



The Model Code - Background

A common aim of all codes of conduct is to promote efficient market practices by encouraging high standards of conduct and professionalism. Yet, the largely unregulated global foreign exchange market thrived and expanded for decades in the major international centres without any written code or guidelines on market practice or conduct.

The situation lasted until the early 1970's when the 'O'Brien Letter' was issued to authorised banks in London by the Bank of England. This short, but timely and useful, first circular dealt with a number of dealing issues and provided much needed clarification and recommendations on some market practices and conventions, which were expanded upon in later editions.

The breakdown of the main fixed exchange rate structure in 1973 heralded a new era in exchange and later interest rate volatility and the repercussions thereof highlighted the need for a more formal international approach to market practice conduct and ethics.

From 1980, the emergence of new markets and instruments such as financial futures, interest rate swaps, options and other derivatives employed by treasury and capital markets dealers further underlined the urgency of the situation.

In 1975 the first ACI Code of Conduct covering foreign exchange and euro-currency dealing was published. There followed similar publications by the markets in New York (1980), London (1990), Singapore (1991) and Tokyo in 1995.

Scope and importance

The scope of The Model Code is wide ranging, encompassing the over-the-counter markets and instruments traded by international bank treasury departments as listed in Appendix 2. The diversity of markets and products now traded and arbitrated by bank dealers dictates that there will inevitably be some areas of overlap where separate individual or local market codes already exist.

Mindful of this, great care has been exercised in the drafting of the text, in order to ensure that the provisions and market practice recommended herein are not substantially at variance with recognised codes already in place.

At the same time, The Model Code remains consistent with the high standards of integrity and professionalism that have existed in our core markets, since the first ACI Code of Conduct was published in 1975.

Preparation

In compiling The Model Code, the recommendations contained in the following recognised codes were considered:

- * The ACI Code of Conduct (revised 1998).
- * The Guidelines for Foreign Exchange Trading Activities of The New York Foreign Exchange Committee (August 1995).
- * The London Code of Conduct (revised June 1999 by the Financial Services Authority).
- * The French Code of Conduct (March 1999).
- * The Singapore Guide to Conduct and Market Practices for Treasury Activity (revised February 1998).
- * The Code of Conduct of the Tokyo Foreign Exchange Market Committee ('The Orange Book' December 1998).

In addition, market practitioners from every established international money centre were consulted on several of the issues covered in this book, particularly those areas where there are differences in interpretation and emphasis. The resulting advice and opinions expressed were fully debated at the Committee for Professionalism before the final text was agreed.

Dealing terminology

In The Model Code, strong emphasis has been placed on the conduct and practice that must prevail in the critical area of quotation of dealing rates and the agreement of trades. This priority is further underlined by the inclusion of Chapter XI on Market Terminology, which forms an integral part of The Model Code. All dealers and examinations candidates should be fully conversant with this chapter. Whether the rate quoted is for a full delivery foreign exchange trade or a non-deliverable, cash settled derivative such as an FRA, the same high standard of dealing practice and integrity must prevail.

Compliance

In order to maintain orderly and efficient markets, it is essential that dealers and brokers comply with both the letter and the spirit of The Model Code. The General Principles of Risk Management stated in Chapter IX are particularly relevant in this regard. Beginning with the fundamental dealer's maxim "My word is my bond", the conduct, practice and ethics prescribed in this Code are the culmination of long experience in OTC exchange, money, and derivatives markets dealing.

The importance therefore of adherence to the provisions contained herein is self-evident and the consequences of breaches of this code are clearly stipulated in Chapter IV (4) Compliance and complaints.

Structure

As many of the issues dealt with are of a technical nature requiring specific guidance, the entire Model Code unlike similar publications in other fields, has been structured in a clear division of categories.

This style has been adopted in order to provide for the dealer or student quick and easy reference to the profession's recommendations on whichever topic information or guidance is sought.

Updates and revisions

The changes over recent years in markets, structures, administrative systems, products and even currencies underline the need for continuous monitoring and updating of recommended best practice. To this end, the Committee for Professionalism of ACI maintains a regular and comprehensive review procedure in order to ensure that The Model Code keeps pace with any technological or other changes that may affect market conduct, ethics or practice.

Expert Determination Service

Where the counterparties of a transaction are unable to resolve a dispute, which has arisen between them, the ACI Committee for Professionalism provides an Expert Determination Service in order to facilitate its resolution. Market participants are encouraged to avail themselves of this service in accordance with ACI Rules for Over-the-Counter Financial Instruments Disputes Resolution. The terms and conditions of this service are set out in the Appendix 1.

Translation/language

The official language of The Model Code is English.

About the author

Denis Nolan, a well-known market practitioner with over 30 years experience in the global exchange, money and derivatives markets, was commissioned by ACI's Committee for Professionalism to work with them on the compiling of The Model Code.

As a chief dealer and treasurer throughout the 1970s and 1980s, he was amongst the very first treasurers of international financial institutions to embrace financial futures and derivatives as a logical extension of money and exchange dealing strategies.

A founder member of LIFFE and former visiting lecturer at The City University Business School London, he wrote extensively on foreign exchange and addressed conferences and seminars on financial markets' instruments, derivatives, arbitrage, back office and Code of Conduct in Europe, the USA, the Middle East and Japan. He was co-author of Mastering Treasury Office Operations published by Pearson Education in 2001.

When the Code of Conduct was first included as a compulsory subject in the examinations, he was approached by ACI the Financial Markets Association to advise on related issues. With a unique training background and as an internationally recognised expert on the subject, he was commissioned in December 1998 to write a global code of conduct for treasury OTC financial markets.

Liasing closely with the ACI Committee for Professionalism and maintaining ongoing contact with the regulatory authorities in Europe, USA and Japan, he completed The Model Code in March of 2000.

Sadly, Denis passed away in July 2003 following a long battle with cancer. However, he leaves behind him a long lasting and fitting memorial to his contribution to the industry in The Model Code.