

# FX Global Code Warrants a Close Look by Retirement Plan Fiduciaries

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Retirement plan fiduciaries, who themselves or through a third party, engage in foreign exchange transactions on behalf of the plan, should be aware of the new FX Global Code (Code). The Code is a noble effort to repair the reputation of the wholesale FX market in the wake of scandals and controversies.

Though it does not have the force of law, it can serve as a useful springboard for fiduciaries to buttress risk controls and fiduciary awareness over an industry that seems obscure to some. The Code can catalyze a change from disengagement and insufficient understanding of common (and, in certain instances, controversial) FX practices to engagement and a deeper understanding of a market whose products are in so many investment policy statements and mandates of retirement plans.

The Code is a series of principles of good practice that are designed to promote the integrity and functioning of the wholesale FX market. It is organized around six primary principles: Ethics; Governance; Execution; Information Sharing; Risk Management and Compliance; and Confirmation and Settlement Processes. Its role is to serve as a reference for those who interact or deal with the FX market, such as asset managers and retirement plan investment committees. The Code broadly applies to sell side, buy side, liquidity providers (both bank and non-bank), e-trading platforms and other entities that provide brokerage, execution and settlement services.

However, the genius of the Code is that not all principles apply to each market participant, and, as a result, requires at least an active review of the Code to determine which principles apply to a particular market participant, including a fiduciary. An investment committee that outsources currency hedging to a third party may have an interest in how that third party will plan to adhere to the Code. Through awareness comes engagement with service providers. Because the Code's principles set forth good practice in the market, a plan fiduciary should become aware of the Code and internalize it.

There are some who say the Code falls short because it does not create legally binding obligations. While that is true, the Code is undoubtedly a big step in the right direction. Arguably, by reason of its non-committal nature, the Code's true effect on the market may come from commercial pressure. Investment committees may insist that third party FX managers contractually commit to following the Code's principles, which include such vital items as: (1) identifying actual and potential conflicts of interest; (2) that appropriate governance structures to promote and support the principles on the Code are in place; (3) the existence of independent control functions to help determine whether the FX activity is conducted in a way that accords with operational risk requirements and controls; (4) that the firm's role in managing orders or executing transactions is clearly communicated to the client; (5) that there is a transparent order execution policy; and (6) that there is a clear understanding of the pricing. There are many other examples and principles that could be ripe for discussion between a plan investment committee and its investment managers.

Engaging fiduciaries on the Code, and the principles that underpin it, is both prudent and productive. It presents an opportunity for retirement plan fiduciaries to better understand what has historically been viewed as a fairly opaque market. The FX market is changing and best practice will continue to evolve. The Code may just very well become a benchmark of good practice that one would look for in a fiduciary that is engaging in the FX wholesale market.

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