

# FX Global Code—Global Principles of Good Practice in the Foreign Exchange Market

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## The Foreign Exchange Working Group and Market Participants Group Publish the FX Global Code to Provide Guidance on Global Principles of Good Practice in the Foreign Exchange Market

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### INTRODUCTION

In May 2015, the Bank of International Settlements (BIS) Governors announced the formation of a Foreign Exchange Working Group, comprised of public and private sector representatives from sixteen foreign exchange (“FX”) trading center jurisdictions, to facilitate the establishment of a single global code of conduct standards and principles in FX markets. On May 25, 2017, the Foreign Exchange Working Group announced<sup>1</sup> the release of the final version of the FX Global Code (the “Code”),<sup>2</sup> which will be maintained in the future by the newly formed Global Foreign Exchange Committee (the “GFXC”).<sup>3</sup> The Code represents a set of global principles of good practice for participants in the FX market. Voluntary in nature, the Code provides guidelines to promote the integrity and effective functioning of the wholesale FX markets, and has been described as an effort by regulators and market participants to restore trust and confidence in the FX markets.

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### FX GLOBAL CODE

The Code consists of fifty-five principles setting forth best practices in the FX market and is designed to promote the integrity and effective functioning of the wholesale FX market. Each of these principles is categorized under one of six leading principles:

- Ethics;
- Governance;
- Execution;

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- Information Sharing;
- Risk and Compliance; and
- Confirmation and Settlement.

A list of the core principles is provided in the Appendix to this memorandum.

The Code itself does not impose any legal obligations on the FX market. Instead, it is intended to supplement existing law by providing a set of universal best practices. While it is not legally binding, Market Participants may publicly disclose their commitment to implementing the Code. The Code contains a form “Statement of Commitment” in which a Market Participant can confirm that “it has taken appropriate steps, based on the size and complexity of its [FX market activities], and the nature of its engagement in the [FX market], to align its [FX market activities] with the principles of the Code.”<sup>4</sup> The Code also provides examples designed to illustrate the Code’s principles in practice and situations in which the principles should apply. The Code specifically emphasizes that these examples are not intended to comprise comprehensive guidance; however, they may prove helpful in gaining a better understanding of the Code’s principles.

The following sections of this memorandum provide a summary of the Code’s standards and guidance.

### A. DEFINITION OF “MARKET PARTICIPANT”

The FX Global Code is intended to apply to a wide variety of participants in the FX market (“Market Participants”). The Code defines a Market Participant to be “a person or organisation (regardless of legal form) that:

- is active in FX Markets as a regular part of its business and is engaged in the activity of the purchase or sale of one currency against another, or in transactions designed to result in gains or losses based upon the change in one or more FX rates, such as derivatives, whether deliverable or non-deliverable, either directly or indirectly through other market participants; or
- operates a facility, system platform, or organisation through which participants have the ability to execute the type of transactions described in (i); or
- provides FX benchmark execution services[.]”<sup>5</sup>

Notably, “retail market participants” are carved out from the definition of Market Participant, as the Code is intended to be applied to participants in the *wholesale* market.

### B. ETHICS AND GOVERNANCE

The Code provides that Market Participants are expected to “behave in an ethical and professional manner to promote the fairness and integrity of the FX Market” and to “have a sound and effective governance framework to provide for clear responsibility for and comprehensive oversight of [Market Participants] FX Market activity and to promote responsible engagement in the FX Market.”

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***Highest ethical and professional standards:*** The Code expects Market Participants to strive for the highest ethical and professional standards. The Market Participant should act honestly, fairly, and with integrity when dealing with clients and other Market Participants by transacting in a transparent manner and avoiding questionable practices and behaviors. The organization, the organization's senior and front-line management, and the organization's personnel are all responsible for maintaining these high ethical standards. A Market Participant can maintain a high standard of business conduct by ensuring it has sufficient knowledge of and is complying with any applicable laws in its jurisdictions, has sufficient relevant experience, technical knowledge, and qualifications, and acts with competence and skill. To do so, the Market Participant should have personnel who are appropriately trained and have the necessary experience. Senior management has the responsibility to instill a strong culture of ethical and professional conduct by demonstrating desired values and conduct and taking appropriate steps to promote and reinforce these values as well as any applicable laws.

***Eliminating or managing conflicts of interest:*** Market Participants should actively identify and address, by eliminating or mitigating, actual and potential conflicts of interest that may compromise or be perceived to compromise its ethical or professional judgment. Methods for managing conflicts of interest include segregating duties and reporting lines, establishing information barriers, and altering the duties of certain personnel, among others. Where a conflict of interest cannot be avoided or effectively managed, a Market Participant should disclose this conflict with sufficient detail for the affected parties to make an informed decision with respect to the Market Participant.

***Oversight, supervision, and controls:*** The body or individuals responsible for the Market Participant's FX strategy and financial soundness should put in place adequate and effective structures and mechanisms for appropriate oversight, supervision, and control of the Market Participant's FX activities. The Market Participant should implement independent control functions and mechanisms to assess its FX activities.

***Remuneration and Promotion:*** Market Participants should have remuneration and promotion structures that encourage practices and behaviors consistent with ethical and professional conduct expectations. These structures should be designed to incentivize personnel not to behave inappropriately or take excessive risks.

***Responding to improper practices:*** Market Participants should establish and maintain policies and procedures that allow for personnel or external parties to raise concerns about potentially improper practices and behaviors through confidential channels, and allow for an investigation into and response to such reports as appropriate. Firms should make clear to their personnel and relevant external parties how to report confidentially concerns about potentially improper practices and behaviors without fear of reprisal or retribution. Market Participants are expected to investigate these reports in a timely manner

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and report the incident internally (e.g., to senior management) or externally (e.g., to regulators) as appropriate.

### C. EXECUTION

The Code expects Market Participants to behave with integrity and exercise care when negotiating and executing transactions in order to support the effective functioning of the FX market and to promote a robust, fair, open, liquid, and appropriately transparent FX market.

A Market Participant should clarify for its clients the capacities in which it acts (e.g., as agent, as dealer, as principal, etc.). A Market Participant should handle all orders fairly and with transparency, including by making the clients aware of how orders are handled and transacted and the various factors that may affect execution policy. The Market Participant should handle orders fairly and in a manner that is consistent with the considerations specific to the relevant order type. For example, a Market Participant should only pre-hedge client orders when acting as a principal and should do so in a fair and transparent manner. The manner of execution and relevant considerations should be disclosed to the client in advance.

A Market Participant should not request transactions, create orders or provide prices with the intent of disrupting market functioning or hindering the price discovery process. As such, Market Participants should avoid strategies that cause undue latency, artificial price movements or delays in other Market Participant's transactions and result in a false impression of market price, depth or liquidity. Market Participants should consider market conditions and the potential impact of its transactions.

The Code provides certain situation-specific principles for applying the above-described general principles, including principles relating to:

- The use of reference prices;
- The use of price spreads and mark-ups;
- Addressing trade discrepancies;
- "Name switching" and "last look" policies;<sup>6</sup> and
- The provision of algorithmic trading and aggregation services.

### D. INFORMATION SHARING

Market Participants are expected to be clear and accurate in their communications and to protect confidential information in order to promote effective communication that supports a robust, fair, open, liquid, and appropriately transparent FX market.

**Confidential Information:** Market Participants should define confidential information to include all information received or created by the Market Participant that is not in the public domain, including trading information such as data on past trading activity or positions of the Market Participant or its clients and

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other relevant sensitive information. Market Participants should limit access to confidential information to those parties that have a valid reason to have the information (e.g., risk management, legal or compliance purposes). Any confidential information received from a client, prospective client or other third party should only be used for the specified purpose for which it was given, unless permission is otherwise obtained.

**Communications:** The Market Participant should communicate in a manner that is clear, accurate, professional, and not misleading. In order to ensure its communications are easily understood, the Market Participant should avoid ambiguous terms and use terminology and language that is appropriate for the audience. Market Participants should identify when information is attributable to a third party, identify communications as opinions, clearly identify rumors and exercise proper judgment when discussing them, and avoid communicating misleading or false information. Personnel should only use approved methods of communication that allow for traceability, auditing, recordkeeping and access control. The Code recommends that communications on sales and trading desks be recorded, particularly when being used either to transact or to communicate market color (discussed below). The Code states that the use of unrecorded lines should be limited to “exceptional circumstances,” such as an emergency.

**Market Color:** The Code includes specific guidance concerning the use of market color recognizing that “[t]he timely dissemination of Market Colour between Market Participants can contribute to an efficient, open, and transparent FX Market through the exchange of information on the general state of the market, views, and anonymised and aggregated flow information.”<sup>7</sup> Still, a Market Participant should exercise special care when communicating the market color and should give its personnel clear guidance on how to do so. Market color communications should be restricted to information that is aggregated and anonymized without any specific client or counterparty names or identifying information with client strategies and locations generalized. Annex 1 to the Code provides a set of stylized examples of market color communications.

### E. RISK MANAGEMENT AND COMPLIANCE

**Frameworks for Risk Management, Compliance, and Review:** In order to manage and mitigate the risks that arise from participation in the FX market, Market Participants should implement risk management, compliance, and review structures. The Code recognizes that these structures may vary in complexity and scope, depending on the nature of the Market Participant’s FX activities, but sets forth common principles for these risk management and compliance functions. The Code states that the business unit should have the primary responsibility for managing risk and complying with applicable requirements. In addition, to support the business unit, a Market Participant may have independent functions to monitor and report on the FX activities, including the risk management function, the compliance function, and the review or audit function. The functions may work closely with the business unit, but should have independent reporting lines, appropriate segregation of duties, and should not be

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directly involved in revenue generation. Compensation should be structured to promote independence. These functions should have access to adequate resources (including personnel) to fulfill their responsibilities independently and should be subject to a periodic independent review. Concise, timely, accurate, and understandable risk- and compliance-related information should be provided to the Market Participant's senior management.

**Key Risk Types; Compliance Risk:** Principles 24-41 of the Code identify and make recommendations on managing certain key risk types in the FX market, including “counterparty credit risk,” “market risk,” “operational risk,” “technology risk,” “settlement risk,” “compliance risk,” and “legal risk.” The Code provided detailed guidance with respect to managing and mitigating compliance risk. To manage compliance risk, the Code recommends that Market Participants keep timely, consistent, and accurate records of FX activity, including records of orders and transactions that have been accepted, triggered or otherwise executed.<sup>8</sup> Market Participants should employ record time-stamping that is consistent and sufficiently granular so that Market Participants can determine when an order is accepted and triggered or executed. At the reasonable request of a client, a Market Participant should be able to provide information regarding its actions with respect to a specific transaction with such client.<sup>9</sup> Market Participants should have processes in place to address these requests. Furthermore, a Market Participant's compliance policies should ensure that appropriate “know-your-customer” checks and other anti-money-laundering requirements are fulfilled, as well as ensure that only authorized personnel are able to gain trading access. Finally, the Code highlights technology risks, including cyber security risks, and states that Market Participants should be aware of the broad array of these risks that may affect their FX market activities. The Code, in many places, suggests that Market Participants should use secure means for communications and document storage (e.g., to transmit confirmation, to store trade data, etc.).

### F. CONFIRMATION AND SETTLEMENT

Market Participants should implement robust, efficient, transparent, and risk-mitigating post-trade processes to promote the predictable, smooth, and timely settlement of transactions in the FX Market. These processes should be consistent with the relevant legal documentation for the transaction as well as the Market Participant's credit and legal risk management policies. Market Participants should have a framework for monitoring and managing settlement capacity during both normal and peak times, and should strive to implement straight-through automatic transmission of trade data from their front office systems to their operations systems. Finally, Market Participants should have in place controls for novating, amending or cancelling transactions.

**Confirmation Process:** Market Participants should confirm transactions as soon as practicable, using automated trade confirmation matching systems and electronic transmissions whenever possible. Market Participants should ensure that confirmations are transmitted in a secure manner. A Market Participant's personnel should be aware of and understand the Market Participant's policies and procedures for the

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confirmation process. If any discrepancies arise during the confirmation process, Market Participants should identify and resolve those discrepancies as soon as practicable.

**Netting and Settlement Processes:** The Code encourages Market Participants to implement payment date netting with respect to its FX settlements, so long as the netting is supported by appropriate legal documentation. In addition, Market Participants should have standing settlement instructions (SSIs) with counterparties for all relevant products and currencies, whenever practicable, and those SSIs should promote straight-through processing for transactions. Market Participants should avoid making payments to parties (other than the counterparty to the transaction) in order to limit exposure to money laundering or other illegal or fraudulent activities. Finally, Market Participants should implement systems to project, monitor, and manage their intraday and end-of-day funding requirements to reduce potential complications during the settlement process.

**Account Reconciliation Process:** Market Participants should conduct a regular reconciliation process to reconcile expected cash flows against actual cash flows on a timely basis, actively identify settlement discrepancies, and put in claims in a timely manner.

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## IMPLICATIONS

The FX Global Code is intended as a form of guidance for the FX market. It sets forth principles of good practice but is not itself a legal or regulatory requirement. As such, it should be viewed as useful guidance to Market Participants on market standards and norms. The “Report on Adherence to the FX Global Code” (the “Report”) that accompanies the Code notes that the Code is voluntary, and it will need to be embraced, adopted, and adhered to by Market Participants if it is to be effective. As such, the GFXC has “sought to develop an approach that will support the Code by promoting and incentivising widespread adoption and adherence to it.” Importantly, the Report indicates that central banks intend to adhere to the Code (except where this would inhibit the discharge of their legal duties or policy functions) in order to encourage Market Participants to do the same. The Report notes that central banks will generally expect their regular FX trading counterparties to adhere to the principles of the Code. The Report indicates that market participants are expected to need approximately six to twelve months to review and adjust their practices to align with the principles of the Code prior to adherence. To further promote adherence, the “Market Participants Group” is considering implementing public registers listing adherents to the Code.<sup>10</sup>

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ENDNOTES

- 1 Press Release, Glob. Foreign Exch. Comm., New Global Foreign Exchange Committee (GFXC) Formed (May 25, 2017) at <http://www.globalfxc.org/press/p170525b.htm>.
- 2 GLOB. FOREIGN EXCH. COMM., FX GLOBAL CODE (2017) at [http://www.globalfxc.org/docs/fx\\_global.pdf](http://www.globalfxc.org/docs/fx_global.pdf).
- 3 The GFXC is currently composed of representatives from foreign exchange committees or similar structures of central banks in Australia, Brazil, Canada, China, Euro Area, Hong Kong, India, Japan, Mexico, Singapore, South Africa, South Korea, Sweden (representing the Scandinavian market), Switzerland, the United Kingdom, and the United States. The GFXC seeks to promote collaboration and communication among central bank foreign exchange committees across jurisdictions with significant FX markets.
- 4 GLOB. FOREIGN EXCH. COMM., *supra* note 2, at 72-73.
- 5 *Id.* at 3.
- 6 “Last look” is a practice used in electronic trading whereby a Market Participant receiving a trade request has a final opportunity to accept or reject the request against its quoted price.
- 7 GLOB. FOREIGN EXCH. COMM., *supra* note 2, at 26. The Code defines “Market Colour” as “[a] view shared by Market Participants on the general state of, and trends in, the market.” *Id.* at 70.
- 8 The Code indicates that a record should include, but not necessarily be limited to, the following data fields: the date and time, product type, order type, quantity, price, trader, and client identity.
- 9 The Code notes that clients should only make reasonable requests for information from a Market Participant and should provide the Market Participant with the reason for that request.
- 10 The Market Participants Group (MPG) is chaired by David Puth, Chief Executive Officer of CLS Bank International, and is intended to help coordinate across the regional foreign exchange committees and representatives of the FX market in other regions, in order to engage a broad and diverse set of Market Participants in the process of developing and promoting the Code.



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## CONTACTS

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### New York

David J. Gilberg	+1-212-558-4680	<a href="mailto:gilbergd@sullcrom.com">gilbergd@sullcrom.com</a>
Kathleen S. McArthur	+1-212-558-4321	<a href="mailto:mcarthurk@sullcrom.com">mcarthurk@sullcrom.com</a>
Kenneth M. Raisler	+1-212-558-4675	<a href="mailto:raislerk@sullcrom.com">raislerk@sullcrom.com</a>
Rebecca J. Simmons	+1-212-558-3175	<a href="mailto:simmonsr@sullcrom.com">simmonsr@sullcrom.com</a>
Christine Trent Parker	+1-212-558-3631	<a href="mailto:parkerct@sullcrom.com">parkerct@sullcrom.com</a>
John M. Miller	+1-212-558-4839	<a href="mailto:millerjo@sullcrom.com">millerjo@sullcrom.com</a>
Ryne V. Miller	+1-212-558-3268	<a href="mailto:millery@sullcrom.com">millery@sullcrom.com</a>

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### Washington, D.C.

Dennis C. Sullivan	+1-202-956-7554	<a href="mailto:sullivand@sullcrom.com">sullivand@sullcrom.com</a>
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## APPENDIX: FX GLOBAL CODE PRINCIPLES

The Code contains a set of 55 principles of good practice in the FX market, designed to give guidance to promote the integrity and effective functioning of the wholesale FX market. Each of these principles is categorized under one of six leading principles: Ethics, Governance, Execution, Information-Sharing, Risk and Compliance, and Confirmation and Settlement. Each of these principles is set out and summarized below.

### Leading Principle: Ethics

Market Participants are expected to behave in an ethical and professional manner to promote the fairness and integrity of the FX Market.

1. Market Participants should strive for the highest ethical standards.
2. Market Participants should strive for the highest professional standards.
3. Market Participants should identify and address conflicts of interest.

### Leading Principle: Governance

Market Participants are expected to have a sound and effective governance framework to provide for clear responsibility for and comprehensive oversight of their FX Market activity, and to promote responsible engagement in the FX Market.

4. The body, or individual(s), that is ultimately responsible for the Market Participant's FX business strategy and financial soundness should put in place adequate and effective structures and mechanisms to provide for appropriate oversight, supervision, and controls with regard to the Market Participant's FX Market activity.
5. Market Participants should embed a strong culture of ethical and professional conduct with regard to their FX Market activities.
6. Market Participants should have remuneration and promotion structures that promote market practices and behaviors that are consistent with the Market Participant's ethical and professional conduct expectations.
7. Market Participants should have appropriate policies and procedures to handle and respond to potentially improper practices and behaviors effectively.

### Leading Principle: Execution

Market Participants are expected to exercise care when negotiating and executing transactions in order to promote a robust, fair, open, liquid, and appropriately transparent FX Market.

8. Market Participants should be clear about the capacities in which they act.
9. Market Participants should handle orders fairly and with transparency in line with the capacities in which they act.
10. Market Participants should handle orders fairly, with transparency, and in a manner consistent with the specific considerations relevant to different order types.

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11. A Market Participant should only Pre-Hedge Client orders when acting as a Principal, and should do so fairly and with transparency.
12. Market Participants should not request transactions, create orders, or provide prices with the intent of disrupting market functioning or hindering the price discovery process.
13. Market Participants should understand how reference prices, including highs and lows, are established in connection with their transactions and/or orders.
14. The Mark-Up applied to Client transactions by Market Participants acting as Principal should be fair and reasonable.
15. Market Participants should identify and resolve trade discrepancies as soon as practicable to contribute to a well functioning FX Market.
16. Market Participants acting as Voice Brokers should only employ name-switching where there is insufficient credit between parties to the transaction.
17. Market Participants employing last look should be transparent regarding its use and provide appropriate disclosures to Clients.
18. Market Participants providing algorithmic trading or aggregation services to Clients should provide adequate disclosure regarding how they operate.

### Leading Principle: Information Sharing

Market Participants are expected to be clear and accurate in their communications and to protect Confidential Information to promote effective communication that supports a robust, fair, open, liquid, and appropriately transparent FX Market.

19. Market Participants should clearly and effectively identify and appropriately limit access to Confidential Information.
20. Market Participants should not disclose Confidential Information to external parties, except under specific circumstances.
21. Market Participants should communicate in a manner that is clear, accurate, professional, and not misleading.
22. Market Participants should communicate Market Colour appropriately and without compromising Confidential Information.
23. Market Participants should provide personnel with clear guidance on approved modes and channels of communication.

### Leading Principle: Risk Management and Compliance

Market Participants are expected to promote and maintain a robust control and compliance environment to effectively identify, manage, and report on the risks associated with their engagement in the FX Market.

#### I. Frameworks for Risk Management, Compliance, and Review

24. Market Participants should have frameworks for risk management and compliance.
25. Market Participants should familiarise themselves with, and abide by, all Applicable Law and Standards that are relevant to their FX Market activities, and should have an appropriate compliance framework in place.
26. Market Participants should maintain an appropriate risk management framework with systems and internal controls to identify and manage the FX risks they face.

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27. Market Participants should have practices in place to limit, monitor, and control the risks related to their FX Market trading activity.
28. Market Participants should have processes in place to independently review the effectiveness of and adherence to the risk management and compliance functions.

### II. Key Risk Types

29. Credit/Counterparty Risk: Market Participants shall have adequate processes to manage counterparty credit risk exposure, including where appropriate, through the use of appropriate netting and collateral arrangements, such as legally enforceable master netting agreements and credit support arrangements.
30. Market Risk: Market Participants should have processes to measure, monitor, report, and manage market risk in an accurate and timely way.
31. Market Risk: Market Participants should have independent processes in place to mark-to-market trading positions to measure the size of their profit and loss and the market risk arising from trading positions.
32. Operational Risk: Market Participants should have appropriate processes in place to identify and manage operational risks that may arise from human error, inadequate or failed systems or processes, or external events.
33. Operational Risk: Market Participants should have business continuity plans (BCPs) in place that are appropriate to the nature and complexity of their FX business and that can be implemented quickly and effectively in the event of large-scale disasters, loss of access to significant trading platforms, settlement, or other critical services, or other market disruptions.
34. Technology Risk: Market Participants should have in place processes to address potential adverse outcomes arising from the use of or reliance on technological systems (hardware and software).
35. Settlement Risk: Market Participants should take prudent measures to manage and reduce their Settlement Risks, including prompt resolution measures to minimise disruption to trading activities.
36. Compliance Risk: Market Participants should keep a timely, consistent, and accurate record of their market activity to facilitate appropriate levels of transparency and auditability and have processes in place designed to prevent unauthorised transactions.
37. Compliance Risk: Market Participants should perform “know-your-customer” (KYC) checks on their counterparties to ascertain that their transactions are not used to facilitate money laundering, terrorist financing, or other criminal activities.
38. Compliance Risk: Market Participants should have in place reasonable policies and procedures (or governance and controls) such that trading access, either direct or indirect, is limited to authorised personnel only.
39. Compliance Risk: Market Participants should generate a timely and accurate record of transactions undertaken to enable effective monitoring and auditability.
40. Legal Risk: Market Participants should have processes in place to identify and manage legal risks arising in relation to their FX Market activities.
41. Considerations Related to Prime Brokerage Activities: Prime Brokerage Participants should strive to monitor and control trading permissions and credit provision in Real Time at all stages of transactions in a manner consistent with the profile of their activity in the market to reduce risk to all parties.

## Leading Principle: Confirmation and Settlement

Market Participants are expected to put in place robust, efficient, transparent, and risk-mitigating post-trade processes to promote the predictable, smooth, and timely settlement of transactions in the FX Market.

### I. Overarching Principles

42. Market Participants should establish consistency among their operating practices, their documentation, and their policies for managing credit and legal risk.
43. Market Participants should institute a robust framework for monitoring and managing capacity in both normal and peak conditions.
44. Market Participants are encouraged to implement straight-through automatic transmission of trade data from their front office systems to their operations systems.
45. Market Participants should conduct any novations, amendments, and/or cancellations of transactions in a carefully controlled manner.

### II. Confirmation Process

46. Market Participants should confirm trades as soon as practicable, and in a secure and efficient manner.
47. Market Participants should review, affirm, and allocate block transactions as soon as practicable.
48. Market Participants should identify and resolve confirmation and settlement discrepancies as soon as practicable.
49. Market Participants should be aware of the particular confirmation and processing features specific to life cycle events of each FX product.

### III. Netting and Settlement Process

50. Market Participants should measure and monitor their Settlement risk and seek to mitigate that risk when possible.
51. Market Participants should utilise standing settlement instructions (SSIs).
52. Market Participants should request Direct Payments.
53. Market Participants should have adequate systems in place to allow them to project, monitor, and manage their intraday and end-of-day funding requirements to reduce potential complications during the settlement process.
54. Market Participants should perform timely account reconciliation processes.
55. Market Participants should identify settlement discrepancies and submit compensation claims in a timely manner.