means in this context; however, this conversation itself is helping to build an ethical culture.

Case Study 29: A Question of Ethics—Borealis Code Development

In late 2003, the task of revising the Borealis Code of Ethics was delegated to Ruth Steinholtz, then General Counsel. Being new to the company and with limited resources, she requested permission to create a temporary team as part of a bespoke programme run with IMD Business School, called 'Courage to Lead'. One of the aspects of the programme was for employees to work together in small groups to develop something of value to the company. The 'ethics excellence programme' that was designed by that team exists to this day. It outlined all the elements of the new approach to ethics. The members of the team came from many disciplines—most had no specific prior exposure to the subject beyond having read the previous code. After an introduction to the subject, the team created a questionnaire, sent it to 50 people throughout the company and proceeded to conduct interviews. They also researched the codes and approaches of peer companies. The input was collected and a massive exercise to collate and organise all the input produced numerous useful insights and much information that was first used to design the new approach and then by the legal department in the subsequent drafting

⁶ D Ariely, *Predictably Irrational: The Hidden Forces that Shape Our Decisions* (HarperCollins, 2008) 135.

process. At this point, the 'Courage to Lead' team was disbanded and responsibility returned to the legal department. Several rounds of drafts were circulated to managers across disciplines, business units and locations, as well as to certain external advisors. A visual design process was undertaken in parallel. The Code was translated into several languages, the translations were reviewed internally individually and by language groups, and the final product was presented to the Works Councils, the Executive Management Team and the Supervisory Board. The Code was launched in November 2005 at a senior leaders' conference, and ethics ambassadors were trained and asked to return to their units and train 85% of the employee population in the first 12 months after its launch. By the second year, virtually all employees had received face-to-face training. This was the beginning of embedding the ethical principles contained in the Code, entitled 'A Question of Ethics'. Other resources followed, including a Sharepoint site, training modules, a QuestionLine and further training for ethics ambassadors. The QuestionLine was mainly a channel for asking questions as well as for any suspected issues that employees preferred not to report via management.

Case Study 30: Aligning Ethical Objectives and Behaviour

In 2015, Johnson Matthey put in place a Code of Ethics based on two simple principles: 'do the right thing' and 'speak up'. The document illustrates applications of those two principles in various business situations. Whilst the document is like many other corporate statements on mission, compliance or ethics, its introduction was a result of extensive discussions by groups of staff in the company and across the world, and is underpinned by a network of ethics ambassadors who are responsible for spreading the message and helping employees understand their responsibilities. It is helping to achieve that social element of trust that is critical to the success of statements made by business leaders. A subsequent evaluation showed that the approach has engendered internal enthusiasm and genuine ownership by employees all around the world. The ethics ambassadors are a key part of Johnson Matthey's ability to reach far into the organisation and embed the Code.

A 2010 review of codes of ethics in finance found that they are built on seven core principles or values: integrity, objectivity, competence, fairness, confidentiality, professionalism and diligence.⁷ According to the IBE, the most commonly used value words in the FTSE 100 are: Integrity, Safety, Excellence, Customer Focus, Accountability, Respect, Innovation, Team/Teamwork, Trust and Openness.⁸ Statements of corporate goals and ethics have both external and internal value. The IBE points out that codes are an effective way of showing investors, customers and staff as well as other stakeholders that the company takes the obligation to conduct the business responsibly seriously.⁹

The IBE rightly states: 'A code of ethics can clarify where lines are drawn and discretion ends or is limited. Ultimately, it is the decisions of individuals at all levels of the organisation which will determine the ethical culture of the business' (emphasis added).¹⁰

In addition to setting out core values-based policies, codes should guide the reader towards additional support and should encourage the positive behaviours that underpin a robust ethical culture. Wherever possible, the procedures established by the code should be integrated into the day-to-day business rather than constituting an additional burden.

Codes are a way of reminding employees of the importance of ethical behaviour. The more positive and linked to processes that support business rather than encumber it, the better the integration of the values and concepts they contain into the culture. No code will succeed without time and effort spent on training and raising awareness. We now discuss one of the most important types of training that can be used to help people use the code to support them in resolving issues and doing the right thing.

⁷ JA Ragatz and RF Duska, 'Financial Codes of Ethics' in J Boatright (ed), *Finance Ethics: Critical Issues in Theory and Practice* (John Wiley, 2010).

⁸ *Codes of Business Ethics: A Guide to Developing and Implementing an Effective Code* (Institute for Business Ethics, 2016) 15.

⁹ *ibid* 11.

¹⁰ *ibid* 34.