N° 42 & 43 / 2015
Finance & the Common Good / Bien Commun

finance & bien commun common good

N° 42 & 43

ETHICS IN FINANCE - ROBIN COSGROVE PRIZE
5th Edition 2014/2015
Nominated Essays

SENSE OF URGENCY - LE SENS DE L'URGENCE

- *Ross Murdoch, England*
- *Christian Buckson, USA*
- *Emilia Klepczarek, Poland*
- *Mar Pérezts, France*
- *Alicja Choma, Poland*
- *Gómez Gutiérrez Christóbal Miguel, Panama*
- *Mehta Anshuman, England*
- *Josh Glendinning, England*
- *Brett Scott, South Africa*
- *Anne Godbold, England*
- *Chiedza Musvosvi, Zimbabwe & Marlyn Anthonyrajah, South Africa*

ethics in finance
robin cosgrove prize

ACCA

CFA Institute

accenture
High performance. Delivered.

Finance & the Common Good / Bien Commun
(Financial Ethics Review - Revue d'éthique en finance)

is a publication of the Observatoire de la Finance
24, rue de l'Athénée, 1206 Geneva, Switzerland,
Phone +41 (0)22 346 30 35
Email office@obsfin.ch, Website: www.obsfin.ch

Editorial officer and Layout : Hannah Soissons
Translation: Gemma Hooper & Dominique Goumard
Printer: Grafix, Gdansk (Poland)

Finance & the Common Good/Bien Commun

2

Ethics in Finance
Robin Cosgrove Prize 2014-2015

Editorial

Part I
Regulatory & Conceptual Considerations

Part II
Implementation & Applications

Le sens de l'urgence

C'est avec une certaine fierté que les co-présidents du Jury du prix "Ethique en Finance – Prix Robin Cosgrove" présentent aujourd'hui au lecteur les meilleurs textes de la 5ème édition (2014-2015) que clôture la cérémonie solennelle de remise des prix, le 21 septembre 2015 à Washington. Notre fierté a une double raison d'être : l'intérêt des textes eux-mêmes et l'excellence du travail du Jury.

D'une édition du Prix à l'autre, les textes soumis offrent une vue panoramique des thématiques qui sont au cœur, à un moment donné, des préoccupations des jeunes générations en matière d'éthique en finance. Dans cette 5ème édition, dont le délai de remise des textes était fixé au 15 avril, trois séries de problèmes ont été traitées avec une assiduité particulière :

• La problématique liée aux modes de régulation. Les auteurs des textes correspondants posent ainsi la question de savoir quel type de régulation est susceptible de pousser, et même dans certains textes d'obliger, les opé-

Sense of urgency

The Co-Presidents of the Ethics in Finance Robin Cosgrove Prize are proud to present the best papers from the 5th edition of the Prize, 2014-2015, at the closing of the Award Ceremony on 21st September 2015 at the IMF in Washington. Our pride is motivated by two reasons: the content of the texts themselves and the excellent work done by the distinguished global Jury.

From one edition of the Prize to another, the texts submitted have offered a panoramic view of the key themes at a certain given moment which preoccupied the younger generation regarding ethics in finance. In the 5th edition, where the closing date was 15th April 2015, three distinct but related issues were addressed with particular assiduity:

• The challenges relating to modes of regulation. The authors who addressed this issue posed the question of what type of regulation would be most appropriate and, in some texts, what measures should oblige financial operators and their collaborators to go beyond strict legal requirements and compliance with them to reconsider ethics in their strategies, professional behaviour and their business models.

rateurs financiers et leurs collaborateurs à dépasser le stade du légalisme et de la conformité (compliance) pour entrer, sans complaisance dans le vif du sujet, en reconsidérant l'aspect éthique de leurs stratégies, comportements et modèles d'affaires.

• La problématique des outils et instruments. Les auteurs de ces textes cherchent – souvent dans la trousse à outils technologique – des outils susceptibles de faire progresser l'éthique au sein des institutions et des professions, mais aussi des moyens pour créer dans la société des externalités positives.

• La problématique du diagnostic intellectuel et scientifique. Certains participants cherchent à préciser les enjeux éthiques en finance afin d'obtenir ainsi un diagnostic plus précis des problèmes actuels. Ceci est indispensable, d'une part aux éventuelles mesures correctrices, d'autre part à un enseignement plus pertinent dans les centres de formation.

Ces trois champs thématiques se retrouvent aussi dans les onze textes que le Jury a "nominés", indiquant ainsi qu'ils méritaient d'être publiés et portés à la connaissance d'un public plus vaste. Les douze auteurs des textes nominés (l'un porte deux signatures) partagent un sens de l'urgence. Ils constatent tous, chacun à sa façon, que trop de temps s'est écoulé depuis la crise sans que des changements fondamentaux aient été initiés par l'industrie financière. Il y a donc urgence aujourd'hui, d'autant plus que les régulations et cadres légaux mis en place dans l'émoi de la crise commencent sérieusement à montrer leurs limites. Cet appel à agir est quasi-unanime, mais il est particulièrement énergique chez les jeunes professionnels, majoritaires dans cette publication, notamment ceux travaillant au cœur de la régulation.

Il y a donc urgence aujourd'hui, d'autant plus que les régulations et cadres légaux mis en place dans l'émoi de la crise commencent sérieusement à montrer leurs limites.

Durant les 10 années qui se sont écoulées depuis le lancement de la 1ère édition, la réflexion en matière d'éthique en finance est devenue – si l'on en croit les textes – plus mature. Indiscutablement, la crise y a laissé son empreinte. Les jugements à l'emporte-pièce ont fait place à un argumentaire fin et soigneusement présenté. La question a mûri, l'éthique aujourd'hui est vue comme le maillon indispensable, mais toujours manquant, à la régénération de l'industrie financière après la crise. La question n'est donc plus de savoir s'il faut de l'éthique, mais par quels moyens

• The challenges of selecting the right tools and instruments. Authors of the relevant texts sought – often in modern technologies- the tools susceptible to advance ethics in the core of the institutions and related professions and also to use these technologies to create positive externalities in society.

• The challenges relating to intellectual and scientific diagnostics. Some of the participants submitting texts for the Prize sought to define more precisely the stakes involved in ethics in finance with a view to obtaining a more precise diagnosis of actual, current problems. This approach is indispensable on the one hand to define remedial measures and on the other to promote more pertinent education in training centres concerned with finance.

These three themes are to be found in the eleven texts nominated by the Jury as they merited publication and should be brought to the attention of a wider public. The twelve authors of the nominated texts (one paper had two authors) share a sense of urgency. They all maintained, each in their own fashion, that too much time had gone by since the major financial crisis without fundamental changes having been initiated by the finance industry. Thus today it is urgent to go beyond the regulations and legal constraints put in place during the commotions of the crisis to assess their impact and demonstrate their limits. This call to go further is more or less unanimous, but it is particularly felt by young finance professionals, certainly the majority in this publication, notably those working in the heart of the regulatory organizations.

It is urgent to go beyond the regulations and legal constraints put in place during the commotions of the crisis to assess their impact and demonstrate their limits.

During the ten years, 2005-2015, which have passed since the launch of the first edition of the Prize, the reflections on the subject of ethics in finance have become – if one follows the arguments in the texts – more mature. The financial crisis has indisputably left its mark. The judgments taken away have prompted deeper reflection and more careful presentation. The issue has matured; ethics today is seen as the indispensable link which has to some extent been lacking in the regeneration of the financial industry after the crisis.

The question now is not to know if ethics is important but to understand through which measures ethics may be best activated. The authors here are in accord in saying that some regulatory constraints risk derailing this approach, while their absence calls into question the current state of finance. What vectors could incite more ethics without constraining the markets?

l'activer. Les auteurs s'accordent à dire que la contrainte du régulateur en cette matière risque de dévoyer la démarche, alors que son absence reporte la perspectives d'une remise en état de la finance. Quels vecteurs peuvent-ils inciter sans contraindre ?

En plus des propositions de technologie participative du "blockchain" ou du recours à la pression concurrentielle ou au Design Thinking, le lecteur trouvera dans au moins trois textes la question de la culture des institutions financières. Elle est un élément pivot, à la limite de la portée du régulateur. C'est donc là, au niveau de la culture, avec ou sans le concours des outils techniques, que se joue l'avenir de l'éthique dans l'industrie financière. Certains textes se tournent vers les nouveaux défis éthiques, notamment ceux liés à technologie numérique appliquée aux paiements. La tentation dans la banque de détail est grande d'exploiter les ressources du Big Data pour segmenter de manière toujours plus fine la clientèle. Avantage concurrentiel ou abus de confiance ?

Trois textes prolongent cette discussion, en dehors du cadre strict de la branche financière, et évoquent des voies pour enseigner la finance autrement et pour sensibiliser les jeunes recrues de la branche dès le début de leur carrière à la dimension éthique des décisions et rôles qu'ils seront amenés à endosser. Là encore, l'impatience est de mise, les choses changent beaucoup trop lentement de l'avis des jeunes auteurs pressés à faire de l'ordre dans leur héritages. Les perspectives attrayantes du e-governement sont évoquées aussi comme moyen possible pour réduire la corruption dans les adjudications publiques. Ou encore l'impact socialement positif des technologies mobiles de paiement sur le tissu relationnel dans les pays en développement.

L'impatience est de mise, les choses changent beaucoup trop lentement de l'avis des jeunes auteurs pressés à faire de l'ordre dans leur héritages.

Face à une moisson si riche en idées, pistes et suggestions, le Jury a dû faire des choix difficiles. Quatre étapes de lectures, commentaires, notations ont été nécessaires pour parvenir à la liste des onze textes publiés ici. En effet, la composition du Jury est impressionnante par la variété des perspectives et des compétences avec deux points communs : l'excellence de chacun dans ses domaines, ainsi que l'expérience et la capacité de dialogue, c'est-à-dire d'expression, mais avant tout d'écoute. C'est donc au terme d'échanges passionnés et passionnants, culminant dans une réunion à Londres en juillet, au siège de l'Association of Chartered Certified Ac-

In addition to propositions for more participative technologies, such as "blockchain/bit coins", more competitive payments methods or so-called Design Thinking, the reader will find here at least three texts that explore the culture of financial institutions. This is a key element which shapes the regulators. It is there, at the cultural level, that with or without the various technological tools, the future of ethics in finance will be played out.

Some of these texts examine new ethical challenges arising from digital technologies, especially applied to payments. There is an undeniable temptation in the retail banking sector to exploit the resources of Big Data to achieve ever more detailed client segmentation. But is this a competitive advantage or an abuse of privacy?

Three texts take this discussion further beyond the strict framework of finance, evoking ways for better training and for ensuring that young recruits in the financial sector are more aware from the beginning of their careers of the importance of ethics and the ethical dimension of the decisions and roles that they will be called on to manage. There again, the texts show impatience that changes go too slowly in the opinion of the young authors who wish to advance good order in their profession. Some papers evoke the attractions of the techniques employed in e-government as a means of reducing corruption in public sector management. Also, an author focused on the positive social impact of mobile payment technologies in strengthening confidence in some developing countries.

The texts show impatience that changes go too slowly in the opinion of the young authors who wish to advance good order in their profession.

Faced with such a rich harvest of ideas, reflections and proposals, the Jury had to make some difficult choices. For the 5th edition of the Prize, four rounds were necessary for the Jury to read the papers, make commentaries, grade and ultimately arrive at the list of the eleven texts published here. The composition of the Jury is in itself impressive, with a variety of experience and competences and with two main points in common: the excellence of each Jury member in their domain as well as their experience and capacity to engage in dialogue, both to express their views and to listen to those of the others. Their exchanges were passionate and engaging, culminating in a meeting in July in London, at the headquarters of the Association of Chartered and Certified Accountants (ACCA), one of the strategic partners of the Prize, where the final four texts of the Prize-winners were selected.

countants (ACCA), l'un des partenaires stratégiques du Prix, que les quatre textes gagnants ont été choisis. Nous tenons à remercier ici chacun des membres du Jury pour leur temps donné sans compter, pour leur exactitude dans le respect des délais et pour la pertinence de leurs commentaires.

La 5ème Edition culmine le 21 septembre à Washington. C'est en effet au siège du Fonds Monétaire International que se déroulera la Cérémonie des Prix. Le fait que le FMI ait été d'accord d'accueillir une discussion et une cérémonie portant sur un thème qui a, jusque-là, été peu présent dans ses travaux, est en soi un signe des temps. Puisse la conjonction des forces entre l'institution clé de voûte de la finance internationale et l'initiative portée – quasiment sans ressources – par un petit groupe de convaincus, ouvrir la porte aux jeunes auteurs et leur donner l'opportunité d'apporter leur contribution à la construction d'un monde meilleur. En soumettant leurs textes au Prix, ils ont eu le courage de sortir des sentiers battus et de s'exposer en articulant leurs analyses et leurs opinions souvent innovantes et originales. Que l'attention portée à ces efforts les encourage à persévérer !

La 5ème Edition culmine le 21 septembre à Washington. C'est en effet au siège du Fonds Monétaire International que se déroulera la Cérémonie des Prix.

Co-President of the Prize

Dr Carol Cosgrove-Sacks — Prof. Paul H. Dembinski

We would like to thank most sincerely each Jury member for giving their time without reward, for their assiduous respect for the often complex timing of the deadlines and for their pertinent commentaries.

The 5th Edition culminates on 21 September in Washington, DC. The Award ceremony for the Prize will take place at the headquarters of the International Monetary Fund (IMF). The fact that the IMF was willing to welcome a discussion and the Ceremony on a theme which so far had been not so present in its work is in itself a sign of the times. This has made possible the conjunction of forces between an institution at the heart of international finance and an initiative pursued, almost without resources, by a small group of advocates, to open the door to these young authors and to give them an opportunity to promote their contributions for the construction of a better world.

The 5th Edition culminates on 21 September in Washington, DC. The Award ceremony for the Prize will take place at the headquarters of the International Monetary Fund.

In submitting their texts for the Prize, they have had the courage to leave their well-trodden paths and to expose themselves and their thoughts in articulating their analyses and their opinions, often innovative and original. May the attention given to their efforts encourage them to persevere!

Co-Président du Prix

Dr Carol Cosgrove-Sacks | Prof. Paul H. Dembinski

Fifth Edtion 2014/2015 : Global Jury

Dr **Carol Cosgrove-Sacks**, co-chair and Robin's mother, lives and works in Geneva. She was formerly Director of Trade in the United Nations in Geneva (1994-2005); since 2006 she is a Professor at the College of Europe, Bruges; a Professor at the Europa Institute, University of Basel; and the Senior Advisor on International Standards Policy to OASIS, the global eBusiness standards organisation. She also maintains interest in some British academic centres, including the Institute of Development Studies (IDS), University of Sussex, and the Centre for Euro-Asian Studies (CEAS),University of Reading.

Prof. **Paul H. Dembinski**, co-chair, is the initiator and Director of the Foundation of the Observatoire de la Finance. The mission of the Observatoire de la Finance is to promote awareness of ethical concerns in financial activities and the financial sector. Paul H. Dembinski is the founder and editor of the quarterly bilingual journal entitled Finance & the Common Good/Bien Commun. In parallel, he is partner and co-founder (with Alain Schoenenberger) of Eco'Diagnostic, an independent economic research institute working for both government and private clients in Switzerland and elsewhere. Paul H. Dembinski is also Professor at University of Fribourg where he teaches "International Competition and Strategy".

Mrs **Marie Casimiro-Crepin** is Compliance Officer Professional Ethics and Privacy BGL BNP Paribas (Luxembourg). She is a former winner of the Robin Cosgrove, 2008-2009 edition, and the Robin Cosgrove Prize has allowed him to grow professionally to the field that interested him. Lawyer by training (Master II at the Assas-Paris II University), Marie Casimiro-Crepin focused her final thesis on Law History, particularly of the Right of Public Finances at the time of the "Ancien Régime". This subject, which directly implied the notion of the common good through the new born notion of taxation, helped her to reflect on the direct application of this theme on contemporary societies. In 2007 she started to work for Ethiea Gestion, a portfolio management enterprise which centers its work on an ethical and behavioural analysis of different societies.

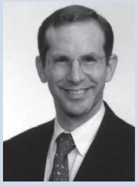
Prof. **Marc Chesney** is Professor of Finance at the University of Zurich. Previously in Paris, he was Professor and Associate Dean at HEC, President of the CEBC (Centre d'Etudes sur le Blanchiment et la Corruption) and an external expert with the World Bank. He has published articles and books in the areas of quantitative Finance and also of financial crime mechanisms. In addition, he focuses on the subject of Ethics and Finance. At the University of Zurich, he is member of the Board of the Graduate Programme for interdisciplinary Research in Ethics and co-organizer of the Ethical Finance Research Series. He is also member of the advisory Board of Finance & Common Good/Bien Commun. Marc Chesney holds a Ph.D. in Finance from the University of Geneva and obtained his Habilitation from the Sorbonne University.

Mr **Steve Culp** is a senior managing director, Accenture Finance & Risk Services. Based in Chicago, Steve has more than 20 years of global experience working with clients to define strategy, and execute change programs across a broad spectrum of risk management and finance disciplines. Steve is responsible for leading the global group across all dimensions, from setting the strategic direction through to the enablement of local teams operating across diverse markets. In addition, he oversees Accenture's efforts on large-scale transformation programs across Finance and Risk for some of our most important financial services clients. Prior to his current role he was responsible for our Global Risk Management Practice, and prior to that he led Accenture's Finance & Enterprise Performance consulting services for global banking, insurance and capital markets institutions.

Mr **Christopher de Mattos** is a director of London-based investment manager RAB Capital Ltd. and sits on the boards of a number of regulated and unregulated investment funds. He has spent over 20 years in the financial services industry, working as a financial analyst and investment banker in Europe and Latin America. Christopher joined the founding team at RAB in 1999 and, as Finance Director, was instrumental in taking the company to flotation on London's AIM market in 2004. He holds a degree in Mechanical Engineering from Imperial College, London and gained SERC and Kitchener scholarships to study for his MBA at INSEAD. Having reduced his involvement in the day-to-day management of RAB, he has taken a particular interest in the role of the board in promoting corporate governance in financial services businesses.

Dr **Eduard Dommen** is a specialist in economic ethics. He is past President of the Scientific Committee of the Swiss Network of International Studies (www.ruig-gian.org); he was a member of the Scientific Committee of the Swiss Network of International Studies (www.snis.ch). He is a member of the Actares association, Shareholders for a sustainable economy (www.actares.ch). He was a founder member of the Ethics Committee of the Swiss Alternative Bank (Banque Alternative Suisse) and a member of the Board of Geneva's Caisse Publique de Prêts sur Gages as well as a member of the Council of the RAFAD Foundation, an institution that guaranteed micro-credit. Edward Dommen has been a university professor, but he spent most of his career before he retired as a researcher with the United Nations conference on Trade and Development (UNCTAD). He written and compiled several books on economic ethics.

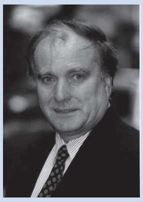
Ms **Michaela Erbenova** is in charge of the Financial Supervision and Regulation Division of the Monetary and Capital Markets Department of the IMF. Her responsibilities include oversight of policy analysis and technical advice on prudential and conduct-of-business regulation and supervision, work with the international standard setting bodies and national regulatory and supervisory agencies on the design and implementation of financial supervision policies and global regulatory reform, as well as leading capacity building effort in these areas. Prior to joining the IMF in 2007, Ms. Erbenova served as a Board Member and Chief Executive Director of the Czech National Bank. Previously, she held public and private sector positions in her native Czech Republic, as Advisor to the Prime Minister; Chief Advisor to the Minister of Finance, member of the Government Steering Committee for Bank Privatization, and Head of Investor Relations of Komercní banka, country's second largest commercial bank.



Dr **Robert Alan Feldman** is the Chief Economist and Co-Director of Japan Research at Morgan Stanley Japan Securities Co., Ltd. As part of Morgan Stanley's global economics team, he is responsible for forecasting the Japanese economy and interest rates. He is a regular commentator on World Business Satellite, the nightly business program of TV Tokyo. Prior to joining Morgan Stanley in 1998, Robert was the chief economist for Japan for Salomon Brothers from 1990-97. He worked for the International Monetary Fund from 1983-89, in the Asian, European, and Research Departments. Robert has a Ph.D. in Economics from the Massachusetts Institute of Technology, where he concentrated on international finance and development. He did his undergraduate work at Yale University, where he took BAs in both Economics and in Japanese Studies, graduating phi beta kappa, summa cum laude. Before he entered graduate school, he worked at both the Federal Reserve Bank of New York and at the Chase Manhattan Bank.

Dr **Philippa Foster Back** has over 25 years of business experience. She began her career at Citibank NA before joining Bowater in their Corporate Treasury Department in 1979, leaving in 1988 as Group Treasurer. She was Group Finance Director at DG Gardner Group, a training organisation, prior to joining Thorn EMI in 1993 as Group Treasurer. She was appointed Institute of Business Ethics' Director in August 2001. Philippa Foster Back has a number of external appointments, including at the Ministry of Defence, The Institute of Directors and the Association of Corporate Treasurers, where she was President from 1999 to 2000. In 2006 she was appointed Chairman of the UK Antarctic Heritage Trust.

Mr **Peter Gakunu** was an Alternate Executive Director at the International Monetary Fund in charge of Africa Group One constituency. Before joining the Fund, he served as Special Advisor to the Kenya Cabinet in charge of economic reforms from February 2003 to October 2004. In September 2000, he joined the "Dream Team", a team of high level personalities put together by the World Bank and UNDP to advise the Kenya Government on reforms. He worked as Economic Secretary and Director of Planning in the Ministry of Finance and Planning until December 2002. He coordinated the first Poverty Reduction Strategy Paper for Kenya. In 2003 he was appointed Permanent Secretary in the Ministry of Environment. Prior to returning to Kenya, he worked with the African Carribean and Pacific Group in Brussels from 1986 to 2000 as Director of Trade, and from 1977 to 1986 as Trade Expert in the ACP Secretariat.



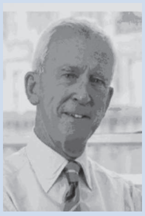
Dr **Andrew Hilton** is Director of the Centre for the Study of Financial Innovation, a London-based non-profit think-tank, supported by 70 City institutions, that looks at threats to and opportunities in the global financial system. The CSFI was set up 20 years ago, and has since published several books and around 100 reports. More significantly, it has organized well over 1,300 round-tables on issues of pressing interest in the financial services sector - including EMU, the single European market, the Internet, small business finance, high-tech start-ups, microfinance and regulation. Dr. Hilton also runs a small economic and financial consultancy. He has worked for the World Bank in Washington and has run a financial advisory service for the *Financial Times* in New York. He is a board member of the Observatoire de la finance in Geneva. He has a PhD from the University of Pennsylvania, an MBA from Wharton and an MA from New College, Oxford. He was appointed OBE in 2006.

Prof. **Dominique Jacquet** is Visiting Scholar at Insead Social Innovation Center and Professor of Corporate Finance at Cedep, University of Paris Ouest and Ecole des Ponts ParisTech. He is a civil engineer (Ecole des Ponts), holds an MBA from Insead and a PhD from the University of Bordeaux. Before starting an academic career, he has been a finance executive in American and French corporations, holding controller, treasurer and CFO positions. His main areas of interests are the relationship with business and finance, the role of incentives in sustainable value creation and the link between uncertainty and financial strategy.

Prof. **Robin Jarvis** is Special Adviser to the Association of Chartered Certified Accountants (ACCA) and Professor of Accounting at Brunel University. He chairs the Advisory Panel of the Chartered Banker's Professional Banking Standards Board and the European Banking Authorities (EBA) Consumer Protection Group. For the last ten years he has been a member of European Commission's Expert Group the Financial Services User Group. Robin has researched and published on SMEs, accounting and banking for a number of years resulting in numerous publications and 10 books. His interest in SMEs and accounting has been recognised through his membership of the International Accounting Standards Board (IASB) SME specialists groups and his membership of the European Financial Reporting Advisory Group (EFRAG).

Mrs **Josina Kamerling** is Head of Regulatory Outreach at CFA institute, responsible for supporting CFA Institute's policy development, in the Europe, Middle East, and Africa (EMEA) region, advancing the impact of advocacy efforts, and promoting capital market integrity and investor protection issues. Prior to joining CFA Institute, Josina was a Specialist Adviser on financial services in the European Parliament for six years, advising most significantly the Economic and Monetary Affairs Committee and the Special Committee on the Financial, Economic and Social Crisis on all aspects of financial services policy issues and technical information. Prior to this, Josina was a banker for 15 years, most notably in ING (managing a group of multinational clients on a worldwide basis and on all business lines) and prior to that as head of sales in the financial markets division of ING group (overseeing different sales teams in the dealing room). Josina holds a Bachelor of Arts with honours degree from Cambridge University in Law and modern languages.

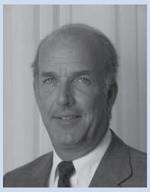
Dr hab. **Róża Milic-Czerniak** is a Fellow of the Banking Commission of Ethics by Polish Banking Association and holds a post of the associate professor at the private economic university in Katowice. Previously, she has held a number of the managing positions in one of the biggest banks in Poland, where she was responsible for developing capital management , methodology of product and client profitability concerning costs of risk, capital and costs allocation. She participated also in several projects, as project of ICAAP introducing, etc. Prior to joining bank, she worked at the Institute of Philosophy and Sociology of the Polish Academy of Science in Warsaw, where she researched on economic behavior of households, also in transformation periods (participating in international surveys and projects). She is author of several books and research papers and spent 1,5 year in Germany (at the Hohenheim University in Stuttgart and University in Kiel) during the fellowship of Alexander von Humboldt-Stiftung.



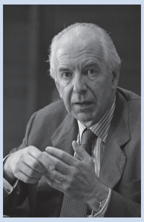
Mr **Peter O'Connor** is an experienced global and regional asset allocation and manager selection adviser for financial institutions, family offices and charities. He is Chairman/Lead Director of a number of publicly quoted investment/production companies with particular personal experience in Asia for the past 30 years. After boarding school in Ireland, Peter O'Connor read Economics and Law at Trinity College Dublin and King's Inns Dublin respectively. He has lived and worked in London and Hong Kong, and he travelled frequently to most Asian countries, Canada and emerging economies in Europe.

Mrs **Clare Payne** is the founder and Board Member of The Banking and Finance Oath and is a St James Ethics Centre Consulting Fellow for Ethics in Banking and Finance. Clare also holds the professional position of Director of Business Partnerships for Good to Great Schools Australia, an organisation focused on education reform, lead by Australian Indigenous Leader Noel Pearson. Clare previously managed the Integrity Office of Macquarie Bank and is a World Economic Forum Young Global Leader. Clare was awarded the Inaugural Robin Cosgrove Prize for Ethics in Finance, Geneva and in 2011 she was nominated in the FINSIA Pinnacle Awards category for 'Most Outstanding Thought Leader' in Financial Services. Clare commenced her career as a lawyer having completed a Bachelor of Laws and Mass Communications.

Mr **Jean-Christophe Pernollet** is Chief Audit Executive of the Edmond de Rothschild Group, after having been its Chief Financial Officer. Earlier in his career he was the partner in charge of the Geneva office of PricewaterhouseCoopers. He is a graduate from IEP and EDHEC and has completed the Columbia Business School Senior Executive Program. As a former Lead bank auditor recognized by the Swiss Regulator FINMA, he is a financial services industry specialist and benefits from more than twenty years of working experience, of which three in Paris and two in New York. He was Chief Financial Officer of EFG International between 2010 and 2012.



Mr **Charles Pictet**, a Swiss citizen, acted as a financial regulator in Switzerland from 2005 until 2012 in his capacity as a member of the board of FINMA. Prior to this, he worked at Pictet & Cie, a Geneva-based Swiss private bank, where he spent 25 years as a partner and senior partner. He was President of the Geneva Private Bankers Association, Vice President of the Swiss Private Bankers Association, and a member of the Board of the Swiss Bankers Association. He also served as Vice President of Economie Suisse. He is currently Vice President of the International Red Cross and Red Crescent Museum in Geneva (Conseil de Fondation), and a member of the Board of Europa Nostra. He holds an MBA from the University of St Gallen.



Mr **Domingo Sugranyes** graduated from the University of Fribourg, Switzerland, in 1969. He was General Secretary of the International Christian Union of Business Executives (UNIAPAC), between 1973 and 1981. He joined MAPFRE, Spain's leading insurance group in 1981. He was active in the international development of the group in Latin America and in Reinsurance worldwide. From 1989 to 2007 he was in charge of the group's listed holding company and member of the group's executive. After retiring from executive positions he remains on the Board of the MAPFRE Foundation and of several group companies. As complementary activities, Domingo Sugranyes was President of UNIAPAC from 1997/2000 and is currently chairman of the Board of Centesimus Annus Pro Pontifice Foundation, a Vatican Center for Christian Social Teaching.

The Most Reverend **Justin Welby**, Arch-Bishop of Canterbury and a member of the House of Lords, is an Emeritus Member of the Jury. He served as a member from 2006-2013. He was previously a senior executive in a UK oil company, before ordination in the Church of England. For many years, he was responsible for the reconciliation work of Coventry Cathedral, travelling widely in Africa and the Middle East. Justin Welby has written extensively on ethics and finance. In July 2012 he was appointed to the Parliamentary Commission on Banking Standards.

www.robincosgroveprize.org/en/aboutus/jury

Part I

Regulatory & Conceptual Considerations

Behavioural Ethics and the Next Generation in Finance

Ethics in Finance, Robin Cosgrove Prize
Global edition 2014-2015

First Prize

Ross Murdoch
United Kingdom
Solicitor,
The Financial Conduct Authority,*
London

* The views expressed herein are those of the author and do not necessarily reflect those of the Organization he is affiliated to.

As a young professional[1] working in finance, I believe it is important to try and be a positive force for change. We can challenge corruption. We can do things differently. However, this cannot be achieved unless we are enabled, unless we remain free from corruption. How can we become and remain ethical decision-makers? Behavioural ethics is an innovative field that can help answer that question. This paper applies those concepts to a variety of examples, from LIBOR to Madoff to Enron, in order to understand the pressures faced by young professionals in finance and consider how we can use this knowledge to enable more young people to become ambassadors for ethical decision-making.

1 For the purposes of this paper, young professionals will be defined as those aged 35 or younger.

What is behavioural ethics?

Behavioural ethics is the examination of "*individual behaviour that is subject to or judged according to generally accepted moral norms of behaviour*" (Treviño, Weaver & Reynolds, 2006, p. 952). It considers how individuals really make decisions when faced with ethical dilemmas. This requires us to do much more than consider individuals as rational actors (Tenbrunsel & Messick, 1999); it involves a close examination of the full range of emotional and social influences on moral behaviours (Zhong, 2011).

As long ago as the 18th century, Adam Smith (1759/1981) stated that there are: "*…some situations which bear so hard upon human nature, that the greatest degree of self-government,* L'éthique comportementale étudie le comportement d'un individu pour savoir s'il respecte les normes morales généralement admises. Elle examine comment il prend des décisions face aux dilemmes éthiques. Pour ce faire, l'éthique comportementale fait plus que considérer les individus comme des acteurs rationnels, elle prend en compte les valeurs émotionnelles et sociales qui influent sur les comportements moraux.

L'économie et la finance comportementales sont utilisées par les régulateurs du monde entier pour aider les gens à prendre de meilleures décisions économiques. La thèse de ce texte consiste à montrer que l'éthique comportementale peut aider les gens à prendre de meilleures décisions éthiques. Il est important de distinguer l'éthique comportementale d'autres approches philosophiques de l'éthique, mieux établies et reconnues, mais aussi plus limitées, notamment l'éthique des vertus, l'éthique du devoir ou l'éthique utilitariste des conséquences.

which can belong to so imperfect a creature as man, is not able to stifle, altogether, the voice of human weakness, or reduce the violence of the passions to that pitch of moderation, in which the impartial spectator can entirely enter into them." (p. 29).

However, for most of the 20th century theories of economic analysis were dominated by the premise that individuals are rational actors (Morgan, 1996), without considering that individuals really make decisions based on a multitude of emotional and situational factors. More recently, financial regulators around the world have taken a different approach by embracing behavioural economics to help people make better financial decisions. In a similar way, this paper argues that behavioural ethics can help people make better ethical decisions.

This relatively new field embraces some of the best ideas from a broad range of existing ones, including organisational behaviour, behavioural economics, and moral and social psychology (Kish-Gephart, Harrison & Treviño, 2010). However, it is also important to distinguish behavioural ethics from three well-established philosophical approaches to ethics (Van Dijke, 2014). The first is Aristotle's virtue-based approach, which considers whether or not actions have been motivated by certain morally desirable traits. The second is the belief that the consequences of an action determine its moral value, *"Reason is, and ought only to be the slave of the passions"* (Hume, 1739/1978, p.415). The third and final philosophical approach to distinguish behavioural ethics from is deontological ethics, which judges whether or not an action is moral based on its adherence to rules (Kant, 1785/2013). Behavioural ethics, on the other hand, seeks to understand why individuals really make decisions to behave unethically by taking into account the social context of unethical action, *i.e.* it is not limited to considering the existence of moral traits, reason, or rules in order to determine whether behaviour has been unethical.

Behavioural ethics and generation in finance

To understand how to cultivate strong ethical standards in the next generation of finance professionals it is vital to first understand how we might become corrupted. Initiatives can then be developed to help young professionals develop into ambassadors for ethical decision-making.

This paper is, accordingly, structured to answer four key questions:

(i) Are some individuals inherently more unethical than others?

(ii) Can the workplace environment influence a person to behave unethically?

(iii) How do individuals really decide to make ethical or unethical decisions?

(iv) What will help the next generation to become ambassadors for ethical decision-making?

Les questions fondamentales auxquelles ce papier tente de répondre sont les suivantes : (i) est-ce que certains individus sont naturellement moins éthiques que d'autres ? (ii) l'environnement de travail peut-il induire une personne à agir de façon contraire à l'éthique ? (iii) comment les décisions éthiques ou contraires à l'éthique sont-elles réellement prises? Et finalement (iv) qu'est-ce qui aidera la nouvelle génération à devenir des ambassadeurs d'une prise de décision éthique ?

Nous n'avons pas d'idée claire de ce qu'est la référence éthique des jeunes qui entrent dans les métiers de la finance. Quelles étaient leurs valeurs éthiques avant de rejoindre le monde du travail ? Vont-elles influencer leur comportement après l'engagement ? Les données chiffrées sur ces questions ne sont pas substantielles, ce qui complique leur réponse. Nous pou-

Are some individuals inherently more unethical than others?

Generally speaking, there is no standardised qualification that one requires to work in finance. The data showing what levels of ethical training young recruits in finance receive prior to joining their firms is not substantial. Ethics is taught at many business schools. However not all graduates will have attended business school and even if they did the curriculums which they studied will vary. Furthermore, and even more importantly, we do not have a clear idea of what the ethical baseline of young recruits is. What ethical values do they hold? Will that influence what they do in the workplace or will they succumb to other pressures? Influences from childhood and adolescence are important (Haidt, 2001), but it seems unlikely that moral intuitions about ethical issues that occur in complex organizations are definitively shaped by experiences gained during early periods of life (Treviño *et al.*, 2006). As part of some recruitment processes ethics will be assessed and new recruits may receive ethical training. However, again, this is not standardised or generally open to academic analysis.

We may partially define ourselves in terms of our role because we are attracted to the values and beliefs that the role is supposed to represent. The reputation of finance, therefore, is important in shaping the attitude of its new recruits. Nonetheless we are often unsure of what the role involves on a day-to-day basis and it is only by performing the role and interacting with our team that we discover what it really involves (Ashforth, 2001). This leaves us predisposed to find positive qualities in the role and use them to shape our identity (Fichman and Levinthal, 1991). However we remain members of society as a whole. This can lead to conflict between wider views of right and wrong, on the one hand, and workplace behaviour, on the other. We deal with this by compartmentalising our work-life from our identity in other social contexts. This may explain why even so-called "good people", who are upstanding members of the community, can engage in corruption (Banfield, 1958). Interestingly, studies show that moral reasoning is lower when individuals respond to workplace ethical dilemmas compared to those outside the workplace (Weber, 1990; Weber and Wasieleski, 2001). We are often guided by personal standards of behaviour and regulate ethical conduct through "anticipatory self-sanctions" that help us avoid unethical behaviour (Bandura, 1999). Those standards may, over time, be shaped and morally compromised by unconscious thought processes generated by the environment we find ourselves in (Gino, Moore & Bazerman, 2008).

Bad apples?

Many have framed unethical behaviours in finance to be the responsibility of "a few bad apples". This focuses on individualistic traits to vons nous définir par notre rôle et être attirés par ce qu'il représente. Cependant, nous ne sommes pas sûrs de ce qu'il implique au quotidien jusqu'à ce que nous commencions à travailler. Cela nous le comprenons seulement en jouant notre rôle, en interagissant avec notre équipe. Nous sommes prédisposés à identifier des qualités positives associées à ce rôle et avec cela nous construisons notre identité. Cette dernière peut parfois se heurter avec la vision que la société porte sur le rôle. Pour assumer cela, nous trouvons l'échappatoire dans la séparation stricte entre vie professionnelle et privée.

Beaucoup pensent que les comportements contraires à l'éthique en finance sont le fait de "quelques brebis galeuses". C'est un exemple d'erreur fondamentale d'attribution car nous mettons beaucoup trop l'accent sur les caractéristiques individuelles et ignorons les circonstances dans lesquelles le comportement a lieu.

explain why people do bad things. However many now accept that it is not only "bad people" who do bad things. As Minouche Shafik of the Bank of England recently commented, *"the initial argument that it is just the case of 'a few bad apples' is no longer credible."*[2] The reality is that both "good" and "bad" people do "good" and "bad" things (Bazerman & Tenbrunsel, 2011). As explained above, behavioural ethics is the study of unethical behaviour within the wider social prescriptions in which such behaviour occurs. Blaming a few bad apples is an example of a bias known as *fundamental attribution error*, where too much emphasis is placed on individual characteristics to explain behaviour and the circumstances in which that behaviour occurred are largely ignored. The study of this bias was the foundation of social psychology, a field that preceded behavioural economics and, indeed, behavioural ethics. It makes clear that when we try to sort individuals into groups of those that are more or less likely to be unethical we make mistakes. A far more accurate predictor of whether or not an individual is likely to be ethical or unethical is to examine the context in which they make decisions. Accordingly, this paper considers first the social contexts in which decision-making occurs before examining individual decision-making processes.

2 'Making markets fair and effective', speech given by Minouche Shafik, Deputy Governor, Markets and Banking, at the London School of Economics, on 27 October 2014

The role of the workplace environment

Behavioural ethics recognises that the environment we are placed in can heavily influence whether or not we behave unethically. When a young person joins the world of finance they are highly likely to have joined an already established firm with pre-existing routines and processes. They are introduced to their supervisor, their team and told what they will be working on. How does this influence ethical behaviour? There are two very important strands of influence, namely routinization and socialisation by peers.

Routinization

Many of our working lives contain an element of routine (some more than others). Routine and the division of labour improve productivity, an idea that underpins capitalism (Smith, 1776/1976). However, over time routine can also blunt ethical decision-making. It is often said that our most difficult unethical act is the very first one (Ashforth & Anand, 2003). Take, for example, one of the biggest financial scandals of recent history - LIBOR. This involved highly routinized misconduct. Every day at 11am UK time LIBOR submitters were required to input at what rate their bank could borrow funds. However as a matter of routine many submitters inappropriately took into account trading positions. Often those submitters were relatively junior employees (McConnell, 2013).

La routine peut éroder l'acuité éthique de la prise de décision. Le scandale du LIBOR est un exemple d'une faute professionnelle hautement routinière. Chaque jour à 11 heures UK, on demandait à un certain nombre d'employés de banque désignés d'indiquer à quel taux leur banque pouvait emprunter des fonds. Pris dans la routine, ce qui étaient chargés de transmettre l'information ont de façon inappropriée tenue content de leur propre de marché. Nombre d'entre eux était des juniors. Ils ont probablement été poussés à ignorer que ces pratiques étaient potentiellement corruptrices et mettre l'ordre de côté en croyant que c'était ainsi que les choses se faisaient. Lorsque des pratiques contraires à l'éthique sont ancrés, elles peuvent créer une dynamique qui occulte le besoin d'une prise de décision réfléchie. C'est un exemple de la dissipation de l'éthique.

When they took over as submitter, as with many other situations (Henisz & Delios, 2001), they may have assumed that their predecessor's behaviour was based on rational reasons and that following the precedent that had been laid down would legitimate their own behaviour. As those unethical practices became part of an institution's way of doing things and repeated over and over again they become routinized and habitual. Kelman (1973) defined routinizing as *"transforming the action into routine, mechanical, highly programmed operations."* (p. 46). If unethical practices are embedded they provide momentum and remove the perceived need to make a decision (Ashforth & Kreiner, 2002; Kelman, 1973; Staw, 1980). Human nature dictates that we often take the path of least resistance. Habitual, familiar and taken-for-granted practices may be enacted mindlessly and without conscious thought (Ashforth & Fried, 1988; Brief, Buttram & Dukerich, 2001). Furthermore, it is worth noting that LIBOR misconduct took place during the financial crisis of 2008 – a time of extreme stress and workload for many finance professionals. We are most ethically compromised when our minds are overloaded and falling back on a routine in such a situation may bring cognitive relief. LIBOR submitters may argue that if they played a role in a wider corrupt act they did so without fully appreciating that counterparties would suffer loss. It is well known that individuals often fail to recognise indirect losses where the identity of the victim is unknown. Routinizing processes are particularly relevant to the young people facing the reality of what is expected of them in the workplace and provide a so-called transition bridge to transform naïve newcomers into corrupted veterans (Ashforth, 2001). Young LIBOR submitters may have been motivated to dismiss potentially corrupt practices as unremarkable and suspend their disbelief by saying, "this is the way it's done". This is an example of ethical fading, where our minds remove the ethical content of a decision or it fades from view; in this case owing to its repeated, seemingly innocuous, nature.

Peer pressure

Pressures from peer groups may heavily influence unethical behaviours. For these purposes the word 'peer' is used to denote members of both formal and informal groups. Take the case of Bernard Madoff. Over the course of thirty years, Madoff's Ponzi scheme defrauded investors on an industrial scale: more than 15,000 individuals claim to have been defrauded and almost $65 billion has been wiped from client accounts (although deducting the gains which had been fabricated, the net loss to clients is estimated to be some $18 billion). Mr Madoff did not act alone. He was aided by a large number of feeder funds that invested in his products. Some clients of those feeder funds were told about this investment (and attracted to it

Les pairs peuvent être des membres du groupe formel ou informel. Par exemple, le schéma de Madoff à la Ponzi a trompé les investisseurs, car les fonds qui l'alimentaient comportaient de fortes incitations. Ces incitations ont empêché les gestionnaires de fonds de réaliser que les bénéfices générés étaient trop importants pour être réels. C'est un exemple de ce que l'on peut appeler la sensibilité éthique bornée. Les gens n'ont plus le recul pour voir ce qui est juste ou faux car ils sont distraits par d'autres facteurs situationnels.

Le processus de socialisation avec ceux avec qui nous travaillons peut avoir une grande influence sur notre comportement au lieu de travail. Nos collègues peuvent personnifier un comportement corrompu tout en étant parfaitement à l'aise avec lui. En tant que nouveaux arrivants, nous pouvons être

owing to Mr Madoff's reputation) and some were simply told that it was an exotic investment strategy. Either way, those intermediaries running the feeder funds were paid handsomely for the investment by their funds, receiving a small percentage of the sums invested, plus as much as 20% of any profits made from the investment. Year-on-year Madoff consistently outperformed the markets, which meant that year-on-year those running the feeder funds got richer and richer. A number of analysts have demonstrated that the returns generated by Madoff were impossible to achieve legitimately. Did the managers of those feeder funds recognise that the returns were too good to be true and that Madoff was running a Ponzi scheme, and were they accordingly motivated to turn a blind eye? Many people believe that if they were placed in such a situation they would behave ethically, stop investing in the scheme, and report any wrongdoing that they witnessed. Yet thousands invested and only a few appear to have raised concerns (which were ignored). Why? This is an example of bounded ethicality, where individuals fail to see the bigger picture of what is right or wrong because they are distracted by other situational factors. Many individuals helped to perpetuate Madoff's fraud. The managers of the different feeder funds may not have considered themselves to be peers, but that is what, in effect, they became - at least as far as Madoff's enterprise was concerned.

Socialisation

The people we work with shape a large part of our working lives. The process of socialisation can have a large influence over how we behave in the workplace, although we often underestimate the extent to which we will be influenced by a peer or supervisor. We are most likely to feel social pressures from those we work most closely with (Ashforth, 2001; Bazerman & Tenbrunsel, 2011; O'Reilly & Chatman, 1996). Informal groups may form (not necessarily within the same teams or departments) that create pockets within the organisation that hold the same informal values. These values are "felt" by members and, whilst unofficial, may represent a firm's true ethical norms (Bazerman & Tenbrunsel, 2011). This may be how we actually learn how to behave in the workplace. It is these values that may have the greatest sway over how members of those, sometimes loosely formed, groups will behave. The people that we work with may model corrupt behaviour and, importantly, their comfort with it. As newcomers we are often encouraged to learn from and seek to please those more experienced colleagues or supervisors. If we have misgivings about what we are being asked to do we may attribute this to our own lack of experience (Lifton, 1961). Furthermore, we may receive positive reinforcement when performing the corrupt behaviours and so are discouraged from questioning them.

encouragés à faire de même pour plaire à ces collègues plus expérimentés. Le processus de corruption peut être graduel, il concerne de petites actions qui paraissent anodines. On accepte ainsi les rationalisations que produit le groupe dans lequel nous nous trouvons. C'est alors que s'initie un processus d'alignement de notre attitude sur celle des collègues. Les directeurs devraient être des modèles, bien que les études ont montré que leur raisonnement moral est moins acéré que celui des jeunes employés.

In the example of the LIBOR submitter given above, traders were found to have praised submitters and made promises of champagne and free coffee. This may cause us to reason that what we are being asked to do is routine, more experienced colleagues have no problems with it and so my own misgivings must be an overreaction. This creates a social cocoon in the workplace that we may struggle to look beyond (Brief *et al.*, 2001). This is a further example of bounded ethicality, where we fail to see the bigger picture of what is right or wrong because we are distracted by other situational factors.

Incremental change

This process of corruption may also be a gradual one where we are asked to engage in small acts that seem relatively harmless. As explained above, Madoff's fraud developed gradually over the course of thirty years. That is why many did not recognise the scam and it was only his confession (when losses during the financial crisis became too large to conceal) that caused many investors to wake-up to the evidence that they should have recognised a long time ago. Similarly, we may be incrementally corrupted over time without recognising this until it is too late. What might appear to be very small acts require us to accept the rationalising ideologies that our group provides and this starts a process of attitude realignment, which means that incrementally more and more corrupt acts are easier to perform in the future. Once this process has started it can be very difficult to stop: we often accept the rewards and seek to rationalise our behaviour afterwards (Sherman, 1980). This is the case even when we become aware that what we are doing is wrong, the only alternative to continuing on is perhaps to "blow the whistle" or take the big step of leaving our job; accepting the associated psychological and financial costs that such a course of action would bring (Darley, 1992). This is the point at which what may have been inadvertent becomes deliberate.

Those who manage young people have an important job to play in acting as role models. However, research has found that managers may have lower moral reasoning scores than more junior employees (Ponemon, 1990, 1992). Similar findings have been observed amongst pharmacists (Latif, 2000) and also in a more general management sample (Elm & Nichols, 1993). The experienced peer to whom an individual directly reports will have possibly the most significant bearing on a junior employee's behaviour, although the more senior the individual the more widely felt their actions. From the perspective of the junior employee, it is therefore important that more experienced individuals at all levels set a good example and that they are held to account when they do not. We do not always make the ethical decisions that we, or others, expect us to make.

Nous ne prenons pas toujours les décisions éthiques que nous-mêmes ou les autres, attendent de nous. En 2001, Enron a payé son auditeur Arthur Andersen 52 millions USD au total (25 millions USD pour les missions d'audit et 27 en frais de conseils) ce qui en a fait son deuxième plus grand client. Les auditeurs d'Enron avaient donc une forte motivation pour conserver un client si lucratif et ignorer tous les conflits d'intérêts. Il est possible que leurs comportements contraires à l'éthique se soient développés de manière incrémentale. Ainsi, dans l'activité d'audit, il est plausible que des pratiques douteuses se développent graduellement. La première année, il n'y a pas de problème, la deuxième ils peuvent faire des erreurs techniques, mais rien de grave, puis dans les années qui suivent, ils commettent des délits graves. Quand un comportement délictueux s'installe peu à peu, il est plus difficile à déceler que lorsqu'il y a tout de suite, la première année, transgression.

Why do individuals make ethical or unethical decisions?

Take the example of Enron, the energy firm who tried to conceal billions of dollars of debt and eventually went bankrupt. Why did their auditors, Arthur Andersen, approve financial statements that misled the markets into believing the company was in a healthy condition? Auditors have a duty, which is enshrined in law and codes of conduct, to report on whether or not financial statements are a fair and accurate reflection of a company's financial position. If an auditor is asked to audit a company it is likely that an auditor would consider, in advance, that any audit they conduct will be above board and ethical. However, when it actually comes to the audit, history has shown that they do not always behave in this way. In 2001, Enron paid its auditing firm, Arthur Andersen, a total of $52m ($25m in auditing fees and $27m in consulting fees), making them their second largest client. The auditors of Enron had a strong motivation to retain this lucrative business and ignore any conflicts of interest. It is possible that their unethical behaviour developed incrementally. For example, in auditing it is plausible that a firm's questionable practices might develop over time – say in the first year there are no problems, in the second year they may have done something technically wrong but nothing serious, and then in the following year they do something seriously wrong. When misconduct slowly builds it may be harder to notice the change than if the firm had committed a serious transgression in the first year. This may make the auditor more likely to believe that the firm was simply following accepted business practices. When the time came for Enron's auditors to make a decision they did not fulfil their professional responsibilities. They were accused by many of turning a blind eye to Enron's misconduct. Enron's then CEO, Kenneth Lay approved the firm's accounts. He has subsequently rationalised his behaviour by blaming the firm's Chief Financial Officer, Andrew Fastow. Mr Lay asserts that Mr Fastow misled him about the nature of the off-the-book partnerships that eventually led to the bankruptcy of the firm, thus preserving his own self-image as an ethical decision-maker.

Self-awareness

We often consider ourselves to be more ethical than we actually are. Research on how individuals make decisions has proposed that there are two systems governing our decision-making capabilities: intuition (fast thinking, or System 1) and reasoning (slow thinking, or System 2) (Kahneman, 2011; Stanovich & West, 2000). Our intuition makes quick judgments automatically. Reasoning, on the other hand, is deliberate and requires much more effort. We find it hard to accurately predict what ethical dilemmas we

Les études sur la prise de décision des individus ont conclu que deux systèmes gouvernent nos capacités de prise de décision : l'intuition (pensée rapide ou Système 1) et le raisonnement (pensée lente ou Systèmes 2).

Lorsque nous sommes effectivement confrontés à un dilemme éthique, il se peut que nous prenions notre décision sur la base du processus de pensée intuitif (Système 1) qui peut exclure de l'équation la dimension éthique à cause de biais inconscients.

Malheureusement, trop souvent, notre Système 2 est paresseux et nous retombons dans le Système 1. Après la décision, le Système 2 peut reprendre le contrôle et donner les raisons pour lesquelles nous avons choisi d'agir d'une certaine façon. Il peut soit reconnaître honnêtement ce qui s'est passé, soit échafauder une explication fausse du comportement.

may be confronted with in the future but believe that in any case we will behave ethically. This is likely to be based on our own sense of moral beliefs and principles formed through reason (System 2). At this stage we may still recognise that an issue is an ethical one. However when actually faced with an ethical dilemma we may base our decision on intuitive thought processes (System 1) which may have removed ethics from the equation due to unconscious biases. The factors of routine and peer pressure, referred to above, can combine to produce an intuitive feeling of cognitive ease that can lull our more vigilant, ethical selves into corrupt acts. In other words, we often sleepwalk into ethical failures without being aware. In the examples of Madoff and Enron individuals failed to act ethically because they failed to recognise that they were faced not with a business decision, but an ethical one. This is particularly important to young people, who are motivated to try and fit in. In these circumstances, it is important that young people recognise ethical issues and then think them through in a deliberate way. System 1 might sometimes alert us to an issue that does not seem right and System 2 can then evaluate it. That would be the ideal scenario and when the two systems are in disagreement that would provide a vital check and balance. Unfortunately, all too often our System 2 is lazy and we fall back on System 1. When it comes to evaluating our decisions Bazerman and Tenbrunsel (2011) explain that:"*Our memory is selective; specifically, we remember behaviours that support our self-image and conveniently forget those that do not. We rationalize unethical behaviour, change our definition of ethical behaviour, and, over time, become desensitized to our own unethical behaviour.*" (p. 73).

In other words, we can come up with reasons as to why we undertook a certain course of action; our System 2 takes back control and may either recognise what has happened or construct a false explanation of our behaviour.

Ambassadors for ethical decision-making

Whether or not a young person behaves ethically is invariably bound up with the wider organisation they are part of. What is its ethical climate? Have cultural change initiatives penetrated down to lower levels of the organisation? However, behavioural ethics initiatives can be designed to help young people recognise corrupt practices and become agents for bottom-up, as opposed to the norm of top-down, change. We can draw some important conclusions in this respect from the analysis set out above.

Our ethical awareness should be assessed when we join the finance sector for the first time. In order to answer the question of whether some individuals really are more ethical than others it would be useful if this data could be retained and opened up to academic analysis in

Notre conscience éthique devrait être éveillée lorsque nous entrons dans les métiers de la finance pour la première fois. Nous devrions alors être formés à développer un socle de conscience éthique et combler les lacunes en matière de connaissances. Cette formation devrait nous préparer aux situations susceptibles de surgir dans notre fonction. Si nous pouvons nous projeter dans ces situations futures et nous préparer à assumer certaines attitudes, alors nous serons mieux à même de contenir les motivations quand elles seront très fortes.

Les jeunes devraient avoir la possibilité d'être guidés et conseillés par des personnes fiables éthiquement et expérimentées qui ne font pas partie du groupe proche de leurs pairs. Un schéma de mise en place de mentors pour les jeunes employés permettrait de mettre le comportement éthique à

the future. Once our ethical awareness is assessed, we should then be given training to provide a baseline awareness of ethical issues and plug any knowledge gaps.

This training should also help us identify the limits, fallibilities, and strengths of our decision-making process. In order to do so properly this training should test us against situations that we might encounter in our role. If we are able to project ourselves into a future situation then we can better anticipate and manage the motivations that are likely to be the most powerful. Training should also be designed to help debunk the rationalisations that might be proffered for unethical requests and provide a solid basis for ethical decision-making. It should cover the biases that impact on an accurate analysis of our decisions, which means that we can truly learn if asked to explore why we acted in a certain way. Regular debriefings with a trusted colleague can help this process. It might also be useful for us to discuss potential ethical issues that we might face with that colleague and commit to a course of action in advance (using System 2 thinking). This might improve the likelihood of us thinking through and making the right decision if and when such a situation occurs.

Managing unconscious biases

Even if one recognises that a practice is unethical, it is incredibly difficult for a junior employee to raise this with their superiors - particular if they consider those persons to be complicit. In reality, that may be a career-limiting move. However, it should not be - if anything those individuals should be encouraged to become the leaders of the future. Young people, therefore, must be provided with the opportunity to seek guidance and advice from ethical and experienced individuals who do not form part of their immediate peer group. A mentoring scheme for young employees would be one way of championing ethical behaviour. However such a scheme would only be as good as the mentors that take part. As argued above, informal values imparted from peers have possibly the greatest influence over how individuals behave within the workplace, *e.g.* more than stated corporate values or compliance policies. It is suggested that both young people and their mentors should be trained to understand these informal values. This is no easy task. It will require the true sources of power within firms (normally those who make the most money, but not exclusively) to drill down and identify these values. Doing so requires an open and honest discussion about what really motivates individual decision-making. Through what routes are individuals seen to progress within an organisation's hierarchy? What makes them forget ethical values, *e.g.* routine? What pressures do they feel and why, *e.g.* peer pressure? What decisions does the firm incentivise? As noted above, this requires l'honneur. Les jeunes et leurs mentors devraient être formés pour comprendre que ce sont les valeurs informelles de leur entreprise qui sont réellement à la base de la prise de décision.

On devrait apprendre aux jeunes à identifier les questions potentiellement éthiques, pour pouvoir ensuite réfléchir à une façon d'agir responsable et de manière approfondie et complète. Ce processus devrait se dérouler en dehors de tout biais. Nous ne devrions pas être contraints au compromis dans notre chemin de carrière du jeune employé au professionnel financier expérimenté

the identification of pockets of power that are not necessarily reflected on an organisation chart. Identification of these forces that silence our ethical voice is the first step in making sure that we are able to make ethical decisions when the time comes.

Thinking through ethical issues

It sounds obvious but when faced with ethical dilemmas it is important that young people think through what to do in a deliberate and considered way. It would be nice to think that behaving ethically is something that is always recognised and comes intuitively, perhaps one day as a result of cultural change and training. However, witnessing the impact that recent ethical failures had on society it is clear that such issues are far too important to leave to fast thinking. We should be taught to identify ethical issues and consider what to do in a deliberate and conscious way. Free from bias. Free from the influence of unethical peers. This paper advocates that when confronted with ethical issues we should be trained to use reasoned and deliberate thinking. Thinking through how to apply principles to the situation, rather than allowing situational factors to either blind us to the ethical content of an issue or determine decision-making via the path of least resistance. It is accepted that, in reality, young people will face pressures from superiors to act in certain ways. However every generation represents an opportunity for change, the current generation of young people working in finance arguably more than most. Many young professionals are likely to have been introduced to the finance industry around the time of the financial crisis of 2008, a crisis that may have shaped the careers of many thus far and impacted on our ethical sensitivity. It was a crisis that brought with it mass redundancies, particularly in respect of young people working in finance. As the economy emerges from that crisis it is important to ensure that young people learn the right lessons and recognise how to manage unconscious biases. Ethical failures can have a severe impact on the rest of society. We should not have to compromise our ideals or stop listening to our conscience simply to make the journey from young to experienced finance professionals.

References

Ashforth, B. E., & Fried, Y. (1988). The mindlessness of organizational behaviors. *Human Relations*, 41, 305-329

Ashforth, B. E. (2001). *Role transitions in organizational life: an identity based perspective*. Mahwah, NJ: Erlbaum

Ashforth, B. E., & Kreiner, G. E. (2002). Normalizing emotion in organizations: Making the extraordinary seem ordinary. *Human Resource Management Review*, 12, 215-235

Ashforth, B., & Anand, V. (2003). The Normalization of Corruption in Organisations. *Research in Organizational Behavior*, 25, 1–52

Banfield, E. C. (1958). *The moral basis of a backward society*. New York, NY: Free Press

Bandura, A. (1999). Moral disengagement in the perpetration of inhumanities. *Personality and Social Psychology Review*, 3, 193-209

Bazerman, M., & Tenbrunsel, A. (2011). Blindspots: Why we fail to do what's right and what to do about it. Princeton, NJ: Princeton University Press

Brief, A. P., Buttram, R. T., & Dukerich, J. M. (2001). Collective corruption in the corporate world: Toward a process model In: M. E. Turner (Ed.), *Groups at Work: Theory and Research* (pp. 471-499). Mahwah, NJ: Erlbaum

Cornford, A. (June 2004). Internationally Agreed Principles For Corporate Governance And The Enron Case. Retrieved from http://g24.org/wp-content/uploads/2014/03/Cornford-1.pdf

Darley, J. M. (1992). Social organization for the production of evil. *Psychological Inquiry*, 3,199-218

Elm, D., & Nichols, M. L. (1993). An investigation of the moral reasoning of managers. *Journal of Business Ethics*, 12, 817-833

Fichman, M., & Levinthal, D. A. (1991). Honeymoons and the liability of adolescence: A new perspective on duration dependence in social and organizational relationships. *Academy of Management Review*, 16, 442-468

Gino, F., Moore, D.A. and Bazerman, M.H. (2008). See No Evil: When We Overlook Other People's Unethical Behavior. Retrieved from http://hbswk.hbs.edu/item/5839.html

Haidt, J. (2001). The emotional dog and its rational tail: A social intuitionist approach to moral judgment. *Psychological Review*, 108(4), 814-834

Henisz, W. J., & Delios, A. (2001). Uncertainty, imitation, and plant location: Japanese multinational corporations, 1990-1996. *Administrative Science Quarterly*, 46, 443-475

Hume, D., (1978). A Treatise of Human Nature, (2nd ed.), Selby-Bigge, L.A. and Niditch, P.H. (eds.), Oxford: Clarendon (Original work published in 1739)

Kahneman, D. (2011). *Thinking, fast and slow*. New York, NY: Farrar, Straus and Giroux

Kant, I., (2013). *The Groundwork for the Metaphysics of Morals*, (2nd ed.), Gregor, M. & Timmermann, J. (trans.), Cambridge: Cambridge University Press (Original work published in 1785)

Kelman, H. C. (1973). Violence without moral restraint: Reflections on the dehumanization of victims and victimizers. *Journal of Social Issues*, 29(4), 25-61

Kish-Gephart, J.J., Harrison, D. A., & Treviño, L. K. (2010). Bad Apples, Bad Cases, and Bad Barrels: Meta-Analytic Evidence About Sources of Unethical Decisions at Work. *Journal of Applied Psychology*, 95(1), 1-31

Latif, D. A. (2000). Ethical cognition and selection-socialization in retail pharmacy. *Journal of Business Ethics*, 25,343-357

Lifton, J. (1961). *Thought Reform and the Psychology of Totalism: A Study of "Brainwashing" in China*. New York, NY: Norton

McConnell, P. (2013). Systemic operational risk: the LIBOR manipulation scandal. *Journal of Operational Risk*, 8(3), 59-99

Morgan, M. (1996). The Character of "Rational Economic Man". Retrieved from http://eprints.lse.ac.uk/22412/1/34_96.pdf

O'Reilly, C. A., & Chatman, J. A. (1996). Culture as social control: Corporations, cults, and commitment In: Staw, B.M. & Cummings, L.L. (eds.), *Research in Organizational Behavior* (pp. 157-200). Greenwich, CT: JAI Press

Ponemon, L. (1990). Ethical judgments in accounting: A cognitive-developmental perspective. *Critical Perspectives on Accounting*, 1, 191-215

Ponemon, L. (1992). Ethical reasoning and selection-socialization in accounting. *Accounting, Organizations, and Society*, 17(3/4)239-258

Shafik, M. (2014), Speech titled 'Making markets fair and effective'. Retrieved from http://www.bankofengland.co.uk/publications/Documents/speeches/2014/speech771.pdf

Sherman, L. W. (1980). Three models of organizational corruption in agencies of social control. *Social Problems*, 27, 478-491

Smith, A., (1981), *The Theory of Moral Sentiments*, Raphael, D.D. & Macfie, A.L. (eds.), Oxford: Oxford University Press (Original work published in 1759)

Smith, A., (1976), *An Inquiry into the Nature and Causes of the Wealth of Nations*, Campbell, R.H., Skinner, A.S., & Todd, W.B. (eds.), Oxford: Oxford University Press (Original work published in 1776)

Stanovich, K. E., & West, R. F. (2000). Individual differences in reasoning: Implications for the rationality debate. *Behavioral & Brain Sciences*, 23, 645-665

Staw, B. (1980). The consequences of turnover. *Journal of Occupational Behaviour*. 1(4), 253–273

Tenbrunsel, A. E., & Messick, D. M. (1999). Sanctioning systems, decision frames, and cooperation. *Administrative Science Quarterly*, 44, 684-707

Treviño, L. K., Weaver, G. R., & Reynolds, S., (2006). Behavioral ethics in organizations: A review. *Journal of Management*, 32(6),951-990

Van Dijke, M.H. (2014). *Understanding immoral conduct in business settings. A behavioural ethics approach*. Rotterdam: Erasmus Research Institute of Management

Weber, J. (1990). Managers' moral reasoning: Assessing their responses to three moral dilemmas. *Human Relations*, 43: 687-702

Weber, J., & Wasieleski, D. (2001). Investigating influences on managers' moral reasoning. The impact of context, personal, and organizational factors. *Business and Society*, 40(1): 79-111

Zhong, C.B. (2011). The ethical dangers of deliberative decision making. *Administrative Science Quarterly*, 56, 1–25

Can Complex Firms Be Ethical: an Argument for Simplicity of Financial Institution

Ethics in Finance, Robin Cosgrove Prize Global edition 2014-2015

Third Prize *ex-aequo*

Christian Buckson
USA
Management Consulting Analyst, Accenture, London*

* The views expressed herein are those of the author and do not necessarily reflect those of the Organization he is affiliated to.

Between 2009 and 2013, some of the world's largest banks were fined nearly £150 billion, with the totals into 2015 set to take this amount to over £200 billion (Sterngold, 2014). Regulators in the United States and United Kingdom especially have focused on the culture within firms and imposed heavy fines for instances of misconduct. A recurring question, however, is whether or not the various methods of regulatory scrutiny and punishment are really improving ethics within the financial industry. If not, is the current strategy appropriate, or even sustainable and what are the possible alternatives? As the global economic recovery begins to strengthen, financial firms will look to improve their balance sheets while complying with increasingly stringent regulations. The focus of these regulations appears to be reactive punishment of firms' misdeeds, rather than making substantive strides to improve ethics.

The regulators' apparent priority, illustrated by the current Conduct regime, is flawed in that it views "ethics" as either motives-based or consequence-based, without adequately factoring in firms' structural complexity. In other words, regulators seem to judge a firm's ethics by its ability to conform to vaguely defined standards of corporate responsibility or by the outcomes of its actions. Both of these may ignore the critical issue in banking ethics cases—complexity. After an overview of recent regulatory approaches, I will show that regulators, while well intentioned, have failed to significantly improve financial ethics because their efforts have failed to deal with the complexity within the industry.

Une question qui revient sans cesse consiste à savoir si les méthodes actuellement utilisées pour examiner, surveiller et sanctionner augmentent le niveau éthique dans l'industrie financière. Si ce n'est pas le cas, cette approche est-elle adaptée par ailleurs, voire même défendable et quelles sont les alternatives possibles ? Alors que la reprise économique se renforce, les entreprises financières vont chercher à renforcer leurs bilans tout en respectant les régulations les plus exigeantes qui sont destinées à punir les entreprises de manière réactive plutôt que de les amener à faire des progrès en matière éthique.

L'attention des régulateurs, illustrée par le régime actuel du Banking Conduct Regime repose sur la fausse prémisse selon laquelle l'éthique serait soit celle des conséquences, soit celle des motivations (vertus), mais elle ne tient pas compte de manière adéquate de la complexité des institutions. Les régulateurs donnent l'impression de juger l'éthique des

In section one of this paper, I will define the Conduct agenda, its relationship to corporate ethics and related regulatory trends . I will also define consequential and deontological evaluations of ethics, giving an overview of the evolution of Conduct in what I will call a motives-based and consequence-based view of regulatory expectations. In sections two and three, I will examine the shortcomings of a Conduct regime founded on either motives- or consequence-based evaluations, pointing out that while each approach helps to establish levels of transparency and accountability, neither approach does much to improve ethics. Finally, I will argue that, in order to improve the ethics of financial firms, the complexity of the businesses involved must be taken into account, concluding with the premise that streamlining, or downsizing, is the best way for firms to improve ethics within the industry while meeting increasingly stringent regulatory requirements.

What are ethics?

"Conduct", "ethics", "fairness"—these words are used often in regulatory language, especially in the wake of the financial crisis and instances of misconduct in the banking industry (Benedict, 2014). Attempting to provide holistic definitions of each is beyond the scope of this paper, though I will define how these terms will be used to frame the argument which follows. By Conduct, I refer to a focus by regulatory bodies over the last decade on better behaviour in the financial industry. International regulators like the Financial Stability Board (FSB) and in turn the Financial Conduct Authority (FCA) and a number of US regulators (Robson *et al.*, 2013) have been the main drivers of the Conduct agenda. Regulators have intentionally avoided defining Conduct for firms, though one can loosely see Conduct as a broad focus on customer outcomes, and fairness and integrity within financial markets ("Culture and Conduct: Putting the customer at the heart of your business model," 2013; Financial Services Authority, 2012; Robson *et al.*, 2013).

Trust us—A Motives-Based Approach

The aim of the Conduct agenda, whether rightly or wrongly, is to improve the behaviour of financial firms and reduce incidents of risky practices through increased regulatory scrutiny and industry-defined Conduct standards. Although oversimplified, this definition does help clarify that Conduct as an initiative can be judged as successful by three criteria: 1. Changed business culture, 2. Fewer fines and 3. Clear conduct definitions within the financial industry with banks—rather than regulators—the "drivers" of the agenda. Conduct more broadly has had what I will identify as two major approaches before and after the 2008 financial crisis: a motives-based agenda and a consequences-based agenda.

entreprises d'après leur conformité aux standards vagues de la responsabilité sociale des entreprises ou d'après les conséquences de leurs actes. Chacun de ces critères passe sous silence un aspect crucial de l'éthique bancaire, à savoir la complexité.

L'objectif du Conduct Regime est d'améliorer la qualité du comportement des institutions financières et de réduire les incidents des pratiques risquées au travers d'une surveillance accrue de la part du régulateur et des standards du Conduct Regime définis par l'industrie. Il s'agit là d'une présentation simplifiée de ce qui a été réalisé au prix d'un immense effort au moment de la crise financière. Cette définition permet de montrer que l'initiative du Conduct Regime a été couronnée de succès si l'on en juge selon trois critères : 1. Le changement dans la culture des affaires, 2. La réduction des amendes et 3. La définition plus claire des comportements dans l'industrie financière

"Those of us who have looked to the self-interest of lending institutions to protect shareholder's equity (myself especially) are in a state of shocked disbelief." Alan Greenspan[1]

The two definitions of ethics correlate to two distinct approaches to regulating financial firms: one approach relies on a degree of self-regulation and the other on strong regulatory intervention. The first approach, based on self-regulation, mirrored the gradual move to deregulation in financial markets in the 1980s and 1990s. Financial institutions were effective at lobbying governments, especially in the U.S., to relax a number of regulations on the industry (Komai & Richardson, 2011). These institutions, along with a number of economists, argued that this deregulation could spur continued economic growth and improve competition within a less stringent regulatory environment (Ibid).

As financial regulations receded, firms were more or less able to police themselves within the limits laid out by the law. These limits grew more blurred, especially in the United States, as acts meant to separate banking and non-banking (*i.e.* investment banking) activities like the 1933 Glass-Steagall act were repealed (Sherman, 2009). In effect, the "free market" became the ethical standard to which firms were expected to adhere. Financial institutions were operating within the confines of the law, and therefore were not acting "wrongly". Thus, ethics and legality became very closely related within the financial industry. As long as the motives of financial firms were "pure"—in other words, as long as the banks were simply taking advantage of favourable economic and regulatory environments as opposed to actively ripping off customers—then the firm's ethics were more or less acceptable. Of course, the line between simple and predatory practices began to blur as economic growth in the 1990s and early 2000s caused ethics to give way to profitable, risky behaviour.

Homeownership and Motives

One example of the hands-off regulatory environment and its effect on ethics is the growth of homeownership in the United States from the mid-1990s. President Bill Clinton was a driving force in expanding homeownership in the United States and helping to change government policy to help make this happen. This shift built upon an already tangible, "American" idea of homeownership and formed a key plank of the "American Dream" (Watkins, 2008). Government policy, academic reports and economic research generally showed positive effects of homeownership and of increasing access to credit among populations with low rates of home ownership, particularly minorities and first time borrowers (Aaronson, 1999; Green & White, 1997; Timiraos, 2015; Watkins, 2008). In response to the growing expectations of the American dream, the American

1 (Custer, 2012)

avec les banques – et non les régulateurs – dans le rôle proactif. Plus largement, le Conduct Regime a utilisé successivement deux approches, avant et après 2008 : une approche par les motivations et une approche par les conséquences.

La première approche de l'éthique, basée sur l'auto-régulation, reflète la tendance à la dérégulation des marchés en vogue dans les années 1980 et 1990. Au fur et à mesure que la régulation perdait de sa vigueur, les entreprises se sont avérées être plus ou moins capables de se discipliner dans les limites imposées par la loi. Celles-ci sont devenues plus floues, spécialement aux Etats-Unis, avec la révocation des lois (comme celle du Glass-Steagle Act de 1933, en 1991) qui séparaient les activités bancaires des activités non-bancaires, à l'instar de la banque d'investissement. A cette époque, la référence au libre marché est devenue la norme éthique à laquelle les

government and private financial institutions began to incentivise homeownership both directly, through tax incentives, and indirectly, through low mortgage rates which were in turn enabled by the low interest rates of the early 2000s (Bajaj & Leonhardt, 2008; Denning, 2011; Gopal, 2013).

In this regard, the strategies of the largest banks were able to dovetail with an arguably "good" motive—getting more Americans into homes which they owned—even if there were obvious profit motivations. In order to help drive this change, banks began making riskier loans to previously unqualified buyers and casting this expansion in home ownership as a goal of a redefined Corporate Social Responsibility (CSR), a marked change from how the concept had been previously understood (Herzig & Moon, 2012; Visser, 2010). This change is something that continues to be seen today, as home loans and mortgage approvals are still typically seen as one element of CSR for many financial institutions (Shen & Chang, 2012; Visser, 2010).

In hindsight, the motives of the bank were obvious—profit was good at almost any cost, social or otherwise. But because there was no real ethics regime in place, or at least no regime which had not been repealed in the era of deregulation which dominated the 1980s and 1990s, financial institutions were able to engage in increasingly reckless and risky behaviours. The era of self-regulation and self-policing of motive had collapsed into an "ethic-less" system which prized good economics over good ethical choices.

As the money sunk into subprime mortgaging in the United States grew, lending standards fell dramatically. The number of subprime loans offered by banks to those with below average credit increased by almost fifteen times between 1998 and 2007 (Bernake, 2009; Visser, 2010). By the time the housing bubble burst in the United States in 2006 and the subprime loans made began to go into default, the financial industry was left holding too much bad debt to remain viable (Holt, 2009). This led to massive government bailouts in both the U.S. and United Kingdom in order to prevent the collapse of the broader financial system (Barker, 2008; Darling, 2008; Paulson, 2008; U.S. Senate Committee on Banking Housing and Urban Affairs, 2008). The light touch "motives" approach to regulating financial institutions was a significant cause of the 2007-2008 financial crisis and led to staggering losses for both consumers and financial institutions. The failure of ethical controls within banks would eventually result in multibillion dollar fines for shoddy lending practices, poor controls and misdeeds in the lead-up to the greatest financial crisis since the Great Depression. The failure of this approach signalled the beginning of a broader shift to a more strict, consequences-based regulatory environment (Braithwaite & Nasiripour, 2013).

entreprises étaient supposées adhérer. Par conséquent, tant qu'elles opéraient sans enfreindre la loi, elles ne pouvaient pas agir mal. C'est ainsi, que la loi et l'éthique se sont entremêlées.

Les stratégies des plus grandes banques ont réussi à faire coïncider la bonne intention d'ouvrir largement l'accès à la propriété avec leur soif de profit, mais au prix de crédits plus risqués aux acheteurs immobiliers peu solvables. En résumé, les motivations des banques étaient évidentes: les bénéfices étaient bons et à n'importe quel coût social. Comme il n'y avait pas de référentiel éthique en place, ou du moins qu'il avait disparu avec la dérégulation des années 1980-90, les institutions financières ont pu se comporter sans scrupules et l'ère de l'auto-régulation et de l'auto-contrôle s'est effondrée pour donner lieu à un système sans éthique où la quête de résultats économiques prévalait sur toute considération éthique.

The Consequence-based approach

"Treating customers fairly (TCF) remains central to our expectations of firms' conduct, that firms put the well-being of customers at the heart of how they run their businesses." Financial Conduct Authority[2]

The shift towards a consequences-based view of regulation has been based on three defining aspects: stiff financial penalties for wrongdoing, increased capital requirements to hedge against future downturns and more robust Conduct rules to address the lack of a strong ethical framework for the industry before the financial crisis.

In the wake of the financial crisis of the last decade, regulators have moved from allowing self-regulation to requiring more stringent regulatory requirements on financial institutions. In addition to billions of dollars in financial penalties, negative public perception and remediation efforts, firms have also seen increasing regulations and government rules enforced by strong regulatory bodies in the U.S., European Union and U.K. (Zarroli, 2015). American and British regulators have been especially muscular in their approach to punishing perceived misconduct, with almost $65 billion paid in penalties by American and European banks in 2014 alone (Sterngold, 2014). As fines continue to be levied against both institutions and individuals, regulators are laying clear markers of the standards of behaviour expected of financial institutions.

In addition to fines, regulators have focused on forcing banks to hedge against risk through higher capital requirements (BIS, 2010; Jochen *et al.*, 2011). The Basel III reforms are the most visible example of this approach as they define the required minimum capital buffers for financial institutions, though there is potential for these capital requirements to increase further on a country by country basis (Bank for International Settlements, 2014; Onaran, 2013). American regulators have taken such an approach by requiring banks to hold minimum leverage ratios of 5-6% (Armour & Tracy, 2014). Banks have been able to weather the increased capital requirements, cutting costs, reigning in dividends and bonuses, though whether this achieves the goal of reducing overall risk remains to be seen (Barth & Prabha, 2013; Cohen, 2013).

The final pillar of the recent regulatory approach has been the release of requirements on business Conduct, either by building on post-crisis legislation like the 2010 Dodd-Frank Act or by releasing standalone codes of business Conduct like the FCA's Conduct of Business Sourcebooks which came into force from 2007-2009 (Building Societies Association, 2013; Financial Conduct Authority, 2007; Financial Services Authority, 2014)[3]. Through these sourcebooks and similar guidelines, regulators

2 (Financial Conduct Authority, 2006)

3 By sourcebooks, I refer to the FSA/FCA's Business, Mortgages and Home Finance, Insurance and Conduct of Business sourcebooks (BCOBs, MCOBs, ICOBs and COBs respectively.

Le déplacement du régime de régulation vers la prééminence des conséquences repose sur trois composantes: des amendes salées en cas de mauvaise conduite, des exigences accrues de fonds propres pour couvrir les risques de retournement de conjuncture et des règles continues dans le Conduct Regime plus robustes pour pallier l'absence d'un cadre éthique contraignant dans l'industrie, avant la crise. Toutefois, bien que cette approche ait été adéquate lors de la montée de la crise, on doit constater aujourd'hui qu'elle est plus efficace que celle basée sur l'éthique des motivations (conviction ou vertus) pour renforcer l'éthique au sein de l'industrie bancaire. Les coûts pour l'industrie du Conduct Regime ont atteint des sommets en 2014 et il n'y a pas de raisons qu'ils décroissent de manière significative dans un avenir prévisible comme des nouveaux délits ne cessent d'apparaître. Toutefois, on a de la peine à dire si ces coûts accrus ont contribué à faire progresser l'éthique.

have attempted to outline the expectations placed on firms in the provision of service to customers . In an almost legislative fashion, regulators have set out guidance on how firms must behave in the market, putting fines or other punishments in place for those which fall short of the listed regulatory expectations. Through a combination of regulatory guidance and legal requirements, the financial industry has moved towards satisfying regulatory expectations with a renewed focus on Conduct and creating sustainable, positive outcomes for customers (Bank of England, 2014; Robson *et al.*, 2013).

Improving ethics through accountability

A key concern of the growing number of regulations is improving clarity on what is expected of firms and increasing accountability within the financial industry. One example of this focus is the Senior Managers Regime (SMR) being developed by the Prudential Regulatory Authority (PRA) and FCA (Bank of England, 2014). The SMR has an overall objective of increasing responsibility and accountability within financial institutions (Bank of England, 2014). Designated senior managers will now be held responsible for acts of misconduct in their business areas. When Conduct failings are reported, these senior managers will need to go beyond stating that they had no material knowledge of the fault—the onus will be on these managers to prove that they exhausted all options to either prevent or mitigate acts of misconduct (Rands & West, 2014). Whether rightly or wrongly, regulatory focus has been primarily on holding senior management accountable for the potential consequences of their actions, namely actions which result in significant customer detriment. But if the aim is to improve ethics within financial institutions while ensuring an environment where they can grow, is this approach effective?

The SMR is a positive step towards improving accountability within the financial industry, making a clear link between the decisions people make, the risks inherent in those decisions, and ultimate outcomes(Financial Conduct Authority, 2015; Jones, 2015). Does this approach, however, actually improve ethics or does it merely strengthen accountability—and clarify blame—in instances where banks fail to meet their ethical objectives? If the goal, as mentioned, is to improve culture, increased accountability only enhances a consequence-focused view of Conduct without necessarily improving ethics. In other words, the Conduct agenda thus far has been defined and driven by regulators without driving a substantive change within firms *because it further incentivises a "box-ticking" approach to Conduct management* to satisfy those outside of the business looking in (Rands & West, 2014). In this light, the approach represented by the SMR seems to improve regulatory scrutiny, but does little to improve ethics. Thus, firms would not be addressing potential

La régulation ancrée dans une approche conséquentialiste se justifie en période de crise, mais il n'est pas prouvé aujourd'hui qu'elle soit plus efficace que l'approche par la motivation pour améliorer le cadre éthique de l'industrie financière. Malgré les coûts plus élevés du Conduct Regime et ses exigences accrues en matière de gouvernance pour le top management, les résultats concernant l'éthique se font toujours attendre.

L'approche actuelle renforce plutôt la vision de l'éthique comme relevant du fait de "cocher des cases", plus adapté pour satisfaire les exigences de régulations qu'à produire des changements culturels et éthiques. C'est seulement en s'attaquant à la complexité des structures des entreprises, des produits et des processus, que les régulateurs et les entreprises financières peuvent progresser effectivement en matière d'éthique et restaurer la confiance du public dans l'industrie financière.

ethics problems, but would rather seek to comply with existing rules, potentially leaving firms open to new risks and new ethics problems.

The consequence-based approach to regulation, while understandable in the wake of the financial crisis, has yet to prove that it is more effective than the motives-based approach in improving ethics within the banking industry. Conduct costs rose to record levels in 2014 and these costs are not set to decrease appreciably for the industry in the foreseeable future as additional wrongdoing is brought to light (Sterngold, 2014). Yet the fact that additional wrongdoing has to be punished in itself questions the efficacy of a consequence-based approach. While it is generally easy to say that a financial institution has committed a wrong—whether by violating sanctions, misselling to customers or by violating standards of product suitability—it is less easy to say that fines address the root causes of these violations. The results of both the motives and consequences-based approach of regulation have shown that there is clearly an element missing in the formula to bring banking ethics to a higher standard. That missing element is one which neither approach has adequately addressed: complexity. Only by addressing complex business structures, products and processes can regulators and financial firms make concrete steps to improving ethics and restoring trust in the banking industry.

Defining Complexity

"This proposal encompassed multiple, complex credit trading strategies, using jargon that even the relevant actors and regulators could not understand." Senate report describing a proposal made to JPMorgan Chase senior management approving the London Whale trades.

Firms must manage the complexity of their business in order to improve ethics within the industry. In the wake of the financial crisis, regulators have focused on large "megabanks" as "too big to fail" or "too big to manage", both from an economic and regulatory point of view (Collins, 2014; Federal Reserve Bank of St. Louis, 2012). As banks become larger and more complex, it becomes harder to both adequately evidence motive and create enough transparency that regulators can effectively regulate (Collins, 2014; Denning, 2013). In other words, it has proven hard to improve the ethics of financial institutions because it has become harder and harder to understand the inner workings of these businesses (Santoro, 2013; Tett, 2012; U.S. Senate Permanent Subcommittee on Investigations, 2013). Whether the complex derivative products which helped fuel the sub-prime mortgage bubble or the complex company structures which allowed billions of dollars of trading losses to go undetected, complexity within the financial industry has frustrated both motive and consequence-based approaches to regulatory scrutiny.

Comme le “too big to fail” devient “too complex to regulate”, les entreprises financières, tout comme les régulateurs, se trouvent en difficulté pour prévenir l’inconduite dans les parties les plus opaques de l’industrie. En 2012, l’épisode du Requin de Londres montre à l’envie à quel point même ceux qui sont internes à l’industrie peinent à comprendre la portée des engagements pris par les directeurs. Ce qui frappe dans ce cas, c’est la conjonction de la surveillance dans la logique des conséquences avec celle ancrée dans la logique des motivations. Des règles existaient pour limiter les transactions du type de celles qui ont eu lieu; l’entreprise s’était aussi engagée à suivre ces règles; les sanctions étaient également prévues pour punir les vio-

The 2012 London Whale episode provides an example of how complexity within financial institutions can hide potentially unethical actions from both regulators and the firms themselves. Traders in JPMorgan Chase’s London office engaged in risky trades, often at a loss, over a sustained period (Hurtado, 2015; Norris, 2013; Santoro, 2013). What is striking here is that this case is the perfect marriage of motive and consequence-based scrutiny: there were rules in place to restrict the types of trades which occurred, a company commitment to follow these rules and consequences in place to punish failure to follow listed regulations. Yet, in this case, both the bank and regulators failed to notice the loss-making trades for a sustained period because of changes to the “Value at Risk” (VaR) risk management tool used by the firm (Hurtado, 2015; Kopecki & Son, 2013; Santoro, 2013). In turn, regulators in the United States failed to detect the increasingly skewed risk profiles of the firm’s trading portfolio and the potential danger those trades could cause to the broader financial system.

In addition to suffering billions of dollars in losses, JPMorgan Chase agreed to pay over $920 million in fines to American and British regulators in 2013 (Robson *et al.*, 2013; Scheer & Kopecki, 2013; U.S. Senate Permanent Subcommittee on Investigations, 2013). Perhaps more importantly, the episode exposed a serious flaw in both regulatory and industry efforts to identify and contain risks. Agreements to improve internal oversight by financial institutions and fines levied by regulators are failing to achieve their goal of inducing true change and a more ethical industry (Admati, 2014).

Changing Priorities—Enforced Ethics ?

As fines fail to have the desired effect, legislative and regulatory efforts in the US, UK and EU have focused on ways to reduce the size of financial institutions and regulate the types of activities they can conduct. American regulators in particular have taken a lead in placing more scrutiny on how banks grow, most recently in the 2010 Dodd-Frank Act which places more reporting requirements on financial institutions of a certain size and restricts their trading activities (Barth & Prabha, 2013; U.S. Senate Permanent Subcommittee on Investigations, 2013). In addition, the act prohibits mergers of financial institutions of a certain size and requires “living wills” from the largest banking institutions, giving regulators a way to deal with banking failures in an orderly fashion (“Banks Must Show They Can Die Quietly,” 2014). The aim of these regulations is to protect consumers and the wider economy while ensuring that investors bear the brunt of the resulting fallout (“Bank resolution: Pre-empting the next crisis,” 2015; Hamilton, 2014). Similar efforts to separate areas of big banks, whether the UK’s “ringfence” approach or the EU’s efforts to have lations de ces règles. La complexité est le véritable enjeu dans ce cas. Cette dernière, plus que l'absence de conséquences assignées ou de motivations floues, est au coeur des problèmes éthiques auxquels les entreprises financières sont actuellement confrontées.

Les exigences des régulateurs en matière de fonds propres et de cloisonnement des activités sont des éléments importants d'un puzzle de plus en difficile à mettre ensemble. Ces mesures ne sont toutefois que le prolongement des efforts destinés à améliorer le standard éthique de l'extérieur. Or, le véritable changement dans l'industrie doit être initié et conduit par les entreprises elles-mêmes. Il doit se concentrer sur la simplification des processus et des entreprises, par ailleurs trop complexes. Le chemin vers une culture articulée autour de l'éthique ne peut commencer que si les régulateurs et les entreprises elles-mêmes comprennent vraiment ce que font ces dernières.

banks create separate legal entities for proprietary trading and other activities are also underway in other jurisdictions(Barth & Prabha, 2013). These actions will create some change in financial institutions, however, these changes are too recent to demonstrate that they have had a clear impact on ethics within the industry. Legal or structural separation of banking activities can help make banking activities more transparent to an extent, but it is unclear that simply breaking up a complex whole into a series of smaller, still complex parts will improve ethical considerations within banks (Baily, Elliott, & Swagel, 2014).

These steps are important, however, in terms of improving ethics this is another example of "outside in" requirements ("Bank resolution: Pre-empting the next crisis," 2015). Outwardly, both financial institutions and regulators have made concrete steps towards managing risk, reducing incidents of misconduct and putting forward a desire for an image of ethical behaviour and trust. In reality, however, these steps have proven inadequate in the face of a complex financial system where misconduct can go unnoticed on a grand scale. In order to substantively improve ethics or Conduct within the industry, a massive effort to simplify and streamline financial institutions is required. This is the only viable method to ensure that financial institutions are not overly large and complex enough that management cannot understand and control what is happening under their watch. Streamlining and simplification must be the next "approach" used by regulators and financial firms alike to improve and embed ethics within the banking industry.

Where do we go from here?

Simplification, whether reducing the number of legacy systems present within banks or creating simpler business models, is integral to establishing an environment for better ethics. The key question is how to make a streamlining agenda work and actually change the industry in a way which positively impacts its ethics. While this is a complicated question and an even more complicated process, there are four key principles in this new approach: changes must be industry led, they must dovetail with a substantive change in business culture, they must strengthen risk functions and they must lead to a retreat from risky markets, behaviours and processes.

First, any change must be industry led. While this may seem like a return to self-regulation, true change will need to come from within financial firms in order to ensure the best outcomes for customers and the industry. If financial firms are forced into streamlining or downsizing, the approach chosen for the banks may be more painful and against more aggressive timelines than a plan designed within the industry itself. One only needs to look at the massive efforts around ringfencing in

La simplification est indispensable pour la mise en place d'un environnement favorable à l'éthique. Elle doit être obtenue, aussi bien par la réduction du nombre de régimes différents – souvent hérités du passé – présents au sein des établissements, que par la simplification des modèles d'affaires. Ce changement doit concerner toute l'industrie, il doit être ancré dans l'engagement en faveur de la nouvelle culture et de l'éthique. Il doit être centré sur l'abandon de certains marchés, produits et stratégies risqués.

the UK, and the associated costs, to see that an effort developed, led and implemented by banks will lead to a smoother transition to the streamlining agenda (Fleming, 2014).

In addition, changes need to be founded on a commitment to a new culture and commitment to ethics. In part, the Conduct agenda achieves this, but only to an extent—staff within financial institutions need to be able to link complexity, risk and business detriment in a clear way. Using examples from past misdeeds, banks must show that the movement to a simpler, streamlined business is both a regulatory focus and a necessity in order to continue to grow as an industry in a sustainable way. This type of cultural change will require more than emails and memos on improving conduct. Rather, senior management must get involved in a tangible way, defining the dangers of a complex business, laying out a roadmap for substantive change and defining the "end state" of a simpler, better business.

Senior management visibility is key in any streamlining agenda, especially senior risk managers and governance structures. In short, risk and ethics management must be front and center within firms and, to as great an extent as possible, need to be independent with robust powers to execute their duties. One major lessons from the London Whale case was that in multiple instances, risks raised to senior management were either ignored or never received an in-depth follow up as needed (U.S. Senate Permanent Subcommittee on Investigations, 2013). This type of scenario needs to be addressed with stronger risk functions within banks and a greater degree of coordination and communication between risk managers and heads of business.

Once an industry-led, Culture focused change programme is in place, with robust support from risk, the final step in the streamlining approach is to responsibly retreat from certain risky markets, products and strategies. In the years following the financial crisis, low interest rates and fragile balance sheets have caused banks to search out markets and products with higher returns. At times, this search for higher rates of return have led to increasingly risky bets and complex products which are hard for consumers, regulators, and sometimes the firms themselves to decipher (Norris, 2013). In implementing a streamlining strategy, financial firms must move to reduce potential risks by avoiding risky strategies, like acquiring seemingly profitable competitors in areas with looser regulatory standards, and winding down complex products and trading activities. Again, in part, this has begun to be addressed by ringfencing initiatives, but as mentioned, simply breaking up a complex whole into smaller but still complex pieces will neither improve ethics nor create positive outcomes for customers.

En effet, le chemin vers des standards éthiques plus élevés et vers l'amélioration des performances pour leurs clients, passe par la réduction de la complexité inhérente aux entreprises financières. Cela ne veut pas dire que tout produit ou transaction complexe doit être abandonnée, mais que les entreprises ont le devoir de s'assurer que leurs stratégies et leurs produits sont en ligne avec les attentes des régulateurs et des consommateurs en matière d'éthique.

The final (ethical) frontier?

The question remains on whether any financial firm can be ethical. After all, banks are primarily institutions whose primary purpose is to create positive returns for shareholders, and this role has become more apparent as these institutions grow larger. At some point there is a limit to how much good regulation can actually do in a corporation with thousands of individual actors, each of which make an unknown number of decisions per day and face innumerable opportunities to either do the right thing or not. Changing the ethics of a firm becomes harder as more and more possible actors are added who, in turn, bring personal views on how best to help the firm and the ethical considerations—or lack thereof—which need to be made in their actions. Complexity of the institutions being regulated is one reason "ethics" within the industry is so hard to define and strengthen. Regardless, there is a standard of right and wrong actions which, at the risk of sounding utilitarian, either hurt or help customers and fulfil broader socio-economic purposes.

So can large financial firms be ethical or must they be broken into smaller, more manageable chunks by regulators? For now, it is unclear whether such a stance is either achievable or desired in the foreseeable future (Baily *et al.*, 2014). And even with this approach, there are gaps in how well ethics within large financial firms can be policed. In the short and medium term however, the streamlining agenda is the best hope for banks wishing to retain their place as major international players and deliver the ethical outcomes which shareholders, regulators and consumers expect. There are arguable benefits to consumers in a reformed financial system with large banking players, especially in terms of the price benefits of an economy of scale (Baily *et al.*, 2014; Federal Reserve Bank of St. Louis, 2012; Hughes, 2013; Wheelock, 2012)[4]. Given past experiences with large financial institutions, however, legislators remain open to the idea of breaking up large, complicated financial institutions into smaller, more easily understood units (Morrison, 2015; Slater, 2014). If the streamlining and simplification agenda fails, then this type of enforced downsizing will follow motives-based, consequences-based and complexity-based scrutiny as the next era in financial regulation.

4 There are a range of academic studies on whether large banking firms really achieve economies of scale at their current levels. For more information, see Feng & Serletis, "Efficiency, Technical Change, and Returns to Scale in Large U.S. Banks, Hughes & Mester, "Who Said Large Banks Don't Experience Scale Economies," among other works

References

Aaronson, D. (1999). A Note on the Benefits of Homeownership. *Journal of Urban Economics*, 47(3), 356–369.

Admati, A. R. (2014). Banks' Immensity Undermines Responsibility. *New York Times*. Retrieved April 9, 2015, from http://www.nytimes.com/roomfordebate/2014/01/12/are-big-banks-out-of-control/banks-immensity-undermines-responsibility

Armour, S., & Tracy, R. (2014). Big Banks to Get Higher Capital Requirement. *Wall Street Journal*. Retrieved April 7, 2015, from http://www.wsj.com/articles/SB10001424052702303456104579489643124383708

Baily, M. N., Elliott, D. J., & Swagel, P. L. (2014). *The Big Bank Theory: Breaking Down the Breakup Arguments*. Washington, D.C. Retrieved from http://www.brookings.edu/research/papers/2014/10/big-bank-breakup-arguments-baily-elliott

Bajaj, V., & Leonhardt, D. (2008). Tax Break May Have Helped Cause Housing Bubble. *New York Times*. Retrieved April 8, 2015, from http://www.nytimes.com/2008/12/19/business/19tax.html

Bank for International Settlements. (2014). Basel III Phase-in arrangements. *International Regulatory framework for banks (Basel III)*. Retrieved April 7, 2015, from http://www.bis.org/bcbs/basel3/basel3_phase_in_arrangements.pdf

Bank of England. (2014). News Release - Prudential Regulation Authority and Financial Conduct Authority consult on proposals to improve responsibility and accountability in the banking sector. Retrieved from http://www.bankofengland.co.uk/publications/Pages/news/2014/106.aspx

Bank resolution: Pre-empting the next crisis. (2015). *The Economist*. Retrieved April 6, 2015, from http://www.economist.com/news/finance-and-economics/21647312-regulators-desire-make-banks-easy-kill-determining-how-they

Banks Must Show They Can Die Quietly. (2014). *Bloomberg View*. Retrieved April 7, 2015, from http://www.bloombergview.com/articles/2014-08-06/banks-must-show-they-can-die-quietly

Barker, A. (2008). Brown says UK leads world with rescue. *Financial Times*. Retrieved April 8, 2015, from http://www.ft.com/cms/s/0/a3fb9670-951c-11dd-aedd-000077b07658.html?nclick_check=1#axzz3WkWIsaKS

Barth, J. R., & Prabha, A. (2013). *Breaking (Banks) Up is hard to do: New Perspective on "Too Big to Fail."* Santa Monica, CA. Retrieved from http://assets1c.milkeninstitute.org/assets/Publication/ResearchReport/PDF/BreakingBanks.pdf

Bernake, B. (2009). Four Questions about the Finanical Crisis. *FederalReserve.gov*. Retrieved April 8, 2015, from http://www.federalreserve.gov/newsevents/speech/bernanke20090414a.htm

BIS. (2010). *An assessment of the long-term economic impact of stronger capital and liquidity requirements*. Basel. Retrieved from http://www.financialstabilityboard.org/wp-content/uploads/r_100818a.pdf?page_moved=1

Braithwaite, T., & Nasiripour, S. (2013). US banks pay $20bn mortgage crisis bill. *Financial Times*. Retrieved April 7, 2015, from http://www.ft.com/cms/s/0/9d9756f8-58cb-11e2-bd9e-00144feab49a.html#axzz3WcvJ0LHC

Building Societies Association. (2013). Banking Conduct of Business Sourcebook - industry guidance. Retrieved April 8, 2015, from http://www.bsa.org.uk/information/publications/industry-publications/banking-conduct-of-business-sourcebook-industry-gu/

Cohen, B. H. (2013). How have banks adjusted to higher capital requirements? *BIS Quarterly Review*, (September), 25–41. Retrieved from http://www.bis.org/publ/qtrpdf/r_qt1309e.pdf

Collins, N. (2014). Banks have become too complex to grasp. *Financial Times*. Retrieved April 6, 2015, from http://www.ft.com/intl/cms/s/0/f94edb04-65c8-11e4-aba7-00144feabdc0.html#axzz3WZ7l6bnc

Custer, O. (2012). *The Intellectual Origins of the Global Financial Crisis*. (R. Berkowitz & T. N. Toay, Eds.). New York: Fordham University Press.

Darling, A. (2008). Statement by the Chancellor on financial stability. *In Statement by the Chancellor on financial stability*. London: HM Treasury. Retrieved from http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/statement_chx_081008.htm

Denning, S. (2011). Lest we forget: Why we had a financial crisis. *Forbes*. Retrieved April 7, 2015, from http://www.forbes.com/sites/stevedenning/2011/11/22/5086/

Denning, S. (2013). Is JPMorgan Too Big And Complex To Manage? *Forbes*. Retrieved April 7, 2015, from http://www.forbes.com/sites/stevedenning/2013/03/21/is-jpmorgan-too-big-complex-to-manage/

Federal Reserve Bank of St. Louis. (2012). In-Depth: The Big Banks: Too Complex To Manage? *Central Banker*. Retrieved April 6, 2015, from https://www.stlouisfed.org/publications/central-banker/winter-2012/the-big-banks-too-complex-to-manage

Financial Conduct Authority. (2006). Treating customers fairly. *Financial Conduct Authority*. Retrieved April 10, 2015, from http://www.fca.org.uk/firms/being-regulated/meeting-your-obligations/fair-treatment-of-customers

Financial Conduct Authority. (2007). Conduct of Business Sourcebook (COBS). *FCA COBS*. Retrieved April 8, 2015, from http://fshandbook.info/FS/html/handbook/COBS

Financial Conduct Authority. (2015). *Strengthening accountability in banking: a new regulatory framework for individuals – Feedback on FCA CP14/13 / PRA CP14/14 and consultation on additional guidance*. London. Retrieved from http://www.fca.org.uk/static/documents/consultation-papers/cp15-09.pdf

Financial Services Authority. (2014). The Banking Conduct Regime. Retrieved April 8, 2015, from http://www.fsa.gov.uk/Pages/Doing/Regulated/banking/bcobs/index.shtml

Fleming, S. (2014). Banks under pressure on UK ringfencing plans. *Financial Times*.

Gopal, P. (2013). Homeownership Reconsidered. *Bloomberg*. Retrieved April 8, 2015, from http://www.bloombergview.com/quicktake/reconsidering-homeownership

Green, R. K., & White, M. j. (1997). Measuring the Benefits of Homeowning: Effects on Children. *Journal of Urban Economics*, 41(3), 441–461.

Hamilton, J. (2014). Big Banks' "Living Wills" Get Failing Grade. *Bloomberg Business*. Retrieved April 6, 2015, from http://www.bloomberg.com/news/articles/2014-08-05/biggest-u-s-banks-told-to-simplify-their-living-wills-

Herzig, C., & Moon, J. (2012). *Corporate Social Responsibility, the Financial Sector and Economic Recession*. Nottingham. Retrieved from https://nottingham.ac.uk/business/businesscentres/crbfs/documents/researchreports/paper86v2.pdf

Holt, J. (2009). A Summary of the Primary Causes of the Housing Bubble and the Resulting Credit Crisis: A Non-Technical Paper. *The Journal of Business Inquiry*, 8(1), 120–129. Retrieved from http://www.uvu.edu/woodbury/docs/summaryoftheprimarycauseofthehousingbubble.pdf

Hughes, J. P. (2013). The Cost Consequences of Breaking up Large Banks: Do Large Banks Enjoy Technological Cost Advantages? *Journal of Stock & Forex Trading*, 3(1). Retrieved from http://omicsgroup.org/journals/the-cost-consequences-of-breaking-up-large-banks-do-large-banks-enjoy-technological-cost-advantages-2168-9458-3-113.pdf

Hurtado, P. (2015). The London Whale. *Bloomberg*. Retrieved April 7, 2015, from http://www.bloomberggview.com/quicktake/the-london-whale

Jochen, S., Aikman, D., Collazos, P., Farag, M., Gregory, D., & Kapadia, S. (2011). The long-term economic impact of higher capital levels. *BIS Papers*, (No. 60), 1–81. Retrieved from http://www.bis.org/publ/bppdf/bispap60j.pdf

Jones, H. (2015). HSBC chairman says new banker accountability rules are reasonable. *Reuters*. Retrieved from http://uk.reuters.com/article/2015/03/24/uk-hsbc-britain-regulations-idUKKBN0MK1N920150324

Komai, A., & Richardson, G. (2011). *A Brief History of Regulations Regarding Financial Markets in the United States 1789 to 2009* (No. 17443). Cambridge, MA. Retrieved from http://www.nber.org/papers/w17443.pdf

Kopecki, D., & Son, H. (2013). JPMorgan Whale Report Spreads Blame as Dimon's Pay Halved. *Bloomberg*. Retrieved April 7, 2015, from http://www.bloomberg.com/news/articles/2013-01-16/jpmorgan-halves-dimon-pay-says-ceo-responsible-for-lapses-1-

Morrison, C. (2015). MPs warn breaking up banks may be best for competition. *CityA.M.* Retrieved April 9, 2015, from http://www.cityam.com/211307/mps-warn-breaking-banks-may-be-best-competition

Norris, F. (2013). Masked by Gibberish, the Risks Run Amok. *New York Times*. Retrieved April 9, 2015, from http://www.nytimes.com/2013/03/22/business/behind-the-derivatives-gibberish-risks-run-amok.html?_r=0

Onaran, Y. (2013). U.S. Weighs Doubling Leverage Standard for Biggest Banks. *Bloomberg Business*. Retrieved April 7, 2015, from http://www.bloomberg.com/news/articles/2013-06-21/u-s-weighs-doubling-leverage-standard-for-biggest-banks

Paulson, H. M. (2008). Remarks by Secretary Henry M. Paulson, Jr. on Financial Rescue Package and Economic Update. *U.S. Department of the Treasury*. Retrieved April 8, 2015, from http://www.treasury.gov/press-center/press-releases/Pages/hp1265.aspx

Rands, H., & West, N. (2014). Banking Reform - The Reversal of the Burden of Proof and Criminal Liability. *MemeryCrystal*. Retrieved April 1, 2015, from http://www.memerycrystal.com/Articles/04-11-2014/banking-reform--the-reversal-of-the-burden-of-proof-and-criminal-liability.aspx

Robson, A., Camfield, H., Cowan, M., English, S., Jacques, K., Hammond, S., & Walshe, J. (2013). *Conduct Risk Report 2013*.

Santoro, M. A. (2013). Would Better Regulations Have Prevented the London Whale Trades? *The New Yorker*. Retrieved April 7, 2015, from http://www.newyorker.com/currency-tag/would-better-regulations-have-prevented-the-london-whale-trades

Scheer, D., & Kopecki, D. (2013). JPMorgan Pays $920 Million to Settle London Whale Probes. *Bloomberg Business*. Retrieved April 9, 2015, from http://www.bloomberg.com/news/articles/2013-09-19/jpmorgan-chase-agrees-to-pay-920-million-for-london-whale-loss

Shen, C.-H., & Chang, Y. (2012). Corporate Social Responsibility, Financial Performance and Selection Bias: Evidence from Taiwan's TWSE-listed banks. In J. R. Barth, L. Chen, & C. G. Wihlborg (Eds.), *Research Handbook on International Banking and Governance* (pp. 458–484). Northamton, MA: Edward Elgar Publishing Ltd.

Sherman, M. (2009). *A Short History of Financial Deregulation in the United States*. Washington, D.C. Retrieved from http://www.cepr.net/documents/publications/dereg-timeline-2009-07.pdf

Slater, S. (2014). UK banks face break-up threat as watchdog plans competition probe. *Reuters UK*. Retrieved April 9, 2015, from http://uk.reuters.com/article/2014/07/18/uk-banks-britain-competition-idUKKBN0FN0IY20140718

Sterngold, J. (2014). For banks, 2014 was a year of big penalties. *Wall Street Journal*. Retrieved April 7, 2015, from http://www.wsj.com/articles/no-more-regulatory-nice-guy-for-banks-1419957394

Tett, G. (2012). The banks that are too complex to exist. *Financial Times*. Retrieved April 6, 2015, from http://www.ft.com/cms/s/0/65281562-b0c1-11e1-a2a6-00144feabdc0.html#axzz3WZ7l6bnc

Timiraos, N. (2015). U.S. Homeownership Rate Falls to 20-Year Low. *Wall Street Journal*. Retrieved April 8, 2015, from http://blogs.wsj.com/economics/2015/01/29/u-s-homeownership-rate-falls-to-20-year-low/

U.S. Senate Committee on Banking Housing and Urban Affairs. (2008). Summary of the "Emergency Economic Stabilization Act of 2008." Retrieved April 8, 2015, from http://web.archive.org/web/20081004201320/http://banking.senate.gov/public/_files/latestversionEESASummary.pdf

U.S. Senate Permanent Subcommittee on Investigations. (2013). *JPMorgan Chasse Whale Trades: A Case History of Derivatives, Risks and Abuses*. Washington, D.C. Retrieved from http://www.hsgac.senate.gov/subcommittees/investigations

Visser, W. (2010). CSR 2.0: From the Age of Greed to the Age of Responsibility. In W. Sun, J. Stewart, & D. Pollard (Eds.), *Reframing Corporate Social Responsibility: Lessons from the Global Financial Crisis* (1st ed., pp. 231–252). Bingley, UK: Emerald Group Publishing Limited.

Watkins, T. (2008). The Nature and the Origin of the Subprime Mortgage Crisis. *San Jose State University Department of Economics*. Retrieved April 7, 2015, from http://www.sjsu.edu/faculty/watkins/subprime.htm

Wheelock, D. C. (2012). Too Big To Fail: The Pros and Cons of Breaking Up Big Banks. *The Regional Economist*, 20(4), 1–25. Retrieved from https://www.stlouisfed.org/~/media/Files/PDFs/publications/pub_assets/pdf/re/2012/d/re_oct_2012.pdf

Zarroli, J. (2015). For banks "too big to jail," prosecutors count on a promise to behave. NPR. Retrieved April 7, 2015, from http://www.npr.org/2015/03/24/394897368/not-prosecuting-companies-if-they-promise-to-behave

Is Moral Hazard Always Immoral?

Ethics in Finance, Robin Cosgrove Prize
Global edition 2014-2015

Finalist

Emilia Klepczarek
Poland
PhD student, University of Lodz, Poland

The fundamental questions about the moral hazard

"Moral conduct is the oil of the social machinery. It reduces the inevitable frictions and pushes the social life ahead , without spoiling the social machine," said Witwicki (1957), the 20th century Polish philosopher. Half a century later, the course of social life was severely disrupted by the global financial crisis, the causes of which have been primarily attributed to so-called moral hazard, or "a temptation to abuse" in Polish literature discussing the crisis.. The concept, apparently demonstrating associations with the abuse in the banking sector, carries strongly negative connotations, and any action linked to moral hazard is seen as unquestionably immoral. No wonder that today's academic, business or political discussion increasingly addresses the methods of combating this main antagonist of the global downturn; which, as a kind of modern Pandora's box, has paved the way for shady practices and defective mechanisms to penetrate the global financial market.

It seems, however, that in the heat of a discussion on how to deal with moral hazard, certain fundamental questions are overlooked which should be taken as a starting point for any further debate. What does moral hazard actually mean? Whom does it concern? Does the government have a moral obligation to extend aid to banking institutions? Or does the bank have a moral obligation to avoid risk so that no government help will be needed? And finally, can moral hazard be eradicated

La crise financière peut être abordée en tant que perturbation ou rupture du bon fonctionnement de la machine sociale. Comme d'habitude dans de telles situations, l'opinion publique pointe son index vers les coupables.

Bien que l'aléa moral soit utilisé aujourd'hui pour désigner des comportements frauduleux des institutions financières, cette notion prend son origine dans le monde de l'assurance. Elle décrit la tentation, voire l'inclinaison des assurés à prendre des risques plus élevés que les non-assurés.
Il est important de distinguer clairement entre la "tentation de prise de risques" et la tentation de "simuler" afin de frauder ainsi l'assurance. A partir de cette distinction, nous pouvons analyser les aspects éthiques de l'aléa moral.

and is it really immoral? This essay will attempt to answer these questions.

Who are the moral gamblers?

The concept of moral hazard originates in the insurance sector, even if more recently the term is usually employed to refer to fraudulent practices in financial institutions. It describes the tendency of an insured party to assume greater risks than a non-insured party owing to the apparent security that possessing insurance carries with it.. Along with the exponential growth of insurance companies in the late 19th and the early 20th century, the use of the term became increasingly widespread and its underlying problem more and more important (Dembe & Boden, 2000). Behavioural change resulting from the insured being protected by an insurance policy was frequently an issue in relation to automotive, property and social insurance and highlighted a significant increase in the carelessness with which people entered into insurance agreements. As early as in 1913, Isaac Max Rubinow (1913), known as the father of the American social insurance system, drew a distinction between "the temptation of risk" and "the temptation of simulation". "In the opinion of many," wrote Rubinow, "the most destructive is a conviction that social security not only increases risk, but significantly encourages the simulation of accidents, illness or lack of employment, lets alone professional begging, and corrupts the entire working class by offering an easy reward for cheating." It seems that moral hazard is of a dual nature: the first associated with excessive risk and the second manifested in embezzlement and fraud. The latter is unquestionably unethical; the former will be evaluated below.

However, moral gamblers are not only the parties to insurance agreements. In the United States the 1920s saw a discussion about the introduction of deposit insurance, thereby moving the debate about moral hazard into the banking sector. In such a case , the temptation of abuse surfaces with reference both to the government support for banks, taking the form of deposit insurance, and to the institution of the central bank as the lender of last resort. A moral gambler can thus be a bank pursuing an excessively risky activity which is secured by guarantees from its parent organisation and possible public aid. However, it also seems necessary to distinguish between negligence or carelessness concerning certain security standards, , and advocating intentional fraudulent practices intended to mislead market participants in general or, more specifically, the other party involved in the agreement. Given that the second scenario (intentional fraud) is clearly unethical, let us concentrate on evaluating the first (negligence or carelessness).

To start with, it is worth considering the very purpose of having an insurance system. Is it not designed precisely so that the insured party

Le système d'assurance est nécessaire au développement des activités impliquant la prise de risque. Sans assurances, les possibilités de crédit offertes par les institutions financières seraient bien moins étendues qu'aujourd'hui. Certains philosophes vont même jusqu'à dire que ni Christophe Colomb ni Neil Armstrong ne seraient partis dans l'inconnu à la découverte si leurs familles n'avaient pas été assurées au cas où leurs missions tourneraient mal.

Les récents sauvetages des banques ne découlent pas de leur droit illusoire à être préservées de la faillite, mais de droits fondamentaux des citoyens au bien-être et à la prospérité. Le soutien à la liquidité des banques est donc justifié du point de vue éthique seulement si cette obligation est dérivée du droit des citoyens à une vie décente.
En conséquence, la

takes greater risks? If we imagine, for example, that motor insurance were no longer compulsory, we would expect a massive increase in the cost of vehicle use and a reduction in vehicle owners' peace of mind.

Were Columbus and Armstrong the moral gamblers?

Repair and maintenance expenditure, difficulties in enforcing claims and, finally, the likelihood of very conservative driving generating extra congestion would lead to a visible decline in the number of vehicles on the road. Insurance solves such problems, at least in part, and insurance companies assume that drivers are careless and calculate their premiums accordingly. The same applies to other types of insurance, for example, travel or holiday insurance. Perhaps some people would give up hiking, scuba diving or skiing without if they did not have the psychological buffer of accident insurance in place. Some philosophers even surmise that Columbus would not have discovered America and Armstrong would not have set foot on the Moon if their families had not been granted financial support, thus taking their share of the risk had the mission failed (Hale, 2009).

However, while the relationship between moral hazard and great discoveries is questionable, it seems more than likely that the lack of security and insurance in financial institutions would considerably restrict the availability of credit, thus arresting economic growth. After all, banking operations are invariably risky. The asymmetry of information along the bank-customer line and a number of external factors make uncertainty an inherent attribute of financial markets. Furthermore, securing even part of the potential losses catalyses further operations in these markets and expedites their growth and development.

But again, we need to make a distinction between risky activities and fraud or embezzlement. Some people do not consider breaking a traffic rule immoral; the same with skiing headlong down a very steep slope or purchasing shares in a joint venture project. By contrast, begging for compensation after a fake accident, or pursuing creative accounting practices to lower risk indicators would no doubt be seen as immoral. It goes without saying that the former set of actions is somehow embedded in insurance market scenarios, while the latter flouts any generally accepted moral principles.

One hazard two faces

Bearing that in mind, can overexposure to risk without the intent of cheating or concealment of information be justified, and can we consider this kind of moral hazard ethical ? To answer this question, some differences must be taken into account between a standard insurance agreement and agreements concluded in the banking sector, which, comprising of institutions representative of social trust, is governed by certain specific rules.

justification de la recapitalisation du secteur bancaire ne signifie en rien que les individus qui sont à l'origine de cet état de fait ne devraient pas être mis à contribution. En dernière analyse, il s'agit de protéger les citoyens, non pas les banques ou leur dirigeants.

Il semble impossible de trancher de façon ultime si certaines actions sont bonnes ou justes et droites. D'autant plus que dans certaines circonstances, elles pourraient apparaître comme absolument justes, alors que dans d'autres elles seraient inappropriées.

Il est difficile de traiter les questions de moralité de manière non équivoque pour une simple et bonne raison : il n'y a pas de définition générale et universellement admise de la moralité. La question de savoir ce qu'est la morale est susceptible de nombreuses réponses

First, an "ordinary" agreement with the insurer is a voluntary business contract; on the other hand, the relationship between banks and their public "administrator" is in a sense a social agreement that meets all the requirements arising from the assumptions made by Hobbes and the canonical theory. If, therefore, we agree that this agreement protects the wider community interests, any violation of the contract must necessarily be considered immoral. But here again, the question is raised: Do we know what the deal is ?

Despite appearances, this question is far from simple to answer. Let us focus first on the commitments which the government makes in this agreement, and on any moral obligation it might have to save the banking sector from collapse. The answer can be found in Article 25 of the Universal Declaration of Human Rights: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family." Based on this fundamental right, the government should be assuming a moral obligation to protect its citizens from crisis that might significantly decrease their standard of living. Consequently, rescue packages or programmes are not implemented as part of the banks' fundamental right to be protected against failure, but as part of the citizens' fundamental right to well-being and prosperity. Several important conclusions can be drawn at this point: supporting the liquidity of banks is ethically justifiable, yet the obligation to provide such support only stems from the citizens' right to an acceptable standard of living. It follows, therefore, that if in any given circumstances there exists a method of asserting this right which is more morally acceptable, this method should be adhered to .

However, if saving people rather than banks is a moral duty, there is certainly no moral duty to save bankers who have acted in a way which threatens social prosperity. Any justification of recapitalisation of the banking sector does not mean that the individuals who are to blame for the existing state of affairs should not take responsibility. Mind you, we protect citizens not banks, let alone bank executives.

A more complicated dilemma presents itself concerning the moral obligation of banks to operate in a manner that rules out the need to apply for government aid. The content of the social agreement in this case is imprecise . The boundary level of risk preventing liquidity issues cannot be established. It could also be possible to gain a public consensus of opinion over what is an acceptable level of risk for banks to take. Any organisations which have crossed this boundary would be labelled immoral. However, obtaining a general social consensus on this issue is not possible. In addition, information asymmetry and the number of variables which have an impact on a banks operational risk is so vast that it is not possible to accurately assess an operation's level of uncertainty. More than that, the low level of risk translates into high basées tantôt sur la religion, tantôt sur le droit, ou encore sur les émotions ou sur les normes sociales. Ces réponses sont abordées dans le texte et elles serviront de base pour traiter la question de la (im)moralité de l'aléa moral.

Serait moral ce qui est acceptable pour la majorité ? Pour paraphraser G. Frege "être moral est différent d'être considéré comme moral par une autre personne, par beaucoup d'autres voire même par tous. En aucun cas, la question de moralité ne devrait être réduite à cet aspect". Il n'en demeure pas moins que nous ne savons toujours pas ce qui est considéré comme moral par la majorité.
Etre moral, c'est suivre des principes comme le rappelle I. Kant avec son impératif catégorique.
Etre moral, c'est être inspiré par de bonnes intentions. Fondamentalement, l'aléa moral se réfère uniquement aux comportements

interest loans, while, evidently, the public expects the supply of capital at the lowest price. A high volume of loans, especially which stimulate capital expenditure, is highly desirable in the economy. How, in this case, is the social agreement formulated and should excessive risk coupled with almost free mortgage loans be considered a violation of this agreement? Answering this question would be to state the obvious...

What is "moral"?

Questions of morality are usually difficult to address in an unequivocal manner. The reason for that is fairly simple: there is no single and generally applicable definition of morality. "What is 'moral'?" Numerous answers can be given to this question, based on religion, law, emotions, or social rules. Below I will share the answers that I hear most frequently and will attempt to refer them to our exploration of the (im)morality of moral hazard.

"Moral is that which is good." Nevertheless, we must ask, good for whom? And what if today's good proves a disaster tomorrow? Looking back to 2006, we could ask millions of Americans whether buying a property at a 100% mortgage and a very low interest rate is acceptable. We could ask bank executives whether paying themselves high bonuses for profit while being reluctant to take any consequences for possible losses is acceptable. We could ask US congressmen whether it is acceptable to earn the support of poorer voters thanks to such government institutions as Freddie Mac and Fannie Mae assuming almost the entire risk of repayment of the most vulnerable loans in bank portfolios. Let us ask the same Americans whether it is acceptable to be one of the 7 million people evicted from their homes. Is it good to be ostracised and have pockets lined with junk shares of your own bank? And finally, it is acceptable to initiate rescue programmes paid by newly printed or taxpayers' money? Therefore, should we conclude that this hazard is good or bad?

"Moral is that which is righteous." Here again we approach the same dilemma: who should determine what is righteous? In the long dispute about moral relativism, the Cartesian understanding of certainty as an attribute of knowledge is often disparaged. If, like the absolutists, we refer to ethics as a science of morality which provides justifications based on a critical scientific methodology, we are forced to reject the standards of those cultures which lack any considerable scientific legacy or which treat science differently. Consequently, the problem arises of whether we are able to propose such a set of rules or methods of their determination that will hold true universally and will protect the legitimate interest and welfare of everyone. If we answer in the affirmative, further problems ensue. How can we objectively lay down such rules? Who is qualified to verify that impartiality? And, finally, once verified, how can we make sure that the assessment is correct? After all, there intentionnels. Dans cette acception de moralité, les banques qui n'ont pas manipulé leurs états financiers et n'ont pas délibérément diminué les indicateurs de risques devraient être considérées comme ayant agi moralement.

Est moral ce qui vaut la peine d'être répété. Or, si l'on pouvait savoir de manière ultime si ce qui vaut d'être répété est juste, il serait plus facile de discuter de moralité. Sans cela, tout dépend de l'interprétation.
Est moral ce qui est conforme à la justice … L'exigence de base ici est de savoir quelle est le principe de justice : le traitement égal, ou le "à chacun selon ses besoins". Dans le secteur bancaire, quel sens faut-il donner à la justice face au refus du gouvernement d'aider Lehman Brothers alors qu'il recapitalisait d'autres banques à court de liquidité ?

are people for whom the development of financial markets, even at the cost of issuing high risk derivatives, constitutes the only correct view of the evolution of the financial system. Still, there are those who continue to regard government assistance to financial institutions as a legal reward for thoughtlessness or an anti-market support for losers. I have already outlined some well-grounded arguments that contradict both of these theses. Yet, the supporters of either of them should not be denied accurate judgement. Considering the above, we should see eye to eye with Jesse Prinz who rejects reasoning as a method of seeking moral values (Prinz, 2011). Of course, he does not challenge the significance of reasoning in developing moral principles, yet he claims that it ultimately and always refers to emotions.

Some other definitions of morality

"Moral is that which is accepted by the majority." To paraphrase Gottlob Frege, "being moral is something other than being considered moral either by one person or by many, or even by all, and in no case should it be reduced to this alone" (quoted after: Niebrój, 2012). However, even if we reject this argument, at this point we should return to our discussion of the content of the social agreement concluded between the public and the banking sector and consider whether the level of risk taken by banks was actually rejected by citizens. Perhaps the blame should not lie with banks if they reasonably interpreted public expectations as permitting or even encouraging high risks. The information about this public acceptance may have been obtained from political and social institutions, in a sense legitimizing the desired level of risk as socially permissible. Therefore, banks can be said to have acted within the framework of existing standards and their activity did not violate the social agreement (Claassen, 2015).

"Moral is following principles." At this point, it is impossible to ignore Immanuel Kant and his duty imperative. He says that a moral act is committed out of duty while anything which is done out of desire is either neutral or reprehensible. Let us ponder in what way a bank's obligation can be considered superior . Besides meeting legal requirements, the most important obligation is to act diligently, which stems from the standards of corporate governance. It is commonly defined as being vigilant to detect any potentially important issues. Although it is impossible to objectively verify how vigilant someone is, an intuitive assessment leads to the conclusion that this obligation was not duly satisfied by banks.

"Moral means guided by good intentions." Surprising as it may seem, people often judge intentions and not consequences. Imagine a situation in which the government provides monetary aid to banks suffering from an environmental disaster. Would any opposition be voiced? Basically, moral hazard covers only intentio-

Il est facile de juger ex post. L'aléa moral ne doit pas toujours être considéré comme immoral. Laissant de côté le cas de l'abus, qui relève, à l'évidence, de la fraude, les autres situations sont difficiles à juger. En conséquence, ni les banques agissant dans le respect de la loi et avec le soutien euphorique des débiteurs, ni les gouvernements cherchant à éviter un effet de domino, ne méritent d'être unanimement ostracisés.

L'aléa moral est-il toujours immoral ? Non, pas toujours ; même bien moins fréquemment que nous ne le pensons. Pour justifier cette thèse potentiellement controversée, je me réfère à la langue polonaise qui parle littéralement de la "tentation d'abus". Or, la tentation est-elle immorale, ou bien seulement le fait de lui succomber ? De plus, dans notre cas, nous devrions savoir exactement de quel abus on parle. De la

nal behaviour; again, a distinction should be made between the behaviours focused on the promotion of welfare and those chasing fraud and embezzlement. With such an understanding of morality, banks which did not cheat in their financial statements and did not deliberately lower risk indicators should be regarded as acting morally.

Are moral acts always worth repeating and fair?

"Moral is that which is worth repeating" I will eat my hat if anybody can tell me which elements of bank or government policies are worth repeating . Even today, a few years after the crisis, no clear position has been articulated on whether the governmental capital injections were right, and interest rates are again very low and encourage banks to oversupply credit. Eugene Dupreel in his *Traité de morale* says that acts that are desirable and worthy of praise tend to be repeated in one of two ways (Dupreel, 1969). Some of these acts, in addition to the value for which we praise them, are useful for the person carrying them out; some other acts, by contrast, are harmful or unpleasant. Dupreel notes that the acts of the former kind do not need praise because the doer does not deserve any special merit. Only the acts of the other kind, as the author underlines, garner praise and recognition to the doer. "Morally good acts are those which go beyond remaining in line with specific rules or laws, and require the perpetrator to be ready to sacrifice." Indeed, governments demonstrated their willingness to help and even made real sacrifices, whereas banks behaved in quite the opposite fashion. Major scandals involving the return of monetary aid only to be given the green light to pay staggering bonuses to managers testify to the deficiency of banks' willingness to contribute their part.

"Moral is that which is just." If this is so, it will prove beneficial to briefly explore the principle of justice: "Nobody deserves things merely because it is him or her and not somebody else," reads one of the definitions (Ajdukiewicz, 1960). "Do the same in identical circumstances," reads another one (Chwistek, 1936). However, even this apparently simple rule raises serious doubts. The basic requirement is to make it clear whether "just" means (to do) "equally to everyone" or "everyone according to their needs." If we go for the needs, which seems more compelling anyway, then someone else should be able to measure such needs. Accepting or distributing? Looking again at the banking sector, how does this principle refer to the fact of refusal of governmental aid to Lehman Brothers, while recapitalizing others running the risk of illiquidity? The only explanation is that Lehman Brothers was assigned to another fundamental category, which would justify the government's attitude to other salvaged institutions. Or maybe, in this case, justice does not come into play?

manipulation d'états financiers – certainement. Mais qu'en est-il de l'"exposition excessive aux risques" si décriée aujourd'hui ? Qu'en est-il de ces swaps en milliards indispensables à la stratégie bancaire ?

Selon F. Nietzsche, il n'y a pas de phénomènes moraux, mais seulement des interprétations morales des phénomènes. Ces paroles captent l'essentiel de la discussion sur la tentation de l'abus. De même, la moralité de l'aléa moral est une question d'interprétation. Il n'y a pas une seule opinion juste, pas même l'opinion publique. Il est facile de proférer des jugements post factum, en oubliant l'enthousiasme général aux temps de la prospérité. Et, peut-être, après tout, lorsque nous attendons tous avec impatience la prochaine reprise économique, sommes-nous un peu immoraux ?

It is easy to judge post factum

"I know one thing: that I know nothing", you would like to say with Socrates. An attempt to put together the pieces of reflection on moral hazard reveals how complex the problem is. The only thing that is clear is the origin of the term, the rest meanders between dilemmas and subjective judgements. Still, some conclusive remarks are needed to add some value to all these deliberations.

Is moral hazard always immoral? No, not always; even less frequently than we tend to suspect. To justify this, perhaps controversial, thesis, it would be advisable to refer to the Polish synonym of the term. A temptation of abuse: can this be immoral in itself? What about saints? Weren't they tempted? Succumbing to temptation would certainly be considered immoral, but in our case, it is necessary to clearly define what an "abuse" is. No doubt, it is the manipulation of financial data in order to obtain the best possible rating. It is also the obscured level of risk associated with sold derivatives. It is also disinformation and non-transparency of operations. These are some obvious cases of abuse regarded as economic offences – their morality, or rather the lack of it, needs no further exploration. But what about that rather stale slogan from today's perspective, of "excessive exposure to risk"? What about those millions of mortgages that should never have been sold? What about those derivative instruments that were so complex that no one knew what they relied on and how much they were worth? What about those billion-dollar swap transactions and forward and futures contracts that should be considered more of a guessing game that the implementation of a bank's strategy? And if all that occurred in accordance with the law and with the unanimous approval and euphoria of borrowers and investors, should it be considered immoral? Perhaps, in one case only: if the bank authorities had known or had been able to predict how this madness would end. Given the sheer panic, bafflement and giant stocks of own shares that the bank executives ended up with in 2008, it is no surprise that it did not dawn on them earlier.

And what about state authorities? This question is simpler to answer. They should by all means fight to prevent the devastating domino effect and stop the crisis phenomena looming over the economy. As long as no one proposes a better method than liquidity packages, they have no other choice. Indeed, this is not true that banks were transferred extra capital: government aid mostly involved the redemption of less liquid assets or granting long-term loans to those institutions that pledged the tightening of their financial security policies. Again, supporting banks is not tantamount to supporting their directors or managers. Indeed, they should bear the consequences of their incompetence. For each of the salvaged institutions such incompetence can be proven, since their decision-makers were not able to predict the disastrous effects of the property bubble.

Conclusion

"There are no moral phenomena at all, only moral interpretations of phenomena" – Friedrich Nietzsche's words best fit the discussion of the temptation to abuse. Also the morality of moral hazard is a matter of interpretation, emotions and outlook of the evaluator. There is no single and the only right opinion, let alone the public opinion. Passing judgements *post factum does not prove in the least demanding*, if one conveniently fogets the overwhelming enthusiasm in the time of prosperity. After all, perhaps all of us who are forever awaiting the economic boom are a little immoral?

References

Ajdukiewicz, K. (1960). *O sprawiedliwosci*. A lecture delivered in Lviv in 1939. (Reprint in: *Jezyk i poznanie*, Vol. I, Warszawa)

Chwistek, L. (1936). Rola zasady konsekwencji w zagadnieniu sprawiedliwosci społecznej. P*rzeglad Filozoficzny*, Kraków

Claassen, R. (2015). Financial Crisis and the Ethics of Moral Hazard. To be published in: *Social Theory and Practice*, Vol. 41, 3

Dembe, A. E.& Boden, L. I. (2000). Moral Hazard: A Question of Morality?. *New Solutions,* 10(3)

Dupreel, E. (1969). *Traktat o moralnosci*. Oxford University Press

Hale, B. (2012). What's so Moral About the Moral Hazard?. *Public Affairs Quarterly*, 2(1)

Niebrój, K. (2012). Subiektywne – intersubiektywne – obiektywne w ujeciu Gottloba Fregiego. *Analiza i Egzystencja*, 17

The Universal Declaration of Human Rights (UN 217 A (III) done at 10 December 1948)

Prinz, J. (2011). Morality is a culturally Conditioned Response. *Philosophy Now*, Vol. 82

Rubinow, I.M. (1913). *Social Insurance With Special Reference to American Conditions*

Witwicki, W. (1957). *Pogadanki obyczajowe*. Warszawa

Wolenski, J. (2005). *Epistemologia. Poznanie, prawda, wiedza, realizm*. Warszawa: Wydawnictwo Naukowe PWN

Dirty Hands and Dirty Money: Towards a Framework for Fighting Pollution in Finance

Ethics in Finance, Robin Cosgrove Prize Global edition 2014-2015

Finalist

Mar Pérezts
Mexico-France
Associate Professor at EMLYON Business School & OCE Research Center, Ecully France*

* The views expressed herein are those of the author and do not necessarily reflect those of the Organization she is affiliated to.

Whenever I tell people that my research focuses on ethics in banking and finance (Pérezts, 2012, Pérezts, Bouilloud & Gaulejac, 2011; Pérezts & Picard 2014; Pérezts, Faÿ & Picard, 2015) I usually get a cynical grin followed by "Ethics in banking? Ha! Haven't you read the newspapers lately?" As if banking and finance were inherently immoral or at least a-moral, and I was wasting my time (Pérezts, 2014).

But despite the persistent irony, a certain societal fascination for these issues seems equally persistent. Since the outbreak of the financial crisis in 2007, no fewer than seven major films have been released whichquestion the ethics of the financial world: *Capitalism, a love story* by M. Moore in 2009, *Wall Street 2: money never sleeps* by O. Stone in 2010, *Krach*, by F. Genestal in 2010, *Cleveland vs. Wall Street* by J.S. Bron in 2010; *Inside Job* by Charles Fergusson in 2010, *Margin Call* by J.C. Chandor in 2011, and *The Wolf of Wall Street*, by M. Scorsese in 2013. This is but one manifestation of the media frenzy around this subject, which can also be found in cartoons, television series and comedy sketches, somewhat revealing our fascination (or maybe obsession) with ethical issues in business in general (Trevino & Nelson, 2007) and in finance in particular (cf. Godechot 2011b).

And this obsession inevitably brings with it a series of questionsstirring our societies who demand long-term answers. Indeed, when people start asking,"what is a bank supposed to be and be for? What is it supposed to do?" We are far beyond the strict crisis-management phase. These are institutional, ontological

Notre fascination (obsession?) pour les questions éthiques dans les affaires en général et dans le monde financier en particulier est le reflet d'une obsession sociétale sous-jacente avec les questions de pureté et de pollution, telle qu'étudiée par des anthropologues comme Mary Douglas.
L'idée que lorsqu'il est question d'argent (et en particulier d'importantes sommes d'argent) il y a de la pollution et donc un comportement immoral, est profondément ancrée dans notre inconscient collectif .

Le mot 'argent', simple et pourtant mystérieux, cache un objet paradoxal, craint et vénéré, tésaurisé et emprise, désiré et stigmatisé.

and teleological questions that challenge the very nature, purpose and reason for existence of banks – at least in their current form and practices. Furthermore, such questions reveal an enduring and underlying societal obsession with purity and pollution as studied by anthropologists like Mary Douglas (2004, 2005, 2013) which affects the financial industry in a stringent, silent and often understudied way. We cannot seem to get rid of the idea, lodged deep in the collective sub-conscious,that wherever money is involved (and especially large sums of money) there is pollution and dirt, *i.e.* immoral behavior.

This paper seeks to shed light on this deeply rooted issue; how finance – its professions, organizations and practices – is perceived more or less consciously as a source of pollution and danger to the economy and broader society (Jacobs, 2012: 384). This manifests itself through an increasingly generalized mistrust towards banking and financial institutions, at the crossroads of normative and ethical questions, but also and maybe more importantly anthropological and sociological dimensions. Exploring such dimensions allows us to better understand organisational responses such as risk management, control measures and compliance practices. Here, I shall attempt to provide insights using this anthropological lens on the construction of pollution in finance, as well as on the measures in place to fight such pollution through compliance practices. Such a perspective will allow me to highlight some underlying mechanisms of compliance and attempt to unveil their reception and implications in society. For practitioners, this will help to ground financial ethics in compliance, and make ethics an object not only of normative concern (a 'crime and punishment' perspective), but rather of more meaningful organizational practices in complex everyday working settings.

Insights into the construction of (dirty) money

If, during the recent crisis, banks and financial institutions were singled out as the major crime scene and ethics was supposed to be absent, we still need to define the role played by money: the motive? The culprit? The victim? Behind the simple yet mysterious word 'money' lies the object that is both feared and revered, treasured and despised, desired and stigmatized (Bouilloud & Guienne, 1999) and constitutes an interesting gateway to study the equally ambivalent and complex relationship between ethics and banks (Zelizer, 1979). Indeed, if banks and financial institutions are morally problematic, it is largely because they are the main vehicles for the circulation of wealth in our global economy.

For the common citizen, it is easy to identify such institutions with the personifications provided by the media, such as the cynical characters of Gordon Geeko or Jordan

L'argent est un fait social et culturel, qui formate nos catégories mentales indépendament de sa valeur monétaire.

Le sale, d'après Douglas, est une catégorie du désordre, du chaos. L'argent, en tant qu'il transgresse de nombreuses frontières, est donc une source de pollution.

Belfort. These appear as the new figures of global power, replacing the portraits of the kings and emperors that we find on coins and bills since Antiquity. Political power, along with religion and money constitute the three pillars of belonging to a community (Durkheim, 1912), and the sole reason that would push us to pay the price of alienation (Marx, 1982). Stock markets are the 'modern temples', according to novelist Zola (2009), who hold the monopoly on value, values and valuables. Hence, financial markets have become "the new gods who comment on and change the course of human lives by delivering their daily verdicts from the top of their Olympus" (Godechot, 2001: 13[1]).

Pecunia non olet?

Yet, despite being universally present, money remains universally invisible: it is a "'blind spot' of research", a "radical methodological unthinkable thing" and fundamentally a "taboo" (Bouilloud, 2004:5). This results in contradictory feelings which are projected upon the entire financial system, creating confusion between the real and the imaginary, and between the individual and collective representations and fantasies. As inescapable intermediaries, banks handle money but also anything that may have monetary value – including our fears or hopes, translated into products traded in the complex whirl of finance (Pérezts, 2014).

"Money is sticky stuff" (Green, 1989), and just like banks, it is an intermediary for social ties, a revelatory of relationships, and not only business ones (Zelizer, 1989). It is a cultural fact, which shapes our mental categories of value, prestige and success (an idiot with money is not the same as an idiot without money, cf. Bouilloud, 1999). Money transports meaning: *"by restraining and channeling the flow of money, people use it as a bearer of social meaning. Instead of interpreting restricted circulation as a sign that money has failed to perform, we should recognize that such patterns reflect the creation of meaning. Money is a way to communicate messages as well as command resources."* (Carruthers, 2005:357).

Far from being a universal equivalent as suggested by the famous phrase pecunia non olet (money has no smell)[2], money is not sociologically neutral, and will be used, perceived, or judged according to a variety of factors like its origins - stolen, earned, inherited…; its uses - investments, gifts, hobbies, food and health expenses, education…;, and the people involved in the transaction – a couple, family, friends, business partners, strangers… (Bou-

1 When there is no English version available of quoted texts, the translations are ours. Texts are referenced in the language and the edition that was used.

2 In the 1st century, Emperor Vespasian is supposed to have said this phrase to his son, when he complained about the disgusting nature of the new urine tax for the tanneries of Rome through the new Cloaca Maxima system of sewers.

rdieu, Boltanski & Chamboredon, 1963; Carruthers, 2005; Zelizer, 1989, 1997). It is therefore clear that money does not have the same smell – or colour or value or meaning for that matter – regardless of its source, and independently of its actual monetary value (Gaulejac, 2004).

Money: between life and death, sacred and profane, purity and dirt

"Money has become a synonym for life: don't we say "to earn a living"? (…) Money also announces death; it places the subject in the position of a funambulist between loss and gain. Ruin is the reverse side of power, loosing one's most precious possessions, and oneself. Money brings the taste for risk, the fever of the game, we think we can use it to play with death, to defy destiny, and at the same time we compulsively look for the fall, it is a way to flirt with death. (…) Money, games, alcohol, drugs, women, are all equivalents of death, but it is money that gives access to all others." (J. Barus-Michel, 2004: 27).

Le sale, d'après Douglas, est une catégorie du désordre, du chaos. L'argent, en tant qu'il transgresse de nombreuses frontières, est donc une source de pollution.

Money has never been considered suitable for mealtime conversation, perceived as bad taste, and a social transgression (Bouilloud, 1999:7; Gaulejac 2004). It is not strange then to find that money is often associated with a vocabulary of pollution: toxic, rotten, dirty, blood money, dodgy debts, dunghill... It is truly a diabolic element in the etymological sense of the word: that which separates (dia-two) and forgets the fundamental unity (Droit & Henrot, 2010: 89).

Drawing on the works of anthropologist Mary Douglas (2004, 2005, 2013), the notions of pollution and dirtiness provide an interesting approach money and markets, and better understand the construction of our mental schemes of reference, of a symbolic order that operates through separation and discrimination that will have a profound influence not only on our representations but first and foremost on our practices. Dirtiness is deeply linked to non-conformity with conventions of a given order . Today for instance, we speak of shades of grey: grey money being the product of undeclared tax money for example, and black money resulting from criminal activities (Zeigler, 1990). The origins of money prevail over its nature (whether ontological or even legislative) when constructing classifications.

Dirtiness, according to Douglas, is a category of disorder, of chaos. Money, in that it transgresses numerous boundaries, is such a source of dirtiness. First, a confusion of the boundaries of being and having (*être et avoir*), where the latter becomes the measuring item for the former (Barus-Michel, 1999). This changes our relationship to ourselves and to others. Second, the boundary between the sacred and the profane: awarding a price to something is akin to reifing it, and this reification is a desacralisation: as when insurance companies set a price on one's health or life, or kidnappers ask for a ransom in exchange for a loved one.

Les banques apparaissent comme l'endroit idéal où les imaginaires derrière l'argent convergent. Et en cas de mauvaise gestion des risques lies à l'argent, elles peuvent devenir une source de pollution pour le reste de la société.

But pollution is more ambiguous than binary logic would suggest: indeed the realm of the sacred is so because it is polluted and dangerous (Eliade, 1958: quoted in Douglas, 2005:30), and must therefore be kept apart from the profane, the common. A strange proximity between the dirty and the polluted is a line as thin as the one between good and evil, and therefore profoundly problematic. For instance, traders see "the lack of money as a fault, a failure, a stain in a world where one's value comes through competition for profits and individuals' status results from their revenues" (Gaulejac, 1999:95). This figure of the trader is emblematic of the dialectic between the polluted and the sacred, or to use Douglas' term, it is a magician, a sorcerer, a figure of transgression, and therefore on the margins of society, inspiring a certain fear and respect. And money, as any object that transgresses established boundaries of a given order, is seen as a dangerous and impure element (Douglas, 2005). Dirtiness, once we've moved beyond the conceptual prison of hygiene, is simply about something that is not in its proper place within the order.

Therefore, it all depends on the internal rules of this order. For example, not all money-laundering is necesarrily 'bad'. Indeed, nation states can 'launder' money as a legal and also 'good' activity: *"Money from 'sin taxes' on tobacco and alcohol products supports particular ends, like public education, partly because these revenues posess a problematic political meaning that must be managed."* (Carruthers 2005:357-358).

Money is a semiotic instrument, which classifies things by giving them a certain 'colour' or 'smell', as shown in Douglas' extensive work on the abominations of Leviticus (2005): jurist-priests become the guardians of such classifications into an established order, just as compliance officers sanctify formality and paperwork in the financial sector today.

Considering dirtiness allows us to better understand both sides of the coin: order and disorder, cosmos and chaos, the existence of all organized business and societal relationships and the transgressive elements which unbalance such relationships. Dirtiness is therefore never an isolated fact, because according to Douglas (2005), where there is dirtiness, there is a system. And this system acts by rejecting the elements that do not conform or comply, the anomalies (a-nomos, a-normal).

From dirty money to dirty hands: how banks become both polluted and a source of pollution

These are turned into objects of surveillance and control,or into rules to indicate what the anomaly does not conform to, and the patterning of such categorizations into a formalized system .

It is not new that professions

linked to money have endured a longstanding contempt from society. Usury was already denounced by Aristotle, and later we find this same condemnation by most religions[3]. This religious image finds itself reinforced in art, like in the painting below of a common motif, and in literature, with characters like Faustus, or Moliere's *Misanthropistr*.

Figure 1: Q. Metsys. Le Prêteur et sa femme, 1514. Musée du Louvre. Paris

Prostitution, or the selling of sacred things (like the body) in exchange for money, has also seen widespread condemnation. It is not a coincidence that Marx calls money a prostitute, and that recently the rogue trader Jérome Kerviel wrote in his autobiography that in the Société Générale, the bank where he worked for, traders were nicknamed "*bonne gagneuses*" or whores (Kerviel, 2010). What's worse, far from being an insult, this was claimed with pride even louder in order to further provoke others who stood outside of this golden elite.

Gambling is another common image used to both accuse finance and fantasize about it, as British humorists John Bird and John Fortune commented on in their sketch about the subprime crisis aired in 2007: "market participants don't know whether to buy on the rumor and sell on the news, do the opposite, do both or do neither depending on which way the wind is blowing" and "this was the kind of rigorous analysis that banks would pay huge salaries and bonuses for".

Banks appear then as one of the perfect places where such imaginaries converge, as a series of recent events seem to confirm – the subprime crisis in 2007, Kerviel's record rogue trading loss in 2008, closely followed by scandals of Bear Sterns, the fall of the Lehman Brothers and Madoff's disappearing trick of over 50 billion dollars by the end of that year. What do all these have in common? That each time, banks didn't know, didn't see, didn't detect any anomaly despite their sophisticated control and risk management measures (Favarel Garrigues, Godefroy & Lascoumes, 2009). The problem is that in our globalized economy, systemic risk is an unescapable fact, and when financial institutions make mistakes in handling pollution, they

3 Judaism restricts its forbiddingforbidance of usury to betweenamong Jews, which has resulted in numerous anti-semitical criticisms with the tragic consequences we know (see Attali, 2002 for a historical account, or Marx' Jewish Question). Islamic finance condemns usury as well, and Christianity has made poverty the condition for redemption (see The Gospels of Mathew 6:24a; 19:24 or Luc, 16:13a)

inevitably spill this pollution across the rest of society. The boundary of cosmos is transgressed, opening the door to chaos.

Fighting pollution

The concern over dirty money is not new, and its potential dirtiness was identified very early on in the stages of production, circulation, recycling and counterfeiting as one of the oldest jobs in history. New ways of fighting pollution have proliferated since the earliest times. Here I will take two examples of practices currently used by financial institutions worldwide as part of their regulatory obligations, and try to discuss their inconsistencies in the light of the anthropological perspective detailed above.

Avec l'institutionnalisation de la lutte anti-blanchiment, aujourd'hui on exige des banques qu'elles intègrent une fonction de police à leur logique commerciale traditionnelle, et qu'elles soient les gardiennes du système financier légal.

Current construction of dirty money

We have progressively installed means of control at national and international levels, such as the creation of the United States Secret Service in 1865 to fight counterfeiting, to author legislative and normative measures to frame practices, to identify dummy companies like Capone's laundries, smurfing methods, cash transfers across borders or off-shore transits (Couvrat & Pless, 1988; D'Aubert, 1993; Favarel-Garrigues *et al.* 2009).

Recently, anti-money laundering (AML) has gained increasing importance and visibility, with direct impact on the financial sector. Since the European Council of June 27th 1980, the Basel declaration on AML of December 12th 1988 and the 1989 G7 "Summit of the Arch" which lead to the creation of the Financial Action Task Force (FATF) as the main international regulator on AML, it has become a major player in the fight against dirty money and the financing of terrorism (Favarel-Guarrigues, 2003; Scheptycki, 2000; Williams & Baudin-O'Hayon, 2002). As key intermediaries of the economy, banks always ask two questions: where is the money coming from and where is it going? (Rouquié, 1997). They are expected to act as gatekeepers of the legal financial market, by becoming watchdogs or 'sentinels of dirty money' (Favarel-Garrigues, *et al.* 2007, 2009). They can no longer confine themselves to their traditional commercial logic: policing and regulation have become one of their central functions (Edwards & Wolfe, 2004, 2005; Reiner, 1997).

By focusing not on the production of dirty money or its final reinvestment in the legal economy but instead on the middle phase of transformation by the global financial system, AML is increasingly placing banks at the forefront of the fight. However, despite general acknowledgement that the problem is on a global scale, ratifying a global response is far from evident. AML legislations differ from one country to the next, even within the European Union, making dirty money harder to track because classifications and control enforcement measures may vary from country to country. This constitutes an ideal

La Lutte anti-blanchiment est étroitement liée à la connaissance client (KYC - Know-your-client), avec ses pratiques de profilage et de catégorisation des clients, donc de la source et de la destination de l'argent.

loophole to exploit in order to continue laundering money – a challenge still faced by professional international associations such as ACAMS[4], and by analysts and regulators no matter what organisation they belong to. For example, a strong point of enduring disagreement concerns bank secrecy in countries like Switzerland. There secrecy is considered part of their basic professional ethics towards their clients but it may also hinder AML investigations.Poor enforcement and/or poor cooperation in countries where the institutional framework is weak may also prove a hindrance.

While initially considered as a form of window-dressing, some semblance of a *global prohibition regime* (Djelic & Sahlin-Andersson, 2006; Nadelmann, 1990) now seems plausible, with the progressive *legalization* of international relations geared towards risk management was further reinforced after the 9/11 attacks (Hood, Rothstein & Baldwin, 2001; Power, 2004). Pressured by an effective soft law combined with institutional stress (Favarel-Garrigues *et al.* 2009), the USA has progressively constrained over 170 countries to adopt AML regulations as a mandatory prerequisite to continue dealings with their financial system.

Closely linked to AML are KYC (Know-your-client) profiling practices, since AML largely relies on identity theft and concealement.

4 Association of Certified Anti-Money Laundering Specialists (www.acams.org)

Dirty hands: Know-your-Client

Perhaps even more so than AML, KYC is about classifications, lists and risk ratings aimed at enhanced risk management and control of customers, *i.e.* the source of money or the beneficiairies of a transaction (Hodgson, 2002; Mulligan, 1998). When analysts detect a potential client, a current client or even a transaction that makes them suspect money-laundering, they are able to express theirsuspicions to the internal AML officer, and to national or international financial intelligence units[5]. The reputation of the bank is of course one of the primary concerns, but increasingly important is also its criminal liability, with, for example, penaltiesin France ranging from 10 years of imprisonment and a 750'000 euro fine to the loss of the operating licence.

It was strongly resisted at first by financial practitioners:

"ABA strongly urges the respective agencies to withraw the current proposal. Given the widespread and increasingly negative perception of this proposal, we are very concerned about the prospect of having the public lose confidence in the banking industry, and in government insitutions generally, if this proposal is not withdrawn.

5 La SEC (Securities Exchange Commission) and FinCEN (Financial Crime Enforcement Network) in the USA ; the FSA (Financial services authority) and SOCA (Serious Organized Crime Agency) in the UK ; TracFin in France. At the global level, it is the FATF (Financial Action Task Force).

Furthermore, the proposal expands the regulatory imbalance between banks and their competitors, increases regulatory burdens on banking institutions and raises serious privacy concerns on the part of bank customers" (Cocheo, 1999:26).

Yet today, through their client supervisory units, banks largely implement the proposal. The perception has slowly evolved, and despite persistent criticism, particularly concerning the weight of bureaucratic paperwork involved, it is now accepted as being of interest to risk management and even client satisfaction.

Travailler, que ce soit en tant qu'analystes de la conformité, courtiers, régulateurs ou professeurs-chercheurs, doit être relié à nos vies et à la vie elle-même, à notre besoin anthropologique de sens. Cela nous ramène à une des significations premières du mot éthique, lié à ethos, à notre sens d'être et notre désire inhérent de faire quelque chose de significatif dans la vie.

Towards an integrated view of ethics and compliance

KYC indeed implies a lot of paperwork. Cross-verificatons of the authenticity of documents is required before, during and up to several years after the business relationship with the client has ended in order to show regulators in case an audit is conducted at a later date. This concerns clients, and in case of companies, the actual physical persons behind them and the beneficiaries. Since AML often involves some form of corruption, specific attention is paid to politically exposed persons (PEPs), particularly in non-cooperative, non-democratic or otherwise 'opaque' countries.

Favarel-Garrigues *et al.* (2009) have recently pointed out the need to consider AML and related practices not only from a regulatory or international policing perspective, but also at the meso-level of organisations, namely banks, in charge of implementing AML and contributing the its institutionalization through the use of a common vocabulary, common IT and surveillance tools, etc.

This has lead to the creation and the profesionalisation of new activities, like AML analysts, officers and-whistleblowers, who are in charge of internal surveilance and who eventually denounce the malpractices of the organisation itself to regulators. This results in numerous organisational paradoxes and day-to-day difficulties for the people in charge of such positions, trapped in the ambiguous position of "internal enemy" (Pérezts *et al.* 2011, Pérezts & Picard, 2014) or at least largely perceived as such by colleagues.

By trying to respond to the demands of our so-called 'risk society' (Beck 1992; 1999), we have strengthened the structuring force of our fears and what we perceive as threats by reinforcing audit and control (Power 1997, 2004). But while these mechanisms and policies are largely debated, the anthropological impact on actors of the financial industry remains largely unexamined : how do actors actually embody and enact compliance practices? How does the evolutionary nature of regulations affect their work relationships within their organization and with the regulators? How is compliance (re)constructed endogenously, and how is this changing our perception of dirty hands and dirty money?

Les étudiants et professionnels de la finance sont de plus en plus insatisfaits avec une approche strictement rationnelle des marchés. Inclure des perspectives comme celle des Etudes Sociales de la Finance semble urgent afin de préparer les étudiants à être non seulement des praticiens efficaces, mais aussi réfléchis.

In my work as a professor and researcher in the fields of philosophy of management and business ethics, I am amazed by how students are seekinga deeper analysis of issues such as ethics in finance beyond what is usually required in teaching CSR, micro-credit and ethical/green investments. Far from considering them as a useless yet necessary window-dressing components of the programme – a vision far too commonly circulated in business school curricula while supporting 'hard skills' – their quest for understanding most of our current practices in business and finance is real and should not be neglected. Likewise, when talking to compliance officers, I often get the feeling that they become weighed down by the formalities of their work while they actually hunger for a meaningful practice which goes beyond ticking boxes. This reassures me that not everybody is a cynical gambler who is in it for all he or she can squeeze out of the system by exploiting every possible loophole to maximize efficiency.

Work, whether as a compliance analyst, broker, regulator or researcher needs to be linked to our lives and to life itself, *i.e.* it should relate to our anthropological need for meaning. This, in so many words, is actually one of the deepest meanings of the word ethics: relating to ethos, to one's sense of being and self, and to one's inherent desire to do something meaningful in this life (Pérezts, 2012). In order to conclude this paper I will now outline some directions as to how reclaiming the anthropological perspective on the ambivalence of money is not some 'dirty work' reserved for sociologists and philosophers who are outside the 'real world'. Instead, I will try to show the positive implications that this can yield and the possible ways in which they can be achieved.

Including a social sciences perspective of finance

Social studies of finance (SSF) is a growing branch within economic sociology which aims to encourage a multi-disciplinary dialogue between the social sciences (anthropology, sociology, psychology, philosophy…) and financial and economic theory. It takes the world of finance, understood broadly, as a privileged observatory of social change (Godechot, 2011a). Since Weber's founding study of the stock market ([1894] 1999), this emerging group of scholars has taken a great interest in studying the multi-dimensional construction of markets, and the impact that the organisational, technological, and institutional changes in the finance industry can have on the individuals and societies (see Smelser & Swedberg, 2005; Swedberg, 1987). In view of the inability of economic or financial theory alone to account for such transformations, SSF is building a considerable body of work to fill this gap (see Knorr Cetina & Preda, eds. 2012). Understanding the impact of the progressive mathematisation of finance (Walter, 2010), the construction of financial theory itself (Callon, 1998; MacKenzie, 2006; Mackenzie *et al.* 2007), the transformation of professions (Abolafia, 2001; Godechot, 2001), the organisation of space, information and networks (Beunza & Stark, 2004; Hassoun, 2005; Walter, 2010) and the representation of value in the markets (Baker, 1984) among other things can help business school students – as future market participants – to trace the construction of markets and the interplay between their material and symbolic dimensions (Carruthers, 2012; Jacobs, 2012). Without limiting it to the approach of behavioral finance (still largely aimed at reducing psychological biases to increase market efficiency), I argue in line with other SSF scholars that a complementary view of education in finance should be implemented. Students, and future practitioners, need more than a bucket full of theories, models and modeling skills – such 'hard skills' are easily bent when a crisis of meaning arises: our certainties and trust in market efficiency and rationality disappear in an instant. In such moments, but also in prevention of such moments, teaching students to have a critical perspective on the practices and theories that they will use once on the job will give them not only the conceptual, but also and more importantly the ethical strength to pull through in difficult times.

But these works remain largely marginal not only in research but also in teaching. The limits of an abstract and largely disembodied view of finance and their so-called efficiency have become evident to newer generations particularly since the recent financial crisis. They now crave and demand not the golden dream of the eighties achieved through complex modelisations, but a practice that is deeply embedded in the rest of the 'real world', and make finance part of social life in a deeper and meaningful way.

Beyond risk management and normophrenia

More than ever, students and practitioners are unsatisfied with an objective and rational explanation of markets. Whether it is the description of the Amsterdam Stock market in the 17th century by Braudel (2008), the one in 19th Paris by Zola (2009), Steinbeck's accounts of the crash of '29 (2003) or the current news reports on Wall Street or the City, we are no longer naïvely fascinated by the Confusion de confusiones (José de la Vega, [1688] 1958) generated by financial turmoil. Including this complementary perspective in business school curricula is urgent, in order to prepare students to be not only efficient but also reflexive practitioners (Cunliffe, 2004).

Our society's current obsession with risk management makes it omnipresent, and the growing feeling of insecurity is reinforced by the very existence of such prevention mechanisms. We may even have forgotten how we came to fear such risks and label them as risks in the first place.

Le revers de l'addiction de nos sociétés contemporaines au risque et à sa gestion, est ce que j'appelle la normophrénie, ou la prolifération de codes, normes et procédures de contrôle. Et on peut facilement s'enfermer dans ce système binaire de risques et de normes. Là, le vrai problème éthique n'est peut-être plus la cupidité, mais bien notre conformité à un tel système.
Au lieu d'opposer l'éthique et la conformité comme c'est souvent le cas, une approche anthropologique à la conformité bancaire nous permet d'enraciner l'éthique au sein des pratiques de conformité, et de mieux comprendre le rôle que joue l'éthique dans la mise en pratique effective de la conformité au quotidien, y compris à ses différents niveaux (micro-méso-macro).

Yet, once they are identified as risks, whether imaginary or real, they become modelized, measurable, insurable, and lead to a series of prevention methods. But all these elements, which render it objectifiable, cannot make us forget its inherently irrational and imaginary dimension, strongly rooted in our collective subconscious.

Risks are categorized as anomalies, exceptions to the desired normal state of affairs. Their management is in turn viewed as a positive thing, and by privatizing it, risk turns into equity. Their symbolic power has become so important, that managing risks, and even producing them in order to control them later through exclusive expertise has constituted an entire market: "in late modernity, risk production increasingly becomes at least as important as wealth production" (Tsoukas, 2005: 40). It is not a coincidence that the name chosen for such instruments is securities. The symbolic battle for the monopoly and control of risk and information becomes therefore as important or perhaps even more important than the economic war.

There are significant implications for the organisations where such risks are conceptualised, measured and managed (Hutter & Power, 2005), *i.e.* concerning their areas of potential responsibility that will be constantly negotiated both internally and externally (Maguire & Hardy 2013) by redefining what is categorised as risky. Following Douglas, we see that dirtiness, once identified, becomes the object of separations, classifications and purifications (*e.g.* KYC and AML). By removing dirty elements, which are not in their proper place and therefore constitute a threat to order, we are not only accomplishing a negative gesture, but on the contrary we are positively organising our environment. Normativity seeks to achieve normality, normalisation, and conformity.

The reverse side of this addiction to risks is what I call a normophrenia, *i.e.* an increasing proliferation of codes, norms, control procedures and enforcement methods. Today, normophrenia seems to be a fact in the processes of organising. By attempting to cover every possible grey area of the law representing a potential risk, we have achieved a massive complexification of our normative system, with different layers of norms overlapping both as legal obligations and soft laws. This indeed leads to a reorganization of the world order, from the "rule of law to the law of rules" (Djelic, 2011).

Here I argue that we can easily be trapped in this binary system of risks and norms. The real ethical problem might very well turn out not to be greed, but the conformity to such a system. Cutlure is indeed important (Osesik, 2013), but in a globalized system where "markets happen" in thousands of transactions per second, it is actual people who can make the difference, since it is their responsibility to interpret and ultimately enact compliance policies, constructing them endogenously (Edelman, 2007;

Edelman & Stryker, 2005; Edelman & Suchmann, 2007; Lenglet, 2008, Pérezts & Picard, 2014). It is important to focus "not on regulators but [on] business firms and their responses to and implementation of regulation" (Parker & Lehmann Nielsen, 2011:2), where it is people who will make the difference between a mere legitimacy façade and an truly responsible behavior (MacLean & Benham, 2010; Weaver *et al.*, 1999).

Instead of setting ethics and compliance in opposition to one anotheras is usually the case, an anthropolgical approach to compliance allows us to embed ethics within compliance practices, and better understand the role ethics plays in the effective mise-en-pratique of compliance on a daily basis. Indeed, taking this perspective as a starting point can help us to understand how actors in such institutions construct their own moral-rules-in-use (Jackall, 2010) and negotiate them symbolically, discursively and in everyday practice (Baïada-Hirèche *et al.* 2011, Pérezts, 2014). Considering ethics as an ongoing phenomenon instead of a moral content to be applied and translated into CSR reports and ethics codes opens up an entirely new perspective on ethics in business.

This means studying ethics "in relation to the ambiguous, unpredictable, and subjective contexts of managerial action [to provide] theoretical resources for studying the different ways that ethics manifest themselves in organizations. […] Ethics is best understood and theoried as a form of practice" (Clegg, Kornberger & Rhodes, 2007:107). It also means accepting the messiness and complexity of its subjective nature embedded in complex and often contradictory settings, instead of blindly denying them in the name of the ideal of a rational homo economicus (Painter-Morland, 2008, Pérezts *et al.* 2011). An ontologically founded ethics, rooted in the subject, incarnated so to speak, which does not fall into moral relativism, but acknowledges moral pluralism and constructs a path in its midst (cf. Bauman, 1993, Pérezts *et al.* 2015).

This implies considering ethics as being simultaneously at work at three different levels: incarnated in individuals (micro level, not only limited to psychology, but acknowledging also the imaginary dimension), nested in interpersonal relationships (meso level) and embedded in organisational and institutional settings (macro level) (Pérezts, 2014). Unfortunately, numerous works on business ethics tend to isolate one or another of these levels, instead of seeking to understand the connections between them. There are indeed additional methodological challenges posed by considering different levels simultaneaously, but in return an overall view can provide insights into the complexity of the phenomenon, and envision intersecting solutions that might not have been identified through "*level-specific mindsets*" (Hitt, Beamish, Jackson & Mathieu, 2007:1387). Such perspectives could yield interesting developments both for research and practice, in order to make ethics more meaningful and truly embedded in daily financial compliance practices.

References

Abolafia, M. (2001). *Making markets: Opportunism and restraint on Wall Street*. Cambridge, MA: Harvard University Press

Baïada-Hirèche, L., Pasquero, J. & Chanlat, J.-F. (2011). Managerial responsibility as negotiated order: A social construction perspective. *Journal of Business Ethics*, 101(1), 17-31

Baker, W. E. (1984). The social structure of a national securities market. *American Journal of Sociology*, 775-811

Barus-Michel, J. (1999). L'argent ou la magie de l'imaginaire. In J. P. Bouilloud & V. Guienne (Eds.), *Questions d'Argent* (pp. 65-74). Paris: Desclée de Brower

Barus-Michel, J. (2004). Commerce de soi et prix du corps. In J. P. Bouilloud (Ed.), *Argent, Valeurs et Sentiments*. Paris: L'Harmattan

Bauman, Z. (1993). *Postmodern Ethics*. Wiley Blackwell

Beck, U. (1992). *Risk society: Towards a new modernity*. London: Sage

Beck, U. (1999). *World Risk Society*. Cambridge: Polity

Beunza, D. & Stark, D. (2004). Tools of the trade: the socio-technology of arbitrage in a Wall Street trading room. *Industrial and Corporate Change*, 13(2), 369-400

Bird, J., & Fortune, J. (Writers). (2007). Interview: George Parr, investment banker, *The Last Laugh*. London: South Bank Show

Bouilloud, J.-P. (1999). L'Objet caché des Sciences Sociales. In J. P. Bouilloud & V. Guienne (Eds.), *Questions d'Argent* (pp. 7-18). Paris: Desclée de Brower

Bouilloud, J.-P. (Ed.). (2004). *Argent, Valeurs et Sentiments*. Paris: L'Harmattan

Bouiloud, J.-P. (2004). Editorial: l'envers de l'argent. In J.-P. Bouilloud (ed.) *Argent, Valeurs et Sentiments*. (p.5-8). Paris: L'Harmattan

Bouilloud, J.-P., & Guienne V. (Eds.), (1999). *Questions d'Argent*. Paris: Desclée de Brower

Bourdieu, P., Boltanski, L., & Chamboredon, J.C. (Eds.). (1963). *La banque et sa clientèle*. Elements d'une Sociologie du credit. Paris: Centre de Sociologie Européenne de l'Ecole pratique des Hautes Etudes

Braudel, F. (2008). *La Dynamique du capitalisme*. Paris: Flammarion

Callon, M. (1998). *Laws of the Markets*. Oxford: Blackwell

Carruthers, B. G. (2005). The sociology of money and credit. In N. J. Smelser & R. Swedberg (Eds.), *The Handbook of Economic Sociology* (2 ed., pp. 355-378). Princeton: Princeton University Press

Carruthers, B. G. (2012). Historical Sociology of modern finance. In K. Knorr Cetina & A. Preda (Eds.), *The Oxford handbook of the sociology of finance* (pp. 491-509). Oxford: Oxford University Press

Clegg, S., Kornberger, M., & Rhodes, C. (2007). Business ethics as practice. *British Journal of Management*, 18(2), 107-122

Cocheo, S. (1999). Compliance Clinic: Bankers slam proposed Know-Your-Customer rules, *ABA Banking Journal*

Cunliffe, A. L. (2004), On becoming a critically reflexive practitioner, *Journal of Management Education*, vol.28 (4): 407-426

Couvrat, J.F., & Pless, N. (1988). *La face cachée de l'économie mondiale*. Paris: Hatier

D'Aubert, F. (1993). *L'Argent Sale*. Paris: Plon

Djelic, M.-L. (2011). From the Rule of Law to the Law of Rules. *International Studies of Management and Organization*, 41(1), 35-61

Djelic, M.-L., & Sahlin-Andersson, K. (2006). Introduction: a world of governance: the rise of transnational regulation. In M.-L. Djelic & K. Sahlin-Andersson (Eds.), *Transnational governance: Institutional dynamics of regulation*. Cambridge: Cambridge University Press

Douglas, M. (2004). *Comment pensent les institutions: suivi de 'La connaissance de soi' et 'Il n'y a pas de don gratuit'*. Paris: La Découverte

Douglas, M. (2005). *De la souillure. Études sur la notion de pollution et de tabou*. Paris: La Découverte

Douglas, M. (2013). *Risk and Acceptability* (Vol. 11). London: Routledge

Droit, R.-P., & Henrot, F. (2010). *Le banquier et le philosophe ou la double paire d'yeux*. Paris: Plon

Durkeim, E. (1912). *Les Formes élémentaires de la vie religieuse*. Paris: Presses Universitaires de France

Edelman, L. B. (2007). Overlapping fields and constructed legalities: The endogeneity of law. *Private Equity, Corporate Governance, and the Dynamics of Capital Market Regulation*, 55, 70

Edelman, L.B., & Stryker, R. (2005). A sociological approach to law and the economy. In N. J. Smelser & R. Swedberg (Eds.), *The Handbook of Economic Sociology* (pp. 527-551). Princeton: Princeton University Press

Edelman, L.B., & Suchman, M.C. (2007). *The Legal Lives of Private Organizations*. Ashgate Publishing Company

Edelman, L.B., & Talesh, S.A. (2011). To Comply or not to comply - that isn't the question: how organizations construct the meaning of compliance. In C. Parker & V. Lehmann Nielsen (Eds.), *Explaining compliance: business responses to regulation* (pp. 103-122). Cheltenham: Edward Eglar Publishing

Edwards, J., & Wolfe, S. (2004). The compliance function in banks. *Journal of Financial Regulation and Compliance*, 12(3), 216-224

Edwards, J., & Wolfe, S. (2005). Compliance: A review. *Journal of Financial Regulation and Compliance*, 13(1), 48-59

Favarel-Garrigues, G. (2003). L'évolution de la lutte antiblanchiment depuis le 11 septembre 2001. *Critique internationale* (3), 37-46

Favarel-Garrigues, G., Godefroy, T., & Lascoumes, P. (2007). Sentinels in the Banking Industry: Private Actors and the Fight against Money Laundering in France. *British Journal of Criminology*, 48(1), 1-19

Favarel-Garrigues, G., Godefroy, T., & Lascoumes, P. (2009). *Les sentinelles de l'argent sale: Les banques aux prises avec l'antiblanchiment*. Paris: La Découverte

Gaulejac, V. de. (1999). Argent, estime de soi et dignité. In J. P. Bouilloud & V. Guienne (Eds.), *Questions d'Argent* (pp. 91-100). Paris: Desclée de Brower

Gaulejac, V. de. (2004). Histoires d'Argent. In J. P. Bouilloud (Ed.), *Argent, Valeurs et Sentiments* (pp. 37-46). Paris: L'Harmattan.

Godechot, O. (2001). L*es traders: essai de sociologie des marchés financiers*. Paris: La Découverte

Godechot, O. (2011a) Les Social Studies of Finance, une nouvelle approche. *Les Cahiers Français* (361), 27-30

Godechot, O. (2011b). Une finance-fiction est-elle possible? A propos de trois films récents sur la finance, *Contretemps*, Retrieved from http://olivier.godechot.free.fr/hoparticle.php?id_art=604

Green, C.F. (1989). Business ethics in banking. *Journal of Business Ethics*, 8(8), 631-634

Hassoun, J.-P. (2005). Emotions on the trading floor: Social and symbolic expressions. In K. Knorr Cetina & A. Preda (Eds.), *The Sociology of Financial Markets* (pp. 102-120). Oxford: Oxford University Press

Hitt, M.A., Beamish, P.W., Jackson, S.E., & Mathieu, J.E. (2007). Building theoretical and empirical bridges across levels: Multilevel research in management. *Academy of Management Journal*, 50(6), 1385-1399

Hodgson, D. (2002). "Know your customer": marketing, governmentality and the "new consumer" of financial services. *Management Decision*, 40(4), 318-328

Hood, C., Rothstein, H., & Baldwin, R. (2001). *The government of risk: Understanding risk regulation regimes*. Oxford: Oxford University Press

Hutter, B, & Power, M. (Eds.). (2005). *Organizational encounters with risk*. Cambridge: Cambridge University Press

Jackall, R. (2010). *Moral Mazes: the World of Corporate Managers*. Oxford: Oxford University Press

Jacobs, M.D. (2012). Financial Crises as symbols and rituals. In K. Knorr Cetina & A. Preda (Eds.), *The Oxford Handbook of the Sociology of Finance* (pp. 376-392). Oxford: Oxford University Press

Kerviel, J. (2010). *L'Engrenage : Mémoires d'un trader*. Paris: Editions Flammarion

Knorr Cetina, K., & Preda, A. (Eds.). (2012). *The Oxford Handbook of the Sociology of Finance*. Oxford University Press

Lenglet, M. (2008). *Déontologue de marché: de la pratique des institutions à l'institutionalisation des pratiques* (Doctorat), Université Paris Dauphine Paris

MacKenzie, D.A. (2006). *An engine, not a camera: how financial models shape markets*. Cambridge, MA: MIT Press

MacKenzie, D.A., Muniesa, F., & Siu, L. (2007). *Do economists make markets? On the performativity of economics*. Princeton University Press

MacLean, T.L., & Behnam, M. (2010). The dangers of decoupling: The relationship between compliance programs, legitimacy perceptions, and institutionalized misconduct. *Academy of Management Journal*, 53(6), 1499-1520

Maguire, S., & Hardy, C. (2013). Organizing processes and the construction of risk: A discursive approach. *Academy of Management Journal*, 56(1), 231-255

Marx, K. (1982). *Le Capital*. Paris: La Pléiade - Gallimard

Mulligan, D. (1998). Know Your Customer Regulations and the International Banking System: Towards a General Self-Regulatory Regime. *Fordham International Law Journal*, 22(5), 2324-2372

Nadelmann, E.A. (1990). Global prohibition regimes: The evolution of norms in international society. *International Organization*, 44(04), 479-526

Osesik, K., (2013). Why even good people are likely to do bad things in finance – it's not the people that are flawed, it's the culture, *Finance and the Common Good*, n°40-41

Painter-Morland, M. (2008). *Business Ethics as Practice: Ethics as the Everyday Business of Business*. Cambridge University Press

Parker, C, & Lehmann Nielsen, V. (2011). Introduction: from regulation to compliance. In C. Parker & V. Lehmann Nielsen (Eds.), *Explaining Compliance: business responses to regulation* (pp. 1-36). Cheltenham: Edward Elgar Publishing

Pérezts, M., (2012). "Ethics as practice embedded in Identity: Perspectives on renewing with a foundational link", in PRASTACOS G.P., WANG F. and SODERQUIST K. E.(eds), *Leadership through the Classics: Learning Management and Leadership from Ancient East and West Philosophy*, Springer.

Pérezts, M. (2014). *L'Ethique comme pratique située: étude multiniveaux sur l'éthique au travail dans la conformité bancaire* (Ethics as situated practice: a multilevel study of ethics at work in banking compliance). Unpublished PhD Thesis, defended 24.02.2014 at ESCP Europe & Université de Paris 1 Panthéon-Sorbonne

Pérezts, M., Bouilloud, J.P., Gaulejac, V., (2011). "Serving two Masters: the contradictory organization as an ethical challenge for managerial responsibility", *Journal of Business Ethics*, 101: 33-44

Perezts, M. Faÿ, E., Picard, S., (2015) "Ethics, Embodied life and Esprit de Corps: an ethnographic study with anti-money laundering analysts", *Organization*. 22(2): 217-234

Pérezts, M., Picard, S., (2014). "Compliance or Comfort zone? The work of embedded ethics in performing regulation", *Journal of Business Ethics*, DOI 10.1007/s10551-014-2154-3

Power, M. (1997). *The Audit Society: Rituals of Verification*. Oxford University Press

Power, M. (2004). *The Risk Management of Everything: Rethinking the Politics of Uncertainty*. Demos

Reiner, R. (1997). Policing and the Police. In M. Maguire & R. Reiner (Eds.), *The Oxford Handbook of Criminology* (pp. 997-1049). Oxford: Claredon Press

Rouquié, S. (1997). *L'argent illicite et les affaires*. Paris: Association d'Economie Financière

Scheptycki, J. (Ed.). (2000). *Issues in Transnational Policing*. London: Routledge

Smelser, N.J, & Swedberg, R. (2005). 1 Introducing Economic Sociology. In N. J. Smelser & R. Swedberg (Eds.), *The Handbook of Economic Sociology* (2nd Edition ed.). New York: Princeton University Press

Steinbeck, J. (2003). *America and Americans, and Selected Nonfiction* (S. Shillinglaw & J. J. Benson Eds.): Penguin Books

Swedberg, R. (1987). Economic sociology: past and present: Sage

Trevino, L.K, & Nelson, K.A. (2007). *Managing business ethics: straight talk about how to do it right*. (4th Edition ed.). Hoboken, NJ: Wiley

Tsoukas, H. (2005). David and Goliath in the Risk Society: Making sense of the conflict between Shell and Greenpeace in the North Sea. In H. Tsoukas (Ed.), *Complex Knowledge: Studies in organizational epistemology* (pp. 39-68). Oxford: Oxford University Press

Vega, J. de la. (1958). *Confusion de confusiones: Diálogos curiosos entre un filósofo agudo, un mercader discreto y un accionista erudito* (1688). (Segunda Edicion). Madrid: Publicaciones Banco Urquijo

Walter, C. (Ed.). (2010). *Nouvelles normes financières: s' organiser face à la crise*. Paris: Springer

Weaver, G.R., Trevino, L.K., & Cochran, P.L. (1999). Integrated and decoupled corporate social performance: Management commitments, external pressures, and corporate ethics practices. *Academy of Management Journal*, 42(5), 539-552

Weber, M. (1999). *La Bourse* (P. Morin, Trans.). Paris: Editions Transition

Williams, P., & Baudin-O'Hayon, G. (2002). Global Governance, Transnational organized crime and money-laundering. In A. McGrew & D. Held (Eds.), *Governing Globalization* (pp. 127-144). Cambridge Polity Press

Zeigler, J. (1990). La Suisse lave plus blanc. Paris Seuil

Zelizer, V.A.R. (1979). *Morals and markets*. Transaction Publishers

Zelizer, V.A.R. (1989). The social meaning of money: "special monies". *American Journal of Sociology*, 342-377

Zelizer, V.A.R. (1997). *The social meaning of money*. Princeton: Princeton University Press

Zola, E. (2009). *L'Argent*. Paris: Garnier Flammarion

Big Data in Finance: Ethical Challenges

Ethics in Finance, Robin Cosgrove Prize Global edition 2014-2015

Finalist

Alicja Choma
Poland
PhD student in Management, Poznan university of economic, Poland*

* The views expressed herein are those of the author and do not necessarily reflect those of the Organization she is affiliated to.

Along with the advent of the Internet, the volume of generated and stored data began to grow at an unprecedented rate. Until now, technological limitations have prevented any efficient analysis of this data over any given time. It is only during the past few years that we have seen the emergence of tools that can harness Big Data to produce accurate results in just a few seconds. Today, the subject of data exploitation has come to the fore. This phenomenon has been referred to as Big Data. It affords tremendous growth opportunities but also raises controversial questions about privacy. The current situation favours the business community, which may lead to data misuse and unethical conduct in the financial sector. This industry is grounded on trust and ethical concerns are invariably given precedence. Bearing that in mind, special attention should be paid to the most sensitive social issues, in particular data protection.

The phenomenon of Big Data

Every day people generate an abundance of information about themselves, their behaviour and their interests. On an average morning you fire up your Internet browser and open a website. During the milliseconds that pass between clicking on a link and the desired content being displayed on the website, amazing things take place, leaving a lasting footprint in the virtual space. The data created during this browsing routine is transferred to a dozen different companies. Almost immediately, any interested financial institutions are capable of observing your activity (Madrigal, 2012).

Le terme Big Data se réfère aux grands volumes de données structurées aussi bien que non-structurées. Le Big Data est généré par un flux continu de données que crée l'économie moderne. Elles proviennent des interactions sociales, des équipements mobiles, de la R&D, des infrastructures IT et de tout équipement de transmission de données. Le Big Data comprend des données aux structures différentes, repose sur la haute vitesse de création de données et la capacité de dégager de l'information fiable. Ce concept apparaît dans de nombreux contextes: l'analyse des énormes volumes de données, des medias sociaux, la gestion des données sur les générations futures, la gestion en temps réel etc.

L'industrie financière cherche des nouvelles solutions en matière de gestion des données, tout comme les géants du secteur IT, Google ou Microsoft. L'industrie bancaire aussi pour obtenir des profils de client toujours plus précis.

Big Data is a new concept and defining it is key in analysing the behaviour of financial institutions dealing with data. The term refers to a large volume of data, yet the specific volume of qualifying data remains to be delimited by institutions investigating the phenomenon. Most definitions highlight a data set of indefinite size that cannot as yet be processed by the hardware and software used for such purposes.

Traditionally, the term "Big Data" was used to describe the huge volumes of data analysed by large organizations, such as Google, or for research projects carried out by organisations such as NASA (Merv, 2011, p. 3). Today, Big Data is mainly understood as a set of data stream generated by the modern economy and comprising data produced during social interaction, by mobile devices, R&D, simulations, IT infrastructure, and other equipment and tools that handle data transmission (Vasset, 2012, p. 1).

Birst defines Big Data strategies as those which extensively utilize parallel and specialized systems to extract and take advantage of the knowledge hidden under the surface of dispersed and unstructured data. They transform whole industries, create winners and attract those who follow them (Birst, 2012, p. 2).

Big Data is a large-volume data collection possessing a varied structure, fast data creation speed, and the ability to generate reliable information. Big Data is ubiquitous and yet the concept sows confusion. This term accommodates a number of concepts: a huge amount of data; analysis of social media; future generation data management; real-time management; and much more. Whatever is included in the Big Data label, organisations are beginning to understand and discover how to process and analyse information sets in an unprecedented manner. In this way, a small but growing group of pioneers is able to deliver incredible business results (IBM, 2012, p. 1).

New possibilities in the world of finance

All sectors and industries are keen to make the most of the opportunities which arise from the advanced analysis of Big Data. Besides market leaders such as IT giants Google and Microsoft, the financial industry is also seeking new data solutions, both locally and globally. Within the Polish market alone, there are several players who are increasingly toying with the idea of framing policies which enable the use of Big Data. The banking industry is looking for new solutions and models which will enable the construction of a more accurate customer profile. Depending on the organisation, this involves the exploitation of its own or external data or even the sale of aggregate information about customers' purchasing habits to other organisations. These methods are expected to help develop better contributions and enhance customer credibility. However, it is easy to cross the fine line of financial ethics and abuse data.

Les institutions financières détiennent d'importants volumes de données sur les comportements d'achats de leurs clients de même que de l'information sensible sur leur situation financière. Leur défi consiste à trouver plus d'information spatiale et sur le comportement on-line.
Selon la Conférence organisée par The Economist en 2013, l'industrie financière est parmi celles qui ont le plus de bénéfices à tirer du Big Data.
Toutes les institutions financières qui exploitent du Big Data agissent dans le cadre de la loi. Toutefois, les règles et régulations actuelles datent d'il y a au moins 10 ans et ne protègent plus la sphère privée à l'heure du monde virtuel.

La vente de données sur le comportement d'achat des clients est aujourd'hui une activité importante pour l'industrie financière. Les grandes banques et les émetteurs de cartes de crédit sont en bonne position pour récolter de telles données. Ainsi, un service

Financial institutions store large volumes of their own data regarding customers' purchasing behaviours, and even more sensitive data on their financial position. Obtaining further information on their location and online activity is straightforward. When comparing the situation of banks to that of other organisations, the former enjoy a far more privileged position. There is no other institution that can create such an extensive customer profile, as they have no access to information about the customer's general behaviour in the market and their financial status. After collecting more data, banks can benefit in the same way as other data-gathering companies. All that is required to obtain a desired data set is a) any location information received via the mobile banking app and b) the customer's approval for the bank to access social networking sites in return for a more profitable deal for the customer.

Business leaders in different sectors are now asking themselves how they can benefit from their data resources in a more effective way. McKinsey points to the banking sector as experiencing the highest data intensity (Manyika, 2011, pp. 15-26). In June 2013, programmers, analysts and CEOs gathered in San Francisco at a conference on Big Data, Ideas Economy: Information Forum 2013, and concluded that the banking industry is among the leading sectors that can reap the benefits of Big Data. They emphasised that banks were receiving large amounts of unstructured data that had never had any real value before. For example, millions of telephone conversations with customers yield millions of useful pieces of data. Today, telephone calls are a key tool in helping banks implement new strategies aimed to significantly reduce the number of complaints (The Economist, 2013).

All financial institutions exploiting Big Data act in accordance with the law; however, the current rules and regulations were laid down more than ten years ago and are ineffective at safeguarding privacy in the virtual world. The regulations on data protection currently in force date back to 1995. Significantly, at that time only 1% of the European population used the Internet. The world has changed dramatically and the law must keep pace. Legislators apparently fall behind technological progress and some institutions decide to take advantage of this. However, it is vitally important that the financial industry looks to foster public trust. The global crisis of 2008 has eroded that trust, so banking institutions can no longer afford to act riskily.

Data as a commodity

Selling data on customers' purchasing habits is becoming critical in the financial industry. Large banks and credit card issuers are very well positioned to gather such information. A bank-administered Internet service provides access to multiple online transactions; any data gathered in such activity is pro-

internet administré par une banque lui donne accès aux transactions en ligne. Toutes les données ainsi obtenues sont utilisée pour dégager des profils de consommation.
L'une des grandes banques britanniques, avec 13 millions de clients, fait du commerce de données un élément important de sa stratégie. Dans une note émanant de l'institution, il est question de combiner les données client pour obtenir des rapports intéressants pour des tiers. La banque a, par la même occasion, spécifié l'information qu'elle détenait et la façon dont elle entendait protéger la sphère privée. Les données ne se limitent pas aux transactions réalisées payées en ligne ou par transfert, mais contiennent des images, des conversations téléphoniques et des profils des visites du site bancaire.

Un projet bancaire lancé en Pologne en 2013 offre un programme promotionnel customisé de transactions bancaires accessibles via une application

cessed and used to establish consumer behaviour patterns. This helps with strategic planning. Credit card issuers have the right to license third-party access to data in order to extract any desired values. However, such third parties are increasingly shifting their focus to data analysis. The consultants of one of such analytical business analyse 65 billion transactions completed by 1.5 billion credit card users in 210 countries to investigate consumer trends. Any information obtained in this way is sold on. For example, it was observed that customers buying petrol for their vehicles at around 4:00pm are very likely to spend between 35 and 50 USD at the grocer's or in a restaurant during the hour following the transaction. Marketers can use this knowledge to issue discount vouchers for a nearby supermarket, thus pushing up its afternoon sales. As intermediaries in the flow of information, credit card issuers gather the most data and capitalise significantly more highly on its value than other similar institutions. In the future, they might be willing to give up their commission on credit card transactions for the sale of complex analysis, based on data provided by credit card users (Kearns, 2011).

The strategy of one of Britain's largest banks with a customer base of almost 13 million also puts much pressure on data trading. In mid-2013, the bank representatives informed their customers about the intention to sell data on their shopping habits. An official note published by the institution communicated that there were options of combining customer data, creating reports and sharing them with external organizations. The bank also revealed the type of customer data it holds, at the same time respecting customer privacy. Such data does not only contain the details of completed purchases paid by a wired transfer or credit card, but also customers' profiles containing images, records of telephone conversations, or browsing patterns in the bank's main website. The bank argues that its new strategy is fully in line with the law and that no customer's personal data will be disclosed outside the bank without the customer's approval. The bank's partners will be provided information, such as which customers frequent shopping centres at which times, and how and what they buy. The bank does not exclude the transfer of the information both to commercial partners and to the government. The newly adopted policy of data trading was introduced in 2013. This is the first bank in Europe which openly informs its customers that it has been gathering and using their data and intends to share it with its business partners, of course, in accordance with the law (Samcik, 2013; Samcik, 2013b). This begs the question of whether such activities are ethical.

The Polish market also provides an example of the use of customer data by companies involved in a pro-

Facebook.
La banque n'est pas loquace sur la collecte et le traitement des données: dans sa spécification transparaît toutefois le recours au Big Data et le transfert des données clients aux tiers.
Son activité principale consiste à proposer aux clients des programmes discount adaptés aux préférences personnelles telles qu'elles ressortent des données sur les comportements d'achat.
Ainsi, la banque se prépare à l'utilisation du Big Data à une plus large échelle. L'accès à son programme d'offres passe par une application Facebook, ce qui permet à la banque de collecter d'autres données sur l'usager. Quand il passe par Facebook, l'utilisateur exprime son accord pour le traitement et l'analyse des données. A partir de ces informations complémentaires, il sera encore plus facile à la banque de créer des profils encore plus fins.

La direction d'une des grandes banques polonaises espère pouvoir attirer dans un avenir

ject sponsored by one of the banks. The scale of the data interchange is less impressive as the bank declares that the data is shared only within the framework of the project, which was launched in 2013. The project offers a programme of specially customized promotions available in the bank transaction service and via a Facebook application. The bank does not talk much about collecting and processing the data: its regulation highlights the project specifications which reveal the use of Big Data and the transfer of customer data to bank's partners. Its main activity is confined to providing customers with personalized discount programmes reflecting their preferences and exploiting information about customers' buying habits. The recipients of the discounts are targeted based on a group analysis, and data on individual customers is not shared with any partners offering discounts. The information shared concerns the buying behaviours of a specific group of a particular size, so that the partner can estimate the benefits of running the promotion. However, this is likely to be true of potential partners only. The regulation of the bank includes a provision to the effect that when agreeing to participate in the programme, the customer agrees to share information about a transaction with the bank's partner. Such information remains a bank secret. After that, the partner, whose offer was accepted by the customer, can calculate their benefit. Despite this, the bank declares that it strictly abides by the regulation that prohibits the use of data gathered under the programme for other companies' marketing purposes. Additional protection of personal data is provided via a confidentiality agreement covering the arrangements with a specific partner during the campaign. The bank explains that the programme follows the same rules as any other traditional banking procedure, and that banking law regulates the use of customer data very precisely. When submitting their application, the customer agrees to the use of part of their data to analyse their creditworthiness. However, the offer will be made only to those customers who have given their consent. The programme is a novelty in the European market. The bank informs its customer who buys fuel at a BP station that they can expect a discount from a rival fuel provider in the near future. Big Data is thus used to combine the interest of product and service providers and customers who make their purchases and generate additional profit for the bank. It should also be noted that the bank is preparing to use Big Data solutions on a larger scale: it offers access to the programme via a dedicated Facebook application, which means that it can collect yet more data about its customers. When using the application, the customer agrees to their Facebook data being accessed and analysed. Having such additional data at hand, the bank will be in proche une nouvelle clientèle grâce à une offre hypothécaire compétitive, mais avant tout grâce à l'exploitation de l'information sur les clients potentiels. En 2013, la banque avait 7.1 millions de clients. Aujourd'hui cette banque voit dans le Big Data une tendance de fond du développement du secteur bancaire.

Le recours au Big Data extrait du monde digital, par des petites institutions du shadow banking, est un phénomène nouveau. Leur capital initial est dérisoire (1500 USD). Pour apprécier la solvabilité du client, ils utilisent les données des médias sociaux. Ces institutions entendent offrir des prêts instantanés en ligne. La décision de crédit est prise en moins de 10 minutes. La solvabilité est appréciée automatiquement par un programme qui explore plus de 8000 éléments d'informations sur le débiteur. Ces données ont extraites des sites comme Facebook, Twitter, Linkedin, ou Goldenline.

a position to create even more detailed customer profiles (Samcik 2013c; Jeznach, 2013).

Detailed data analysis: a strategy of the 'big guns'

One of Poland's largest and most stable banks plans to catch up with the competition and is undergoing a considerable revision of its future policies. It intends to target customers via all possible channels. In the near future, the management hopes to attract clientèle by competitive mortgage rates and deposits, but first of all, by taking advantage of the information received about potential customers. The bank hopes to secure its financial position in the coming years by using Big Data and combining all customer information held by the bank to tailor and offer products that the customer most probably needs at a given time. The bank stores extensive customer information in its own database and, at this stage, it is focusing on making use of it. In 2013, the bank's customer base totalled 7.1 million. Today, the bank considers Big Data one of the key trends in the development of the banking sector. Proper use of data can drive up sales dramatically. Their elaborate CRM system is only a herald of the large-scale use of Big Data in banking. In its new policy, the bank assumes that all its customers will ultimately use at least one of its products, such as a loan, deposit, settlement account, investment fund or one of the insurances. The staff will operate an IT tool capable of returning very detailed data on any customer in no more than just seconds: monthly transactions, surplus, the number of credit card transactions, purchasing habits, or other expenses. What Big Data will certainly be used for is diminishing the cost of borrowing risk to about 20% while increasing the sale of services (Samcik, 2013d).

Facebook information as a loan guarantor

A new phenomenon in the financial sector is shadow banks (quasi-banks), small financial businesses that are beginning to use Big Data and customer information obtained from the digital world. Their initial capital seldom exceeds PLN 5,000. These businesses use data from social networks in order to assess customer credibility. Their main business objective is to offer instant loans online and it takes no longer than ten minutes to decide whether to offer a loan or not. The borrower's solvency is tested by an automatic programme that has access to more than 8,000 pieces of customer information. This data is extracted from popular sites, such as Facebook, Twitter, Linkedin, or Goldenline. The borrower's "friends" are also examined, with special regard paid to their social position and financial standing. This is enabled by granting temporary access to the customer's account, which the customer authorizes when submitting the application.

Un des vice-présidents de la banque a annoncé publiquement que son institution était la première dans la branche à combiner les données internes avec celles provenant des sources externes du web. La banque a l'intention de fusionner ces données avec celles provenant des sites sociaux et les données de télécommunication.
Selon toute vraisemblance, une fois qu'une solution technique aura été trouvée, elle sera utilisée dans d'autres secteurs et industries.
Après cette interview et l'esquisse de la stratégie d'exploitation du Big Data, les forums se sont mis en émois avec une forte prédominance d'avis défavorables.

These institutions even inform the customer that their extensive networking will raise their borrowing capacity. The application is very easy to complete and its submission takes no more than a couple of minutes. The principle data required consists of the customer's state identity card number, mobile phone number, e-mail address, and some information about his/her life. Most probably, the system also checks the customer's online shopping habits in order to verify creditworthiness. The offer is intended for young people without any borrowing history and for those who need immediate access to cash and who cannot wait for the "traditional" procedure which takes up to several days. These establishments are advertised as reputable foreign players, observing any personal data protection requirements. How such organisations operate despite their initial lack of capital (sometimes not more than PLN 5,000) is baffling (Samcik, 2013e). We cannot expect that these organisations adhere to any standard of ethical conduct.

Hot atmosphere surrounding data analysis

TNamed one of the most innovative banks in the world and recognized in 2013 in the prestigious Infosys Finacle Global Banking Innovation Awards, BAI decided for the second time in a row to invest in Big Data solutions (BAI, 2013). One of the bank's VPs announced publicly that his institution is the first in the industry to make Big Data one of the pillars of its 2013 strategy (TVN CNBC, 2013). He revealed that they were working on a Big Data project combining internal data and external data originating in various World Wide Web-related channels. The bank intends to merge the banking data with that obtained from social networking sites, which reflects a customer's online footprint, and data from telecommunications companies. Once the customer consents to having their data analysed, the bank promises such benefits as lower interest rates due to more accurate risk assessment. Prospectively, once an appropriate solution is designed, it will be implementable in other sectors and industries. The models will be extended by other data as it is likely that the access path will be similar.

After the interview with the VP and his outline of the strategy and plans involving Big Data, the Internet forums erupted. Haters immediately appeared critical about the idea: "A perfect illustration of what we know as total surveillance" (Lucek, 2013). There were also attempts to rebut the critics: "Folks, what is all the fuss about? On Facebook, you agree to share everything or almost everything" (Realista, 2013). Or, "I can't understand all this fuss. If you post personal information online, you must be aware that others will also have access to it" (Maciek, 2013). This heated debate proves how sensitive the subject is. This is

Le projet de l'industrie bancaire est de désagréger encore plus l'information sur sa clientèle. Cette intention est clairement affichée dans la plupart des conférences tenues depuis 2011. Les cas rapportés ici ne sont que des exemples de ce nouveau phénomène. Les banques autour de la planète mettent en place des stratégies utilisant le Big Data. Tout cela est légal, mais il est important de savoir à quel point le public en est conscient. En effet, pour que la banque puisse tirer tout le bénéfice du Big Data, il faut encore que le consommateur soit d'accord avec cette utilisation des données.

Notre ombre digitale est composée des données qui sont publiques, mais aussi de celles que nous préférons garder dans la sphère privée. Des études ont montré que seulement la moitié de notre empreinte digitale est faite des photos, des e-mails et des conversations en ligne. L'autre moitié de

also seen in recent scandals relating to insufficient data control on the Internet. Facebook is going through a crisis, and its users have often revolted against the exploitation of their data. Other large-scale examples are the Snowden affair and the PRISM spying scandal.

New practices in finance and public trust

The financial industry is planning to further break down customer data. This intent has been frequently reiterated in banking conferences since 2011. The cases mentioned above are but a few examples illustrating the nature of this new phenomenon. Banks around the world are implementing strategies involving the use of Big Data. This is all legal, yet it is interesting to consider the opinion and the degree of public awareness of the process. In order for the banking sector to reap the full benefits of Big Data, it is necessary to secure customers' consent to data sharing. Controversial as it may be, most of the population is unaware of the scale of the analysis and dissemination of their data.

A survey carried out for this paper among 145 Internet users aged 18-50 indicates that the public are generally against Big Data analysis by banking institutions. Surprisingly, the results were very similar across the entire age group. Half of those surveyed (50.79%) responded that the banks should not monitor customers, and maintained that using customer data obtained from social networks to tailor the product to a customer's needs is outrageous. More than one-third were not able express their view and had mixed feelings. Only 13.92% of the respondents agree that the analysis of customer data originating in social networks in order to design financial products and services is a good idea if the customers can somehow benefit from that.

The scale of the phenomenon

In order to illustrate the scale of data exploitation, we need to have a closer look at the user's online activity. The digital shadow covers every trace of our digital presence. In 2007, IDC developed the concept of digital shadow as a footprint left by the user on the Internet which accurately reflected their everyday habits (IDC 2007 pp. 7-8). This shadow is swelling faster and faster each year, usually without our knowledge. Our digital shadow is made up of information that can be considered public but also contains data that we would rather remained private (Gantz, Reinsel, 2011).

Studies have shown that only about half of the digital footprint refers to individual activities, *e.g.* taking pictures, sending e-mails, or making online calls. The other half of what is called the digital shadow refers to information about the person's name, financial record, names extracted from their mailing lists, web browsing history or images taken by CCTV cameras in airports notre ombre digitale est faite de données personnelles telles que le nom, les données financières, les noms dans les listes de mailing, l'histoire des accès web et les images prises dans les aéroports, etc.

Aujourd'hui tout un chacun vit une double vie. Dans le monde réel, notre identité est validée par le numéro de passeport, du permis de conduire, par le nom et le prénom, etc. Dans le monde virtuel, chacun opère au travers des marqueurs appelés "biscuits" (cookies) qui décrivent les habitudes sur le net et qui créent son identité.
Si une institution financière peut tracer nos habitudes en ligne, dans le cas des technologies comme la TV ou le téléphone mobile, il est faux de dire que nous restons anonymes. L'utilisateur en ligne d'un compte bancaire peut être facilement identifié par l'adresse IP de son ordinateur; une fois cette indentification réalisée, toute l'activité en ligne peut être tracée.

and city centres. The digital shadow has grown bigger than the digital information that can now be actively and personally transformed (IDC, 2007).

The digital footprint is analysed by a number of companies, including in the financial industry, so that advertising can be perfectly tailored to the needs of the potential customer. The advert is expressly placed at eye level, and any data gathered is added to the archive of the person browsing the website. There is no information about a data exchange centre. All such data allows advertisers to customise their message, and the digital feedback they get helps them see if the strategy actually works. To a greater or lesser extent, this process takes place at every website viewing. (Madrigal, 2012).

Control over own data

An accidentally created online profile can transform into something broader than originally intended by the user. The bad news is that people rarely supervise which of their personal data is collected and sold. In contemporary times, every person lives a double life. In the real world, they have their identity validated by the personal number (PESEL), passport and driving licence number, first and last name, etc. In the digital world, everybody operates through specific markers known as "cookies" describing their browsing habits and these create identity (Madrigal, 2012).

Cookies allow data collectors to track a person without even knowing their name. In a sense, cookies define who we are without linking it to our real-world identity. There is a very thin line between taking out a mortgage and the search data that we enter into a browser when looking for an apartment in the nearby district. During a real-time online auction, cookies win the game just a few milliseconds after the completed purchase. Anyone can know who the person is, the only difference being that he or she has a name and number assigned. Many companies collect data in order to sell it to other institutions. Such data sets can be combined into a full and detailed digital image. The Wall Street Journal published a study demonstrating that the Internet has become a place where the only anonymous piece of data is the person's real name (Madrigal, 2012).

If it is possible for a financial institution to track our habits online, it would be foolish to assume that we remain anonymous when using mobile phones or televisions. Harmonising off-line data with online data (*e.g.* purchasing behaviours or the price of our apartment) is particularly noteworthy. Only the person's name and surname continue to be anonymous: for example, in the digital world, John Smith is referred to as 1625455. The reminder of his information in the virtual world is real. Banks have access to such information revealing Smith's habits, favourite things, favourite places and much more (Madrigal, 2012). The financial world has a unique opportunity to combine the real-world and online

Nous sommes tous témoins de la révolution virtuelle. Internet est la plus grande source de l'information libre, elle nourrit le Big Data. Toutefois rien n'est gratuit. Le prix à payer pour l'utilisation de cette information est très élevé: c'est notre sphère privée. Une fois en ligne, les données commencent leur vie propre. Les facteurs de risque, mais aussi de profit augmentent en conséquence.

Bien que les usagers d'internet reconnaissent l'immense progrès qu'il constitue, ils commencent à se préoccuper de leurs données et veulent protéger leur sphère privée. Selon une étude de l'UE, 70% des Européens ont peur que leurs données ne conduisent à des abus. Alors que 74% des Européens pense que la publication des données personnelles fait partie de vie moderne, 72% des utilisateurs d'internet craignent que ce dernier collecte trop de données privées. Ils ont l'impression de ne pas pouvoir contrôler autant qu'ils le voudraient cette information.

data. An online bank account user can be easily identified by the IP address of his or her computer upon login; once identified, their entire online activity can be successfully tracked. Various apps used in social networks offer banks an ideal opportunity to collect and analyse customer's personal data; and the customer has consented to it, often unknowingly when signing some bank's regulation. It is very rare that a customer will read and understand such a standardised and brief regulation. Most simply "accept terms and conditions" without reading them. Given that new technologies are anything but helpful in protecting privacy, it is essential that privacy is safeguarded as much as in the real world. The ethical standards surrounding financial institutions' exploitation of digital data should be clearly set out. This would delineate a boundary which banks could never overstep.

New era, new challenges

We are all witnessing a virtual revolution. The Internet is the largest source of free information that builds up Big Data resources. However, nothing is for free. The price that we pay for the use of this information is extremely high: it is our privacy. Data that goes online takes on a life of its ow. Consequently, the profit and risk factor increases. In the times of Big Data, every user leaves their online tracks when browsing the web: it is called "a digital shadow." Such a shadow is not only created by the user's activity but also by the different tools and organisations processing their data. The time of online anonymity is now over. We are on the verge of a new era in which everybody has their own digital profile which precisely reflects their behaviours. Self-monitoring of this profile is key if users wish to safeguard their own personal data. Privacy is of an essential value for most people; research has repeatedly demonstrated that the public does not have sufficient control over the information it generates. Therefore, to providing adequate protection of privacy in the online world is crucial.

Both the research carried out for his study and the results published by Eurobarometer depict a user who, although recognizing the immense benefits of the progress of the Internet, begins to express concern about their data and wishes to protect their privacy. According to a study conducted in the EU, 70% of Europeans express concerns over data abuse. They fear that different organisations may share this data with other institutions without their consent. Many Internet users, especially the younger generation, are not aware of privacy policies when signing up to social networks. When browsing the Internet, the public is also unaware that the data on their search results can be used by online advertisers. To control that, the privacy policy pursued by website administrators must be laid down in the form of a clear and simple message. While 74% of Europeans believe that the disclosure

Le comportement éthique est important pour inspirer la confiance publique et pour surmonter la réticence relative à l'analyse des données. Le Big Data ouvre de nouvelles perspectives, il peut être utile et constituer une percée dans l'évolution. Toutefois, pour cela, la société doit avoir le sentiment de contrôler ces processus. Dans un contexte de crainte, de méconnaissance des droits et en essayant de naviguer à l'aide de règles vagues, les institutions financières peuvent se heurter à une résistance du public.

of personal information is becoming an inextricable feature of modern life, as many as 72% of Internet users fear that they provide too much private information. They feel that they are not able to control this information as much as they would like (European Commission, 2011, pp. 1-3). This state of affairs does not only provoke anxiety among the public, but also erodes confidence in Internet services, consequently preventing companies from fully benefiting from the opportunities afforded by Big Data analysis. In 2010, the European Commission presented their strategy to modify the relevant rules. In January 2012, they proposed a full reform (European Commission, 2012).

Drawing up relevant provisions continues, and the technological progress is unstoppable, thus creating more and better opportunities, but bringing with them greater risks. In order to maximize benefits and diminish risks, it is necessary to regulate any unregulated matters as soon as possible, to promote ethical business and to reduce the abuse of the existing legal gaps.

Ethics as the key to success

A big challenge faced by the world of finance will be to inform the public of the use of the increasing volume of information. Since the Internet's birth, there has been a continual accumulation of data. This practice is not a novelty – it has kept pace with the development of the Internet. Currently, the production and storage of data is not an issue (it started back in the 1970s); the challenge is to grasp the opportunities arising from the analysis of this data and, consequently, to protect privacy. Until now, mankind has unconsciously generated enormous amounts of data. Along with the advancement of technology, there are new opportunities to reap the benefits of the Internet, allowing us to draw specific and detailed conclusions based on the massive collection of processed data. Ethical conduct is essential in inspiring public confidence and overcoming the reluctance and concerns arising from data analysis. In a contemporary world, information is king. Financial institutions who are involved in the progress of Big Data solutions can obtain a very detailed picture of any (probably unwitting) internet user, thanks to the tracks they leave online. Big Data opens up new possibilities, can be a tool to serve people and could become another evolutionary breakthrough. However, in order for this to happen the society should have a sense of control over processes. When people are fearful, unaware of their rights and trying to navigate through a realm of vaguely defined rules, financial institutions will meet with public resistance. We should reflect on the lengths these organisations will go to in order to obtain the most relevant information and use it for their own gain. Data sharing is not the major problem and the majority of the population exposed to the Internet agree to that – it is the way in which this data is

Nous devrions réfléchir davantage jusqu'où ces organisations sont prêtes à aller pour obtenir l'information la plus pertinente et l'utiliser dans leur propre intérêt

used and manipulated by banks and other institutions. Without the assurance of adequate conditions of data utilization, Internet users will resist customised information rather than benefit from it. In order to exploit the opportunities that Big Data analysis affords, it is necessary to ensure adequate legislation that covers data analysis and processing, so that the users are fully aware of the existing processes and can decide to take any action that they deem appropriate. In the current situation in which the law fails to provide such a framework, it is imperative that financial institutions act reasonably and ethically in order not to erode public trust.

References

BAI (2013). BAI - *Finacle Global Banking Innovation Awards 2013 Finalists Announced*. Retrieved from http://www.bai.org/globalinnovations/index

Barclays (2013). *Summary of changes to our terms and conditions*. Retrieved from http://www.barclays.co.uk/ImportantInformation/TermsandconditionsforPersonalcustomers/P1242558103284

Birst (2012). *The Big Data Opportunity: Instrumenting Your Business for Competitive Advantage*. Retrieved from http://tdwi.org/whitepapers/2012/11/the-big-data-opportunity-instrumenting-your-business-for-competitive-advantage.aspx

BRE Bank (2013a). *Regulamin Promocji mOkazje w serwisie transakcyjnym mBanku*. Retrieved from http://www.mbank.pl/download/mokazje/regulamin-mOkazje-ST.pdf

BRE Bank (2013b). *Regulamin Promocji mOkazje na portalu Facebook*. Retrieved from https://mokazje.mbank.pl/_files/regulamin.pdf

European Comission (2011). *Attitudes on Data Protection and Electronic Identity in the European Union*. Retrieved from http://ec.europa.eu/public_opinion/archives/ebs/ebs_359_en.pdf

European Comission (2012). *Data protection reform: Frequently asked questions*. Retrieved from http://europa.eu/rapid/press-release_MEMO-12-41_en.htm?locale=fr

IBM (2012). *Analytics: The real-world use of big data How innovative enterprises extract value from uncertain data*. Retrieved from http://www-03.ibm.com/systems/hu/resources/the_real_word_use_of_big_data

IDC (2007). *The Diverse and Exploding Digital Universe: An Updated Forecast of Worldwide Information Growth Through 2011*. Retrieved from http://www.emc.com/collateral/analyst-reports/diverse-exploding-digital-universe.pdf

Jeznach, K. (2013). *Czy w epoce Big Data klient banku moze czuc sie spokojny?* Retrieved from http://www.bankier.pl/wiadomosc/Czy-w-epoce-Big-Data-klient-banku-moze-czuc-sie-spokojny-2888087.html

Kearns, G. (2011) *The Ideas Economy: Information*. Retrieved from http://www.economist.com/events-conferences/americas/information-2011

Lucek (2013). *Big Data, czyli czego nie powiedział wiceprezes Aliora*. Retrieved from http://prnews.

pl/wiadomosci/big-data-czyli-czego-nie-powiedzia-wiceprezes-aliora-2764580.html

Maciek (2013). *Big Data, czyli czego nie powiedział wiceprezes Aliora*. Retrieved from http://prnews.pl/wiadomosci/big-data-czyli-czego-nie-powiedzia-wiceprezes-aliora-2764580.html

Madrigal, A. (2012). *I'm Being Followed: How Google—and 104 Other Companies—Are Tracking Me on the Web*. Retrieved from http://www.theatlantic.com/technology/archive/12/02/im-being-followed-how-google-and-104-other-companies-are-tracking-me-on-the-web/253758

Manyika, *et al.* (2011). *Big data: The next frontier for innovation, competition, and productivity*. Retrieved from http://www.mckinsey.com/insights/business_technology/big_data_the_next_frontier_for_innovation

Merv, A. (2011). *Big Data: It's going mainstream, and it's your next opportunity*. Retrieved from http://www.teradatamagazine.com/v11n01/Features/Big-Data

Realista (2013). *Big Data, czyli czego nie powiedział wiceprezes Aliora*. Retrieved from http://prnews.pl/wiadomosci/big-data-czyli-czego-nie-powiedzia-wiceprezes-aliora-2764580.html

Samcik, M. (2013). *Barclays przyznaje: „Jesienia zaczniemy sprzedawac dane o klientach"*. Retrieved from http://wyborcza.biz/biznes/1,100896,14166424,Barclays_przyznaje___Jesienia_zaczniemy_sprzedawac.html#ixzz2dZnNX5rE

Samcik, M. (2013b). *Big Data w akcji. Bank informuje klientów: "bedziemy handlowali waszymi danymi"*. Retrieved from http://samcik.blox.pl/2013/06/Zaczelo-sie-Bank-poinformowal-klientow-bedziemy.html

Samcik, M. (2013c). *mOkazje: samo dobro, czy... dobry pomysł, by klient chodził na krótkiej smyczy?* Retrieved from http://samcik.blox.pl/2013/04/mOkazje-samo-dobro-czy-pomysl-by-klient-chodzil.html

Samcik, M. (2013d). *Marzenia o bardzo Big Data, czyli... PKO BP strategicznie bierze sie za grillowanie*. Retrieved from http://samcik.blox.pl/2013/04/Bardzo-bardzo-Big-Data-czyli-PKO-BP-strategicznie.html

Samcik, M. (2013e) *Nowy gracz kusi: chcesz tansza pozyczke? Udostepnij swój profil w Facebooku*. Retrieved from http://samcik.blox.pl/2013/05/Nowy-gracz-kusi-chcesz-tansza-pozyczke-Udostepnij.html

The Economist (2013). *Ideas Economy: Finding Value in Big Data*. Retrieved from http://www.oracle.com/us/technologies/big-data/finding-value-in-big-data-1991047.pdf

TVN CNBC (2013). *Zmiany w Zarzadzie Alior Banku*. Retrieved from http://www.tvncnbc.pl/zmiany-w-zarzadzie-alior-banku,306356.html

Vasset, D. (2012). *Worldwide Big Data Technology and Services 2012-2015 Forecast*. Retrieved from http://download.microsoft.com/download/7/B/8/7B8AC938-2928-4B65-B1B3-0B523DDFCDC7/IDC%20Report-Worldwide%20Big%20Data%20Technology%20and%20Services.pdf

Part II

Implementation & Applications

Visually Enhanced Ethical Thinking

Ethics in Finance, Robin Cosgrove Prize Global edition 2014-2015

Finalist

Christóbal Miguel Gómez Gutiérrez
Panama and Costa Rica
Lawyer II, Superintendency of Banks, Panama*

* The views expressed herein are those of the author and do not necessarily reflect those of the Organization he is affiliated to.

Have you heard of the "Front-Page Test"[1]? If you doubt whether your behavior could be considered unethical, ask yourself how you would feel if your actions were broadcast as front-page news. To describe the method, Jennings (2015) tells how Warren Buffett managed the aftermath of the Saloman Brothers bond scandal. Having taken the position of interim chairman in 1991, he instructed:

"Contemplating any business act, an employee should ask himself whether he would be willing to see it immediately described by an informed and critical reporter on the front page of his local newspaper, there to be read by his spouse, children, and friends. At Salomon we simply want no part of any activities that pass legal tests but that we, as citizens, would find offensive." (p. 36).

This method of self-evaluation constitutes a genuine expression of ethical thinking. Regardless of what the law says (but never going against it), the individual has a criterion that helps him discern which courses of actions to avoid. There is nothing novel in appealing to an actor's own conscience to decide whether to pursue a course of action or not. The added value of this idea is the interplay highlighted between the individual's feelings and a factor independent of his own opinion (*i.e.*, how others will perceive his actions).

While this method provides a reasonable analytical tool there is still room for improvement. The

1 Others as USLegal.com (2015) call it "the New York Times rule". Jennings (2015) also give some variants such as "What if [in our private meeting] the cameras were running… would we be worried?" (p. 36).

Connaissez-vous le "test des cinq colonnes à la une"? Si vous avez des doutes quant au caractère éthique de votre comportement, demandez-vous quelle serait votre réaction s'il se trouvait à la une des journaux. Ce test peut être amélioré, car en l'état, la subjectivité et le manque de motivation peuvent biaiser l'exercice d'imagination qu'il demande. Je propose un autre outil pour améliorer la prise en compte des facteurs objectifs dans notre raisonnement éthique: les images. Elles éveillent mieux l'imagination et alertent plus fortement l'intelligence émotionnelle. Les éléments suivants doivent être présents: (a) le décideur doit savoir qu'il est destinataire du message ; (b) le message doit mettre en lumière, ne serait-ce que par analogie, les conséquences de l'inconduite; (c) il doit susciter l'émotion; et (d) le message ne devrait pas être facile à éviter.

thought process it relies on (considering others' perception of a certain course of action) may be subject to the thinker's own biases or lack of motivation. We will therefore consider how whether the process can be altered slightly in order to reinforce the decision maker's objectivity and attitude.

Initiative

An alternative device is required to facilitate a more thorough consideration of the factors involved in making any decision regarding ethics. The use of images will constitute a more powerful trigger to the imagination and furthermore will appeal more forcefully to emotional intelligence.

How would this look in practice?

Virtually any document that informs a decision maker can contain images. An insert containing images would be added to an original document. For the purposes of our initiative, the documents would be used by financial professionals, in particular those whose handling is close in time to practices which have been identified as potentially unethical. The following elements must be present in the insert:

(a) it must be clear the the person making the decision is the intended recipient of the insert

(b) the insert must communicate the consequences of misconduct (at least by analogy)

(c) the insert should aim to provoke an emotional response

(d) the message should not be easy to avoid.

By way of illustration we will apply the above method to lending transactions; Nevertheless, in the future we hope to develop this method and apply it in other arenas or for other addressees.

In loan paperwork

Let us consider mortgage lending. Although the details of the process and the documents involved vary from one organisation to the next, some basic steps remains the same: a front-desk clerk analyses with the customer the amount required to borrow, repayment conditions, collateral, credit record, etc. Following this the back office assesses in detail whether the potential customer can be accepted, aligning internal policy criteria (*e.g.* credit availability for his category of risk) with compliance (*e.g.* anti-money-laundry regulation). The process is of interest to us because the Financial Crisis Inquiry Commission (FCIC), appointed by the government of the United States to study the crisis that started in 2007, found out that in this industry, "lenders made loans that they knew borrowers could not afford and that could cause massive losses to investors in mortgage securities later, they noted that certain high-risk loans they were making could result not only in foreclosures but also in "financial and reputational catastrophe" for the firm. But they did not stop. (p. xxii).

Pour illustrer la puissance de l'instrument, prenons l'exemple du prêt hypothécaire. Le processus correspondant est intéressant puisqu' avant la crise qui a débuté en 2007, les créanciers ont conclu des contrats alors qu'ils savaient que les débiteurs ne pouvaient pas les honorer et que cela entraînerait des pertes considérables pour les porteurs des obligations correspondantes (CDOs). La Figure 1 montre l'ébauche d'un insert qui se réfère au scandale des crédits sub-prime, et qui est placé dans la check-list dans le formulaire d'approbation de la ligne de crédit. La taille et la manière dont l'insert est placé font que ni le destinataire ni le client ne peuvent l'éviter

From the series of papers that loan officials and credit committees communicate to each other, we typically see a checklist form and a request of credit approval memorandum. Figure 1 shows a prototype insert that makes reference to the subprime scandal mentioned above.

The dimension and position of the label makes it almost impossible for the reader to ignore. Then, given that several different people will deal with the document (in both the front and back offices),the generic phrase "to whom it may concern" has been used. But, keeping this in mind, one can appreciate that another stakeholder will also have the opportunity to observe the cautionary message: the customer. Modern technology permits us to go a step further, if desired. In the same way that template e-mails can be personalized, an algorithm could automatically fill in the names of the addressees and the customer, to more efficiently appeal to the emotional understanding of the matter . Further improvements could be made, for example, giving a real face to the silhouette. Another debate concerns whether it would be ethical to insert the face of the decision maker himself[2].

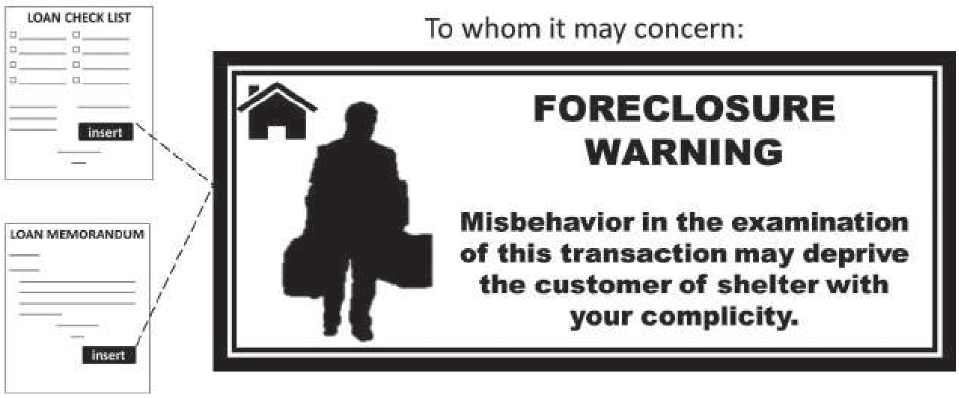
Finally, the image of a person *expelled from his home* and the choice of the words "misbehavior", "examination" (*i.e.* your action), "may deprive" and "your complicity" serves the goal of appealing to emotional intelligence as well as directing the reason to consider foreseen consequences which otherwise may not be easily foreseen.

Expanding the concept to other scenarios

The visual reminder that we have seen in the previous section could be attached to other kinds of documents. To mention some, it could feasibly be used with risk assessment reports and transaction proposals for the issuance of credit to large projects. Let us suppose three energy projects are on the table, each of them with equal expected returns and si-

2 In my opinion, an authorization note of the employee is enough to permit this option.

Figure 1 . Warning label in a document



Un rappel visuel peut être inclus aussi bien dans les rapports d'évaluation du risque que dans les propositions portant sur l'octroi de crédit pour de grands projets. Supposons le choix d'un parmi trois projets énergétiques. Les trois ont les mêmes paramètres de risque et de rendement. Dans l'hypothèse que le praticien de la finance agit dans chacun en toute probité, la différence d'appréciation peut découler des différences dans la force de l'émotion suscitée par chaque image. Nous pouvons aussi envisager la pertinence du recours à des formes autres que le papier. Par exemple, dans la Figure 2, un employé du nom de Jean l'Echantillon apparaît inopinément lors d'un message à propos du délit d'initiés. Cela peut être utile pour la prévention de ce type d'agissements, pour l'éducation et aussi pour encourager la dénonciation.

milar risks involved. Only one may be chosen. Even if we assume that in all cases the practitioner is going to act with absolute honesty, the difference between the projects could be highlighted by the different emotional burden perceived from each image. For example, in one project, the image could portray the consequence of a a community without electricity, and in other a polluted river.

It is also beneficial to explore the suitability of media other than paper. Indeed, the potential power of the visual message increases if we place it throughout a process rather than in a single document. To explain this, let us return to the use of illustrations.

In a pop-up message

In Figure 2 we have a pop-up message that suddenly appears to the clerk named John Sample. John may or may not have the clearance to access confidential information of a public traded company; therefore, the imminent prevention of inside trading[3] is of secondary importance. Of more relevance is that the reminder serves an ulterior objective, one which is repeatedly recommended on ethical forums: actor education[4]. And perhaps a third positive effect can be obtained. If John discovers that a colleague is engaged in such activity, he might be more encouraged to denounce it.

The pop-up message freezes the of the decision maker's computer processes. He would only be able to resume the activities if he marks the box indicating agreement with the value judgment that inside trading "deserves condemnation". It is only after this positive and communicative action that the "continue" button

3 Inside trading: trade of securities of a public company with the unfair advantage of knowing privileged information of the company that other participants of the market do not manage

4 *e.g.* cf. Objective (c) of the Rules for the Ethics in Finance – Robin Cosgrove Prize 2014-15.

Figure 2 . Pop-up message during a computer process

Le message peut aussi être transmis par un e-mail, avec un phrasé à la fois sympathique et encourageant. La Figure 3 se réfère à un conseiller financier dans une banque d'investissement qui reçoit un e-mail. Il y est question d'un de ses clients. L'expéditeur – le comité d'audit – lui rappelle qu'il est tenu d'agir dans "dans l'intérêt" et au nom du client.
La fréquence de ce type de messages doit être considérée. Un bombardement permanent peut s'avérer contre-productif. Les messages espacés sont à recommander pour donner l'impression de spontanéité. La proposition formulée ici étant nouvelle, l'éventail de ses applications va apparaître progressivement. Quels messages pour quelles personnes? Quelle longueur et quelle fréquence? Quels vecteurs pour quelles cibles?

enables the user to proceed.[5] What if the user does not agree with the ethical formulation? This is a subject of discussion for the top executives of the organisation. I estimate that the solution is to deem such *non-conformity* as a departure from the code of ethics of the organisation enough to justify laying off of the user.

The pop-up window satisfies the four proposed elements. It is intended to be read by John and he cannot avoid the request for active participation if he wishes to continue with his tasks (…and his job). To compel the assessment of the consequences, the visual aide shows the hands of someone in jail. And that same image together with the words "deserve" and "condemnation" serve as stimuli for emotional engagement. The hyperlink to further information is as important and will prove to be useful in the case that a concept requires further explanation.

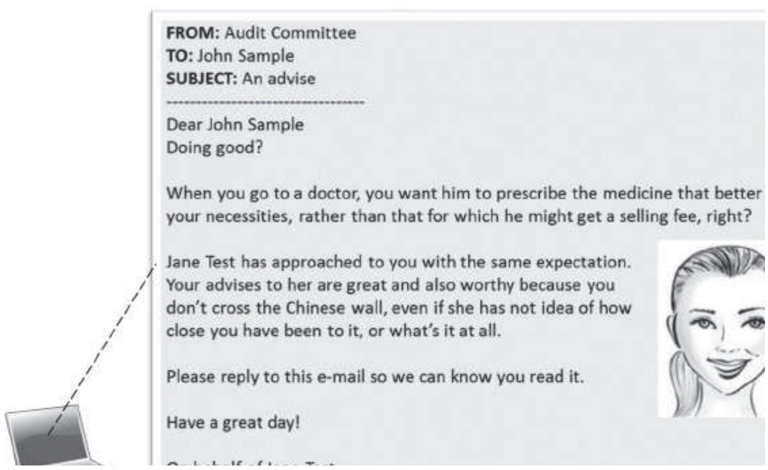
5 A closing button remains available at the upper right corner of the window in case of a mistake, but the continuation of the process is only through the selection of the agreement box.

In an e-mail

Another technique that could be tried is to send the message via e-mail. In addition, we could replace the "punitive" tone of the previous examples with a more sympathetic and empowering wording. In Figure 3, the decision maker is a financial advisor in an investment bank. He receives a dedicated electronic letter with regard to one of the clients he is in charge of. Indeed, the sender, the Audit Committee of the bank, announces that is acting "on behalf of" the client. Her name is Jane Test.

Financial advisory is one of the most common activities performed by investment banks. It is in what is called the *buy side* of the business because it will suggest to the client the purchase of the best financial products available. On the other hand,

Figure 3 . Kind e-mail



FROM: Audit Committee
TO: John Sample
SUBJECT: An advise

Dear John Sample
Doing good?

When you go to a doctor, you want him to prescribe the medicine that better your necessities, rather than that for which he might get a selling fee, right?

Jane Test has approached to you with the same expectation. Your advises to her are great and also worthy because you don't cross the Chinese wall, even if she has not idea of how close you have been to it, or what's it at all.

Please reply to this e-mail so we can know you read it.

Have a great day!

"Construisons une société et une économie où l'homme et son bien-être et non l'argent occupent la place centrale" a dit le Pape François. Cette phrase est à la fois inspiration et défi. Qu'est-ce qu'une économie centrée sur l'homme? Il est difficile de trouver un visage humain au cœur des transactions financières, pour la simple et bonne raison que l'homme en est absent. Il n'y a que des chiffres, des lettres, des symboles et peut-être quelques graphiques et logos. Il n'en demeure pas moins que la dimension humaine de la finance est devenue évidente quand les responsables publics et les auteurs ont diagnostiqué que l'une des causes de la crise venait du fait que le "système était en panne d'éthique". En même temps les documentaires et les journalistes ont monté l'impact de la crise sur la vie quotidienne des personnes. Je suppose que si ceux qui qui ont pris ces décisions délétères avaient disposé à l'époque des moyens pour anticiper la suite des évènements, ils auraient été nombreux à se comporter différemment.

we have the sell side, called that way because it helps to raise funds for its clients through the trading of financial instruments. Inappropriate collaboration between both sides of the institution should be prevented because it will cause a conflict of interests detrimental to customers ignorant of this collaboration. *A Chinese wall* between both sides is a metaphor used to describe the limitations of cooperation.

In the previous illustration, the recipient of the mechanism is clearly John Sample, who can see a photograph of the person that can be harmed in case of conflict of interests. The presence of such a recognizable face appeals to the emotions, as does the friendly tone of the email. The doctor analogy should motivate John to treat Jane's expectations with the same respect he would desire for himself[6]. To reduce the possibility that John ignores the message, he is asked to reply so that the Audit Committee knows that he has read at least part of it.

Scopes

Now, something to be taken into account is how frequently the different means of communicating the messages are employed. It is not hard to imagine that a permanent bombarding of warning or suggestive messages would be counterproductive. The label in Figure 1 could go unnoticed, and the same could happen to the mechanisms depicted in Figures 2 and 3. To resolve this issue messages could be spaced out over time to bring a sense of natural spontaneity to the communication. In the same sense, the content should vary randomly to appeal to the recipient's curiosity and encourage him to read the messages.

Naturally, the scope of implementation of the initiative is still to be gauged, given the novelty of the proposal. What messages should be sent to whom? How many messages and how frequently should they be sent? What information should be sent and who should the sender be? Can we add audiovisual content? Can we invite actors to simulate a journal intervention? These are legitimate questions that I would like scholars and innovators to engage with. Your knowledge and creativity, dear reader, could turn out to be valuable contributions.

Could this provide a new service?

The field of ethical thinking as it applies to the financial services industry is waiting to be explored and there is therefore scope for the development of new services in this area. Consultancy firms could, for example, help an organisation set up the most suitable graphic devices and series of entries to be displayed. The independence of such firms is key in creating a valuable benchmark among the organisations it serves.

We also foresee a role for certifying agencies that can issue official

6 This is a use of the denominated "golden rule" present in the holy books of several religions: "do unto others as you would have them do unto you".

Il est important de faire appel à l'émotionnel du décideur. Cet argument peut paraître banal et dénué de fondement technique. Mais la recherche en neurosciences cognitives a montré que deux processus neuronaux sont impliqués dans la prise de décisions: le cognitif et l'affectif. Aussi, dans la quête d'incitations qui peuvent entraîner un changement de comportement, je ne suis pas seulement intéressé par la construction des chaînes rationnelles du type "cause-effet" mais par l'assimilation émotionnelle du message. Il a été démonté que la décision des individus peut être influencée par la manière dont le problème est formulé. Ainsi, pour améliorer la qualité des décisions, le décideur devrait se concentrer sur ses conséquences futures et se demander "Qu'est-ce que je vais ressentir alors?" plutôt que "qu'est-ce que je veux maintenant?" La première question, si elle est appréhendée avec soin, est un guide très utile dans les décisions difficiles.

statements distinguishing the companies that have fully implemented efficient systems of visually enhanced ethical thinking. Such certification could be marketed by the use of logotypes that can be stamped in visible areas of the office, or in the Annual Report of the corporation. Present and future investors would greatly appreciate this certification.

Rationale

This idea was inspired by an appeal made by Pope Francis when interviewed by Tornielly and Galeazi (2015):

"When money, instead of man, is at the centre of the system… men and women are reduced to simple instruments of a social and economic system… Let us try and build a society and an economy where man and his welfare are at the centre, instead of money." (para. 3)

The sentiment is at once inspiring and challenging. What exactly is a human-centric economy? Further exploration of the topic is surely a job for scholars from different fields, some describing, others proposing and not with less merit, the work of those who criticize. As far as concerns my own small part in the debate, I remained intrigued. Where/when had I seen a philosophical concept such as *the human* being part of a financial analysis? By the nature of their professions, lawyers and economists take into account the notion of the human in their deliberations with more frequency than a financial practitioner. To be fair, the latter also does so, for example, when he is driven by what is called ethical investing, *i.e.* when is "supporting companies that are creating positive change in the world [or, for others, at least] aren't making the world worse" (Fontinelle, n.d.). But the reason it was hard for me to see the human side in a financial transaction was exactly because there were not humans to see. There were only numbers, letters and symbols… and perhaps some graphs and brands.

However, clear glimpses of the human side of finance could be seen when officials and authors pointed out that among the causes of the 2007-08 crisis was a "systemic breakdown in ethics" (*e.g.* FCIC, 2011, ib.). Some journalists and documentary producers showed the severity of the consequences of the crisis on peoples' daily lives (*e.g.* cf. Moore, 2009). And here we had a one-way glass that forced ex post facto research to look at individual conduct in the past whereas those ex ante individuals, even if aware of that their decisions were morally wrong, perhaps were not aware of the magnitude of the consequences. Did each of them apply the *front-page* test? That we do not know. I assume that if they had had access to a real document which helped them project the consequences of their decisions, a good number would have refrained from the misconduct. Therefore, let us not wait for the self-motivated imagination of a headline; let us force actors to turn to a real page 2 story with a human situation which says, "if your conscience fails you, this is what you will have done to me".

La question de savoir comment les images dans un document influencent les délibérations du lecteur est peu documentée en finance. Mais il existe d'autres études, notamment sur la façon dont la désagrégation, la localisation ou les résultats sont présentés affecte les choix des managers en matière de présentation des choix et d'investissement. Ainsi, quand la relation entre la performance future et les actions de l'organisation ne sont pas bien comprises, les analyses financières accordent plus d'importance à l'information qualitative.

La recherche sur les images prolifère en psychologie et en marketing. Le meilleur exemple est celui des mises en garde sur les paquets de cigarettes dont s'inspire la Figure 1. L'expérience réussie dans le tabac permet d'escompter que ces techniques auront les mêmes effets quand elles seront appliquées dans les formalités de l'industrie financière.

Behavioral sciences

Throughout this essay I have made numerous appeals to the importance of a decision maker's emotional intelligence. This foundation may seem both insubstantial and lacking in any academic grounding. In order to defend my reference to emotional intelligence, I quote the work of Benton (2009):

"*[An] emerging field, moral cognitive neuro-science, provides us with additional insight into the human decision making process. The roles of deliberation, affect and emotion are highlighted through this research [… which] is in direct opposition to the classical Cartesian view of decision-making as a reasoned, emotion-free process. By using brain imaging… researchers have determined that two clear neural processes, cognitive and affective, are involved in decision making.*" (p. 41).

That means that our behavior, in terms of deliberated determinations, is to some extent influenced by the stimuli to our sentimental perceptions. Hence, in the quest for the factors which bring about behavioural change I am interested not only in the rational cause and effect but also in the emotional assimilation of the message.

Images and formats that influence financial decisions

In the field of finance there is little material on how the placing of images in a document, let us say, a transaction proposal, can affect the deliberation of the reader. However, some plausible contributions have to be mentioned with regard to the wording, starting with the seminal work on *framing* by Kahneman and Tversky (1981). As a result of their behavioral experiments, they pointed out that identical propositions of value according to mainstream expected *utility theory* were weighted differently by the participants, depending on how those propositions were written.

For instance, in one of those experiments, two groups of people were given the same hypothetical scenario of preparing for the outbreak of an unusual disease. Group 1 had two alternatives, one in terms of certainty and the other in terms of probability, which were mathematically equivalent to the alternatives given to group 2. The difference was that the first group received the statements in terms of lives that could be saved whereas the other group were presented with the same information in terms of people who could die. The authors observed that "choices involving gains are often risk averse and choices involving losses are often risk taking" (p. 453); but for the purposes of this essay their most relevant findings are (a) that individuals' preferences changes according to how factors involved in a decision were presented to them and (b) that to improve the quality of decisions: decision-maker [should] focus on future experience and ask "What will I feel then?" rather than "What do I want now?". The former question, Ma préoccupation ici n'est pas de savoir si je verrais un jour l'application de cette proposition dans l'industrie financière. Je pense que cela viendra de soi quand apparaîtront les opportunités d'affaires que cela offre. Je me préoccupe plutôt de savoir comment limiter la manipulation et l'incurie qui pourraient dénaturer l'élaboration et le contenu des messages et comment faire pour que la systématisation de ces techniques n'amène pas le relâchement du sens éthique de responsabilité.

when answered with care, can be the more useful guide in difficult decisions (p. 458).

Libby and Emett (2014), while not yet studying the use of images, have surveyed U.S. based research with regard to the disaggregation, location and narrative attributes of earning presentation and their effects on manager reporting choices and investor decisions. The relationship between these is a good starting point to better understand the incidence of such components in the information content and the ease with which it can be processed. Other authors (Ettredge, Richardson and Scholz, 2001 and Dull, Graham and Baldwin, 2003) have looked at the format of financial information that is presented on internet. Bell's work (1984) comes closer to our line of enquiry into the use of images. He categorises information to be considered in management decisions according to whether it is numeric or non-numeric. His study concludes:"when the link between organizational actions and future performance is not well established and understood, financial analysts may give more weight to nonnumeric information in evaluating a company" (p. 169).

Experience of images that influence non-financial decisions

Even though investigations into the effect of images used in financial documents are lacking, the same cannot be said regarding the fields of marketing and psychology. The best example is the study of the warning labels on the tobacco packets that guided the design of Figure 1. Those studies, although not exempt from recent criticism, demonstrate that images encourage support or rejection of the regulation and lead to proposals for a more effective deterrence to be put in place. In the report to the Directorate General for Health and Consumers of the European Commission, Sambrook Research International (2009) stresses six principles, two of which inform us that : Combined pictorial and text warnings are significantly more effective than text only warnings, especially educating the public of the health risks and changing consumer behavior… [and that] Fear inducing warnings (using strong 'shocking' images related to health risks) and strong emotion inducing warnings (especially involving children and unborn babies) are the most effective way to educate consumers on the health risks of tobacco use and to achieve changes in attitudes and behavior (p. 2).

The bottom line: from self-criticism to a call for more research and action

The success of warning notices in the tobacco industry leads us to expect similar results in the utilization of such a technique in financial paperwork. It has to be remarked, nevertheless, that although smoking continues to be legal, our goal with the visually enhanced ethical thinking tools is to eradicate unethical behavior.

Ces préoccupations devraient conduire à approfondir davantage l'idée. La meilleure manière d'avancer est de tester en grandeur nature plutôt que de spéculer sur ce qui pourrait arriver. C'est ainsi que les faiblesses du projet, celles mentionnées plus haut et les nouvelles qui ne manqueront pas d'apparaître ultérieurement, seront corrigées au fur et à mesure de sa réalisation.

Assessing the feasibility of this initiative is not straightforward without being able to rely on enough relevant research. However, I am not concerned with wondering whether one day I will see the implementation of the proposals described in this essay. I think that it will surely happen as long as there is a strong enough business case behind it. Rather, I am concerned with limiting the possible manipulations or negligence that could occur when designing. For instance, in the case of the three energy projects on the table, it is clear that the person deciding which images to use can greatly influence the decision one way or another. As the Roman poet Juvenal once asked, "who will guard the guards themselves"? And what if one day the pop-up message requests agreement for something whose ethical credibility is still under debate? Or worse even, if the static statements do not catch on time the formation of unethical practices that must be denounced.

Another possible danger is that outsourcing the design of ethical criteria or relying too much on a certificate provided by a specialised consulting firm may cause staff at every level to abdicate responsibility for the ethics of their own decisions and conduct sense of responsibility towards ethics in the staff at every level. Outsourcing the production of the tool should not be the same as outsourcing responsibility. Let us imagine that a firm is under public scrutiny due to a scandal. The top executives could be tempted to claim that they are not ethically responsible and show to the media as evidence their certification (previously mentioned in this essay) and other tools we have proposed.

The aforementioned criticisms should be better considered as observations which highlight the need to study this idea further. Moreover, the best way to analyse the effects of something is to test what is really happening rather than imagining what could happen. Therefore, a good number of the project's limitations will be amended during the path of its realization. This will count also for new objections that are bound to surface at some point. What is missing then? It has been already said. Let us not wait for a self-interested glance at an imaginary headline to motivate us: "the initiative of visually enhanced ethical thinking that could have happened"; let us turn to a real page 2 with a human situation saying "we did it".

References

Bell, J. (1984) *The Effect of Presentation Form on the Use of Information in Annual Reports*. United States: Management Science.

Benton, M. (2009) *Emotions, Personal Ethics and Professional Life: the Lost Link*. Switzerland: Finance and Common Good[1].

Dull, R., Graham, A. and Baldwin, A. (2003) *Web-based financial statements: hypertext links to footnotes and their effect on decisions*. United States: International Journal of Accounting Information Systems.

Ettredge, M., Richardson, V. and Scholz, S. (2001) *The presentation of financial information at corporate Web sites*. United States: International Journal of Accounting Information Systems.

Financial Crisis Inquiry Commission (2011) *The Financial Crisis Inquiry Report*. United States: Official Government Edition.

Fontinelle, A. (n.d.) *Ethical Investing Tutorial*. Investopedia. Retrieved from http://www.investopedia.com/

1 Second place in the 2009 edition of the Robin Cosgrove Prize.

Jennings, M. (2015) *Business Ethics and Selected Readings*. Connecticut: Cengage Learning.

Kahneman, D. and Tversky, A. (1981) *The Framing of Decisions and the Psychology of Choice*. United States: Science.

Libby, R. and Emett, S. (2014) *Earnings Presentation Effects on Manager Reporting Choices and Investor Decisions*. United States: Cornell University.

Moore, A. and Moore, M. (Producers) & Moore, M. (Director). (2009) *Capitalism: A Love Story* [Motion Picture]. United States: The Weinstein Company & Dog Eat Dog Films.

Sambrook Research International (2009) *A review of the science base to support the development of health warnings for tobacco packages*. England: Sambrook Research International.

Tornielly, A. and Galeazi, G. (2015, January 11). *Francis: to take care for the poor is not communism, it is the Gospel*. Vatican Insider La Stampa. Retrieved from http://vaticaninsider.lastampa.it/en

Can *Design Thinking* Help Enhancing Empathy in Finance ?

Ethics in Finance, Robin Cosgrove Prize Global edition 2014-2015

Third Prize *ex-aequo*

Mehta Anshuman
United Kingdom / India
CEO of Early Stage Start-up, New York.*

* The views expressed herein are those of the author and do not necessarily reflect those of the Organization he is affiliated to.

Creativity Is a Bad Word

La science économique n'atteint queWhen used in the context of modern-day finance the word *creativity* invariably has very negative connotations. Creative accounting led to the downfall of corporate giants. Creative regulatory and capital solutions disguised arbitrage of regulators and regulations. Creative tax solutions blurred the fine line between tax avoidance and evasion. *Creativity*, as uttered by a financial service professional, is a very bad word indeed.

But beyond the narrow confines of finance, there exists a broader definition of the word *creativity* – a creative community of artists and designers, tech innovators and disruptors who seek new and innovative solutions to everyday problems. Through the use of a pioneering approach called Design Thinking, they create solutions but only after engaging in a deep and empathetic dialogue with end-users. Design Thinking transforms their efforts into a human-centred approach to problem solving (Brown, n.d.).

In this paper, we seek innovative ideas for ethics in finance through the application of the principles of Design Thinking.

Working Thesis

At the heart of the arguments set forth in this paper is the incontrovertible fact that finance in general, and *banking* in particular, is a people business. Our world is built upon the foundations of human relationships. The hopes and dreams, fears and insecurities of individuals play a vital role in modern day finance, Utilisé dans le contexte de la finance contemporaine, le terme créativité a une connotation négative, il faut donc se mettre à la suite des designers et des artistes qui utilisent la créativité pour le plus grand bien de tous.

La finance en général et la banque sont l'affaire de tous. L'Ethique, les Dilemmes éthiques et le Comportement éthique ne peuvent faire abstraction de la personne humaine. Notre thèse centrale est que tout code d'éthique pour le secteur financier doit être conçu en plaçant l'acteur humain au centre. L'objectif de ce papier est de structurer une démarche pour élaborer un code d'éthique pour la finance en général, et pour la banque en particulier.

and will continue to do even in the aftermath of the Great Recession. The flow of capital, long held as its traditional focus, is almost incidental to this world. Capital is an undistinguishable commodity transferred from one owner to the next. It is *the people* that make, or on occasion break, financial products, institutions and markets. Regardless of how numbers-based, technology-centric or money-oriented this world becomes, an examination of ethics in finance is essentially an inquiry into the modern human condition.

Next, we re-interpret *ethics, ethical behaviour* and *ethical dilemmas* with human-centred definitions. *Ethics* are a set of values by which an individual chooses to live. *Ethical dilemmas* are real problems faced by real people in the real world. *Ethical behaviour* is a personal response to a unique set of circumstances and stimuli.

The working thesis of this paper is as follows: Any attempt to devise a code of ethics in a vacuum, isolated from the inputs of the very people the code is meant to govern, and derived from an idealised state of affairs, is bound to fail. The ultimate consumers of a code of ethics are the all-too-human stakeholders of the industry. Therefore, reform and innovation that seeks to serve the industry in the future must begin with the human element at its core. It must begin with *empathy*.

A secondary thesis, scarcely less important than the first, is that any attempts at reform cannot be divorced from a system-wide analysis of culture. Ethics do not exist in a vacuum. Rather, ethical behaviour is heavily influenced by the cultural mores to which individuals are subjected. Therefore, any approach that we adopt to reform ethics must also be able to comment and improve upon the culture prevalent in the world of finance.

Defining the Objective and Success Parameters

The ultimate objective of this paper is not to devise an exact code of ethics for the banking industry. Instead, the objective is to codify the approach as a tool of analysis. *The approach* must yield unexpected insights into the industry and support clear conclusions that advance the process of reform in order for it to be considered valid.

Setting the Scope

The initial scope of our study is defined as a subset of the world of finance – publicly listed, non-governmental commercial banks. If the application of Design Thinking delivers results for this subset, we can incrementally expand its application to the broader world of finance.

A Word on the Author

I am a banker by background, with over a decade's experience in Treasury and Capital Markets roles working primarily with institutional clients. Late in 2014, I decided to take a break from the industry. During my wanderings in unrelated fields, I came across the concept of Design Thinking and was immediately struck by the simplicity of its approach and its applicability to innovation and reform.

An Introduction to Design Thinking

Let us begin by examining conventional problem solving approaches and highlight the reasons why these have worked well in the past. Following this, we will introduce the Design Thinking approach. We will explore the critical first step of *beginning with empathy*. Finally, we will set the scene for an empathetic evaluation of each of the stakeholders in the banking arena, leading into the analysis laid out in Section 3.

L'approche classique de résolution des problèmes fonctionne bien quand le problème est concret. Cette approche n'est toutefois plus opérationnelle lorsque l'on passe de la résolution de crise à la prévention de crises.

Conventional Problem Solving Worked Well In the Past…

Conventional problem solving can be largely aggregated into four major steps.

• Acknowledge the problem – "Something is broken". Run diagnostics. Gather evidence. Measure impact of problem.

• Define the problem – Analyse scale of problem. Identify stakeholders. Build consensus. Formalise problem statement.

• Propose solutions – Seek expert opinion. Draw up alternative courses of action. Identify one course of action for implementation.

• Implement & Monitor – IT Spend. Business re-engineering. Go-live. Run business-as-usual. Monitor returns with diminishing enthusiasm to prevent a recurrence of the last crisis.

If this process sounds familiar, it's because this was go-to approach for much of the Great Recession. For the most part, this approach worked well because there were discrete problems to be solved. Each crisis was quickly identified and sized up. Political will to impose regulations and reform was convened. The global regulatory and policy framework was strengthened like never before. The Dodd-Frank act, liquidity and leverage restrictions, capital requirements, significant fines and bans on errant individuals were just some of the consequences of this *will to action*. Genuine progress was made.

… But it Breaks Down When We Look To The Future

However, conventional problem solving approaches break down when we seek to shift our focus from crisis resolution to crisis prevention.

• We cannot jump into problem solving mode if there is *no clearly identifiable problem to solve*.

• There is growing belief that the next crisis is hardly likely to take place where the last one did. We are still fighting yesterday's wars, almost obsessively so. The unwavering attention to the past blinds us to a build-up of pressure elsewhere in the system.

• The human angle has been missed. Vague, hard-to-decipher codes of behaviour handed down

Le “Design Thinking” (“esprit design” ou pensée créative) est un processus centré autour de la personne qui a pour but de favoriser l’innovation à travers 4 étapes : l’Empathie (identifier et comprendre son environnement), la Définition (définir la problématique), l’Idéation (trouver le concept, l’idée qui permettra de la résoudre), le Prototype (concevoir un prototype) et le Test.

from up-on-high have a detached air of corporate speak about them.

The likely result of applying conventional approaches to innovation is a collection of academic proposals or regulations disconnected from the real world. As we shift our focus from the past to the future, we must shift our approach as well. The tendency towards urgency of preventative action must be replaced by thoroughness of analysis before formulating the objective. It is in this shift to the future that the principles of Design Thinking become especially relevant.

So What Is Design Thinking?

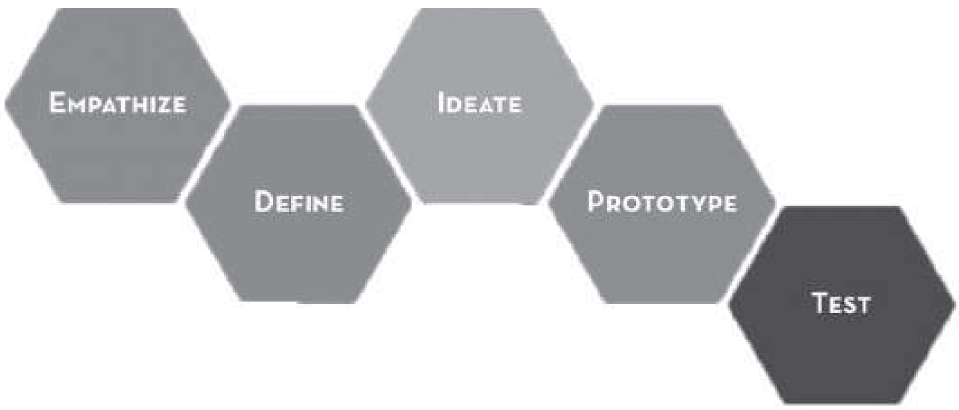
Design Thinking is a human-centred approach to innovation (Brown, n.d.). It draws upon the needs of users, the possibilities of technology and the requirements for business success in order to create new products and services that solve for the future. It has been deployed with great success in fields that rely heavily on innovation, ranging from as far back as Edison’s invention of the light bulb and the grid that carried electricity into the homes of its users (Brown, 2008), to modern day design powerhouses like Apple.

Increasingly, Design Thinking finds application in the broader corporate world, as companies seek to innovate within constraints and address multi-dimensional solutions (Turnali, 2013).

Design Thinking is commonly illustrated as a five-step process (Figure 1) (Plattner, 2010). For the most part, four out of the five steps largely correspond to conventional problem solving. For example, gathering evidence is to *Define* a problem; proposing solutions corresponds to Ideation and *Prototyping*; and post implementation measurement and analysis falls under *Testing*.

Crucially, one additional step conducted at the very beginning

Figure 1 . The Steps of Design Thinking



(Source: dschool.stanford.edu/redesigningtheater/the-design-thinking-process/)

makes all the difference. *Design Thinking starts with empathy*. This step is the vital ingredient; the secret sauce that places humans and human problems at the centre of our analysis. Empathy gives voice to the stakeholders, allowing us to view the world from their perspective and formulate objectives accordingly. It is this big idea of *'Beginning with Empathy'* that transforms the process into one that is multi-dimensional, forward-looking and empowering.

Si l'on veut essayer de réformer, on doit explorer et comprendre pourquoi les individus agissent comme ils le font, et pas seulement les surveiller et corriger leur comportement sur le moment. Nous devons nous mettre en empathie avec eux.

Why Empathise (Or, Do They Deserve Our Empathy)?

The importance of ethics in modern day banking is beyond doubt. Bankers are well aware of the missteps of the past and acknowledge the values that society expects to see from those that it entrusts to manage its wealth. A lack of awareness is no longer an issue. Yet hardly a day passes without the emergence of a new story, investigation or censure related to past or current practice.

We reject out of hand the blanket assumption that the entire industry is ethically challenged and only the extremely unfortunate get caught. So why, when given a choice between doing the right thing and the unethical but profitable thing, do some choose the latter, even at the risk of apprehension down the line?

In order to attempt reform, we must explore and understand *why* individuals act the way they do, not just monitor and remedy how they go about doing so. We must empathise with them. We must experience the constraints they face in the conduct of their duties and the limitations that hold them back. We must face their pressures and identify the conflicts they must resolve without the benefit of hindsight. Only then can we begin to explain the *whys* and address the unspoken human element.

Offering empathy to all stakeholders addresses another common complaint – the failings of *the system*. As we have established, banking is a people business. *The system* is nothing but the nebulous and interconnected web of human interactions that spreads all around the world. Any regulation or innovation that targets one particular set of stakeholders is likely to have unintended consequences for another set. Therefore, any attempts to reform *the system* must incorporate all stakeholders, not just a select few. Holistic reform cannot be accomplished by advancing a few at the expense of others.

If we wish to build a more sustainable industry that benefits society and its stakeholders we cannot overrate the importance of empathy. An empathetic code that understands and guides the individual is the only way to future-proof reform and prevent relapses in the future. Only an empathetic code will be robust enough to enable even a solitary stakeholder to make an impact through individual action. Empathy for all is the only way forward.

Se mettre en empathie signifie que l'on place l'acteur humain au cœur de notre analyse. Il faut commencer par identifier chaque acteur et créer des grilles d'observation empathique sur chacun.

La "Mind Map" ("topogramme" ou carte mentale)1 remplace une étude à l'échelle de l'ensemble du secteur d'activités par les expériences vécues par l'auteur dans le monde bancaire et utilise les perspectives des parties prenantes telles qu'elles sont rapportées par les médias financiers et populaires et les rapports et analyses des régulateurs. Nous examinerons tour à tour le cas de chaque partie prenante.

The Process As Much As the Results

Design Thinking places a lot of emphasis on process, and with good reason. The process yields insights (Plattner 2015). The first step, *Empathise*, requires the designer to engage with end users, observe their behaviours, watch and listen. It taps into human abilities of intuition, pattern recognition and idea generation that are often overlooked in conventional problem solving (Brown, n.d.). From these insights arise the ideas and solutions that make a real and lasting impact.

Properly conducted, we would expect our own process of examination to yield the following:

• A bottom-up, not top-down, code of ethics

• An acceptance of the current culture as a starting point

• The treatment of stakeholders as partners, not untrustworthy delinquents that need stringent policing

• Avoice given to all stakeholders; listening just as much to the silent ones as the prominent ones

• Patient analysis that addresses the complexities of the real world

• Broad, not narrow perspectives; holistic, not piecemeal analysis

• An inclusive, participatory code, far easier to internalise than hollow values

• An adaptive, evolving code that offers solutions for the future; an early warning indicator that identifies pressure build-up in the system

• Identify the gap between *what is* and *what can be*; in the process gaining valuable insights into resourcing, staffing, IT spend and regulatory monitoring.

Step One – Begin With Empathy

In this section, we embark on the first step of a Design Thinking journey – *Empathise*. We begin by placing the human element of the banking industry, its stakeholders, at the core of our examinations. Next, we construct a mind-map that systematically and empathetically explores each stakeholder's perspective, yielding insights into their motivations and constraints. In the following segments (*Define* and *Ideate*), we will reorganise the insights gained in *Empathise* into common themes, formalise problem statements and devise innovative solutions that reform ethics in finance.

Identifying the Stakeholders

We begin by identifying the major stakeholders of the banking industry:

• Customers – institutional and retail

• Rank and file staff

• Bank Management – senior (CEO level) and middle

• Regulators

• Shareholders

• Taxpayers

• Culture – a disembodied stakeholder, representing the sum total of shared norms, beliefs and behaviour.

The next step is to explore the mini-universe that each of these stakeholders inhabit, and understand their perspectives on ethics and ethical behaviour.

Design Thinking introduces us to a tool of empathetic exploration called mind mapping (Kelly & Kelly, 2013). A mind map is constructed through a process of observation and interaction. It allows a designer to document human interactions and emotions in depth, expressing and exploring each in turn. Two mind maps are constructed for this paper. Mind Map 1, attached in Exhibit A, documents what each of the stakeholders may feel about ethical behaviour in banking. MindMap 1 replaces an industry-wide study with the real-life experiences of the author in the banking world and draws on stakeholder perspectives as reported in financial and popular media, regulatory reports and analyses.

Let us examine each stakeholder in turn.

Customers

- Lack trust in their banking relationships – bankers are seen to serve themselves and their bonus pools.
- Complain about lack of price transparency in products; exorbitant charges for products.
- Accuse of front-running and conflicts of interest due to the lack of transparency in some markets (*e.g.* dark pools, trading in OTC instruments, new issue allocations).
- Sales pitches are misleading, designed to sell products instead of solve client problems.
- Fees lead to transactions, rather than the other way around.
- Mis-selling scandals abound, as banks hide real risks and costs of complex instruments in opaque legal fine print.

Rank and File Staff

- Fatigue – exhibit symptoms of burnout; industry-wide censure of banking as a profession as a result of a few bad apples"results in increased pressure from oversight functions (HR and Compliance).
- Distrustful of management pronouncements on culture when the unspoken emphasis is on revenue.
- Weary of constant rephrasing of values and re-interpretation of firm's "culture".
- Face performance pressures – the "do what it takes to win"attitude is pervasive; targets are increased year-on-year regardless of market conditions.
- Calendar year evaluation cycle heaps inordinate pressure to perform to artificial deadlines, often to detriment of customer interests.
- Cynicism increased by opacity of reward structures.

Bank Management

- Lack of transparency concerning everyday operations; cannot be expected to know each individual's role
- Does not exercise complete control – profitable divisions may be run as personal fiefdoms; acquired subsidiaries maintain distinct culture.

• Prioritisation – other activities take precedence (*e.g.* activist shareholders, board of directors, regulators). As the crisis mounted, emphasis moved to survival. Ethics were considered a luxury afforded only to "stable and profitable firms".

• Limited personal culpability – rarely face personal criminal liability or sanctions; can afford to apologise and move on.

• Lack time & energy – constant fire-fighting takes it toll; global empires necessitate a jet-set lifestyle and contribute to limited attention span.

• "If it ain't broke..." - reluctance to look too closely at 'golden goose' divisions that yield valuable revenue streams.

Regulators

• Transparency – bank level data notoriously difficult to mine and invariably out of date.

• Banking systems are non-standardised, leading to multitude of metrics, acronyms and approaches.

• Regulators are carefully "managed" by those they monitor; to paraphrase Heisenberg's uncertainty principle, the act of measurement alters that which is being measured.

• Whistle-blowing is infrequent and only as a last resort.

• Under-resourced, under-staffed.

• Lack frontline industry experience; career "compliance specialist" skill-set rapidly out-dated as industry practices evolve.

• Caught between twin traps – accused of being too close to banks by politicians and popular press; too remote or ignorant by bankers.

Shareholders (via Board of Directors)

• Frustration with lack of clarity of the businesses they are meant to supervise.

• Increased complexity of business lines.

• Dysfunctional relationship with their executives – anywhere between a lack of trust to active collusion.

• Conflict of interests with other businesses.

• Lack of actual, frontline banking experience limits some directors' usefulness.

• Misaligned risk (incurred by shareholders during bailouts, reduced or withheld dividends etc.) and reward (bonus payouts even in lean years).

Taxpayers

• Frustration with seeming lack of real reform in banking industry.

• Bankers lack remorse – reversion of bonus payments; innovation in bonus structures (market or one-off allowances) to get around pay rules is common.

• Lack of access to real-time information; opaque markets manipulated by insiders.

• Lack of transparency in risks taken by bankers that have asymmetric risk/reward profiles.

De l'Empathie, nous passons au stade de la définition de la problématique et à la recherche d'idées.

Au stade de la Définition, nous dérivons de nos observations une problématique susceptible d'action. Ensuite, dans l'Idéation, nous réfléchissons et cherchons des idées qui permettront de résoudre la problématique et de concevoir un prototype. Nous devons poser des questions dérangeantes dont la réponse peut être difficile et la solution compliquée.

Culture

• Short-termism abounds – bankers do not consider banking as a 'calling'; rather a sequence of short-term contracts.

• Jumping ship heavily incentivised through pay rises, buyouts, promotions and sign-on bonuses.

• Lack of multi-year and through-the-cycle appraisal emphasises short-termist thinking.

• "Take it and run" approach in most good years.

Next Steps

The first step of Design Thinking has yielded the desired result. As we read through the branches of Mind Map 1, key themes and trends begin to emerge. The construction of a single, composite mind map enables us to abstract out these linkages in a way that would not be possible if the analysis were conducted in isolation.

We are ready to move forward to the next steps – *Define & Ideate*..

Define

The second step of Design Thinking, *Define*, brings clarity to the process. It unpacks the results of *Empathy*. The designer reframes the empathetic explorations in light of stakeholder responses and of the context. The goal here is to create meaningful and actionable problem statements for which we seek solutions in the subsequent stages (*Ideate, Prototype and Test*). We devise a second mind map (Appendix B) to assist our evaluation.

Ideate

The third step is Ideate. Ideation is the process of transitioning from identifying problems to creating solutions. We "go wide" in brainstorming mode, collecting as many feasible potential solutions as possible.

The process of ideation is represented by the end points of each branch of Mind Map 2. The emphasis here is to draw upon the experience of the designer and upon the available technological toolkit. We must create something new by utilising all the technological advancements of recent years. We must strengthen where something works, or tear down and reconstruct what needs to be changed.

Laying Out the Analysis

The following sections are organised in order to facilitate an easy reading of the analysis. We identify common themes and for each, draft constituent problem statements. Innovative solutions are proposed for each problem.

We adopt an uncompromising attitude – which tough questions is no one asking? Which tough decisions is no one taking to reform ethics in Banking? In other words, as dispassionate, external examiners, can we discern problems and solutions that the industry itself is shying away from?

The questions we frame may be open ended, difficult or without immediate answers. That is to be expected. Having come this far, we are

Dans les sections suivantes, pour chaque thème commun identifié au stade Empathie, sont aggrégés la Définition des problèmes et l'Idéation des solutions.

Nous pouvons réformer la culture du secteur bancaire en exerçant une pression sur les points sensible. Nous proposons entre autres choses la création à l'échelle du secteur d'activité d'une surveillance pluriannuelle et multi compagnies de la performance ; envisager dans le long terme un système de rétention/ rémunération de la performance individuelle ; et réaliser des études sur le burn out au niveau de toute l'industrie.

not interested in the low-hanging fruit. Our aim remains to introduce lasting reform.

Let us begin with the most commonly identified theme – a reform of the culture itself.

Innovation 1 – Reform the Culture of Banking

• THEME – It is beyond doubt that the culture of banking needs immediate reform. Several stakeholders identify it as a primary cause for concern. Let us examine the major problem statements under this broad theme.

• DEFINE PROBLEM – Bankers are accused of short-termist, individual-centred thinking and decision-making. This attitude is seen as the root cause of 'black-swan' rogue trading events. How canwe reform this approach?

• IDEATE SOLUTION – Careers in banking are viewed as a fragmented sequence of roles, rather than an integral journey. We need to find a way to encourage long-term planning of careers. Create an industry-wide, multi-year, *multi-firm* persistent performance-tracking network, thereby encouraging a long-term view of one's career and not just to the next bonus cycle . The technology now exists to track individuals through their career paths even as they move across firms and roles. The knowledge that past performance will follow an individual through her career will act as a strong motivation to do right every time.

• DEFINE PROBLEM – Do staff "escape"their past by switching firms? Claw-backs are relatively infrequent and seldom exercised. Banks actively bid for talent by cashing out vested stock (or replacing it at a similar schedule with their own) subverting the rationale behind the original deferment. How can we hold bankers accountable to past performance from previous firms?

• IDEATE SOLUTION – The industry-wide personnel network, mentioned above, solves this problem. Even after an individual leaves a firm, s/he does not disappear from firm's payroll. Persistent reward linkages mean an individual will continue to be paid deferred compensation by previous employers and therefore remain "on the hook"for performance rendered when at the firm.

• DEFINE PROBLEM – The psychological toll of a long, hard recession on banking staff has been overlooked. As the Great Recession enters its eighth year, how may we alleviate some of the everyday pressures felt by the rank and file?

• IDEATE SOLUTION – Society has little sympathy for the 'overpaid bankers', when in reality the vast majority have had a miserable time of it. Most exhibit classic symptoms of burnout, which lies somewhere on the Post Traumatic Stress Disorder spectrum. Conduct industry-wide analysis of individual behaviour, checking for symptoms of burnout. Treat the human element of banking as just that – human.

Considérons à présent la rémunération. Nous proposons de créer des évaluations permanentes afin d'alléger les pressions de fin d'année sur la performance et nous suggérons qu'il y ait une évaluation des employés sur le long terme. Nous allons également examiner le lien entre la performance et la rétribution et voir comment il peut être amélioré.

Innovation 2 – Aligning Compensation With Risk

• THEME – The process of performance appraisals and rewards has remained largely unchanged through the crisis. This is surprising, given that the misalignment between underwriting long-term risks and assessing and rewarding annual performance is often cited as an incentive for unethical behaviour.

• DEFINE PROBLEM – This misalignment encourages unethical behaviour if employee is "under budget"towards end of the year. How can we alleviate these artificial performance-year pressures?

• IDEATE SOLUTION – Conduct performance appraisals on a more frequent basis (*e.g.* quarterly). Overall reviews, whilst still backward looking, should be conducted on a rolling basis (*e.g.* previous twelve months, eighteen months etc.). This allows employees to average out bad spells with prior or subsequent performance, relieving unnecessary pressures and encouraging a sustainable return to performance. Rating agencies attempt to assess creditworthiness "through the cycle". There is no reason why this approach cannot be applied to evaluating a bank's most precious resource – its staff.

Nous encourageons la création d'une boucle de rétroaction directe au niveau de la direction ; l'implication de l'autorité de régulation dans la mise sur pied d'équipes de direction de réserve, et l'introduction d'une responsabilisation plus poussée dans les promotions et les rétributions des équipes dirigeantes.

• DEFINE PROBLEM – Is stock vs. cash split a significant or relevant contributor to ethical behaviour? Do stock rewards truly work?

• IDEATE SOLUTION – Compensation in the form of stock rewards or penalises an individual for firm-wide performance. Research has shown that at CEO-level, stock rewards engender extreme performance (excessive profits or losses) (Hambrick & Sanders n.d.). At lower levels, it simply creates a disconnect between individual performance and reward. Instead, create direct linkages between an individual's performance and that of the sub-division within which s/he works. Encourage divisional level revenue and P&L reporting transparency within the firm. Some linkage to aligned divisions and firm-wide performance can be retained

Innovation 3 – Increasing Management Accountability

• THEME – The ultimate accountability for a firm's performance lies with its top executives. Banks are no different. Culture, values and attitudes are set at the very top. CEOs are expected to lead by example and demonstrate a no-compromise approach to ethical behaviour through their actions.

• DEFINE PROBLEM – Most CEOs simply apologise and keep their positions even after scandals and missteps. Are top-level executives too valuable to lose? Is there no alternative to retaining them and trusting them to change their ways?

• IDEATE SOLUTION – Foster a culture where lack of awareness is no longer an excuse. Create a regulator-overseen, board of directors-whetted *CXO bench* that stands ready to step

Nous suggérons de développer des plates-formes informatiques couvrant le secteur d'un bout à l'autre et le financer avec les amendes réglementaires payées par les banques, de façon à alléger les pressions sur les fonctions de contrôle.

Nous encourageons la réhabilitation et le retour des banquiers déchus au sein de la communauté afin que leurs comportements et leurs expériences soient des exemples salutaires pour l'écosystème dans son ensemble.

in on contingency basis. This bench can cover all mission-critical roles, down to individual business lines.

• DEFINE PROBLEM – How can we introduce greater accountability for mid-level executives who are responsible for specific business lines?

• IDEATE SOLUTION –Treat annual appraisals and promotion evaluation of mid- to senior level executives as external audits. Accounting firms maintain arm's length separation in assessing balance sheets. Similarly, HR consultancies can be brought in to perform truly independent assessment of management successes and failures. Reports can be filed directly with the Board or regulators, should escalation be required

Innovation 4 – A Holistic Overhaul Of Banking Systems and Controls

• THEME – It is quite extraordinary that in these times of ceaseless technical innovation and disruption, banking systems are still mired in the worst technologies of the twentieth century. Banking abounds with manual overlays in settlements, operations and accounting. Adjustments, reconciliations and excel sheets are the norm, not the exception.

• DEFINE PROBLEM – Banking systems are slow to change and inflexible to new demands placed upon them. This leaves little time for control functions to exercise any real control over risks.

• IDEATE SOLUTION – The only resolution to system-wide problems is system-wide innovation. Create end-to-end automation in accounting, trade reconciliation and settlement systems, inter-bank OTC transactions, exchanges, clearing houses, intra-day liquidity markets. These can all be automated and linked together.

• DEFINE PROBLEM – How do we fund such developments?

• IDEATE SOLUTION – The answer is stunningly obvious – banks pay billions of dollars in legal fines each year, directly as a consequence of missteps arising from unsupervised manual processes. Create the political will to plough all those fines back into the industry, to create a virtuous circle of improvement and innovation to drag the industry into the modern technological era

Innovation 5 – Enriching the Banking Ecosystem

• THEME – Fallen bankers, subject to regulatory sanction or reprimand, disappear from the public eye. They are relegated to footnotes in bland compliance presentations, the nuances of their experiences blurred and their lessons lost. There are parallels in the real world (*e.g.* South Africa's Truth and Reconciliation commission, which set the benchmark for rehabilitation). The potential for such rehabilitation does not come up very often in the analysis of stakeholder pronouncements.

• DEFINE PROBLEM – Is there a better way to keep these fallen stars as part of the community?

Nous examinons d'autres thèmes qui méritent une enquête plus approfondie dans un forum séparé, notamment les pressions auxquelles sont soumis les donneurs d'alerte et les fonctions de ressources humaines et celles de contrôle.

Les deux derniers stades, Prototype et Test, impliquent la création de produits qui correspondent aux problèmes que nous avons identifiés. Ceci va au-delà de cet essai mais méritera la peine d'être pris en considération dans le futur.

L'accalmie relative dans la tempête financière nous donne l'opportunité d'introduire des changements durables dans la culture du secteur bancaire et de voir s'y développer un code d'éthique plus solide.

- IDEATE SOLUTION – The regulator should take a leading role in creating a *'Truth and Reconciliation'* type commission. Provide the fallen a platform to tell their story as a cautionary tale to others. Create the opportunity to return to the industry upon completion of X hours of "community service". Incorporate these individuals in compliance trainings. Their version of events will be far more relevant to business-line professionals than a compliance instructor abbreviating their missteps

Other Notable Themes

Several other notable themes emerge in our analysis.

- HR departments face conflicts of interest – insulate HR akin to control functions. *In extremis*, external consultants to adjudicate personnel disputes.
- Control Functions – improve remuneration, financial literacy (*e.g.* markets-related training, perhaps with development of business-line training modules in association with the CFA, ACT etc.); empower control functions to ask the right questions.
- Whistleblowing – Conduct truly external, anonymous surveys to detect problems without the involvement of the bank's oversight (HR or Compliance). Increase regulators' sensitivity to whistle-blower concerns.

Prototype and Test

The final steps in the process of Design Thinking are to take the results of *Define* and *Ideate* and Prototype them. We introduce these prototypes to selected stakeholders and observe their interactions and experiences. Finally, we progress towards a final solution that is then broadly implemented.

In order to implement lasting change on the banking industry, we will ensure the buy-in of the relevant stakeholders into our solutions. Our starting point of empathy towards stakeholders will guarantee immediate acceptance of any innovations in ethics that we propose. By starting with empathy, we start from a position of strength.

The final two steps, *Prototype* and *Test*, are beyond the scope of this paper. We will therefore end our analysis here and examine the results that we have achieved.

Conclusion and The Way Ahead

SWe can look back at our application of the Design Thinking process and appreciate the success of its ways. We have uncovered insights into the banking industry and asked difficult questions. Importantly, we have devised *forward-thinking* and *forward-looking* solutions.

We can be confident in enlarging the scope of our analysis to the broader world of finance. Asset management firms, pension funds, sovereign wealth funds, supranational banks, accounting firms and consultancies are all subject to similar stresses as banks and deserve an empathetic evaluation. Applying a human-centred ethos will enable us to identify problems in these areas long before they fissure and erupt. We can identify industry-wide trends that may not be immediately obvious to managers or risk functions monitoring individual firms, the true scale of which may be underestimated.

The immediacy and urgency of a credit, capital and liquidity crisis has waned. With each passing day, there are fewer fires to put out. The lull in the storm presents us with an opportunity to enact significant and lasting change in the culture of banking within which a stronger ethical code can thrive. A few bad apples do not disguise the fact that a majority in banking wish to do good and do it the right way. We must equip this silent majority with the tools to incorporate higher ethical standards into their behaviour.

References

Alloway, T. & Mackenzie, M. (2015). Bonds: How Firm a Foundation. Retrieved from www.ft.com

Brown, T. (n.d.). About Ideo: What We Do. Retrieved from www.ideo.com/about

Brown, T. (2008). Design Thinking. Retrieved from *https://hbr.org/2008/06/design-thinking*

Hambrick, D & Sanders, G. (n.d.) Swinging for the Fences: The Effects of CEO Stock Options on Company Risk Taking and Performance. Retrieved from http://www.academia.edu/9545373/Swinging_For_the_Fences_The_Effects_of_CEO_Stock_Options_on_Company_Risk-Taking_and_Performance

Kelly, D. & Kelly, T. (2013). *Creative Confidence.* New York: Random House

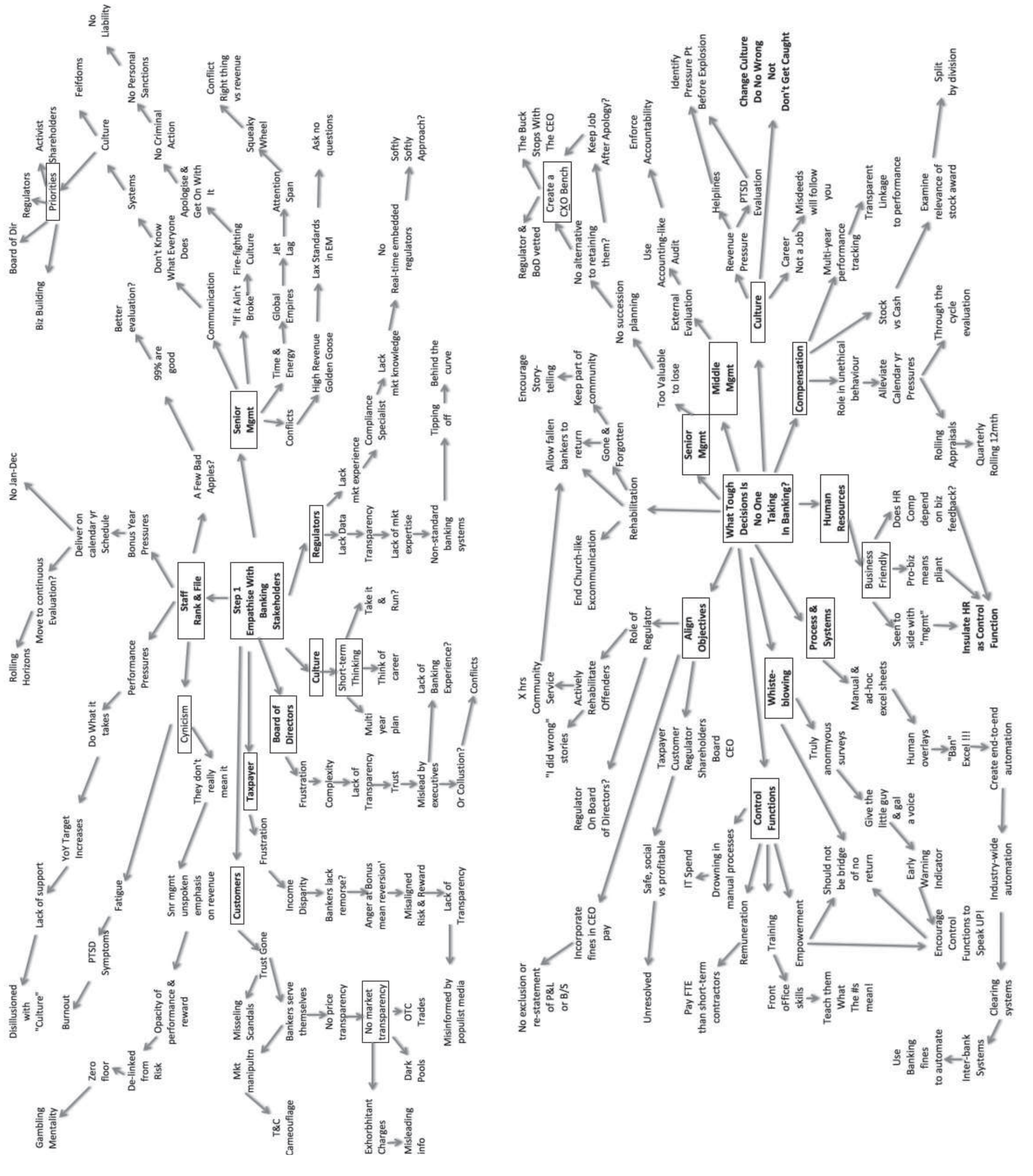
Plattner, Hasso (2010). An Introduction to Design Thinking: PROCESS GUIDE. Retrieved from https://dschool.stanford.edu/sandbox/groups/designresources/wiki/36873/attachments/74b3d/ModeGuideBOOTCAMP2010L.pdf

Stanford (2012). The Design Thinking Process. Retrieved from *http://dschool.stanford.edu/redesigningtheater/the-design-thinking-process/*

Thiel, P. (2014). Zero to One. New York: Random House

Turnali, K. (2013). What is Design Thinking. Retrieved from *blogs.sap.com/innovation/innovation/what-is-design-thinking-030869*

Appendix A & B - Mind map



Moving Upwardly: Lessons from Mobile Payments in Kenya

Ethics in Finance, Robin Cosgrove Prize
Global edition 2014-2015

Special Commandment of the Jury

Josh Glendinning
United Kingdom
Data and Insights Manager, Financial + Professional Services H+K Strategies, London*

* The views expressed herein are those of the author and do not necessarily reflect those of the Organization he is affiliated to.

Developing norms

In the 1910s, every morning my great-grandfather would cycle across the small manor estate on which he was employed to turn on the recently-installed electricity generator which provided power to the owners. The house was likely among the earliest in the country and perhaps the world to have a regular supply of electricity.

Today, it is accepted that every house in the United Kingdom and most of the developed world should have an electricity supply. The same is true of most other inventions of the so-called 'second industrial revolution' that immensely improved the lives of people in the West during the course of the twentieth century: indoor plumbing, the internal combustion engine, washing machines, central heating, refrigerators, and telecommunications (see, for example, Gordon, 2012, pp. 4-7).

People in the West have also been the first to experience the numerous social changes and benefits that these technologies can bring, such as reductions in rates of disease, increases in leisure time, and improved communications. The patterns of usage and consumption of new technologies are also established here through concomitant changes in culture and the creation of new economies.

For the past two centuries, implementation and adoption of new technology has generally followed this pattern. Inventions and developments are pioneered in rich developed economies and adopted by the most affluent, before gradually diffusing themselves throughout the rest of society until they become accepted as a condition of a basic standard of welfare and social inclusion. Often, it is only then that these technologies are even considered ripe for implementation elsewhere using the same frameworks that were developed in the West. The developing world has had to wait decades for many of these innovations, and in many cases, it is still waiting.

Tout au long de l'histoire humaine, le développement technologique et économique a suivi le même schéma. Les inventions ont été initiées dans les économies riches et développées et adoptées par les personnes les plus influentes, avant d'atteindre peu à peu le reste de la société. Aujourd'hui cependant, des millions de personnes dans le monde en développement ont accès aux services financiers et réalisent des milliards de transactions chaque année à travers leur téléphone portable.

Yet today, more people across the developing world have access to a mobile phone than to mains electricity. This remarkable fact has led a notable deviation from the trend outlined above. More surprisingly, this disruption has occurred in a sector not popularly associated with inclusivity: financial services. Millions of people across the developing world now have access to financial services and are conducting billions of transactions every year through their mobile phones. While the adoption of mobile payments has been relatively sluggish in the West, the developing world, and Africa in particular, have surged ahead in creating dynamic new economies and ways of doing business.

Commandments and consequences

La montée de la finance mobile est un cas d'école pour l'industrie des services financiers au XXIe siècle. Comme l'exemple de M-PESA au Kenya le démontre, la réactivité est cruciale pour le succès d'un produit qui peut avoir un impact significatif

This essay will argue that the rise of mobile finance is instructive for the broader financial services industry in the twenty-first century. Using the case of M-PESA in Kenya, I will show how financial solutions attuned and responsive to the needs of a society and an economy are the means of creating an ethical financial sector fit for the future. Access to financial services has improved the lives of millions of people in Kenya, but more importantly, the service has also allowed itself to be shaped by these lives.

As the example of M-PESA will demonstrate, a responsive stance is crucial to the success of a product that has had a significant positive social and economic impact, from aiding long-term planning, to fostering enterprise, to enhancing social cohesion. Disruptive technologies such as mobile payments can improve market competitiveness and productivity, while also remedying the historic lack of provision of financial services for poor and marginalised groups.

Moreover, such new technological and social developments call upon the financial services industry as a whole to re-evaluate itself and take a more responsive attitude to the needs and desires of changing societies. The most serious recent calamities and unethical practices in financial services have been perpetrated due to business practices which privilege the role of intermediation above the needs of the end users, society, and the economy. Too often, complex instruments and practices have been developed which are designed to benefit only their creators.

In turn, financial institutions have responded to these failures with numerous moral injunctions and charters aimed at remedying the mistakes of the past. Many hours et positif au niveau social et économique. Les services financiers sont au fond une industrie de l'intermédiation et de l'abstraction, mais pour agir éthiquement, ils doivent être conscients de leur rôle dans la satisfaction des besoins très réels des économies et des sociétés dont ils font partie.

have been spent devising corporate sustainability and responsibility frameworks based around concepts such as integrity, fairness, excellence, and respect. While such initiatives are undoubtedly noble, when they are removed from their social context, they become just as abstract – and therefore just as fallible – as the practices they were intended to address.

Financial services is, at heart, an industry of intermediation and abstraction, but if it is to act ethically, it must retain an awareness of its role of fulfilling the very real needs of the economies and societies of which it is part. New technologies, emerging economies, and changing behaviours from consumers and businesses afford an exciting new opportunity to establish and strengthen this more direct relationship. These opportunities may require both regulators and traditional financial institutions to reconceptualise their structures and purpose to better serve the needs of societies in both the developing and the developed world. I aim to argue that such a change is not only ethical, but also necessary.

D'après les derniers chiffres de la Banque Mondiale, moins d'un quart de la population de la région a un compte bancaire. Dans les pays tels que le Soudan, le Sénégal et la République Démocratique du Congo, les chiffres sont si petits qu'ils sont négligeables. Globalement, on estime que 2. 5 milliards de personnes – environ la moitié de la population adulte mondiale – n'ont pas un accès régulier aux services financiers.

Overstuffed mattresses

The atmosphere in Kenya in the run-up to the 2007 presidential elections was febrile. Opinion polls placed incumbent president Mwai Kibaki of the traditionally dominant Kikuyu ethnic group, behind challenger Raila Odinga who had succeeded in creating a broader coalition outside of his own Luo ethnic group. Rumours abounded that the head of Equity Bank, one of the largest banks in the country, was using the "common man's" money to bankroll Kibaki's campaign and that the institution was close to collapse.

Sylvesta, a security guard and shop owner living in a suburb of the capital Nairobi, feared that the instability could have a significant financial cost for him:

"Guys were telling me to take my money out of Equity. They were sure that it was going down.... Many had already taken their money out because they were scared. They were keeping the cash at home. I was scared to keep any of the cash at home.... They were fighting and looting all over." (Morawczynski, 2010, p. 172)

These concerns have been common for decades for people living in sub-Saharan Africa and elsewhere in the developing world. According to the latest figures from the World Bank, less than a quarter of the population of the region has access to a bank account (Demirgue-Kunt and Klapper, 2012). In countries such as Sudan, Senegal and the Democratic Republic of Congo, levels are so small as to be negligible. Globally, it is estimated that 2.5bn people – about half the world's adult population – does not have access to regular financial services. For reasons we will later explore, this situation should be rued both as an ethical failing and as a missed economic opportunity.

Even for people like Sylvesta who

M-PESA a été développé comme un produit fait sur mesure pour les besoins non satisfaits de son utilisateur tout en tenant compte de l'environnement socio-économique existant et des profils de comportement. Plus des trois quarts de la population du Kenya ont maintenant accès à un compte mobile et 80 % en sont des utilisateurs actifs. Des services payants similaires ont surgi sur de nombreux autres marchés, en Afrique et dans d'autres parties du monde. On estime que 255 systèmes de paiement mobiles existent à présent dans le monde avec 103.4 millions de comptes actifs.

do have access to a bank, there is a serious lack of trust in formal financial institutions, especially in unstable economic and political climates. Some savers pay negative interest rates in order to keep their money safe and accessing funds can be onerous. In Kenya, there are just 5.5 commercial bank branches and 10 ATMs for every 100,000 adults, and the situation is far worse for those living in remote rural areas (IMF, 2014).

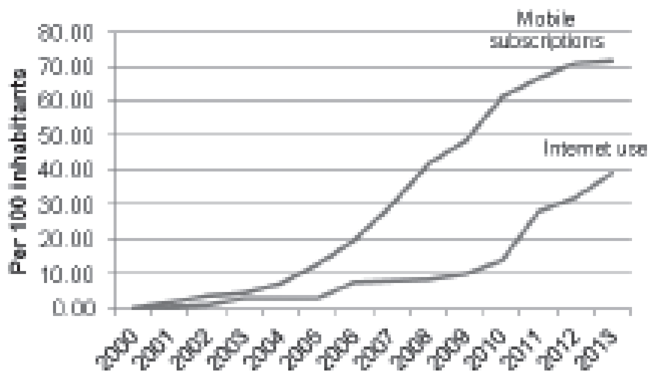
A call to action

According to classic economic theRather than risking his cash under the proverbial mattress, Sylvesta took advantage of the M-PESA mobile payments service that had been recently launched by Vodafone and its Kenyan subsidiary Safaricom. As far back as 2002, development researchers had noted the important role that mobile phones were playing in helping families to manage their finances over significant distances and there were reports of prepaid mobile credit being used as a proxy currency (McKerney et al, 2002). With increasing internal and external migration, families were searching for a way to retain not only social bonds but practical support mechanisms over long and short distances.

For the poor, small-scale money transfer was either prohibitively expensive or simply unavailable. Meanwhile, Kenya's adoption of mobile phones had been rapid (see Fig. 1), but off-the-shelf payment applications were engineered for developed markets and therefore inappropriate for the Kenyan environment. It was with this in mind that M-PESA was developed as a product bespoke to the unmet needs of its users, but also attuned to the existing socio-economic landscape and patterns of behaviour.

Compared to traditional financial institutions, registration for and use of M-PESA are relatively simple and cheap. Existing customers of Safaricom can register for the service with a single form of identification and deposit cash as an 'e-float' linked to

Fig. 1 - Mobile subscriptions and internet use in Kenya



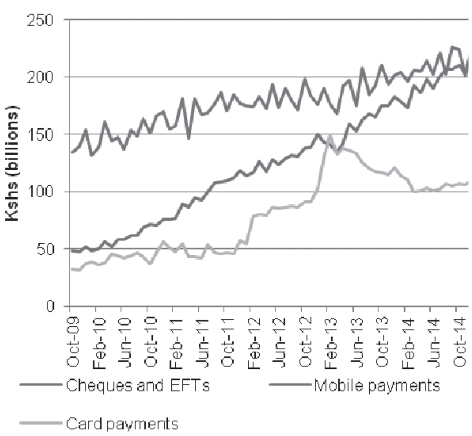
(Source: ITU, 2014)

their SIM card. Depositing cash is free, but withdrawals incur a charge depending on the amount. Funds can be sent via SMS using the phone number of the intended recipient for a fee charged to the sender. To ensure the integrity of the system, all funds are held in trust in several commercial banks and are inaccessible to Safaricom save for the interest, some of which is donated to a charitable trust.

As the International Finance Corporation (2010) has noted it was this 'unique design of M-PESA and its ability to service its target customers' that has been one of the key factors behind its staggering success. More than three-quarters of the Kenyan population now have access to a mobile money account, of which 80% are active users (Financial Inclusion Insights, 2014). The amounts transferred on a monthly basis are already far outstripping card payments and are set to surpass EFTs and cheques soon (see Fig. 2).

Il est important de souligner l'impact réel que l'accès à ces services financiers peut apporter, car il n'est pas forcément évident pour tous ceux d'entre nous qui considèrent cet accès comme allant de soi.
Pour ceux qui ont quitté leur lieu d'origine pour aller travailler dans les villes, le transfert de fonds est un important moyen de conserver les liens familiaux et sociaux.
L'accès aux services financiers permet aussi aux personnes de se prémunir face à un avenir incertain, spécialement ceux qui mènent une vie précaire et/ou qui ont des revenus irréguliers.

Fig. 2 - Payment methods in Kenya



(Source: Central Bank of Kenya, 2014)

Moreover, similar payments services have sprung up in numerous other markets, both in Africa and other parts of the world. It is estimated that 255 mobile payment systems now exist worldwide with 103.4m active accounts (GSMA, 2015).

More than money

Such numbers are certainly impressive but it is important to pause to outline the very real impact that access to financial services can bring, as this is often not immediately apparent to those of us who take such access for granted. Perhaps most obviously, storing and transferring money through a financial intermediary is safer than the immediate alternative – handling hard currency. As Morawczynski (2011, pp. 117-146) has shown, the terrible violence and fear provoked by the 2007 Kenyan presidential election in fact gave rise to propitious circumstances for the development of mobile money.

M-PESA's initial marketing strategy focused squarely on the transference of remittances, with a rather direct tagline that encouraged people to 'send money home'. The company also employed an extensive network of agents across Kenya to encourage take-up of the service and facilitate withdrawals for rural customers. For those who have left their hometowns to work in the city, transferring funds is an important means by which familial and social bonds can be retained. Meanwhile, monies from family living in the city

M-PESA reflète et renforce les réseaux sociaux informels existants qui sont cruciaux pour la gestion financière dans les pays pauvres. De même que le service a été développé à travers une interaction symbiotique entre les besoins non satisfaits, les comportements existants et le projet, son développement ultérieur a également été modelé par la façon dont il a été utilisé par les clients.

can make up a significant proportion of the income of people in rural areas and can play a key role in enabling longer term decision-making such as capital investment in cash crops and equipment. From a macroeconomic perspective, remittances provide the security for investment in the efficient allocation of labour by enabling people to move to higher-paying jobs in distant locations (see Jack and Suri, 2009).

One of the most notable benefits of access to financial services is the ability to guard against uncertainty, especially for those with precarious livelihoods and/or irregular incomes in potentially unstable societies. As early as January 2009, surveys found that three-quarters of M-PESA users had used the service as a savings instrument, often in conjunction with other mechanisms (FSD Kenya, 2009).

The ability to save provides a valuable method by which people can mitigate the effects of unexpected shocks whether in the form of falls in income, political unrest, or health emergencies. Such facilities also prevent actions being taken that have longer term consequences, such as the liquidation of valuable physical assets during an emergency. A 2013 study in Kenya showed that simply providing a safe place for savings increased health savings by two-thirds with the potential for a marked improvement in health outcomes (Dupas and Robinson, 2013).

Savings can also help to enhance control and independence. As Dupas and Robinson (2009) have shown, there is significant demand for formal savings instruments among women in Kenya. This suggests that their informal methods of saving, such as cash, are often ineffective due, for example, to demands from spouses and other family members. Furthermore, the ability to easily check balances and payments enables independent budgeting and planning. As one Kenyan woman said of her husband: “He thinks I am texting...but really, I am checking my bank balance” (Morawczynski, 2011, p. 137)

Listen and learn

The flexibility of the M-PESA system and the fact that it is so intertwined with communications also enhances the function of networks of economy and society, such as the pooling of risk. M-PESA can help to formalise and enhance existing endogenous local microfinance organisations and networks, such as Rotating Savings and Credit Associations (ROSCAs) and Savings and Credit Association (ASCAs). These organisations have existed in Kenya for a number of years as means of pooling risk and resources, but M-PESA has helped to improve their flexibility, bolster their strength, and increase their scale.

The organic evolution of informal uses of M-PESA has been mirrored by a gradual expansion of formal services on offer through the

L'amélioration de l'accès aux services financiers est bienvenue pour sa capacité d'offrir de nouvelles possibilités, une meilleure sécurité, et plus de liberté aux habitants du monde en développement.
Les paiements mobiles peuvent jouer un rôle important, même s'il n'est que partiel, pour aider les gens à se prendre en charge.

platform. In expanding its marketing strategy Safaricom began to enrol a diverse list of partners to expand the range of services that could be offered through the platform. This includes traditional financial institutions, such as banks, MFIs and insurance firms, but also companies working in utilities, media, and retail, as well as the charitable sector. The system is now being used for everything from paying electricity bills to sending charitable funds to health clinics for vital surgical procedures.

The ability to access these services has not only opened them up to more users, but has also helped improve the services on offer. For example, by enhancing access to insurance products, such as health insurance, M-PESA has enabled insurers to shift to monthly premiums thereby making cover more affordable (Smith et al, 2010). In 2012, Safaricom finally launched a savings and loan product called M-SHWARI in partnership with the Commercial Bank of Kenya. Again, we see the ways that people naturally utilise their newfound access to technology systems leading the way in the development of new services by private companies.

While the initial intended scope of M-PESA may have been limited, its rapid expansion has been accompanied by an evolving ecosystem of usage, encompassing changes in both economic and social patterns of behaviour. As Johnson, Brown and Fouillet (2012, p. vi) have noted, M-PESA's "extensive use reveals the vast array of inter-personal transactions that Kenyans undertake and which are endemic to their financial lives. These transactions can be understood as embedded in social relationships." The flexible structure offered by M-PESA both mirrors and strengthens the existing informal social networks that are crucial to financial management in poor countries. Just as the service was developed through a symbiotic interplay between unmet need, existing behaviour and design, its subsequent development has also been shaped by the ways in which it has been utilised by its users.

A partial solution

OWhat then, can we learn from the example of M-PESA in Kenya? As we have seen, improving access to financial services should be welcomed for its ability to provide new opportunities, better security, and more freedoms to people in the developing world. The potential benefits for other developing countries are enormous and, as already noted, similar mobile payments services are now available to millions outside of Kenya. It is also easy to forget that 60 million adults are 'unbanked' in developed countries where lack of access to financial services can be an especially significant barrier to economic and social inclusion (Chaia et al, 2009).

However, it is not my intention to overstate the significance that mobile payments may have for the developing world, nor to portray it as a panacea. To put the counterargument crudely, mobile payments are of limited use to people without money. Indeed, there are salutary lessons in caution to be taken from the overenthusiastic embrace of microfinance in development policy and the subsequent backlash against it during the 1990s and 2000s. Too many irresponsible actors were allowed to join the market at the expense of the intended beneficiaries, leading to credit bubbles and extortionate interest rates (see, for example, Kazmin, 2010). Nevertheless, it seems fair to say that on the balance of the evidence so far, mobile payments can play an important if partial role in improving the lives of poor people and enabling them to help themselves.

Une industrie de services financiers éthiques ne doit pas faire de la charité, mais doit générer des effets bénéfiques pour la société. Le développement de M-PESA est éthique précisément car il n'est pas né de l'application aveugle de principes abstraits, mais d'une interaction simple directe et réfléchie avec la société kenyanne.
Quoiqu'il en soit, sans cette relation, M-PESA n'aurait pas pu profiter d'un tel succès.

A case of virtue and vice?

For the purposes of this essay though, we must address a further question: how is the provision of mobile finance *ethical*, and what can financial services learn from it? To turn to the former question, if we were to consider mobile payments 'ethical' in the narrow sense of an action *which ought to be done*, there is a danger that such an assessment is crudely universalised. This would be to argue that we should 'beat our swords into ploughshares' as the Bible puts it, or more concretely, that all financial institutions should divert their investment towards mobile payments and other technologies that will benefit the poor.

Conversely, it would certainly be fair to argue that the decision of Safaricom to invest in M-PESA as a private company was not driven solely by an ethical desire to improve the lives of the poor. In this sense, the social and economic benefits presently being derived from M-PESA could be considered mere byproducts, or to use the economists' phrase, 'positive externalities', of a simple hard-nosed business decision.

However, I wish to argue for a version of ethics that is not based abstract reasoning. An ethical financial services industry is not one that donates to charity, but one that produces positive outcomes that *benefit societies*. The development of M-PESA is ethical precisely because it was born not of adherence to a set of abstract principles, but from a genuinely direct and reflexive relationship with Kenyan society. Moreover, as we have seen, without this relationship M-PESA could not have enjoyed nearly the same degree of success.

In the past, such concerns and arguments might have been easily dismissed, but changing societies and new technologies will soon make them impossible to ignore. Mobile payments, allied with other developments, such as peer-to-peer lending and cryptocurrencies, are part of a broader trend which will be highly disruptive to the deeply ingrained models of financial services. It won't have escaped the attention of readers that the company behind M-PESA is not a financial organisation but a telecommunications provider. In fact, there is little direct involvement of traditional financial institutions in the service, except to provide services through the platform and to guarantee the money on it.

Le cas de M-PESA montre que les consommateurs et les entreprises peuvent utiliser et manipuler les nouvelles possibilités offertes par la technologie changeante de façons diverses et inattendues.
Ces technologies et les comportements vont imposer une réévaluation continue de la fonction que les services financiers occupent dans une société et une économie en voie de globalisation. Une telle remise en question est non seulement vitale, mais nécessaire.

Unexpected developments and unforeseen consequences

As M-PESA shows, providing new ways for people and businesses to transact with one another financially can generate new and unforeseen behaviours, economies, and cultures. In both the developed and developing world, consumers and businesses are likely to utilise and manipulate the new opportunities afforded by changing technology in diverse and unexpected ways. We can already see signs of emerging trends, from new behaviours on 'social money' apps such as Venmo, to borrowing and lending between ordinary businesses and individuals on peer-to-peer platforms, to changing procedures within corporations with direct access to SWIFT payment networks.

Indeed, it has even been argued that M-PESA e-floats can be considered a parallel currency, partially removed from the traditional fractional reserve banking framework (Kaminska, 2012). Over the coming years, new technology is likely to pose even more fundamental questions to orthodox structures within financial services and, in turn, new ethical issues will arise.

It would be foolhardy to try to predict the precise constellations that will be formed by these incipient trends even a few years hence. Nonetheless, it can be said with certainty that they will compel an ongoing reassessment of the function that financial services plays in an increasingly globalised society and economy. Such a reassessment is both vital and necessary. Unlike nearly every other area of developed economies, there has been little or no improvement in productivity in the financial sector for over a century (Phillipon, 2014). The challenge for the financial services industry is to create business models and behaviours that are ready and able to confront these issues as they arise.

For both established institutions and individuals working in financial services, there will be an inevitable temptation to see new trends as a threat and therefore to react defensively. For regulators too, there will be an understandable focus on the risks, such as the increased potential for money laundering and fraud. Indeed, one of the reasons for the slower uptake of M-PESA in other developing countries has been due to hesitance from existing financial institutions and regulators. These concerns are undoubtedly legitimate, but an excessive focus on them will merely lead to ossification and insularity.

Ready for change

At its heart, financial services is based on abstraction and intermediation, whether in the efficient allocation of capital or the pooling of economic resources. Too often in the past, these have become an end in themselves in the behaviour of both individuals and institutions, leading to unscrupulous and unethical behaviour. Yet the appropriate response

L'éthique est profondément enchâssée dans les réseaux et systèmes de la vie économique et sociale y compris les services financiers. C'est seulement à travers les interactions avec les autres au sein d'une communauté ou de la société que nous pouvons nous rendre compte de la réalité éthique dans son vrai sens en évaluant les conséquences de nos actions. Une industrie de services financiers éthique, prête à s'engager au service de l'avenir doit être ouverte et désireuse de tirer des enseignements de la société.

to excessively abstract practices is not to produce equally abstract values frameworks or charters. Such measures are at best impotent, and at worst, prone to misinterpretation and corruption.

M-PESA has succeeded in improving people's lives, because it wasn't guided by high-minded principles but by listening to and learning from Kenyan society. With new technology, financial institutions have an even greater opportunity to open themselves up to learning from society. Innovative services which are responsive to the needs and behaviours of a society and economy can produce positive outcomes for those within that society. Furthermore, they enhance and improve the functioning of society itself. It is in these instances that financial services is at its best and the principle applies just as much to the largest banking institutions in Europe or the US as it does to payments providers in the developing world.

Ultimately, we must not take a narrow and crude view of ethics as akin to personal virtuosity or sin. It is not simply the means by which we divine how to 'do the right thing', whether in abstract scenarios or real life. Undoubtedly, formalised rules and procedures have their place within any organisation, but if we are to encourage ethical behaviour from both organisations and individuals, we must not be beholden to abstract standards. Such a conception merely breeds ethical and intellectual immaturity by cutting off the possibility of learning from a rapidly changing world.

Ethics are deeply and profoundly embedded within networks and systems of economic and social life and this includes financial services. It is only through interactions with others within a community or a society that we can understand ethics in a very real sense by assessing the consequences of our actions. An ethical financial services industry ready and prepared for the future is one that is open and willing to learn from society.

References

Central Bank of Kenya (2014). 'KEPSS/RTGS Statistics'. Retrieved from https://www.centralbank.go.ke/index.php/nps-modernization/kepss-rtgs-statistics

Chaia, A., et al (2009). Half the world is unbanked. *Financial Access Initiative/McKinsey*. Retrieved from http://mckinseyonsociety.com/downloads/reports/Economic-Development/Half_the_world_is_unbanked.pdf

Demirgue-Kunt, A. and Klapper, L. (2012). 'Measuring Financial Inclusion: The Global Findex Database'. *World Bank*. Policy Research Working Paper 6025, 2012

Dupas, P., and Robinson, J. (2009, revised 2012). 'Savings constraints and microenterprise development: evidence from Kenya'. *National Bureau of Economic Research*. No. w14693

Dupas, P. and Robinson, J. (2013). Why Don't the Poor Save More? Evidence from Health Savings Experiments. *American Economic Review*. 103 (4), 1138–1171

Financial Inclusion Insights (2014). 'The FII Data Center: Fall 2013 Survey'. Retrieved from http://finclusion.org/datacenter/data-center/

FSD Kenya (2009). 'Mobile payments in Kenya: Findings from a survey of M-PESA agents and users'. FSD. Retrieved from http://www.fsdkenya.org/pdf_documents/11-02-14_Mobile_payments_in_Kenya.pdf

Gordon, R. J. (2012). 'Is US economic growth over? Faltering innovation confronts the six headwinds ()'. *National Bureau of Economic Research*. No. w18315

GSMA (2015). 2014 State of the Industry: Mobile Financial Services for the Unbanked. Retrieved from http://www.gsma.com/mobilefordevelopment/wp-content/uploads/2015/03/SOTIR_2014.pdf

International Finance Corporation (2010). 'M-Money Channel Distribution Case – Kenya'. Retrieved from http://www.ifc.org/wps/wcm/connect/4e64a80049585fd9a13ab519583b6d16/tool+6.7.+case+study+-+m-pesa+kenya+.pdf

International Monetary Fund (2014). 'Financial Access Survey 2014'. Retrieved from http://fas.imf.org/Default.aspx

ITU (2015). 'ICT-Eye: Key ICT Data & Statistics'. Retrieved from http://www.itu.int/net4/itu-d/icteye/

Jack, W. and Suri, T. (2009). 'The economics of M-PESA'. *Massachusetts Institute of Technology*. Retrieved from http://www.mit.edu/~tavneet/M-PESA.pdf

Johnson, S., Brown, G. K., and Fouillet, C. (2012). 'The search for inclusion in Kenya's financial landscape: The Rift revealed'. FSD Kenya. Retrieved from http://www.fsdkenya.org/pdf_documents/12-03-29_Full_FinLandcapes_report.pdf.

Kaminska, I. (2012). 'More on M-Pesa and e-money', *Financial Times: FT Alphaville*, 20 July 2012. Retrieved from http://ftalphaville.ft.com/2012/07/20/1089571/more-on-m-pesa-and-e-money/

Kazmin, Amy (2010). 'Bangladesh joins microfinance backlash'. *Financial Times*, 7 December 2010. Retrieved from http://www.ft.com/cms/s/0/63757d46-0234-11e0-aa40-00144feabdc0.html

McKemey, K. et. al (2003). 'Innovative Demand Models for Telecommunications Services' Gamos Ltd: Final Technical Report'. Retrieved from http://www.telafrica.org/pdfs/FinalReport.pdf

Morawczynski, O. (2010). 'Examining the Adoption, Usage and Outcomes of Mobile Money Services: The Case of M-PESA in Kenya'. Retrieved from https://www.era.lib.ed.ac.uk/bitstream/handle/1842/5558/Morawczynski2011.pdf

Phillipon, T. (2014). 'Has the U.S. Finance Industry Become Less Efficient? On the Theory and Measurement of Financial Intermediation', September 2014. Retrieved from http://pages.stern.nyu.edu/~tphilipp/papers/Finance_Efficiency.pdf

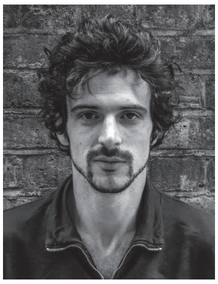
Smith, A. et al (2010), 'Kenya microinsurance landscape'.*The Centre for Financial Regulation and Inclusion*. Retrieved from http://cenfri.org/documents/microinsurance/2012/Kenya%20microinsurance%20diagnostic.pdf

Blockchain Technology for Reputation Scoring of Financial Actors

Ethics in Finance, Robin Cosgrove Prize Global edition 2014-2015

Finalist

Brett Scott
South Africa
Consultant and author, Finance Innovation Lab, London*



* The views expressed herein are those of the author and do not necessarily reflect those of the Organization he is affiliated to.

There is currently no clear method of publicly and transparently displaying the conduct of financial professionals. Individual 'rogue traders' might be recognisable through the media, and regulatory directories – such as the Financial Services Register of the Financial Conduct Authority (FCA) – provide some information, but it remains difficult for members of the public to assess the record of any particular professional.

Reputation is highly important *within* the closed networks of financial sector professionals. Many care about how they appear to their peers and prospective employers. The lack of external public recording of reputation markers, however, sets up a dynamic in which financial insiders feel accountable to other insiders, but not to the broader world.

To alter this dynamic, I propose a public reputational scoring system for financial professionals, or financial firms, based on the underlying technology used by the Bitcoin cryptocurrency system. Implementing such a system will create a new disincentive for financial professionals to engage in unethical practice, and furthermore, could encourage a range of positive behaviours.

First introduced in 2009, Bitcoin has emerged into popular consciousness over the last few years. It has been the cause of both excitement and controversy, but it has undeniably opened up the innovation landscape to some hitherto unimagined possibilities. In particular, the underlying *blockchain* ledger it is based on has the potential to be adapted to create global systems for recording data in a highly participatory, public and transparent way.

Il n'existe pas à ce jour de méthode pour apprécier de manière claire et transparente la conduite des professionnels de la finance. Pour pallier cela, je propose une notation réputationnelle pour les professionnels ou les entreprises de la finance basée sur la technologie "blockchain" (chaînage de blocs) utilisée par Bitcoin. Cette technologie peut être adaptée pour développer un système global d'enregistrement participatif et transparent de données. La mise en place d'un projet pilote en matière réputationnelle du type "blockchain" pourrait dissuader les professionnels à s'engager dans des pratiques non éthiques et devrait encourager des comportements positifs.

Dans le cas de paiements électroniques interbancaires, la banque garde la trace de notre avoir sur son registre privé qu'elle contrôle pleinement. Pour déplacer cet avoir vers un autre compte, il faut d'abord s'identifier comme propriétaires à l'aide d'un PIN code, puis demander que l'autre banque

This technology is very new, and the purpose of this proposal is to sketch out possible routes to implementing a pilot blockchain reputation scheme. This proposal sets out the broad concept and points to a number of different ways of implementing the idea technically. The good news is that banks are actively exploring this area, so research and implementation partners and resources may be forthcoming.

Below I sketch out four foundations of this project, and then move into describing two possible varieties of a reputational blockchain system. Finally, I conclude with an outline for next steps

Foundation 1: The original Bitcoin cryptocurrency system

The simplest way to describe the Bitcoin system[1] is as follows. It consists of:

- A decentralised public ledger, or database, called the 'blockchain'
- …that people can use to record transactions between themselves
- …and thereby 'keep score' of their money – or *tokens* on the system – in a highly public and transparent way

To understand the Bitcoin system, it is useful to sketch out the similarities and differences it has to our normal bank payments system. In our normal system, a person has:

1. An account number at a bank, and

2. A way of proving that they control that account number. For example, they have a PIN code

3. The bank, in turn, has a data record of how much money is attributable to that account number, thereby 'keeping score' of the person's money on a private internal database or ledger

4. The person can then use an electronic communications system to identify themselves to their bank as the authentic account holder, and can request for the money associated with their account number be transferred to someone else's account at a different bank

5. This then spurs the bank to edit their ledger of accounts – changing the person's 'score' – and to tell the recipient's bank to do the same. The process is a little more complex than this, but in effect the money 'moves' via a series of private ledgers being edited

Likewise, in the Bitcoin system, a person has a *public address* (akin to an account number), and a *private key* (akin to a PIN number). They then use an electronic communications system to identify themselves to the *Bitcoin network of miners*, and request that their tokens – associated with their public address – be moved to someone else's public address. This then occurs by a change made to the blockchain ledger. The two parties who control the public addresses can then see these changes, proving

1 There is a large literature describing Bitcoin, but perhaps the best resource is Antonopoulos (2014)

soit avertie et qu'elle accueille la somme sur son registre. Dans le système Bitcoin, la personne a une adresse publique (comme un numéro de compte) et une clé privée (comme le PIN code). Elle peut s'identifier à l'aide du PIN code et demander que l'avoir soit déplacé vers une autre d'adresse. Le transfert s'effectue grâce à un réseau de "mineurs" qui opère le changement sur le registre public appelé "blockchain" que les deux parties peuvent voir. C'est donc ce registre qui garde la trace de manière accessible à tous de la monnaie.

La particularité du "blockchain" tient au fait qu'il passe par un registre public, décentralisé, entretenu par un réseau et qu'il offre aux participants la possibilité d'éditer ce registre. Ce dernier se développe de manière incrémentale par l'action des participants utilisant un même software. Si toutefois on modifie le code du programme, la nature du registre obtenu change en conséquence. Cette possibilité a suscité un

that the tokens have 'moved' from one address to the other.

The key difference between the Bitcoin system and the normal bank payments system is two-fold. Firstly, the intermediaries that change the ledger are a *decentralised* network of people ('miners') running special Bitcoin software, rather than banks running their own private software systems. And secondly, the ledger they change is *public*, rather than the privately held account ledgers of the normal banking system.

Thus, despite Bitcoin's media association with secrecy, the key feature of the blockchain technology is *highly visible public transparency*. This is easily observable on websites like blockchain.info, where one can see real-time Bitcoin transactions being publicly recorded onto the blockchain ledger. For example, one can use the site to find out how much is attributable to public address '1ATMraQwtXcN9b1Jr51cWotfp5eFGdTjM4'[2].

Foundation 2: The wave of 'blockchain 2.0'

The Bitcoin system described above has been subject to many different types of critique and acclaim. One thing most interested parties agree on, though, is that the underlying concept of a *decentralised public ledger, collectively maintained by a network, and with a means for participants to edit that ledger* is very important. This has led to a nascent interest in 'blockchain 2.0' projects, or the use of a blockchain ledger to record things other than currency transactions.

Early examples of this that emerged include systems like:

- Namecoin: A decentralised registry for website domain names
- Proof of Existence: A notary system that uses the blockchain to record possession of documents at a particular time

At the cutting edge of the scene are experiments with 'smart contracts', which are small bundles of code – or 'scripts' – that can be recorded on a blockchain, and that participants can interact with in order to undertake simple tasks. These can form the basis for 'decentralised autonomous organisations', or 'decentralised collaborative organisations'[3], useful entities that are held in play on a decentralised network of computers, rather than controlled by a single management team.

Groups like Ethereum, Counterparty and Blockstream are working on building platforms to allow people or start-ups to implement blockchain-based systems. For example, *Provenance* is a start-up attempting to use the Ethereum system to create a highly transparent ledger of global corporate supply chain data[4].

Much of the interest in 'block-

2 To view that particular address, visit https://blockchain.info/address/1ATMraQwtXcN9b1Jr51cWotfp5eFGdTjM4

3 For an good overview of these entities, see Bollier *et al.* (2015)

4 See website at https://www.provenance.org/

grand intérêt dans les projets “blockchain 2.0” qui se basent sur un registre blockchain pour enregistrer d’autres données que les transactions monétaires. Cette technologie peut être ainsi utilisée pour des services décentralisés comme des assurances et pour la mise en place pour allouer des “jetons” réputationnels.

L’industrie financière s’intéresse à la technologie du blockchain. Ainsi, UBS a annoncé qu’elle projette de mettre en place ‘Blockchain Innovation Lab’, Barclays soutient des start-ups qui utilisent cette technologie, alors que RBS, Rabobank, ING et BNY Mellon jouent avec cette idée.

A l’heure actuelle, un système public de notation réputationnelle adapté aux activités financières fait cruellement défaut. Il existe des systèmes publics comme le Registre de la Financial Conduct Authority britannique. Il permet de passer en revue l’historique professionnel et disciplinaire des professionnels enregis-

chain 2.0’, though, concerns potential financial services applications. For example, Michael Mainelli from Long Finance published a December 2014 research paper called ‘Chain Of A Lifetime: How Blockchain Technology Might Transform Personal Insurance’[5]. Others are looking into derivatives systems, and crowdfunding systems.

The technical details of these schemes can appear complex, but there are two key takeaway points.

Firstly, it is useful to think of a blockchain as a database that is incrementally built up by a network of participating parties who run the same software, and that is subject to the constraints and rules set by the underlying software they run. A blockchain, as the name suggests, gets built up by blocks of data gradually being ‘chained’ together. It could almost be imagined as a spreadsheet that is gradually built by new cells being chained on. A blockchain database continues to be built and maintained so long as the software continues to be run. Thus, unlike a centralised database held by a single entity, it continues to stay ‘alive’ even if individual participants pull out (or go bust, for example). It creates an indelible record, resistant to tampering by any individual party.

Secondly, if you tweak the code of the underlying software being run by participants, the nature of the resultant blockchain changes, opening the possibility of creating blockchain databases storing all manner of diverse data, including reputation tokens.

Foundation 3: The increasing interest in blockchain technologies

The financial industry is showing real curiosity towards cryptocurrencies, and also in the underlying blockchain technology. Here are some examples:

- UBS has announced plans to set up a ‘blockchain Innovation Lab’ at Level 39 in Canary Wharf (*Wall Street Journal*, 2015a)
- Barclays have included blockchain insurance start-ups in their Barclays Accelerator (*Coindesk*, 2015b)
- Well known investment banker Blythe Masters (the former head of JP Morgan’s commodity trading division) has announced plans to explore blockchain systems, stating that they have the potential to build renewed trust in financial institutions (*Coindesk*, 2015a)
- Banks like RBS and others have been hosting blockchain ‘hackathons’, and Rabobank has been setting up challenge prizes for ideas on blockchain use (*Finextra*, 2015). Others like ING have been hiring researchers on the topic (*ING Careers*, 2015)
- The bank BNY Mellon is testing a blockchain-based token system as an internal incentive scheme for staff members under their corporate recognition programme (*Wall Street Journal*, 2015b)

5 Mainelli & von Gunten (2014)

trés. Cependant, de tels systèmes ont une teinte bureaucratique, peu de visibilité publique et sont, en fin de compte, peu utiles. De plus les informations importantes leur échappent : bien que Kweku Adoboli, le trader escroc, ait été condamné à plusieurs années de prison, cette nouvelle n'apparaît pas dans le registre de la FCA.

Nous avons donc besoin d'un système de notation réputationnelle plus efficace, accessible globalement et continuellement mis à jour. Je propose donc de créer une base de données "blockchain" qui pourrait être utilisée pour enregistrer les cas d'inconduite, mais aussi des cas d'actions positives de la part des professionnels de la finance, ou des entreprises. Il y aurait ainsi une trace publiquement accessible de la qualité éthique de leurs activités.

Une voie possible serait la mise sur pied d'un système de "karma" au niveau individuel. Dans le système Bitcoin, les participants reçoivent une adresse

• Central banks like the Bank of England have taken an active interest in blockchain innovation (*Bank of England*, 2014)

We thus have a situation in which banks and other financial institutions are actively exploring the emerging blockchain innovation scene, and looking for ways to show their relevance within it. This presents a significant opportunity to advance novel blockchain proposals, get banking partners on board, and secure resources to investigate pilot projects.

Foundation 4: The lack reputation scoring systems

There are government systems like the UK Financial Conduct Authority's Financial Services Register[6] that have a reputational element to them. It enables one to search for financial firms and registered financial professionals, and to look up information such as basic employment history and disciplinary record.

That said, it has a private, bureaucratic feel, tucked away on the FCA website with little publicity and low usability. Very few financial professionals will feel that the register is something that the public can actively engage with. Furthermore, it is questionable whether it shows relevant information. Take, for example, the high-profile case of rogue trader Kweku Adoboli. His FCA register record on 9th April 2015 has no information recorded under the heading 'disciplinary history'[7], despite being sentenced to several years in prison.

Furthermore, if you are an individual outside the UK, it is unlikely that you will readily know the local regulator or be aware of the internal registry systems in place. Each country has a different version, but large financial firms are *de facto* global in their operations.

There have been private attempts to create ethical scoring systems for banks. For examples, Fair Finance Guide, MoveYourMoney UK, and Ethical Consumer have created 'scorecard' systems at different times. These can be useful to put public pressure on banks to maintain ethical standards, but are not regularly updated and tend to be based on private research that is hard to maintain without consistent resources being poured into them. If the groups stop producing the research, the record goes out of date and gradually disappears.

Blockchain-based reputation systems

What is required, therefore, is a more effective, globally accessible reputation system that is updated regularly and continues to exist even when individual organisations cease to operate. Thus I propose using blockchain technology to create:

1. A decentralised public ledger, in the form of a blockchain database

2. …that people or organisations can use to record cases of financial

6 See register here http://www.fsa.gov.uk/register/home.do

7 See Adoboli entry here http://www.fsa.gov.uk/register/indivDiscHistory.do?sid=598330

publique qui permet d'envoyer et de recevoir des jetons d'autres adresses en obéissant à des règles codées qui soutiennent le réseau. Si on change ces codes, les règles s'en trouvent modifiées. Il serait ainsi envisageable de donner des compétences variées à divers participants. Cela permettrait de mettre au point un système où les professionnels de la finance pourraient accumuler sur leurs adresses publiques des jetons (karmas) positifs et négatifs qu'ils recevraient d'autres participants désignés à l'avance.
Pour y parvenir, chaque professionnel recevrait une adresse dans le système. Des instances telles que Financial Conduct Authority ou ICAEW (Chartered Accountants Institute) seraient habilitées à envoyer des jetons positifs de "reconnaissance professionnelle" quand la personne passe les examens correspondants. Les mêmes enverraient des jetons négatifs (karma négatifs) en cas d'inconduite professionnelle, de ventes abusives ou de manipulation de marchés. Afin d'encou-

misconduct or cases of positive actions by financial professionals (or firms)

3. …and thereby 'keep score' of financial professionals' (or firms') ethical record in a highly public and transparent way.

If it can be implemented, such a ledger could serve as a useful tool to the public, a disincentive to financial professionals to engage in misconduct, and an encourager of positive behaviours from financial firms and their employees.

The precise technical details of such a scheme remain undeveloped, but the purpose of this proposal is to set out directions for a feasibility study and potential pilot phase. Described below are two possible implementations of the idea.

Implementation concept 1: An individual 'karma' system

In the existing Bitcoin system, participants have public addresses that can receive and dispatch tokens to other public addresses, using the coded rules of the system. Through this process, the participants gradually create a public blockchain record.

The nature of the blockchain and the rules for submission onto that blockchain are defined by the software, independently run by the network of participants. If, however, we alter the code, we can change the rules in various ways. We can maintain the concept of a decentralised ledger incrementally built up through chains of data blocks, whilst having a different network of participants running software that gives them different rights within the system. For example, we might design a system where:

1. Financial professionals have public addresses, but are only able to receive tokens

2. Regulatory and civil society bodies have public addresses, but are able to *distribute* tokens

This could be used to set up a simple 'karma' system in which financial professionals can accrue both positive and negative tokens to their public addresses from designated partners in the network over time. A disciplinary action could get recorded as an influx of 'negative karma' tokens, whilst a positive action could get recorded as an influx of 'positive karma' tokens. Below are some steps that would be needed to make this happen.

Step 1: Blockchain addresses

Firstly, we need to find a way to give public addresses to each professional in order to identify them in the system. In the case of the UK, this will ideally occur when the professional qualifies for registry as an 'approved person' on the Financial Conduct Authority register, which allows them to perform 'controlled functions' such as dealing directly with customers. Currently, UK financial workers are only placed on the FCA register when they pass certain professional exams that show they are capable of working responrager la responsabilité sociale des entreprises, des organisations non-gouvernementales telles que Oxfam pourraient être habilitées à envoyer des jetons positifs quand des actions positives ont lieu. Tous ces jetons seraient visibles publiquement et permettraient donc aux professionnels de mettre en avant leurs actions en faveur de la responsabilité sociale des entreprises.

Pour mettre en application un tel système plein de finesse, des instruments programmables comme Ethereum pourrait être utiles. Ils permettent la certification différentiée des partenaires du système ce qui leur donne des droits et des possibilités d'utiliser différents types de jetons.

L'apparition d'un flux de "karma" en provenance des divers acteurs sur les adresses des professionnels de la finance les encouragerait à cultiver leur bonne image publique en recherchant des "karma" positifs. Cela présente toutefois le risque de la corruption

sibly and independently. For lower level controlled functions, this occurs within about a year of starting in the industry.

Imagine a scenario then, in which a financial professional is designated with a public blockchain address that identifies them by name as soon as they are registered with the FCA[8].

Step 2: Sending 'professional recognition' tokens

A body like the FCA might be given special powers within the system to control a different class of public address that is able to send 'professional recognition' tokens to the addresses of financial professionals who have passed certain tests or exams. Thus, as a financial professional qualifies for inclusion on the FCA register, and is designated with a public address, they might also get an initial batch of professional recognition tokens sent to their address, publicly symbolising their competence. As they progress in their career and earn new qualifications, they can accrue more of these, perhaps from bodies like The Institute of Chartered Accountants in England and Wales (ICAEW).

Step 3: Sending disciplinary 'negative karma' tokens

Authorities like the FCA could also be given special powers – via the coding of the system – to distribute 'negative karma' tokens to the public addresses of professionals who engage in financial misconduct such as misselling, unauthorised trading or market manipulation. There might be different categories of negative karma tokens, distributable by different authorities.

Step 4: Sending 'positive karma' tokens

Ideally, the system is designed to incentivise corporate social responsibility actions on the part of financial professionals. In order to do this, a network of civil society groups – such as environmental sustainability NGOs or human rights groups – are encouraged to join the network. They are given special powers via the coding of the system to distribute 'positive karma' tokens from their public addresses to the public addresses of professionals who undertake some form of positive task, for example volunteer work.

One might even conceivably subdivide these positive tokens into categories like 'sustainability tokens', issued by groups like Friends of the Earth, or tokens for youth mentoring, issued by groups like ReachOut.

These positive tokens can accrue, enabling a financial professional to showcase their corporate social responsibility actions. Furthermore, it enables a professional with a poor record to 'redeem' themselves, or seek salvation from previous negative actions by working up such points.

8 As a technical point, customisable blockchain addresses have already been pioneered by services like VanityGen. See http://bitcoinvanitygen.com/

du système. Un professionnel pourrait ainsi être tenté d'acheter des "karma" positifs pour compenser des enregistrements négatifs. Ce risque pourrait être contenu, si l'attribution de jetons positifs exigeait des signatures multiples dans l'organisation concernée. Cela pourrait aussi limiter le "marché noir" des "karmas" positifs.

Le schéma proposé ici est obligatoire, mais il serait peut-être plus facile de démarrer avec des projets pilotes sur une base volontaire. Une institution financière pourrait ainsi mettre sur pied un système blockchain en partenariat avec un certain nombre d'acteurs de la société civile, ou bien les plus grande banques britanniques (Big 5) pourraient initier un tel projet entre elles.

Une autre alternative serait d'utiliser ce système pour enregistrer le comportement d'une entreprise plutôt que des professionnels individuels. Nous pourrions créer un système dans lequel les banques, par exemple

The technicalities

The concept sketched above would require more advanced coding and design than is currently found in the Bitcoin system. In the Bitcoin system, addresses can only receive a single type of token, and can both receive and send. To implement a more nuanced system like this, a more advanced programmable system like Ethereum[9] might be used, in which smart digital certificates might be issued to different players in the system, giving them different rights and abilities.

For example, imagine a type of coded instruction within the system saying: [*If participant has sustainability digital certificate*, then give rights to participant to attribute another address with *sustainability tokens*.].

The possible results, and problems

The result of this would be the creation of streams of incoming 'karma' tokens into a financial professional's address from different organisations over time. This in turn would build up a public picture that interested parties can browse if they so wish. This gives encouragement to the professional to cultivate a good public image by seeking to accrue positive karma and professional recognition points. On the other hand, the threat of public display of misconduct will help discourage negative behaviours.

An important feature of this scheme is the ability to 'redeem' oneself by seeking positive karma tokens that might 'offset' the negative ones. People make mistakes, and while a public record of misconduct might be valuable, it is also vital that the public record is not irredeemably marked against someone for all time.

The problem that emerges from this, however, is the risk of *corruption* in the system. A financial professional might bribe or attempt to buy positive karma tokens to offset a negative record. Indeed, a general problem in most points-based reputation systems is that people can learn how to 'game' them. Furthermore, such systems can sometimes be open to sabotage of reputation. Consider for example, EBay reviews, where sellers might pay people to give them good reviews, and might even conceivably attempt to sabotage the ratings of competing sellers.

To some extent this can be avoided by partnering only with established, stable and respected civil society partners – such as Oxfam – but there may also be ways of building safeguards into the design of the system itself. For example, *multi-party signature* ('multi-sig') systems might be used, in which a series of different people within an organisation are required to approve an allotment of karma tokens to a financial professional. This could prevent conflict-of-interest situations, such as a junior employee of an organisation with token-granting rights unilaterally deciding to give tokens to a former university friend who now works at a bank.

9 See Wood (2014) for further technical details of the Ethereum system

Goldman Sachs, auraient une adresse publique. Le FCA enverrait les jetons négatifs quand l'entreprise est sanctionnée, mais les collaborateurs individuels de Goldman Sachs seraient aussi incités à entreprendre des actions volontaires pour attirer des jetons positifs. Certains s'offusqueront du caractère utilitariste de cette proposition – qui permettrait aux entreprises de gagner de bons points pour compenser les mauvais – mais elle correspond à la manière dont les entreprises opèrent. Elles mobilisent d'importantes ressources dans les relations publiques pour neutraliser la publicité négative des scandales. Peut-être un système de karma-jetons pourrait-il forcer les grandes entreprises à montrer concrètement leur impact positif plutôt que d'utiliser leur pouvoir médiatique pour bluffer à ce sujet.

Il y a plusieurs raisons pour lesquelles la méthode blockchain pourrait avoir du succès. Les entreprises financières ont une vraie difficulté à main-

Mandatory schemes vs. voluntary schemes

In the proposal sketched above, it is mandatory for FCA registered financial professionals to join the system. Nevertheless, while it would be ideal to get regulatory bodies like the FCA (or the U.S. Securities and Exchange Commission) on board with an initiative like this, it may be easier to pave the way with simpler voluntary pilot programmes.

For example, a single financial institution might independently decide to implement a voluntary blockchain 'karma' system in partnership with select civil society groups, and use it as part of employee assessment. Employees can attempt to accrue positive karma points by actively engaging in the firm's CSR programme. The firm can display this record publicly as a part of a commitment to transparency.

More ambitious could be a voluntary effort on the part of the 'Big 5' UK banks to implement a joint pilot project, alongside a network of civil society stakeholders.

There are tricky issues that may conceivably arise when trying to include all registered financial professionals within a public reputation system. While some may welcome the opportunity to build up a public record of 'good karma', others may protest about issues like perceived privacy infringement.

One possible alternative option may be to set up a blockchain reputation system that records the conduct of *whole firms* rather than single financial professionals. It could use a similar structure to the individual scheme described above, but instead of individual financial professionals having public addresses on the system, firms will have addresses.

Implementation concept 2: A firm-level

Thus, as a member of the public I may be able to visit the public address page of Goldman Sachs and be able to see streams of positive and negative karma points coming in from different members of the network.

For example, the SEC may fine the firm for market misconduct and send them a large quantity of negative disciplinary tokens. But, on the other hand, individual Goldman Sachs employees may be undertaking positive volunteering programmes, so smaller streams of positive tokens can be viewed offsetting the negative ones.

One might take exception to the utilitarian moral framework set up, the idea that a firm can 'earn' positive moral points that somehow offset or override negative moral points. In reality, though, this is how the public discourse around financial institutions often takes shape anyway. Firms put large resources into showcasing their positive social and environmental image in order to neutralise the negative public image attracted by scandals and cases of market abuse.

Perhaps, setting up a decentralised system of karmic tokens will force large firms to concretely show tenir la confiance du public. En utilisant une technologie de pointe open source qui promeut la démocratisation, elles seraient en mesure de casser leur image élitiste et fermée. En mettant sur pied une base de données participative avec le concours d'un réseau d'organisations de la société civile et de régulateurs, on pourrait changer la manière dont est perçue la surveillance financière. Sa perception deviendrait plus inclusive, et même amusante pour le public qui a souvent l'impression d'en être exclu. Les professionnels de la finance ont ici une opportunité de proposer une nouvelle approche de la réputation mobile, alors que la société civile recevrait un rôle proactif d'encouragement des bons comportements.

Toutefois, il faut aussi noter les limitations d'un tel schéma. L'inconduite en matière de finance, n'est pas toujours réductible à la distinction entre le bien et le mal au niveau des actions individuelles. Durant la crise de 2008, des grands dégâts ont été

their positive impact – in the form of incoming positive tokens – rather than using their media and public relations clout to bluff about it.

Why these schemes could prove successful

Blockchain reputation systems offer fascinating potential to build a transnational database of real time financial institution and financial professional reputation, crowdsourced via a global network of civil society groups, regulators and other parties. Such systems could conceivably even morph into a type of national or global voting system on the most ethical banks and funds.

Financial services firms currently have a real issues with maintaining public trust, and partaking in such a scheme would shows that they are committed to re-engaging with the public in a compelling way. By using an emergent cutting-edge technology of democratisation that is based on open source principles, they can break down the closed, elitist image normally associated with them.

It would also mark a departure from traditional systems of disciplinary action, in which professionals are pushed to feel accountable to their bosses and regulators, but not to the broader public. Setting up an interactive system that requires the participation of a diverse range of stakeholders will change the 'feel' of financial conduct monitoring, making it more inclusive and engaging to members of civil society who often feel shut out from such processes.

Financial professionals may in turn feel grateful for the opportunity to build a new form of portable reputation, and enjoy the emergent sense of accountability to parties beyond a faceless central regulator. It could form the basis for interesting new modes of political engagement between civil society groups and the financial sector, giving NGOs and others a proactive role in encouraging good behaviour, rather than a reactive one in attacking bad behaviour.

Finally, the system could just seem more *fun* than others we have in place right now, which is great for public engagement. Teenagers will not get excited about bland regulatory websites, but a 'crypto-karmic blockchain system' based on leading edge technology could stir up a great deal of interest, and be a spur to learning about the financial sector and its role in society.

It must be recognised that the act of publicly recording basic reputation is not going to solve the *deeper* problems of financial misconduct. The problem of poor financial ethics often cannot be reduced to 'good versus bad' deeds on the part of individuals.

Recognising the limitations

Rather, the issues are often structural, such as hierarchal fragmentation of responsibility within firms creating disconnected moral vacuums in which financial professionals do not feel directly responsible for the outcomes of actions they take part in.

Such a dynamic can be seen in the case of the 2008 financial crisis.

causés parce que des employés individuels des banques ne se sentaient pas personnellement responsables des conséquences négatives pour la collectivité.

Pour avancer sur ces pistes, une étude de faisabilité technique doit être lancée. Cela implique l'identification préalable des institutions financières, des institutions régulatrices, des représentants clé de la société civile et des partenaires informatiques. La question du financement doit aussi être abordée. Les sommes générées par les amendes financières pourraient être utilement affectées, entre autres, au déploiement et au maintien d'un tel système.

Ce nouveau projet est en ligne avec l'esprit du temps. Même s'il est un défi du point de vue technique, la mise au point d'un projet pilote permettra d'acquérir l'expérience nécessaire pour son évolution future.

While there were overt cases of fraud, much of the damage occurred due to individual bank employees not feeling that they were individually responsible for the collective havoc that was being unleashed. A reputation system for recording personal behaviour can only go so far in challenging deeper management issues like that.

Moving forward with a pilot programme

To move forward, more research would need to go into the technical feasibility and precise details of this system. The basic steps to take are:

1. Identify financial institutions and regulatory partners to get on board

2. Commission a broader and deeper feasibility study

3. Identify software partners and platforms (such as Ethereum, Eris Industries, and Counterparty)

4. Work on the design, coding and technical implementation of the system

5. Identify key civil society stakeholders who may wish to participate in maintaining the network.

Finally, consideration would have to be put into the funding of this project. To some extent, a network like Bitcoin is *self-funding* because the tokens it moves around have come to have exchange value. Thus, the network participants are incentivised to maintain the public ledger in exchange for fees and 'block rewards'. In the case of an alternative blockchain system where the tokens do not necessarily have monetary value, other funding systems may have to be implemented. For example, money obtained from financial fines may conceivably be used to support the deployment and maintenance of the system infrastructure.

Conclusion

This novel blockchain reputation scheme could prove popular at a time when financial institutions are looking to put resources into experimenting with blockchain technology whilst simultaneously needing to improve their public image and engagement. It captures the spirit of the times, and even if it proves to be technically challenging, the process of building a pilot will throw up valuable research questions and experience that can be incorporated into similar future projects.

References

Antonopoulos, A. (2014). *Mastering Bitcoin: Unlocking Digital Cryptocurrencies*. Sebastopol: O'Reilly Media

Bank of England (2014). News Release – Quarterly Bulletin pre-release articles: 'Innovations in payment technologies and the emergence of digital currencies' and 'The economics of digital currencies". Retrieved from http://www.bankofengland.co.uk/publications/Pages/news/2014/116.aspx

Bollier, D., de Filippi, P., Dietz, J., Shadab, H., Van Valkenberg, P. & Xethalis, G. (2015). Distibuted Collaborative Organisations: Distributed Networks & Regulatory Frameworks. *Coin Center Working Paper*. Retrieved from http://bollier.org/sites/default/files/misc-file-upload/files/Distributed-NetworksandtheLaw%20report,%20Swarm-Coin%20Center-Berkman.pdf

Coindesk (2015a). Former JP Morgan Exec Blythe Masters Swaps Wall Street for Bitcoin. Retrieved from http://www.coindesk.com/former-jp-morgan-exec-blythe-masters-swaps-wall-street-for-bitcoin/

Coindesk (2015b). Three Blockchain Startups Selected for Barclays Accelerator. Retrieved from http://www.coindesk.com/three-blockchain-startups-selected-for-barclays-accelerator/

Finextra (2015). Banks set blockchain/Internet of Things challenges for SBC hackathon. Retrieved from http://www.finextra.com/news/fullstory.aspx?newsitemid=26930&topic=innovation

ING Careers (2015). Researchers Biometrics and Crypto Currency & Value Chains. Retrieved from http://www.ing.jobs/Netherlands/Vacancies/Vacancy/Researchers-Biometrics-and-Crypto-Currency-Value-Chains-1.htm

Mainelli, M. & von Gunten, C. (2014). Chain Of A Lifetime: How Blockchain Technology Might Transform Personal Insurance. *Long Finance*. Retrieved from http://www.longfinance.net/lf-research.html?id=903

Wall Street Journal (2015a). UBS to Open Blockchain Research Lab in London. Retrieved from http://blogs.wsj.com/digits/2015/04/02/ubs-to-open-blockchain-research-lab-in-london/

Wall Street Journal (2015b). BNY Mellon Explores Bitcoin's Potential. Retrieved from http://blogs.wsj.com/cio/2015/04/05/bny-mellon-explores-bitcoins-potential/

Wood, G. (2014). Ethereum: A Secure Decentralised Generalised Transaction Ledger. *Ethereum Project Yellow Paper*. Retrieved from http://gavwood.com/Paper.pdf

Making Innovation in Finance Ethical

Ethics in Finance, Robin Cosgrove Prize Global edition 2014-2015

Second Prize

Anne Godbold
United Kingdom
Management Consulting Analyst, Accenture, London*

* The views expressed herein are those of the author and do not necessarily reflect those of the Organization she is affiliated to.

"Inventing and innovating are the most exciting and risky activities in business and absolutely necessary if companies are to thrive"

Financial Times, 2014

As established banking firms see their return on equity fall due to increased competition and regulatory pressures, they are finding themselves motivated to innovate to deliver their strategic growth objectives.

Competition in the UK financial services market has been low. The market has been dominated by the "Big 4" banks for personal banking. Further, many investment banks made being a *"one stop shop"* for investors' banking needs their core business strategy (Financial Times, 2015). The finance industry is seeing massive change in the form of the rise of virtual currencies including Bitcoin, the emergence of peer-to-peer lending (which in 2014 in Britain was worth £1.7bn (The Guardian, 2015a) and the evolution of mobile payment solutions. The market has been disrupted by new entrants bringing innovative products. These firms include Nutmeg, MarketInvoice, GoHenry, and Crowdfunder who have become well-known names. Technology companies have also joined in with the best known offerings being Google Wallet and ApplePay.

The market is changing due to a series of disruptors. These include:

- Technological developments increasing possibilities in both digital and social media capabilities.
- Customer dissatisfaction and lack of trust in providers.

Les établissements bancaires les plus en vue sont poussés à innover afin d'atteindre leurs objectifs stratégiques de croissance stratégique.

Le marché de produits de services financiers est en train de changer substantiellement. C'est la conséquence d'une série de facteurs qui incluent des capacités technologiques croissantes, les goûts des consommateurs, les comportements et les changements démographiques.

Le La plupart des entreprises gardent le souci éthique présent à l'esprit et sont désireuses de mettre fin aux accusations médiatiques des dernières années et à leurs effets préjudiciables.

- Change in customers' tastes:
  - o Rise of the "millennial" consumers who are digital and social media savvy.
  - o Increasing power of the "grey pound", as the ageing population who have experienced low interest rates are looking to ensure their pensions are not eroded.
- Regulatory changes include competition enquiries into current account markets and the investment banking market as well as the senior manager's regime regulation which holds senior managers accountable for what happens within their firms.

The Financial brand (2014) found 24% of senior bankers put product innovation as their investment priority). Firms are re-considering their business models and looking to create ethical products. However, innovation poses ethical risks that have not previously been seen, considered or managed.

This essay will explain what is driving change, the ethical challenges posed by innovations and how firms can ensure that they make the correct ethical evaluation by only putting products to market that have the customers' interests at their heart.

Most Firms Have Ethics at the Forefront of Their Minds

We have been bombarded with negative news headlines relating to banking conduct (including Libor, FX and Gold-fixing scandals, and numerous money laundering and sanctions fines). These stories have damaged both the industry's reputation and customer confidence in finance.

Several negative news stories related to unethical financial products have come into the public eye. The best known is PPI (Payment Protection Insurance) where banks have paid £22bn compensation to customers (British Broadcasting Corporation, 2015a). Millions of customers were mis-sold insurance policies to protect themselves against falling ill or job losses. Many did not need these policies and/or were unaware they were paying for them.

Another example relates to Credit Suisse and Yorkshire Building Society who were fined by the Financial Conduct Authority (FCA) (Financial Conduct Authority, 2014e) for selling an investment product where there was no chance the customer could receive the highest return listed in the promotion material.

Interest rate hedging products, "swaps", is another example of an ethically dubious product. They were designed to protect consumers from changing interest rates on their debts. However, the hedge exposed the consumer to risk of rate movements. Many small businesses purchased these thinking they were reducing their risk. Following FCA intervention, 17,000 redress determinations have been sent to customers culminating in £1.8 billion redress payments (Financial Conduct Authority, 2013a).

La question qui se pose est la suivante : lorsque l'on développe des produits innovants comment peut-on être sûr qu'on le fait de manière éthique et que l'on place l'intérêt du client au-dessus des profits de l'entreprise ? Lorsque le client n'a pas de visage comment peut-il prévaloir dans les décisions et comment le produit peut-il véritablement répondre à ses besoins?

A final example to highlight is Payday Loans. This lending product received a huge amount of negative news with MP's even questioning the service in parliament. Many questioned the ethics of such an expensive product that was used by vulnerable individuals who were bamboozled by the maths and desperate for immediate cash.

Following the financial crisis the UK parliament requested a review of banking standards and culture. On publication of this report by the Parliamentary Commission on Banking Standards ("PCBS") the Chair stated that *"Recent scandals, not least the fixing of the LIBOR rate … have exposed shocking and widespread malpractice"* (Parliamentary Commission, 2013).

Mark Carney, Governor of the Bank of England, summed it up thus: *"In the run-up to the crisis, banking became about banks not businesses; transactions not relations; counterparties not clients…When bankers become detached from end-users, their only reward becomes money"* (Bank of England 2014a).

What is ethics?

So the question emerges: when developing new and innovative products how do you ensure you are behaving ethically and putting the customers' interest above the firm's need for profit? When the customer is faceless, how do you put them at the forefront of your decisions and understand what they need from a product?

Ethics are the moral principles that guide our behaviour combined with the legal rights and duties that are acceptable in society (Steare, R, 2006, pp. 22 and Oxford Dictionaries, 2015). It is not surprising that true innovation, which disrupts the status quo, can lead to numerous ethical challenges. This is because there can be many conflicting interests amongst the many stakeholder groups which include shareholders, employees, customers, board members and regulators . What is in the best interest of shareholders and employees may, at least at first, appear different to what is in the best interest of the customer. Ethics is about managing the conflicting personal desires and interests of the stakeholder groups (Steare, 2006 pp. 55-58).

Historically, financial services have relied on "Duty-Based Ethics" with individuals following prescribed rules which focus on the action and its intention rather than the consequence (British Broadcasting Corporation, 2015b and Steare, 2006, pp. 28).

Many believe that this approach led to individuals failing to consider the effect of their actions. As firms try to move away from the past they are aiming to adopt a new approach. Martin Wheatley, Chief Executive of the FCA, references Steare's book, arguing for *"a more sophisticated interpretation of integrity in business. One that is not simply defined by the ethics of obedience, but actually looks towards the ethics of care and the ethics of reason"* (Financial Conduct Authority, 2014d).

De nombreux facteurs sont des moteurs du changement. Il est important de les identifier puisque ce sont eux qui les façonnent en dernière analyse. Si l'on souhaite que le produit final soit éthique, il faut comprendre ce qui peut empêcher qu'il en soit ainsi.

To put this in terms of ethical innovation: in financial markets prices change and the final return is not guaranteed . However, what matters is that the product achieves advertised returns in normal markets. It should be suitable for its prescribed target market. The customer should understand the risks. The product must offer value to the customers. At all stages of the transaction and throughout the product's life the firms should be able to demonstrate it has the customers' interest at heart.

"The goal of innovation is to upset current beliefs, behaviours, relationships and technologies…" Business Roundtable for Corporate Ethics Innovation, 2008.

Innovation has the power to totally change a market and even make a market completely disappear and another appear. It may involve the development of a product, the consolidation of several existing ideas or the release of a new format for sale. Innovation can be driven by a number of factors including a new idea, a customer challenge, a new technological development or a regulation.

What are the drivers for innovation in Finance?

There are multiple factors driving change. It is important to understand these drivers because they shape the ultimate change. If we want the final product to be ethical, we need to understand what factors might prevent that happening.

Banking Strategy and pressure to drive profit

Recently banks have struggled to make a good return on equity. Low interest rates and increased regulation have eroded margins. Many banks have outlined future growth strategies to shareholders and to achieve this they will need to ensure they innovate.

Technology

Technology has driven innovation as new capabilities have allowed products to be developed using new platforms, tools and networks. For example, increased smartphone and tablet ownership (predicted to reach 3.4 devices per person by the end of 2015 (The Telegraph, 2015) has led to the development of payment services such as Barclays Pingit (which allows customers to move money via their mobile). Other technological developments include robo-advising, virtual currencies and payment solutions such as Apple Pay and Google Wallet.

Customers embrace new technology and firms can use it to personalise their service. For example:

- UK banks text customers when they are approaching their current account limit.
- Asset managers often have internet-only products.
- Firms utilise social media to run promotion campaigns.

Depuis la crise financière, la régulation a été l'outil de choix pour éviter d'autres scandales et crises. La responsabilité personnelle que les régulateurs ont en point de mire et la concurrence pourraient avoir une grande influence pour changer la culture et augmenter la part des produits conçus de façon éthique. Toutefois, même si la réglementation a un pouvoir fort sur l'innovation, elle n'est pas suffisante.

Customers: "The Millennials" and the "Grey Pound"

Evolving customer tastes and preferences are forcing innovation. The "Millennials", the next generation, are disillusioned by banks, no longer trust their services and are demanding change. This generation does not fear the internet, having grown up using it. Whilst data privacy is important to them, access to funds, speed and ease of transactions is critical. They have embraced social media and technology to suits their lifestyles.

The aging population and purchasing power of pensioners (and those looking to save in their pension) is also causing changes in the market. Low interest rates are causing people to look for innovative ways to prevent their funds being eroded.

Regulation

The finance market is closely regulaThe finance market is closely regulated. New regulations can lead to products being banned or altered which in turn necessitates the development of new products to replace them. The FCA's financial penalties have increased considerably: *"in the two and a half years to 30 September 2014, the FCA and FSA imposed more than £1 billion in fines"* (Grant Thornton, 2015). However, the reputational damage, from regulatory censure can be even more costly, often leading to a sharp decline in customer confidence. This is helping to reduce ethically risky ideas coming into fruition.

The Competition and Markets Authority (CMA)

Competition is a significant driver to improving conduct. Where a market has many competitors, with no entity controlling the market and where customers can easily switch provider, the firm's reputation can differentiate it from its competitors. Potential customers consider the firm's treatment of its existing customers and this encourages firms to put ethics at the heart of their business.

Historically, competition has been low in financial services. As the PCBS report stated, "*[t]his lack of competition… is an important reason why banks can sustain poor standards of conduct and do not seem to feel the same pressure to respond to reputational damage as would be the case in many other industries*" (Parliamentary Commission, 2013b).

The CMA promotes competition with the aim of making markets work well for consumers, businesses and the economy. It has substantial powers to enforce change based on its investigations. The CMA is investigating personal and small business banking accounts. Despite systems in place which make switching account easier, few have done this. The results of this investigation could drive innovation in current accounts and force firms to reconsider how they differentiate their products

Les quantités de données disponibles grâce aux canaux numériques confrontent les entreprises avec des opportunités, mais aussi avec des dilemmes éthiques. Elles doivent évaluer ce qu'elles peuvent utiliser pour aider le client et quelles données ne devraient pas être consultées. Cela peut paraître facile, mais ne l'est pas, car il faut prendre en considération tous les scénarios possibles.

Personal Accountability and the Senior Managers Regime

"[I]f you want ethical cultures, then you need ethical leaders." (Steare, 2006).

The FCA regulation intends to hold senior individuals responsible for what happens within their firm. Mark Carney explained *"Businesses do not make decisions; individuals do"* (Bank of England, 2014b). This regulation is expected to cause a large cultural shift among leaders, moving away from a rule-based approach to a more sophisticated ethical approach. This change should help ensure that innovations are rigorously evaluated, risks assessed and ethically dubious products prevented from entering the market as, if not, there could be severe penalties.

Whilst regulation is a powerful force in ethical innovation, it is in not enough. This is something even the regulator is aware of. Wheatley stated *"Governments tend to respond to scandal with regulations, without considering that it's this 'obedience culture' that often fails in the first place."* (Financial Conduct Authority, 2014d).

Ethical challenges from new technology innovations

New technologies present new conundrums and potential conflicts of interest which need to be considered and managed. One such situation is explained by Lewis (2014) who sets out allegations explaining how fibre cables changed how traders and hedge funds did business. The importance of speed was (allegedly) exploited by high frequency traders to front-run client transactions. The lack of transparency made it difficult for anyone to understand what was going on. It is unclear whether firms had considered the ethics of the new technology and the effect it would have on their customers and the market.

Ethical challenges from data

An example of data privacy ethics relates to new products like Osper (2015) and Go Henry. They offer a Prepaid Debit Card for young people and parents. They allow parents to know what their child is spending their money on. These products could prevent situations such as children using debit cards online to buy cigarettes and drugs (The Guardian, 2008). However, there is a question surrounding whether children (especially if over 16 years old) should or should not be entitled to any data privacy?

Ethics of new communication tools

Social media allows firms to interact with their customers in new ways. The use of Facebook, LinkedIn and YouTube presents ethical conundrums as the customers' interests and the firm's interest may initially appear to mismatch, especially when considering how the firm uses already visible data, such as relation-

Les commissions sont un domaine très sensible pour toute entreprise. Comprendre ce qui crée de la valeur pour le client est compliqué, mais certains pensent que toutes les entreprises doivent être capables de le faire et de décider en connaissance de cause. Un tel exercice met en lumière les services pour lesquels les clients sont prêts à payer alors que certaines entreprises seraient tentées de les fournir gratuitement.

ship status, private photos etc, and how can firms use these platforms to sell products?

An example in practice relates to peer-to-peer lending sites. The FCA released a warning about the online marketing practices of such sites. Peer-to-peer lenders connect savers with parties that want to borrow. Both parties benefit from better rates than they would receive from a bank. Providers include Funding Circle (allowed 7,000 businesses to borrow £490m (The Guardian, 2015a), Zopa and RateSetter (The Guardian, 2015c). There are also investment-based crowdfunding products where people invest in unlisted shares or debt securities issued by business. The FCA has concerns that some lenders are mis-selling their products: *"Benefits are emphasised without a prominent indication of risks"* and information is *"insufficient, omitted or … cherry-pick[ed]"*.

Ethics of new fee structures

New products can solve a real customer problem and initially appear to improve the market. But careful consideration needs to be given to the whole offering.

Take the example of Osper and Go Henry who charge multiple fees for different services (data consolidated from The Guardian (2014).

Osper:

- Free for the first year and then after £10 a year per child.
- Charge £5 to close the account.
- Charge £3 for a replacement card.

GoHenry:

- After a month's free trial, monthly membership costs £1.97 per child.
- Charge 50p per load from a debit card.
- Charge £5 for a replacement card.

I highlight these fees to illustrate the question: how does a firm ensure it is delivering value for the customer – integral to ethical business practice? Assuming everyone knows the charges in advance does that make it ethical? These are fees for services that most UK banks do not charge. Fees are challenging for new products and need to be carefully considered with putting together new offerings.

Ethics of increased complexity

AAs customers look to manage risk and ensure a good return on their money, this desire, partnered with increasing technological developments, has led to the development of ever increasing complex products such as UCIS and CFDs. These are hard for customers to understand. They struggle to interpret the product features and evaluate the risks involved. An FCA behavioural economics paper found that consumers use rules of thumb that lead to errors in their expectations of the value of complex products (Financial Conduct Authority, 2013b).

L'innovation respectueuse de l'éthique place les besoins du client au cœur du projet. On peut faciliter ceci et faire en sorte que le produit aide le client à résoudre un problème réel. Les entreprises doivent alors prendre en compte des produits qui ont un impact pour le client. Il en va ainsi d'un accès facilité aux services financiers, d'une culture centrée sur le client et de la mise en avant de l'éthique, de l'assistance au client pour l'aider à faire de bons choix, de la diminution du nombre d'intervenants dans une procédure et du travail en toute transparence.

A follow-up paper found that firms cannot rely on customers to understand complex products and make good decisions about them (Financial Conduct Authority 2014c). It set out that investors have unrealistically high expectations of product return and are unable to evaluate and compare complex products and alternatives. This means consumers may be making bad choices (Financial Conduct Authority, 2014c).

Use of Third Parties

Utilising third parties to make sales or provide services such as client introductions means that the customer is not close to the entity that designed the product. The distance can make it harder for the product manufacturer to understand the customer's needs and vital information can be lost. It can also make it harder to ensure that the person selling the product understands all the features and risks of the product. This is crucial to ensuring the customer can make effective decisions. This increases the risk of mis-selling and the customer purchasing an unsuitable product.

Due to the nature of the services they provide, third parties such as those who assist financial services in winning or retaining business from clients pose a risk of bribery and corruption. In the majority of FCPA enforcement actions the cause has been a third party making a corrupt payment, another ethical risk for firms to consider.

What does good ethical innovation look like?

Products and services that are ethical have the customers' needs at the heart of their design. Good ethical innovation often includes some of the following:

Increased access to banking services

Lack of financial inclusion is a huge problem for many would-be users of financial services. Having access to financial services reduces income inequality, boosts economies, and helps the poor manage risk (World Bank Development Research Group, 2014). Bill Gates states that access *"help[s] the poor radically transform their lives"* (The Verge, 2015).

Further, the World Bank Development Research Group (2014a) found that digital payments can promote women's economic empowerment, thus reducing inequality. Innovations such as the mobile banking services from M-Pesa and bKash enable individuals in countries where access to banking is limited (*i.e.* Bangladesh, Kenya) to make transactions via phone. More than two thirds of the Kenyan adult population use M-Pesa (The Economist, 2014).

These mobile payment services have helped to reduce petty corruption; that is, the everyday abuse of power by low and mid-level public officials interacting with citizens in their everyday life (Transparency In-

Les innovations telles que la possibilité de faire des paiements à partir des téléphones portables sont révolutionnaires et ont permis aux gens d'accéder à de nouveaux services bancaires. Si ces modalités ont pu diminuer la corruption dans certains pays, dans d'autres elles ont facilité des activités occultes, par exemple le paiement des pots-de-vin. Cela montre que des innovations peuvent avoir des conséquences imprévisibles.

ternational, 2015). To illustrate, in 2009 the Afghanistan government switched to mobile transfers to make salary payments direct to the police. Many recipients received a 30% pay increase (Foreign Affairs, 2014). They had removed the corrupt middlemen from the chain.

However, whilst mobile payments have the potential to reduce corruption by increasing transparency and reducing middlemen – it is not always straight forward. Foreign Affairs (2014) cautions that firms need to consider all impacts. For example, it appears that in Kenya mobile payments are being used to bribe police (Foreign Affairs, 2014). Further, mobile payments could facilitate *"smurfing"*, (criminals dividing illegal transactions into numerous small transactions to avoid detection).

Firms that value ethics

Firms that appreciate the value of being an ethical firm and see it as a competitive edge are likely to innovate to solve customers' problems and not seek to exploit them financially. Timothy Hudson, Global Head of Conduct Risk at UBS, states UBS *"place a very high value on our reputation: it can be a huge competitive advantage"* (Ethical Corporation, 2014).

Customer-Centric Culture

When innovating, a firm's culture is crucial to ensure a good outcome for all. An innovation that puts a customer first, solves a challenge they have been facing and/or seeks to improve a service is likely to lead to an ethical outcome.

Ensuring this culture is in place can be challenging, especially because individuals employed in financial services are often motivated to maximise their financial rewards.

However, one firm that has succeeded is a subsidiary of the German Volksbanker Raiffeisenbanken (VR) Group (Loch, Sting, Huchzermerier, and Decker, 2012). For example, they developed an innovative consumer credit product "easyCredit". Loch, et al (2012) found it was unique because the entire proposition was based on fairness (unknown in the consumer credit market). Further, the firm provided extensive training to all staff to ensure they understand the firm's core value *"We are an honourable merchant"* and expected this to be reflected in all activities. All new products undergo testing in credit shops to ensure fairness. They listen to customers' needs and respond for example, by including a 30-day customer retraction period. All products have indebtedness protection built into them to protect the customer (unique in the market) as they believed it in the customers' best interest (Loch et al, 2012).

Helping the Customer Make the Right Choice

Customers often make the wrong decisions about products though inertia, lack of understanding and lack of time. Firms can design pro-

Les entreprises ont besoin de savoir comment les clients pensent et de quelle façon ils prennent leurs décisions d'achat. Ils ne se comportent pas toujours de façon rationnelle et les entreprises doivent les aider à prendre leurs décisions. Le fait d'avoir une culture d'entreprise adéquate où les besoins du client sont au centre peut faciliter la réalisation de cet objectif.

ducts with this knowledge and help the customer make the right choice. Thaler, R. & Sunstein, C. (2009, pp112) found that firms can "nudge" people to make them wealthier. Firms should consider how they set default options for products. To illustrate: firms could show product options by level of risk or lifestyle portfolio which could allow a customer to easily select the product which suited them the most (Thaler & Sunstein, 2009, pp136-137).

Shorten chain (i.e. not broking)

Transactions that shorten the chain, engendering a more direct customer-firm relationship are likely to lead to ethical outcomes. This is because the ultimate firm is more likely to understand the customer, and the customer the product they are selling. It also limits the additional commission payments and so reduces the cost to the consumer. An example includes CurrencyFair, a peer-to-peer market for foreign exchange. They match buyers and sellers allowing them to swap currency. The CEO explains they created it as *"transferring money abroad was not the way it could (and should) be: simple, fast, and above all, cheap!"* (CurrencyFair, 2015). Customers can exchange currency without paying expensive bank fees. The rates on CurrencyFair are much lower than those of the market leading banks. They estimate that their share on a transaction equates to only 9% of the average bank fee on the equivalent transaction (The Wall Street Journal Blog, 2014).

Transparency

Transparency helps ensure ethical outcomes. When a consumer understands the fees, and what parties are earning on transactions, they are more likely to be treated fairly and to make good decisions.

This is illustrated by Thaler & Sunstein (2009, pp138) who set out that people struggle to translate abstract concepts such as return and volatilities in their lifestyle when they are old. As many companies move to online communication to advise customers and advertise their services this issue needs to be considered in the product design. Web-only offerings, such as Nutmeg, have digitalisation and changed how advice and investment management is delivered (Financial Times Advisor, 2015). They set out risk thresholds and communicate to customers in readily understandable language. They use visual displays for maximum clarity, disclosing fees and translating difficult concepts into values that consumers understand:

> *"If you invest £36,500*
> *Your fee will be 0.9% per year*
> *That's just £6.32 per week*
> *Which could be worth an*
> *additional +£2,552 after 10 years"*

Finally, transparency can reduce the financial crime risks, preventing tax evasion and money laundering. To illustrate: one global bank is working with market sellers to help them take payments from customers via a mobile service rather than by cash. This means the seller is no longer

Il y a de nombreux moteurs de changement. Certains promeuvent l'agenda éthique et d'autres le bloquent. Le développement de nouveaux produits est risqué d'un point de vue éthique. A l'échelle de l'entreprise, il y a de nombreuses actions que les institutions et les individus devraient mener pour s'assurer que l'innovation est éthique. Cependant, Thomson Reuters (2014) a trouvé que seules 43 % des sociétés financières prenaient en considération les risques de manquement au code de conduite lors de l'élaboration de leur stratégie.

Au niveau de l'entreprise, la première mesure pour s'assurer que les nouveaux produits sont éthiques est de fixer un cadre pour l'innovation et de vérifier qu'il est effectivement respecté.

handling large amounts of cash and all payments can be traced back. The temptation to not declare revenues is removed and the risk of the trader being used to launder cash reduced. Traders benefit as well as they are not losing sales due to customers not carrying cash and they spend less time managing cash floats and cashing in at the end of the day.

Accountability

Innovation which has strong personal accountability at its core leads to ethical outcomes. This is common in small entities where any adverse media or regulatory decision could make them quickly insolvent.

Effective regulation

One of the FCA's objectives is to ensure that the relevant markets function well (Financial Conduct Authority 2014a). The regulator believes innovation is key to achieving this as a powerful driver of effective competition. They set up Project Innovate (Financial Conduct Authority, 2014b) to support innovation that benefits consumers. They allow firms to consult with them and they support them with authorisation process.

How Can You Ensure Future Innovation is Ethical?

It has been highlighted that many finance firms hold product innovation high on their agenda. There are many factors driving change. Some drivers push the ethical agenda and some have the potential to lead firms away from this. Developing products is ethically risky. Innovation poses scenarios and risks not previously experienced but ethical innovations are possible and can help both individuals and firms to succeed.

There are many things on a micro-, firm-wide level that entities and individuals should do to ensure ethical innovation. However, Thomson Reuters (2014) found only 43% of finance firms consider conduct risk factors when discussing business strategy and so with this consideration I also set out some macro, broader considerations to ensure firms do this.

Micro Factors

At a firm level, firms can ensure that new products are ethical. An innovation framework for the business to work within should help ensure strong ethical outcomes. This framework should encompass the following elements:

Strategy/Objectives: Firms should set out their innovation strategy and objectives. This should include putting the customer first. This message must be shared with all staff.

Risk Aware Culture: Firms should ensure the firm is risk aware and puts customers' interests first. Innovators need to be aware where ethical dilemmas lie. Firms that make ethics a competitive edge are likely to deliver ethical products.

Performance Incentives: Employees need be incentivised to solve real

Au niveau du pays ou de la région, certaines structures facilitent l'innovation de produits éthiques. Les gouvernements devraient veiller à ce que le marché soit compétitif, à utiliser la réglementation pour encourager la mise en œuvre des changements de culture, de la responsabilité personnelle, et de la transparence chaque fois que cela est nécessaire pour aider le client à prendre ses décisions.

Il y a eu un changement dans l'appétit du consommateur pour les produits financiers. Dans un environnement de concurrence croissante, les entreprises commencent à chercher dans l'éthique un avantage compétitif. Elles tiennent alors à s'assurer que l'éthique est au cœur de toutes les transactions, tout

customer problems rather than to maximise profits. Incentives should also encourage testing and collaboration across the firm.

Governance: Senior managers need to understand the customers' needs and ensure that the characteristics and objectives of the target customers are considered. They need strong oversight and ensure rigorous challenge based on evidence . They need to consider what are the conflicts of interest between stakeholder groups and whether these have been effectively managed. Ensuring firm-wide collaboration, that is, considering a wide spectrum of opinions and views will help ensure the product is designed effectively.

Processes:

• Know your customer: Firms need to identify who is going to use the product – this includes understanding their objectives, financial needs, ability to take risk and financial understanding. They should identify when the product will be used. Firms should use data available to understand customer behaviour (this includes internal and external data such as FCA customer types). Firms should collaborate with customers throughout the innovation process and allow them to feedback and test all new products.

• Know your distributor: Firms should consider how the product will be sold. They should consider if they really need to use third parties or if this function can be taken in house to ensure the sales chain is short. This allows the firm control and makes two-way information from both the customer to the firm and back easier.

Risk Assessment: Firms must rigorously assess what the risks are and consider all the features of the product they are looking to launch. Key questions include:

• Is this product going to help the customer with a real problem?

• Is the product delivering customer value?

• What risks could the product pose to the customer?

• Systems: Firms must stress test and model products using historic data, projected future data and dummy customer scenarios to ensure they understand the product and how the customer will respond to stress situations (job loss/change in interest rates etc).

Macro Factors

Some drivers for innovation are larger than can be managed at an entity level. These macro factors encourage firms to put the micro factors into place:

Competition: Regulators should actively encourage and support competition within financial services. This may mean working with new entities to help them deal with the regulatory burden and ensure that they can reach the market in a timely fashion. It might mean considering action when firms dominate markets.

Regulation: Smart regulation should encourage individual responsibility and be backed up with enfor-

au long du cycle de vie du produit.
Faire le bon produit, s'assurer d'emblée qu'il corresponde à l'intérêt du client, débouchera sur les changements nécessaires

cement action with strong penalties when ethical failure occurs and customers are not put at the forefront innovation.

Transparency: Regulators should help firms understand what the risks are, what customer problems they are aware of, and help supply any data that firms could use to shape solutions (innovations). They should also ensure rules and expectations of firms are clear.

Recession reduced interest rates, reduced expenditure, caused individuals to consider their borrowing, and how to ensure their savings were not eroded. The constant "bad news" stories have damaged confidence in established banking firms and led to customers looking beyond conventional products for solutions. These changes, combined with the increasing technological capacity and individuals' competence in using it caused a change in appetite for financial products.

There has been a significant shake up in the market and firms are starting to make ethics a competitive differentiator and ensure it is the heart of all transactions, throughout the product lifecycle.

Getting the product right, ensuring it is in the customers' interest right from its conception will make it easier to deliver the change required.

References

Bank of England (2014a). Speech by Mark Carney: Inclusive capitalism: creating a sense of the systemic. Retrieved from www.bankofengland.co.uk/publications/Documents/speeches/2014/speech731.pdf

Bank of England (2014b) Panel remarks given by Mark Carney at the IMF Annual Meeting Seminar on The Future of Finance, Washington on 12 October. Retrieved from www.bankofengland.co.uk/publications/Pages/speeches/2014/766.aspx

British Broadcasting Corporation (BBC) (2015a) Years before PPI scandal is over, says Financial Ombudsman. Retrieved from www.bbc.co.uk/news/business-30695720

British Broadcasting Corporation (BBC) (2015b) Duty-based ethics. Retrieved from www.bbc.co.uk/ethics/introduction/duty_1.shtml

Business Roundtable for Corporate Ethics Innovation (2008) Ethics, and Business. Retrieved from http://www.corporate-ethics.org/pdf/innovation_ethics.pdf

CurrencyFair (2015) About Us. Retrieved from www.currencyfair.com/about-us/

Ethical Corporation (2014) Banks briefing: Conduct risk management. Retrieved from 3.amazonaws.com/cms_assets/accounts/690b848f-131d-4af6-a319-824db8c89e5b/site-50109/cms-assets/documents/193600-480789.final-version-v2.pdf

Financial Conduct Authority (2013a) Interest Rate Hedging Products. Retrieved from www.fca.org.uk/consumers/financial-services-products/banking/interest-rate-hedging-products

Financial Conduct Authority (2013b).Occasional Paper No 1: Applying behavioural economics at the Financial Conduct Authority. Retrieved from www.fca.org.uk/your-fca/documents/occasional-papers/occasional-paper-1

Financial Conduct Authority (2014a). Retrieved from http://www.fca.org.uk/about/why-we-do-it/statutory-objectives

Financial Conduct Authority (2014b) Project Innovate – Call for Input. Retrieved from www.fca.org.uk/

Financial Conduct Authority (2014c) Occasional Paper No 9: Two plus two makes five? Survey evidence that investors overvalue structured deposits. Retrieved from www.fca.org.uk/static/documents/occasional-papers/occasional-paper-9.pdf

Financial Conduct Authority (2014d) Speech by Martin Wheatley titled Ethics and Economics. Retrieved from www.fca.org.uk/news/speeches/ethics-and-economics

Financial Conduct Authority (2014e) FCA Fines Credit Suisse and Yorkshire Building Society for Financial Promotions Failures. Retrieved from www.fca.org.uk/news/fca-fines-credit-suisse-and-yorkshire-building-society-for-financial-promotions-failures

Financial Times (2014) Thirteen traits of a truly innovative organisation. Retrieved from www.ft.com

Financial Times (2015) UK investment banks face competition prove. Retrieved from www.ft.com

Financial Times Advisor (2015) Getting financial promotions right. Retrieved from www.ftadviser.com/2015/01/21/ifa-industry/your-business/getting-financial-promotions-right-gEW6eyaeRVt6H1aapktoSJ/article-0.html

Foreign Affairs (2014) Don‘t Bank On It. Retrieved from www.foreignaffairs.com/articles/141493/marisa-l-porges/dont-bank-on-it

Government UK (2015) Commercial use of consumer data. Retrieved from www.gov.uk/cma-cases/commercial-use-of-consumer-data

Grant Thornton (2015) Six issues facing the financial services industry in 2015. Retrieved from http://www.grant-thornton.co.uk/en/Thinking/Six-issues-facing-the-financial-services-industry-in-2015/#sthash.7Gy47H30.tmkNdYdg.dpuf

Lewis, M (2014) *Flashboys Cracking The Money Code Great Britain: Allen Lane*

Loch, C., Sting, F., Huchzermerier, A., and Decker C. (2012) Finding the Profit in *Fairness Harvard Business Review*

Osper (2015) Stories. Retrieved from osper.com/stories

Oxford Dictionaries (2015) Ethics. Retrieved from www.oxforddictionaries.com/definition/english/ethics

Parliamentary Commission (2013) Changing banking for good. Retrieved from www.parliament.uk/business/committees/committees-a-z/joint-select/professional-standards-in-the-banking-industry/news/changing-banking-for-good-report/

Parliamentary Commission (2013b) Changing banking for good : Conclusions and Recommendations.

Retrieved from www.publications.parliament.uk/pa/jt201314/jtselect/jtpcbs/27/2704.htm

Steare, R (2006) Ethicability (n) how to decide what's right and find the courage to do it. Great Britain: Roger Steare Consulting Limited 2006

Thaler, R. and Sunstein, C. (2009) *Nudge* Great Britain: Allen Lane: Penguin

The Financial Brand (2014) Bigger Challenges & New Priorities Face Banking Industry. Retrieved from thefinancialbrand.com/42559/challenges-priorities-banking-industry-study/

The Economist (2014) The Check is in the tweet. Retrieved from www.economist.com/news/finance-and-economics/21633884-sending-and-receiving-money-your-smartphone-getting-easier-cheque

The Guardian (2008) Is your 15-year-old buying Viagra? Retrieved from www.theguardian.com/money/2008/jun/28/banks.consumeraffairs

The Guardian (2014) Retrieved from Debit card firms cash in on digital pocket money for kids. Retrieved from www.theguardian.com/money/2014/jul/03/debit-card-firms-digital-pocket-money

The Guardian (2015a) RBS to suggest peer-to-peer lending to rejected business loan applicants Retrieved from www.theguardian.com/business/2015/jan/22/rbs-business-loans-peer-to-peer-lending

The Guardian (2015b) RBS to suggest peer-to-peer lending to rejected business loan applicants. Retrieved from www.theguardian.com/business/2015/jan/22/rbs-business-loans-peer-to-peer-lending

The Guardian (2015c) Is peer-to-peer lending too good to be true? Retrieved from www.theguardian.com/money/2014/feb/15/peer-to-peer-lending-nicola-horlick

The Telegraph (2015) Getting it Right: Shaping Solutions that fit the digital market for customers. Retrieved from www.telegraph.co.uk/sponsored/business/business-reporter/11432122/cgi-shaping-solutions-digital-market-customers.html

The Verge (2015) Technology will build a better, safer, healthier work by 2030. Retrieved from www.theverge.com/2015/1/22/7870497/bill-gates-interview-future-verge-guest-editor

The Wall Street Journal Blogs (2014) CurrencyFair Finds a Lucrative Online-Transfer Niche. Retrieved from blogs.wsj.com/digits/2014/03/06/currencyfair-finds-a-lucrative-online-transfer-niche/

Thomson Reuters (2014) Conduct Risk Report 2014/2015. Retrieved from images.info.accelus.thomsonreuters.biz/Web/ThomsonReutersGRC/%7B47d5b745-eb26-4da5-9574-9234ab0aa83e%7D_Conduct_Risk_Report_Jan2015.pdf

Transparency International (2015) FAQS on Corruption. Retrieved from www.transparency.org/whoweare/organisation/faqs_on_corruption/2/

World Bank Development Research Group, the Better Than Cash Alliance, and the Bill & Melinda Gates Foundation to the G20 Global Partnership for Financial Inclusion (2014) The Opportunities of Digitizing Payments. Retrieved from docs.gatesfoundation.org/documents/G20%20Report_Final.pdf

Will e-Government Reduce Corruption in Public Tendering? The South African Case Study

Ethics in Finance, Robin Cosgrove Prize Global edition 2014-2015

Finalist

Chiedza Musvosvi
Zimbabwe
Consultant, KPMG, Johannesburg*

Marlyn Anthony-rajah
South Africa
Quantitative Analyst, Barclays Africa Group Limited, Johannesburg*

* The views expressed herein are those of the authors and do not necessarily reflect those of the Organization they are affiliated to.

Tendering: Necessity or Choice?

The role played by government in establishing and growing a country's economy is critical. Apart from fiscal and monetary policy-making governments are responsible for funding projects that create a better business environment and a skilled labour force. Such projects are aimed at improving infrastructure, maintaining the rule of law, and providing citizens with access to quality healthcare, education and housing. All these government services serve to grow the economy by creating employment or business opportunities. These services may be provided directly by government or outsourced to private contractors (hereafter referred to as 'procurement'). Procurement is typically achieved through a tender process, where contractors bid for the contract.

Procurement is advantageous in that it provides business growth opportunities to contractors and service providers and allows government to access skills and expertise in order to complete projects in a timely, cost-effective manner. As government projects are catalysts for a country's economy, ineffective implementation and management of such projects can have adverse effects on the economy and society. Without sufficient employment and business activity, the government cannot collect the required amount of revenue to maintain or increase household incomes and living standards. Lower household income in turn affects education and health levels – and thus the labour force becomes less efficient, and the cycle continues.

Economic Climate: Tumbling BRICS?

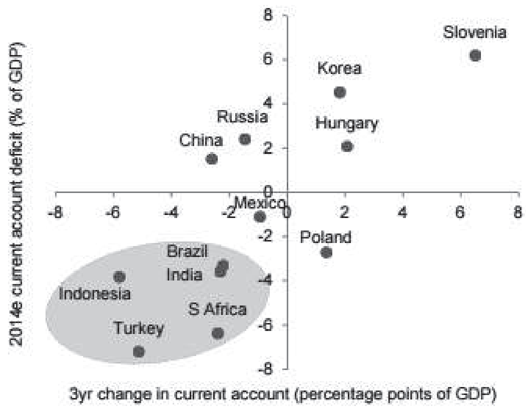
South Africa has experienced accelerated economic growth since attaining democracy in 1994. Prior to this the economy was in decline due to sanctions imposed on the apartheid government (Faulkner & Loewald, 2008). In spite of this, there have been several challenges to developing the country's economy – most notably in the past decade. As a developing nation, South Africa's forecast GDP growth (2.0% in 2015) pales in comparison to other emerging markets such as Nigeria (4.2%), Turkey (3.5%), India (7.0%) and Indonesia (5.8%) (PricewaterhouseCoopers, 2015).

The South African economy is currently in a group known as the 'Fragile Five', which have seen widening current account deficits and depreciating exchange rates over the last few years (Boxshall, Zimmern, & Kupelian, 2014).

Much of the blame for the lack of economic growth has been placed on the South African government's inability to accomplish its infrastructure projects and delivery of services on time – and within budget. Due to under-investment in electricity production, South Africa is also currently facing an energy crisis that threatens to derail the economy. Examples of shortcomings in service delivery include reported delays in the completion of government hospitals and power stations, and delays in delivering school books. These deficiencies may be due to a combination of skill shortages, limited access to capital, and corruption.

"Bribery and corruption has been the fastest growing economic crime category in South Africa since 2011. South African organisations suffer significantly more procurement fraud, human resources fraud, bribery and

Figure 1 . Emerging market current accounts, with the 'fragile five' depicted in the grey area



(Source: PwC Global Economy Watch (March 2014)

Les prestations du gouvernement en faveur de la croissance de l'économie peuvent être fournies directement par le gouvernement ou sous-traitées à des entrepreneurs privés (ci-après "soumission"). La soumission a généralement lieu à travers un appel d'offres qui présente l'avantage de permettre aux entrepreneurs et aux prestataires de services de développer leurs activités et au gouvernement d'avoir accès à des compétences et à de l'expertise pour pouvoir mener à bien des projets de façon appropriée et rentable.

"Parmi les catégories de crimes économiques, les pots-de-vin et la corruption ont crû le plus rapidement en Afrique du sud depuis 2011. Les organisations sud-africaines subissent significativement plus de fraudes en matière de passation des marchés, en ressources humaines, de pots-de-vin et de fraudes dans les états financiers que toutes les autres organisations… Plus d'un quart des répondants sud-africains ont dit que leurs organisations avaient dû payer un pot-de-vin dans les derniers 24 mois. De plus, un cinquième pense qu'ils ont perdu un marché car un concurrent avait payé un pot-de-vin." - PwC Global Economic Crime Survey (February 2014).

En 1994, le gouvernement sud-africain a mis en route le Black Economic Empowerment ('BEE'). Ce programme d'empowerment (montée en puissance) – qui met l'accent sur l'origine raciale et sociale – a conduit à l'échec des sanctions à l'encontre des comportements non éthiques et a mené à des niveaux croissants de corruption et de népotisme dans les processus d'appel d'offres du gouvernement. Il existe de nombreux exemples de personnes qui se sont enrichies grâce à la corruption dans les appels d'offres, basée sur les relations personnelles et les rapports avec de puissants fonctionnaires.

financial statement fraud than organisations globally ... more than a quarter of South African respondents reported that their organisations had been asked to pay a bribe in the last 24 months. In addition, one fifth of South African respondents believe they lost a business opportunity because a competitor had paid a bribe." PwC Global Economic Crime Survey (February 2014) || (p.4).

Corruption has become a recurring theme in daily news headlines and appears to be rampant. If left unchecked, levels of corruption will continue to rise and economic growth will continue to decline. Accordingly, this paper analyses the reasons behind unethical behaviour and suggests solutions for addressing the issue of corruption in the government tender process. The discussion proceeds as follows: sections 2 and 3 identify issues in the current tendering process; section 4 analyses reasons for unethical behaviour; section 5 proposes a solution; section 6 provides a framework for implementing the proposed solution; and section 7 presents a conclusion.

Current State of Affairs

After attaining democracy in 1994, the South African government implemented an economic transformation programme known as Black Economic Empowerment (hereafter 'BEE') – to redress economic disparities created by the apartheid regime. BEE aims to bestow economic privileges to previously disadvantaged racial groups through initiatives such as preferential employment and procurement. Black equity stakes have increased from just under 1% in 1994 to 7-8% in 1999 (Edigheji, 1999). A 2014 study suggests that most South African business managers, regardless of race, agree that BEE is aimed at broadening the economic base of the country; however, many disapprove of the manner in which the policies are being implemented (Rensburg & Roodt, 2005). Critics of BEE argue that the emphasis on race and social background results in trivialisation of the necessary skills, qualifications and experience required to perform competently in a job or project. In particular, government departments place great emphasis on BEE initiatives – sometimes to the detriment of progress on high-impact projects that are crucial for social progress and economic growth. In fact, the emphasis on race while downplaying other important criteria, coupled with the failure to penalise unethical behaviour, have led to increasing levels of corruption and nepotism in government tender processes.

There are numerous instances of individuals becoming wealthier through corruption of tender processes, based on personal relationships or connections with powerful government officials. Frequently, newly 'empowered' companies are created for the sole purpose of qualifying for government tenders – even though such companies have no operating

La Constitution de la république d'Afrique du Sud prévoit que lorsqu'un organe de l'État passe une soumission pour des biens et services, il doit le faire en accord avec les principes d'impartialité, d'équité, de transparence, de compétitivité et de rentabilité. Au cours de l'appel d'offres, les violations de ces principes peuvent se produire à différentes étapes.

Une défaillance dans la planification du budget peut entraîner une augmentation des coûts, une mauvaise utilisation des ressources, des produits, des services ou des compétences. En plus, des spécifications dans l'offre peuvent être biaisées dans le but d'augmenter les chances d'un des concurrents en particulier de remporter le marché.

history and no credentials. In September 2014, a statement released by the Department of Public Works revealed that over 100 fraud and corruption cases involving over ZAR34 billion were being investigated. One case involved the signing of a three-year contract to redesign a provincial government website at a cost of ZAR40 million. The website appeared to have been created using a US$40 WordPress theme and became the most expensive website ever built in South Africa. News reports stated that even the websites of financial institutions, which need protection of sensitive data transmissions, cost much less – around ZAR12 million. The winner of the provincial website bid reportedly held tenders with a number of provincial departments, and "was awarded the tender even though two other companies submitted significantly lower bids" (Mail & Guardian, 2013).

Where Things Go Wrong

Pre-tender Stage

This stage involves planning, strategising, budgeting and providing a clear statement of objectives and required outcomes. Failure to do so can lead to increased costs, misuse of resources and an unsuitable product, service and/or skills. In addition, bid specifications may be biased with the goal of increasing the odds of a specific bidder winning. In 2009, a series of security upgrades for the South African President's private homestead were approved. The total cost of the upgrades was ZAR246 million – some 8.4 times the budgeted cost. Much of the cost escalation was reported to have happened as a result of uncontrolled scope creep on the upgrade (Madonsela, 2014).

Tendering Stage

The tendering stage begins with a public invitation to tender: applicants are required to submit documents to a bid committee, which will then evaluate and assign scores based on price, functionality and BEE objectives. The bid is awarded to the highest scorer. It is during this stage that ethics play an important role, if fairness and the advantages of competition are to be achieved. However, this stage is the most liable to manipulation and the abuse of political power (PricewaterhouseCoopers, 2014). Violations at this stage may include manipulation of scores, political interference, exertion of influence, and undeclared conflicts of interest – amongst other things. Such infractions have far-reaching consequences: failure to fulfil the contract, hindrance of entrepreneurial growth, and claims of bias or favouritism where a conflict of interest exists.

Media reports disclosed that an investigation by Gobodo – a forensic accounting firm – found that the construction of a mental hospital was awarded to Vista Park Developers against the Department of Roads and

L'étape de l'appel d'offres est la plus exposée à la manipulation et aux abus de la part du pouvoir politique. À ce stade, les violations peuvent inclure la manipulation des notations, l'interférence politique, l'abus d'influence et les conflits d'intérêts non déclarés. L'importance étendue de ces conflits a donné naissance au terme sud-africain d'"offrepreneur" qui désigne au sens large un individu dont les affaires prospèrent uniquement sur la base d'offres remportées grâce à l'influence politique.

Les domaines courants de non-respect pendant l'étape post appel d'offres incluent : l'adaptation des contrats de services afin de favoriser certains fournisseurs, une supervision inadéquate des mandataires et le paiement de factures fictives. À cela s'ajoute le fait que des spécifications incomplètes des résultats demandés créent des difficultés pour évaluer objectivement la performance consécutive à la réalisation.

Public Works' (hereafter 'DRPW') recommendation to award it to the highest-scoring bidder (Evans, 2012). It was also highlighted that Vista Park Developers was well connected with senior politicians. The Gobodo report asserted that Vista Park Developers did not have all the required bid documents. Moreover, the bid committee's decision could not be justified as other key documents were found to be missing. The estimated construction cost increased from ZAR290 million to ZAR1.8 billion, with a seven-year delay in completion of the hospital. Even when it became apparent that Vista Park Developers was in breach of contract in 2007, and unable to deliver on time and within budget, DRPW officials failed to act. The DRPW finally cancelled the contract in 2009.

As demonstrated in the example above, a conflict of interest arises when a bidder has a personal or business relationship with a state official who has influence over the bidding process or any other aspect of the contract. The widespread prevalence of such conflicts has given rise to the South African term 'tenderpreneur'. The word is broadly understood to describe an individual whose business thrives solely because of tenders won through political influence. South African law generally prohibits members of public bodies from performing remunerative work or holding private interests in a contract with that body – but exceptions are authorised in certain instances. It is clear that unethical authorities may approve exceptions, even where it is obvious that personal interests supersede the public interest. For example, the Auditor General of South Africa reports that three-quarters of government tenders in the Eastern Cape are awarded to companies owned by government officials and their families (Flowerday, Rama, & Boucher, 2012). Lack of objectivity in the tender process leads to diminished faith in the fairness of the process; contractors will avoid submitting bids if they are rejected for arbitrary or unclear reasons – resulting in fewer bidders, less competition and higher prices (OECD Policy Briefs, 2008).

Post-tender Stage

During this stage, contracts and service level agreements (hereafter 'SLAs') are signed by all parties, the scope of work is confirmed, and the purchase order (or service order) is issued. Throughout the course of the contract there should be regular supervision of work performance to ensure compliance with SLAs, and penalties or termination notices issued, if necessary. Changes to the scope of work or the budget should go through the approval process specified in the contract. Common areas of non-compliance during the post-tender stage include tailoring of SLAs to benefit suppliers, inadequate supervision of contractors, and payment of fictitious invoices. In addition, poor specification of required outcomes may cause difficulties in post-implementation performance evaluation.

The diagram below, based on a 2014 PwC survey conducted in South Africa, shows the percentage of survey respondents who believed that a particular step in the procurement process is susceptible to fraud (PricewaterhouseCoopers, 2014).

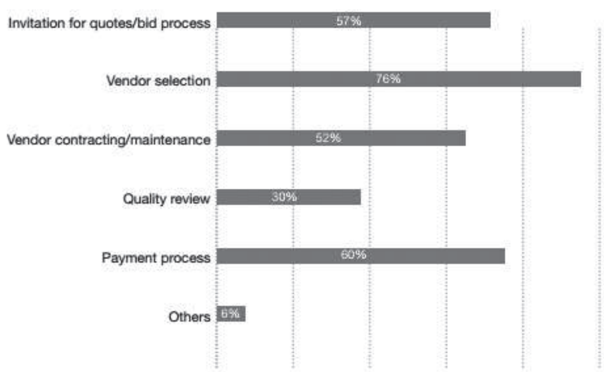
Causes of Unethical Behaviour

It is clear that the underlying cause of procurement policy violations, throughout the tendering process, is unethical conduct. A 2010 study (Ermongkonchai, 2010) found that the single most compelling driver of ethical misconduct is personal or financial gain. Peripheral themes from the study include social norms, process loopholes, and pressure for performance. Admittedly, there are loopholes in policies governing public procurement and contracting – due to some exceptions that have been allowed for as part of the rules. However, the sheer scale of unethical conduct and the huge financial gains associated with such conduct, are glaringly obvious. In fact, of the many cases of fraud and corruption reported, the majority of perpetrators do not suffer any consequences and are not brought to book. The lack of consequences, coupled with the potential for large gains, exacerbate unethical behaviour. A 2012 report on financial misconduct by the law firm Edward Nathan Sonnenbergs (hereafter 'ENS'), states that (Allwright):

"The most troublesome finding is that there appeared to be no meaningful consequence to financial misconduct. Although 88% of officials were found guilty of misconduct in the cases, the most common sanction for financial misconduct was a final written warning (43%). Only 19% of officials found guilty of financial misconduct were discharged from the public service. The majority of perpetrators remain in their positions and often continue to commit financial misconduct. The losses from the finalized cases of

Le gain personnel ou financier est le moteur irrésistible du mauvais comportement éthique. Dans une perspective utilitariste de risque et rendement, la fraude à l'appel d'offres présente un faible niveau de risque et une perspective de gain très élevé. On estime que le coût des fraudes financières en Afrique du Sud a dépassé 1 milliard de ZAR en 2012. La découverte la plus inquiétante est que ce type de comportement ne semble pas avoir de conséquences significatives.

Figure 2 . Prevalence of Procurement Fraud by Process Stage



(Source: PwC Global Economic Crime Survey (February 2014))

La théorie des jeux appliquée aux situations de corruption montre que lorsqu'une firme concourt pour un appel d'offres en présence de fonctionnaires corrompus, la stratégie dominante, indépendamment du fait que l'autre entreprise soit corrompue ou innocente, serait qu'elle verse des pots-de-vin. Quand il existe un dilemme du prisonnier, les entreprises et les fonctionnaires ont intérêt à coopérer en excluant de la compétition les autres entreprises.

financial misconduct totalled ZAR346 million, and only 13% of this amount was recovered from officials (ZAR44 million) whilst 87% remained lost to the public service (ZAR302 million).” – ENS report (2012) || (p.3).

From a risk and reward utility perspective, there appears to be low risk – but very high return associated with tender fraud. The ENS report further states that financial misconduct was estimated to exceed ZAR1 billion in 2012. This is comparable to playing the lottery in which a small risk is taken, with the possibility of large gains. The difference, however, is that the probability of a large gain from playing the lottery is almost zero – whereas the chance of a high gain from committing tender fraud is almost surely certain.

From a behavioural perspective, any of the following behavioural biases may be applicable to individuals involved with tender fraud:

- *optimism bias and illusion of control*: individuals may feel that financial gain is guaranteed and that there will be no consequences;
- *regret aversion*: individuals may observe their colleagues benefitting from unethical behaviour and attempt to benefit themselves before the status quo changes;
- *role fulfilment*: conforming to the expectations of other decision makers; and
- *framing bias*: altering the representation of the risks or rewards so as to make the decision appear to be beneficial.

Such biases reflect the psychology of the decision-maker and affect the ability to make rational decisions. They often lead to suboptimal decision-making through satisficing – that is, accepting a solution that only just meets the objectives and is considered to be good enough. Combining behavioural biases with the expected gain from misconduct, it is easy to see that an unethical individual will weigh up personal financial gain against the universe of possible suboptimal decisions. Where the risk of consequence is low, an unethical decision-maker will satisfice, while attempting to maximise personal gain.

A Game Theory Explanation

Game theory models of corruption give us some insights into the economics of corruption. A paper by John MacRae (McRae, 1982) shows that when firms are competing for a tender in the presence of a corrupt official, the dominant strategy, regardless of whether the other firms are also bribing or innocent, might be for the firm to bribe. The same paper also shows that when a prisoner's dilemma exists, it is propitious for firms and officials to cooperate by excluding other firms from competing altogether.

Reference is made to MacRae's paper and inspiration taken from its mathematical notations in order to better understand what initiates corrupt strategies. The theory is applied below to the simplified case of two competing firms bidding for a tender and faced with the decision to bribe or not to bribe.

The following is assumed :

- Firms A and B have the same probability, *p*, of winning the tender, *p=50%*;
- The price for the winning firm is *P*, for instance *P=$100*;
- *p'* is the probability of winning the contract, if firm A (respectively B) is bribing and firm B (respectively A) is innocent;
- *p'* is defined as *p'=p+a(1-p)*;
- *a* reflects the ability and propensity of the corrupt official to influence the decision, and $0 \leq a \leq 1$;
- *p"* is the probability of the innocent firm winning the contract, if the other firm is bribing, and is given by *p"=1-p'*.
- There is a fine, *F*, if a firm gets caught bribing. For instance *F=$200*;
- There is a probability p^1 of getting caught if both firms are corrupt, and p^2 if the other firm is innocent. For simplicity, it is assumed that $p^1=p^2=p^F$, and thus $p^F=5\%$.

Le dilemme du prisonnier se pose si le gain attendu est plus important que le montant de l'amende que l'entreprise devrait payer si elle était sanctionnée pour autant qu'elle ait effectivement payé des pots-de vin. Les leviers disponibles pour freiner la corruption sont les suivants : réduire la capacité d'un fonctionnaire corrompu à influencer la décision, augmenter les amendes et la probabilité d'être attrapé.

Here we take *a*=0.5, meaning that the official can ensure a corrupt firm gets the project with 75% confidence (*p'*=0.75), but cannot guarantee it completely. Putting it all together yields the following possible outcomes:

Table 1: Possible payoffs for firms A and B

Payoff to A, Payoff to B	**Firm B corrupt**	**Firm B non-corrupt**
Firm A corrupt	$pP-p^F$, $pP-p^FF$	$p'P-p^FF$, $(1-p')P$
Firm A non-corrupt	$(1-p')P$, $p'P-p^FF$	pP , pP

Applying the assumptions on the values gives:

Table 2: Example payoffs for firms A and B

Payoff to A, Payoff to B	**Firm B corrupt**	**Firm B non-corrupt**
Firm A corrupt	40, 40	65, 25
Firm A non-corrupt	25, 65	50, 50

The Prisoner's Dilemma

The payoff matrix above shows that being corrupt is a dominant strategy for both firms – resulting in a prisoner's dilemma. Bribing is the best strategy for both firms, whatever the other firm does. If firm B decides to be innocent, A would do well to bribe – gaining an expected $65 instead of $50. If B decided to be corrupt, A could stand to win only an expected $25, while it could improve the payoff $40 by also deciding to bribe.

Les systèmes technologiques d'information et de communication concernant les services proposés par l'État ont réduit avec succès le contact entre les fonctionnaires corrompus et les citoyens et ont augmenté la transparence et la responsabilité. Les avancées de l'e-gouvernement ont beaucoup d'avantages tels que la gestion efficace des fonds publics, la diminution de la corruption des fonctionnaires et une confiance croissante dans le gouvernement. De nombreux pays ont confirmé avoir réalisé des progrès après la mise en œuvre des mesures d'e-gouvernement.

Going back to the first payoff matrix, we can see that bribing is a dominant strategy when the following conditions are met:

$$pP-p_F F>(1-p^{\prime})P \qquad (1)$$

$$p^{\prime} P-p_F F>pP \qquad (2)$$

The first condition implies that it is more profitable to be corrupt when the competing firm is not, while the second condition implies that it is more profitable for both firms to be corrupt, than not.

Condition (2) is more constraining here and suggests that there exists a prisoners' dilemma, when:

$$aP>p_F F(1-p) \qquad (3)$$

That is, the expected payoff given that a firm succeeds in bribing the official and winning the contract, should be greater than the expected fine given that the violating firm is caught.

Equation (3) shows that the levers that can be used to curb corruption, as a dominant strategy, are:

- Reducing a, the propensity of the official to individually award tendering decisions. This could be achieved by, *inter alia*, better recruitment, improved working conditions, better scrutiny, and better salaries, as was the case in Singapore (Quah, 2001);
- Increasing the fine, F; and/or
- Increasing the probability of getting caught, p^F.

The tendency of the official to influence a decision is linked to the moral principles that govern a person's behaviour – that is, his/her ethical code. Morals can be in direct conflict with the rational choice of dominant strategy, thus leading to cognitive dissonance. Cognitive dissonance is defined as the mental stress or discomfort experienced by an individual who holds two or more conflicting ideas. In some cases, cognitive dissonance can overcome rational behaviour, and vice versa.

Due to the unpredictable outcomes associated with cognitive dissonance, it is difficult to design a solution that curbs corruption by influencing a person's moral code. A more efficient approach would be to consider a solution that centres on increasing penalties, increasing the probability of being caught, and decreasing the individual's ability to influence decisions. The use of information and communication technology systems for delivering government services has successfully achieved these objectives. Such systems, referred to as e-governance, have been deployed across many countries..

The Case for e-Governments

The emergence of e-governance in the last few years has had a positive impact on corruption in many countries – albeit with varying levels of success. The mechanisms through which e-government works are straightforward: e-governments

Même si la mise en œuvre actuelle de soumission publique en ligne a favorisé la transparence dans le processus d'appel d'offres, cette transparence ne va pas forcément déboucher sur la responsabilité ou sur l'objectivité. Il en résulte que les applications de l'e-gouvernement ne réussissent pas forcément à limiter les comportements non éthiques. La thèse soutenue dans ce papier est que les applications de l'e-gouvernement devraient conduire à des prises de décision automatiques au niveau de l'administration publique. Nous proposons un système adaptatif qui analyse les offres et facilite la sélection du soumissionnaire le plus approprié.

reduce contact between corrupt officials and citizens and increase transparency and accountability (Andersen, 2008). E-government reforms have many benefits such as effective management of public funds, reduction in bribery of government officials, and increased confidence in government. Many countries have reported realising such benefits – post-implementation of an e-government application:

• In Chile, the ChileCompra e-procurement system has been used to allow government officials and citizens to compare the costs of bids to and services purchased by the government. The prices of more than 500 outsourced services from over 6,000 providers are included in the system (Shim & Eom, 2008). The system saves approximately US$150 million annually by preventing price fixing or inflation by corrupt officials and contractors (Bertot, Jaeger, & Grimes, 2010).

• The Bhoomi electronic land record system in Karnataka, India, was estimated to have saved 7 million farmers 1.32 million working days in waiting time and Rs806 million in bribes to local officials in its first few years of operation. The Bhoomi system was designed to maintain records of rights, tenancy and cultivation – which are crucial for transferring or inheriting land and obtaining loans. By computerising these records, farmers were able to bypass officials who often demanded bribes in exchange for any services related to the access and updating of these records. Before the system, the average land transfer required Rs100 in bribes, while the electronic system only requires a fee of Rs2 (Bertot, Jaeger, & Grimes, 2010).

• An impressive and well-known example of the potential of e-governments is the Seoul Metropolitan Government's Online Procedures Enhancement for civil applications (OPEN) system – which was launched in 1999, with multiple distinct anti-corruption measures embedded into the functions of the system. The OPEN system was implemented to reduce the number of places that government officials and citizens interacted directly. It effectively reduced channels through which citizens were forced by government officials, who processed applications, to pay "express fees" in order for their applications to be processed. The project was lauded as a success by the public, with 68% of the residents of Seoul crediting OPEN with noticeably reducing government corruption in its first five years of operation (Bertot, Jaeger, & Grimes, 2010).

Improving e-Governance

As with any tool, the user and outcomes required should dictate who should use the application, how it should be used, and the extent to which any current process will be altered as a result of deploying the tool. While anecdotal evidence has shown that current e-procurement implementations have promoted transparency in the tendering process, this

Une plate-forme Internet accessible au public comprenant les formulaires d'appel d'offres améliorerait la transparence et la responsabilité. Un module automatisé de notation permettrait de créer une liste restreinte des candidats avec le meilleur score, garantissant l'objectivité. Un comité pour les appels d'offres constitué de simples citoyens tirés au hasard se réunirait pour se prononcer sur la liste restreinte et choisir le gagnant, évitant ainsi l'abus d'influence et de pouvoir.

is not enough as it does not address the potential abuse of power later on in the process. In some countries, increased transparency may not necessarily lead to accountability or objectivity. The reasons for this may be threefold. Firstly, e-governments may have web-based platforms that are not accessible to all members of the public due to poor broadband infrastructure – thus impacting on the level of transparency that can be achieved. Secondly, citizens may not have the capacity to act on available information which impacts on their ability to hold government accountable. Thirdly, while some e-government systems offer a complete set of alternative actions, there are insufficient controls to ensure that the best alternative is selected. Given these possible shortcomings, data-driven e-government applications may not have the desired effect on unethical conduct.

The thesis of this paper is that e-government applications should be extended to automated decision-making in public administration. Sheridan established a scale of stages of automation of e-government implementation (Sheridan, 1992).

1. The computer offers no assistance, the human must do it all.

2. The computer offers a complete set of action alternatives, and

3. narrows the selection down to a few, or

4. suggests one, and

5. executes that suggestion if the human approves, or

6. allows the human a restricted time to veto before automatic execution, or

7. executes automatically, then necessarily informs the human, or

8. informs him/her after execution only if he/she asks, or

9. informs him/her after execution, if it, the computer, decides to do so.

10. The computer decides everything and acts autonomously, ignoring the human.

We propose that the current level of automation should be advanced from stage two to stage five automation. This would entail the design of an adaptive system that scores bids according to a pre-defined set of criteria, examines the bidders' previous performance (if applicable), and creates a shortlist of the best candidates. All decision-making data would be stored and made publicly available to ensure transparency and to improve accountability.

Le succès d'une économie dépend de la capacité du gouvernement à créer un environnement propice aux entreprises et à l'emploi. La croissance économique dans les pays en développement est souvent biaisée à cause de la corruption. Ainsi, les faibles risques et le grand potentiel de gains associés à la corruption

The idea of placing trust in a computer to make the right decisions may be unnerving. However, automation has been successfully implemented in many other areas of business. One example is that of American banks which make use of the automated Fair Isaac Corporation ("FICO") credit score in conjunction with automated underwriting systems to approve or decline credit applications (Herron, 2013). With many countries around the world now implementing e-government systems, it is certainly plausifavorisent le comportement non éthique. Si l'on veut assurer la transparence, l'objectivité et l'efficacité, il est indispensable de limiter l'influence humaine dans le processus de prise de décision. L'e-gouvernement trace le chemin que certains gouvernements choisissent de suivre. Une plus grande automatisation est une solution qui évite qu'un seul individu ou organisme puisse exercer une influence absolue sur le processus d'adjudication. La corruption pourrait donc être traitée avec efficacité et les bénéfices socio-économiques être maximisés.

ble that these kinds of systems will be advanced to make decisions in the near future.

Ensuring Objectivity through Automation and the Use of Technology

The use of technology can eliminate the strategic incentives and behavioural biases that lead to unethical decision making. There are three factors which technology can improve:

• Transparency and accountability.

• Objective scoring of applications.

• Inappropriate influence and the abuse of power.

We propose:

1. A web-based platform on which tender applications can be lodged and reviewed. The platform will provide users and the public with the following information:

• All live tenders.

• Details of all applications received – *i.e.* bid documents, legal statements and disclosures.

• Any conflicts of interest identified.

• Score criteria.

• Previous tenders awarded and performance and delivery reports.

While a high level of transparency will be a feature of the system, applicants will only be identified by bidder numbers. By keeping the identities of the applicants confidential the likelihood of bid-rigging through price fixing will be reduced.

2. An automated scoring module that scores tender applications based on, but not limited to, the following criteria:

• Applicant's credentials, performance on previous projects, alignment to current transformation policies, and competitiveness of pricing.

• Additional benefit to society that the applicant may provide that could justify extra cost, *e.g.* environmentally friendly initiatives, share schemes, job creation, and community service initiatives.

• The scoring module will be designed to create a shortlist of applicants who achieved high scores. In the event that an applicant has outscored others by a significant margin, the system will propose that the applicant be awarded the tender. If the scores are close, the system will compile a shortlist for adjudication.

• In order to promote competition and distribution of wealth, the system should highlight instances in which the bidder has won multiple tenders.

• Random selection of bid committee. The system will have a database of preselected adjudicators who can be called upon to form a committee. The committee will be made up of a random selection of a combination of private- and public-sector stakeholders with the necessary expertise. The committee will be tasked with approving the winning bidder or will need to assess the shortlist of applicants and then award the tender. Committee members will be informed via email that they have been appointed, but will have no knowledge of the identity of other committee members. Committee members will not be required to deliberate with one another and in most instances will be required to make an independent decision. All decisions will be logged through the system, and several iterations of adjudication may be necessary to reach a final decision.

Conclusion

The success of an economy hinges on a government's ability to create an environment that is conducive to business and employment. Economic growth in developing countries is often derailed because of corruption. More specifically, the low risks and large potential rewards associated with corruption precipitate unethical conduct. In order to ensure transparency, objectivity and efficiency, it is necessary to limit human influence in the decision-making process. The emergence of e-governance demonstrates that this is the path that some governments are choosing to follow. Further automation is proposed such that no single individual or body can exert absolute influence over the procurement process. In this way, corruption can be dealt with effectively and socio-economic benefits can be maximised.

References

Allwright, P. (n.d.). *The real state of the nation*. Edward Nathan Sonnenbergs.

Andersen, T. (2008). *E-government as an anti-corruption tool*. Copenhagen: Department of Economics, University of Copenhagen.

Bertot, J. C., Jaeger, P. T., & Grimes, J. M. (2010). Using ICTs to create a culture of transparency: E-government and social media as openness and anti-corruption tools for societies. *Government Information Quarterly*, 27, 264-271.

Boxshall, R., Zimmern, W., & Kupelian, B. (2014). *Emerging markets: caught in a taper tantrum?* Retrieved from PwC: http://www.pwc.com/en_GX/gx/issues/economy/global-economy-watch/assets/pdfs/global-economy-watch-march-2014.pdf

Chan, J. K., & Lee, M. K. (2003). SME E-Procurement Adoption in Hong Kong - The Roles of Power, Trust and Value. *Proceedings of the 36th Hawaii International Conference on System Sciences*, (pp. 1-10).

Dixit, A., & Nalebuff, B. (n.d.). *Prisoners' Dilemma*. Retrieved from Library of Economics and Liberty: http://www.econlib.org/library/Enc/PrisonersDilemma.html

Edigheji, O. E. (1999). *Rethinking Black Economic Empowerment in the Post-Apartheid South Africa*. Mulders-drift: Trade and Industrial Policy Secretariat.

Ermongkonchai, P. (2010). Understanding reasons for employee unethical conduct in Thai organizations: A qualitative inquiry. *Contemporary Management Research*, 6(2).

Evans, S. (2012). *Warped tender delays building of Kimberley psychiatric hospital for years*. Retrieved from Mail & Guardian: http://mg.co.za/article/2012-12-14-00-warped-tender-delays-kimberley-psychiatric-hospital-for-years

Faulkner, D., & Loewald, C. (2008). *Policy Change and Economic Growth: A Case Study of South Africa*. National Treasury of the Republic of South Africa.

Flowerday, S. V., Rama, S., & Boucher, D. (2012). Information Confidentiality and the Chinese Wall Model in Government Tender Fraud. *Information and Computer Security Architecture (University of Pretoria)*. East London: University of Fort Hare.

Hausmann, R., Pritchett, L., & Rodrik, D. (2005). Growth Accelerations. *Journal of Economic Growth*, 10(4), 303-329.

Herron, J. (2013). *How FICO became 'the' credit score*. Retrieved from Bankrate: http://www.bankrate.com/finance/credit/fico-the-credit-score.aspx

Madonsela, A. T. (2014). *Secure in Comfort*. Public Protector of South Africa.

Mail & Guardian. (2013). *Free State: We paid R40m, not R140m, for our website*. Retrieved from Mail & Guardian: http://mg.co.za/article/2013-03-04-free-state-government-pay-alleged-r140-million-for-tendered-website

McRae, J. (1982). Underdevelopment and the Economics of Corruption: A Game Theory Approach. *World Development*, 10(8), 677-687.

OECD Policy Briefs. (2008). *Fighting Cartels in Public Procurement*. Organisation for Economic Co-operation and Development.

PricewaterhouseCoopers. (2014). *Confronting the changing face of economic crime*. Retrieved from PwC: http://www.pwc.co.za/en_ZA/za/assets/pdf/global-economic-crime-survey-2014.pdf

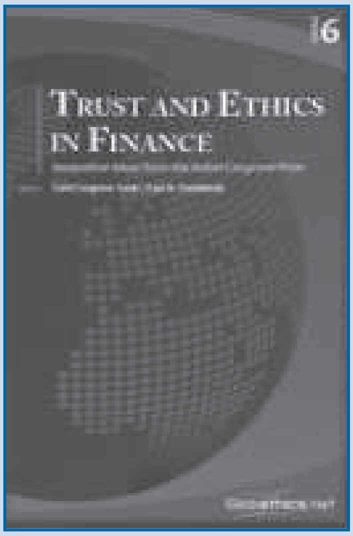
PricewaterhouseCoopers. (2015). *Global Economy Watch: Economic Projections*. Retrieved from PwC: http://www.pwc.com/gx/en/issues/economy/global-economy-watch/projections.jhtml

Quah, J. S. (2001). Combating Corruption in Singapore: What Can Be Learned? *Combatting Corruption in Singapore*, 9(1), 29-35.

Rensburg, K. J., & Roodt, G. (2005). The Perceptions of Employment Equity Aand Black Economic Empowerment as Predictors of Organisation-Related Committment. *SA Journal of Human Resource Management*, 3(3), 49-60.

Sheridan, T. B. (1992). *Telerobotics, Automation, and Human Supervisory Control*. Cambridge, MA: MIT Press.

Tucker, C. (2013). *Public procurement in South Africa: overview*. Retrieved from Bowman Gilfillan: http://www.bowman.co.za/FileBrowser/ArticleDocuments/Public-Procurement-in-South-Africa.pdf



Trust and Ethics in Finance Innovative ideas from the Robin Cosgrove Prize 2006-2011

Carol Cosgrove-Sacks and Paul H. Dembinski (eds)
Published by Globethics.net

400 pages
ISBN 978-2-940428-40-3 (online)
ISBN 978-2-940428-41-0 (print)
www.amazon.com/dp/2940428417/ (US$25)
www.amazon.co.uk/dp/2940428417/ (GBP16)

Globethics.net, PO Box 2100, 150 route de Ferney, CH-1211 Geneva 2, Switzerland

PDF version in Globethics.net

The values that guide finance professionals and the core role played by trust in the modern finance industry have been the dominant themes of the best papers submitted for the Robin Cosgrove Prize since it was launched in 2006. Inviting young people to submit innovative ideas to advance ethical approaches to the world of finance in its many manifestations has stimulated a global debate on the role of ethics and integrity in finance.

It is important to note that the prize was launched before the topic of ethics in finance became fashionable. It is not a reactive exercise to the current crisis. The aim is to prompt a shift in thinking throughout the world of finance the fresh ideas submitted for the prize have global relevance. The twenty-three essays in this volume come from young researchers on six continents; their innovative ideas will contribute to future-oriented ethical solutions.

Banque > Finance > Éthique

NOUVEAUTÉ À PARAÎTRE EN SEPTEMBRE 2015

ÉTHIQUE, FINANCE ET RESPONSABILITÉ EN FINANCE – QUO VADIS ?

POINT FORT

- **Analyse documentée, prospective et sans concession des problématiques de l'Éthique en finance à travers ses dimensions économiques, sociologiques, culturelles et philosophiques.**

La crise de 2007 a montré l'indigence éthique de la finance qui a tout misé sur la technique. Mais pourquoi la finance a-t-elle besoin d'éthique ? La visée éthique peut-elle être une finalité des activités financières ? Si ce questionnement est l'affaire de tous les protagonistes (utilisateur de fonds, débiteur et investisseur public ou privé), la responsabilité sociétale des institutions est de s'interroger sur leur culture d'entreprise afin de promouvoir l'expression éthique des collaborateurs.

Cet ouvrage de synthèse expose des arguments permettant d'affiner la lecture en termes éthiques de situations caractéristiques de la finance moderne. Pour rester pertinente par rapport à la finance contemporaine, la réflexion éthique doit reconnaître la spécificité politique, sociale, technologique, intellectuelle et politique du contexte de cette activité humaine. Ainsi sont abordés successivement les trois niveaux de dilemmes éthiques : la personne et ses aspirations – tant les professionnels des services financiers que les utilisateurs –, les entreprises et les institutions financières, et le niveau macro : la norme légale et réglementaire et les choix politiques.

Cet Essentiel espère contribuer à la réinvention d'une finance capable de servir de manière réaliste et vraie les plus hautes aspirations de l'homme et de la société.

Auteur

Paul H. Dembinski. Docteur (Économie politique 1982), il occupe la Chaire de Stratégie et de Concurrence Internationales à l'Université de Fribourg (Suisse).
En 1996, il suscite la création de la Fondation de l'Observatoire de la Finance (Genève – www.obsfin.ch) ayant pour mission la promotion de la prise en compte du bien commun dans les activités financières. Il en assure toujours la direction de même que la co-présidence du Prix International « Éthique en finance – Le Prix Robin Cosgrove » qui lance sa 6e édition en 2016.
Il est également responsable la revue bilingue Finance & Bien Commun.
Paul H. Dembinski siège au Conseil d'administration des Rentes Genevoises qu'il préside depuis 2012.

Sommaire

Ouvrages parus sur la même thématique

Cosgrove Sacks, Carol & Dembinski, Paul H. (sous la direction de) (2012), *Trust and Ethics in Finance: Innovative ideas from the Robin Cosgrove Prize*, Globethics, Geneva

De Lauzun, Pierre (2015), *La finance peut-elle être au service de l'homme*, Desclée de Brouwer, Paris.

Lacroix, André & Marchildon, Allison (2013). *Quelle éthique pour la finance ? Portrait et analyse de la finance socialement responsable*, Presses Universitaires du Québec, Québec.

Pons Vignon, Nicolas & Ncube, Phumzile (2012). *Affronter la finance – mobiliser les 99 % en faveur du progrès économique et sociale*, Organisation Mondiale du Travail, Genève.

Collection

Les Essentiels de la banque et de la Finance.

Publics visés

Les professionnels dans les secteurs de la finance (banque, assurance, marchés, conseils, régulateurs). Journalistes spécialisés. Étudiants en gestion/économie/finance. Tout public voulant approfondir des thématiques qui continuent à défrayer les chroniques.

Promotion

Deux séminaires en préparation à Genève pour fin 2015.

Caractéristiques

Code	G70704
ISBN	978-2-86325-598-4
ISBN e-pub	978-2-86325-777-3
ISBN PDF	978-2-86325-778-0
Format	150 x 210
Nbre pages	128 broché
Prix	20.50 €
Parution	septembre 2015

À noter : l'auteur travaille à Genève, Fribourg et Milan.

RB ÉDITION

Observatoire de la Finance

The Observatoire de la Finance was set up in response to a question raised in the early 1990s: what is the purpose of financial markets? The report entitled *Financial markets: mission impossible?*, which was published in 1993, led three years later to the establishment of the Observatoire de la Finance.

Today, the Observatoire de la Finance is a *think tank* that provides a link between financial techniques and practices and the demands of the common good. In doing so, it endeavours to clarify what is happening, and then investigates why. The Observatoire de la Finance is an independent, apolitical and non-religious body.

The Observatoire's activities are aimed at:

- *Developing and formulating ideas.* The Observatoire engages in inquiry and multidisciplinary diagnosis regarding selected aspects of the economy and finance and their relationship to society.
- *Proposing new leads and views.* Following this process of inquiry, the Observatoire compares, tests and refines the various diagnoses and the most promising avenues in consultation with the operators and institutions concerned.
- *Launching a dynamic process* to enhance the ethical content of the technical debate.

Director of the Observatoire de la Finance: Prof. Paul H. Dembinski

Members of the Board of the Observatoire de la Finance:
Paul-André Sanglard - Porrentruy
Andrew Hilton - London
Anthony Travis - Geneva
Honorary member: Prof. Maurice Cosandey - Lausanne

Over the years, the high standard of its work and its ability to initiate dialogue and collaboration have given the Observatoire benchmark status in the field of financial responsibility and ethics. At a time of growing concern about ethics and sustainability, the Observatoire has acquired a degree of skill and credibility which it plans to develop further and make available to its partners and the general public.

www.obsfin.ch

Strong ethics create strong sustainable economies. To establish greater ethics in finance it must be recognised that they are critical to the finance function. Financial transactions rely on trust and ethics create trust. Without trust, the system risks collapse. Ethics enhance confidence, delivering growth in economies and creating long term sustainable investment.

Finance professionals bring greatest value when they are supporting and embedding an ethical approach across business and society. As a global organisation, ACCA recognises our role in educating and supporting our members across the world in taking an approach to their work that prizes integrity and accountability. Ethics cannot be considered in isolation, it requires thought, action, partnerships and discussion at every level of business and society. It is this that makes the work of the Robin Cosgrove Prize integral to the promotion of ethics.

Helen Brand OBE, Chief Executive, ACCA

ETHICS IN FINANCE - ROBIN COSGROVE PRIZE- 2016/2017

ETHIQUE EN FINANCE - PRIX ROBIN COSGROVE - 2016/2017

PREPARING FOR THE 6th EDITION

DEADLINE FOR SUBMISSION : SPRING 2017

The Robin Cosgrove Prize promotes greater awareness among young people throughout the world concerning the benefits of ethics in finance, and encourages good-quality management of banking and finance based on trust and integrity. The competition for the Robin Cosgrove Prize invites young professionals and academics under 35 years of age to submit written papers setting out innovative and creative ideas for promoting ethics in finance.

The Ibero-American Prize was initiated in 2008 to focus on the special challenges of ethics in finance in the region, with papers to be submitted in either Spanish or Portuguese. In 2012, the Polish Banking Association carried out a Polish edition.

Destiné aux jeunes du monde entier de moins de 35 ans, le Prix Robin Cosgrove a pour but de promouvoir une prise de conscience de l'importance de la dimension éthique en finance. Le concours est ouvert aux jeunes professionnels et chercheurs afin qu'ils soumettent des contributions portant sur des analyses ou des propositions innovantes qui visent la promotion de l'éthique dans la finance.

Afin d'atteindre un public plus large, l'édition globale est complétée depuis 2008 par une édition régionale, le Prix ibéro-américain, qui regroupe les textes en espagnol et portuguais. En 2012, l'Association Polonaise des Banques a initié une édition régionale en polonais.

www.robincosgroveprize.org