

## FAIR AND EFFECTIVE MARKETS REVIEW

### *How fair and effective are the fixed income, foreign exchange and commodities markets?*

#### Chartered Banker Institute: Response to October 2014 Consultation Document

#### BACKGROUND: CHARTERED BANKER INSTITUTE

1. The **Chartered Banker Institute** welcomes the opportunity to respond to the Consultation Paper: The oldest professional banking institute in the world, founded in 1875, we operate in all UK nations, and have a significant and growing international presence. The Institute has driven an agenda of ethical professionalism throughout its existence; promoting professional standards for bankers, providing professional and regulatory qualifications for retail, commercial and private bankers in the UK and overseas, and offering professional membership to qualified individuals. It is one of very few educational and professional bodies remaining in the UK to focus stringently on professional ethics, values and behaviours for bankers and in 2000 was the first professional body to introduce formal study of professional ethics for bankers.
2. The Institute received Royal Charters of incorporation in 1976 and 1991. In 2000, approval was received from the Privy Council to award the “Chartered Banker” professional designation to individuals meeting the Institute’s highest standards and qualification requirements for ethical, professional and technical competence. The Chartered Banker Institute is the only body able to award this designation.
3. A Chartered Banker is a highly-qualified, professional banker with a detailed knowledge of the modern banking industry, banking operations, and the ethical and professional requirements pertaining to banking. For an individual to become a Chartered Banker requires Masters-level study of modules in: (a) contemporary issues in banking, (b) credit & lending, and (c) risk management, plus a choice of elective modules in subjects including retail banking, corporate banking and private banking. All students must also complete a Masters-level module in Professional Ethics and Regulation. Qualifications are offered by the Institute itself, as well as by a range of university partners.
4. Post qualification, all Chartered Bankers and the great majority of the Institute’s members must satisfy the Institute’s Continuing Professional Development (CPD) requirements, including mandatory annual ethics refresher training, to continue to use the “Chartered Banker” designation.

5. In addition to the Chartered Banker qualification, the Institute offers a wide range of professional banking and regulatory qualifications, to support individuals at all career levels, all of which involve study of professional ethics.
6. The Institute has around 20,000 members. In addition, over the past 3 years, approximately 25,000 individuals have participated in a training programme delivered by an employer, university, college or other training provider, accredited by the Institute against our professional and qualifications standards, and providing a pathway to achieving a professional qualification awarded by the Institute.

## **BACKGROUND: CHARTERED BANKER PROFESSIONAL STANDARDS BOARD (CB:PSB)**

7. In 2008, the Institute began work leading to the launch of the **Chartered Banker Professional Standards Board (CB:PSB)** in October 2011, drawing on the findings of the Future of Banking Commission and others, and recognizing the need to rebuild the banking industry's human capital before many others did.
8. The CB:PSB is a unique initiative, led by eight<sup>1</sup> UK banks and the Chartered Banker Institute, to enhance and sustain professional and ethical standards in banking in the UK. The CB:PSB's member firms encompass approximately 75% of the UK banking workforce. Our aim is to develop and implement professional standards (standards of conduct and expertise) for individual bankers which will contribute to the restoration of public trust and confidence and promote a culture of professionalism in the banking industry. Membership of the CB:PSB is open to any bank or building society operating in the UK.
9. In October 2011, the CB:PSB published the **Chartered Banker Code of Professional Conduct (Chartered Banker Code)** which sets out, as high level principles, the ethical and professional values, attitudes and behaviours expected of all bankers. Banks supporting the CB:PSB subscribe to the Code and have implemented and embedded the Code's principles in their organisations. It is through the incorporation of the Code's principles into the organisations' codes, value statements etc. that individuals are required to adhere to the Code – adherence is not be optional for those working within the CB:PSB member firms.
10. To be able properly to recognise and apply the ethical and professional values, attitudes and behaviours set out in the Code in their daily professional activities, individuals must have gained the requisite levels of professional and technical competence relevant to their role. The CB:PSB is therefore developing, and supporting the implementation of, industry-wide professional standards which set out the knowledge, skills, values, attitudes and behaviours expected. One way in which individuals can demonstrate that they have the knowledge and skills to perform their role is through the achievement of relevant vocational or

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<sup>1</sup> Barclays , Clydesdale and Yorkshire Banks, HSBC Bank , Lloyds Banking Group, Royal Bank of Scotland, Santander UK, Tesco Bank, Virgin Money.

professional qualifications. In order to achieve a CB:PSB professional standard, however, individuals must also demonstrate that they continuously exhibit the customer and client focused ethical attitudes and behaviours set out in the Code.

11. In July 2012, the CB:PSB launched its first standard, **the Foundation Standard for Professional Bankers (the Foundation Standard)**. As at the end of 2013, 73,000 individuals had met the Foundation Standard. The numbers are increasing and the CB:PSB member firms have committed that 200,000 individuals, including all customer-facing staff, will have met it by the end of 2015.
12. On 30 September 2014 the CB:PSB launched its second standard, the **Leadership Standard for Professional Bankers (the Leadership Standard)**. It is aimed at professional bankers, throughout an organisation, with leadership responsibilities for shaping the strategy, policy and culture of our banks. Developed by senior bankers with critical input from our independent Advisory Panel and shaped by public consultation, the Leadership Standard sets, for the first time, detailed expectations for the conduct and expertise of banking leaders.
13. There is no doubt that the 'tone from the top' is of great consequence, but the CB:PSB believes that the 'tone in the middle' is equally important. We believe, therefore, that this Standard should be applied to banking leaders and managers throughout organisations, and the accompanying Guidance to the Leadership Standard makes this clear. As a result, its application is expected to include those who fall within the proposed Senior Manager and Certification Regimes.

## RESPONSES TO SPECIFIC QUESTIONS

14. We have commented only on those questions which fall within the Institute's expertise and on which we are expected by our members to comment.

### **Q31: Should there be professional qualifications for individuals operating in FICC markets? Are there lessons to learn from other jurisdictions — for example, the Financial Industry Regulatory Authority's General Securities Representative (or 'Series 7') exam?**

15. Appropriate qualifications exist for many roles within the FICC markets. The problem is that there has been insufficient encouragement for individuals to achieve them. We believe there should be 'strong encouragement' for individuals working in both trading and bank office roles to gain, and institutions to support, relevant professional qualifications including those offered by the CISI and CFA Institute and on-going membership of an appropriate professional body. This 'strong encouragement' could come from regulators, who could require individuals subject to the proposed new Certification Regime to (a) hold relevant qualifications, and (b) be a member of a professional body and complete CPD annually. It could also come from the emerging Banking Standards Review Council, which might set guidelines for its institutional members on its expectations for the roles where job holders should hold an appropriate

professional qualification and also a quantitative target for qualified staff which would also include roles that fall outside the Certification Regime. It is important that junior staff aspire, and are supported, to gain appropriate qualifications in order to achieve career progression.

16. A single, mandatory, qualification is unlikely to be able to cover the range of learning outcomes required to ensure that individuals, many of whom work in highly specialist roles, have the required technical knowledge. Mandating a single qualification would, in our view, be likely to result in a 'lowest common denominator' qualification, setting a low, minimum standard rather than encouraging individuals to aspire to higher standards.
17. Ensuring individuals are appropriately qualified is a necessary, but not sufficient, factor for raising standards of individual behaviour. A qualification can ensure that individuals, at a certain point in time, have the knowledge required to understand and apply regulatory requirements, expected standards of individual conduct, etc, but does not ensure that the appropriate values, attitudes and behaviours are demonstrated in practice.

**Q29: How could any perceived need to reduce uncertainties best be addressed: (a) better education about existing standards; (b) new or more detailed market codes on practices or appropriate controls; or (c) new or more detailed regulatory requirements?**

**Q30: How can the industry, firms and regulators improve the understanding of existing codes and regulations by FICC market participants and their managers?**

**Q32: What role can market codes of practice play in establishing, or reinforcing existing, standards of acceptable market conduct across international FICC markets?**

**Q33: How would any code tackle the design issues discussed in Section 5.4.3, ie: how to ensure it can be made sustainable given industry innovation over time? How to differentiate it from existing codes? How to give it teeth (in particular through endorsement by regulatory authorities or an international standard setting body)? How to communicate it to trading teams? Whether, and how, to customise it for individual asset classes?**

18. As the Consultation Document notes, there are many codes already in existence in the FICC markets. This is not necessarily a problem, however, provided there is clear alignment between codes, as has been achieved in recent years by the CB:PSB. The CB:PSB's member firms have all "subscribed" to the Chartered Banker Code, a simple, high-level Code of individual behaviour drafted by senior banking leaders, with input from an independent Advisory Panel, setting out their expectations of customer and client focused, ethical and professional behaviour. In "subscribing" to the Code, member firms have either adopted the Code as is, or aligned their own codes with the Chartered Banker Code, an alignment confirmed by independent review. To date, the Chartered Banker Code covers

some 350,000 banking professionals in the UK including a number that work in FICC markets.

19. This approach may help mitigate one of the criticisms with codes noted in the Consultation Paper, namely that they are often not written in language relevant to traders and others. Relevant versions of the Chartered Banker Code can be developed by firms, and others, with alignment reviewed and independently verified, so that all are covered by a single code that exists, in effect, in different "translations".
20. The other common criticism of codes is that they lack sufficient detail to be of any real use. To be understandable, and memorable, codes need to be short and simple. To ensure they are of day-to-day use, however, they need to be supported by detailed professional standards setting out the knowledge, skills, values, attitudes and behaviours necessary to apply the code's principles in day-to-day market activities relevant to role, function and organisation. This is precisely the approach adopted by the CB:PSB.
21. We believe that the Treasury, PRA and FCA should look to this approach where to meet a standard an individual has to demonstrate a required level of knowledge and skill, possibly including achieving a relevant qualification, and also demonstrate the application of the required values, attitudes and behaviours relevant to their role, function and organisation. At present, there is no CB:PSB standard for the FICC markets, but this could be developed, with input from practitioners, regulators and the relevant professional bodies, in approximately 12 months. This much more holistic approach is more likely, we believe, to achieve the outcomes desired.
22. Formal endorsement of the standards by the regulatory authorities would both give them teeth and encourage wider adoption of them. We believe that the CB:PSB's Leadership Standard complements the proposed regulatory approach and could be used by firms as a relevant, but not determinative, factor in addition to the FCA's FIT Handbook guidance, in assessing and demonstrating the fitness and propriety of applicants for, and holders of, SMFs, as well as individuals falling within the Certification Regime prior to their appointment and on an on-going basis.
23. In particular we believe that the Leadership Standard could be a relevant factor to assist firms in assessing the competence and personal characteristics of an individual covered by the Senior Managers and Certification regimes. Widespread adoption of the Leadership Standard across the industry would ensure a common approach which, in our opinion, would assist the regulators when judging firms' compliance with their fitness and propriety duties.

**38: To what extent could the Banking Standards Review Council help FICC market participants to raise standards collectively — in particular, are there other steps that could be taken to help complement or extend this initiative in FICC markets for non-banks and internationally?**

24. The BSRC plans to work with UK banks and building societies to set benchmarks and metrics for banks and banking, e.g. incentive schemes, whistleblowing. We believe that in due course this could be extended to embrace non-banks operating in FICC markets in the UK.

**Q39: Are there other regulatory measures the authorities could take to strengthen personal accountability or otherwise improve the way firms manage incentives and governance? In particular, should any or all of the measures in the Senior Managers and Certification regime be extended to non-bank firms active in FICC markets?**

**Q40: What role can more effective surveillance and penalties for wrongdoing play in improving the fairness and effectiveness of FICC markets globally? How can firms and the industry as a whole step up their efforts in this area? And are there areas where regulatory supervision, surveillance or enforcement in FICC markets could be further strengthened?**

**Q42: Are there processes or structures that can allow firms to punish malpractice by their own staff more effectively (for example, penalties for breaching internal guidelines)?**

25. We believe that the Senior Managers and Certification Regime should be extended to non-bank firms active in FICC markets to prevent migration of activity to the shadow banking market and a possible race to the lowest common denominator standards which would not rebuild public trust and confidence in FICC markets.
26. Under the new Senior Managers and Certification Regime and the new Conduct Rules banks will be required to notify the regulators when they:
- are aware that or suspect that a person has breached the conduct rules, and
  - when they have taken formal disciplinary action against a person for any reason specified by the regulator.

The existing legal framework means that in some circumstances it can be difficult for professional bodies in the banking sector to discipline members as they do not have investigatory powers, meaning there is often a lack of evidence. We believe that enforcement could be extended if the proposed process of notification of disciplinary action by the banks is expanded to include notification to relevant professional bodies. This would enhance the credibility of the industry and those who work within it, by making it easier to investigate and sanction members who have failed to live up to the high standards expected.