Ethical Sieve 1

Changing Frontiers of Ethics in Finance

Ethics & Trust in Finance Global Prize Awards 2012–2017

Edited by
Paul H. Dembinski
Josina Kamerling
Virgile Perret

Globethics.net

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Globethics.net Ethical Sieve
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Globethics.net Ethical Sieve 1
Paul Dembinski, Josina Kamerling and Virgile Perret (Editors), Changing Frontiers of Ethics in Finance
Geneva: Globethics.net, 2019
ISBN 978-2-88931-317-4 (online version)
ISBN 978-2-88931-318-1 (print version)

Managing Editor: Ignace Haaz, Assistant Editor: Samuel Davies
Layout and proofreading: Hannah Soissons

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The regulation of the financial sector has been significantly tightened up. Artificial intelligence, Blockchain and fintech offer opportunities. The "tone from the top" has grown in strength. But "banks do not always know best" as put it the 2016-2017 winner of the global Prize "Ethics & Trust in Finance". That is why the "echo from the bottom" sent by the young academics and professionals competing for the Prize is crucial: ethics must permeate practices, technology, strategy and culture in financial institutions.

François Villeroy de Galhau, Governor of the Banque de France

Technology has brought human interaction from far apart, faster. These benefits pose the risks that the parties might misunderstand their different values, which ensure trustworthiness and ethical principles. This information is not likely to be transferred as fast as the financial assets. Language and signals may differ and raise conflicts rather than agreement. Explanation of these differences is crucial to peaceful and trusting interaction in finance. The book «Changing Frontiers of Ethics in Finance» offers this crucial knowledge to the international financial actors and I believe will impact international finance.

Tamar Frankel, Professor of Law Emerita, Boston University School of Law

When the Ethics in Finance- Robin Cosgrove Prize was launched in 2006, Professor Dembinski and I took a leap of faith, dedicated to the memory of Robin, a young banker who believed passionately that the finance sector could and should be a force for good in the world. Between 2006 and 2015 we gradually built the reputation of the Prize, leading to the IMF in 2015 recognising the Prize as a significant contribution to encouraging global awareness of the role of ethics in finance. Now the Ethics and Trust in Finance Prize has stimulated an exceptional range of analysis, published in this second collection of nominated papers which I am happy to recommend.

Dr. Carol Cosgrove-Sacks, Honorary Member of the Prize Jury and formerly co-Director of the Ethics in Finance - Robin Cosgrove Prize

Changing Frontiers of Ethics in Finance

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Ethics & Trust in Finance

The Ethics & Trust in Finance Prize – until 2015 "Ethics in Finance – Robin Cosgrove Prize" – promotes greater awareness among young people throughout the world of the benefits of the strengthening ethical approaches in all aspects of finance. It aims to encourage high-quality management of banking, insurance and financial services based on trust and integrity and also excellence in related academic research and regulation and policy making. Launched in 2006 and now preparing for the 8th edition of the Prize. This global competition for innovative ideas on ethics, responsibility and trust in financial activities is open to young people, aged 35 years or younger, from throughout the world – professionals as well as young academics.

The mission of the Prize is to stimulate innovative ideas for promoting ethics and integrity in the finance sector. The Prize reaches out to young people familiar with the banking, finance and investment sectors, with special attention to emerging markets, to attract innovative ideas, proposals and projects which could be promoted to major players in the business community. The aim is to strengthen the sustainability of ethics in banking and finance and to reinforce its implementation, especially in emerging markets throughout the world.

The competition invites creative short essays setting out analyses or proposals for innovative ways to promote ethics & trust in finance. The Jury made of 25 experts, authors and academics selects the winning essays and allocates the prize money of USD 20,000 among the authors.

The Prize today is a well-recognized and highly respected endeavour. To date, in its global edition, the Prize has awarded 26 distinctions to outstanding authors coming from all continents.

In 2015, the International Monetary Fund [IMF], co-hosted a special-event and the award ceremony for the 5th edition (2014/2015) of the global Ethics in Finance Prize at the IMF headquarters in Washington, USA. Ms. Christine Lagarde, Managing Director of the International Monetary Fund, gave a keynote address and congratulated the Prize laureates.

In January 2018, the award ceremony of the 6th edition (2016/2017) was hosted by the Banque de France at its headquarters in Paris. The Governor of Banque de France, Mr. François ViIleroy de Galhau and Mr. Angel Gurria, the Secretary-General of OECD, gave keynote addresses and congratulated the winners.

In Novembre 2019, the award ceremony of the 7th edition is scheduled to co-hosted by the OECD at its headquarters in Paris. Mr. Angel Gurria, the Secretary-General of OECD, will give a keynote addresses and congratulate the winners.

www.ethicsinfinance.org

Introduction

Paul H. Dembinski, Josina Kamerling and Virgile Perret

We are pleased to introduce this book that represents the second volume of collected essays gathering the nominated papers of the 4th, 5th and 6th editions of the global Prize "Ethics & Trust in Finance" between 2012 and 2017. A first volume of collected essays, entitled "*Trust & Ethics in Finance*", was published in 2012, in cooperation with Globethics.net in Geneva. This publication, freely accessible online, brings together the nominated essays of the first three editions of the Prize between 2006 and 2011[1]. Remarkably, it has been downloaded more than twenty thousand times. This impressive number could not have been achieved without the recommendation of the International Monetary Fund that selected this publication in its "Recommended Readings" in 2014[2]. The present (second) volume pursues this effort of synthesis and valorisation of the best contributions to the Prize.

By offering the young generation from all over the world the opportunity to submit an essay on ethics in finance every two years, the global Prize "Ethics & Trust in Finance" provides a unique and incredibly rich source of innovative insights on the key themes in ethics in finance. The themes addressed, from one edition to another, mirror the transformations of the financial sphere and work somehow as a "barometer" of ethical concerns in finance.

Finance, technology and the new frontiers of ethics

The frontiers of ethics in finance are constantly moving in response to changes and innovation in financial activities. In the first edition of the Prize (2006-2007), compliance, micro-credit, ethical investment and corporate social responsibility were the predominant themes. These texts were written before the financial crisis and explored what may be termed "alternative finance". Since the financial crisis of 2007-2008, things changed. The chosen themes place more weight on issues that arose during the crisis, the scandals and the failures of markets, financial management and regulation. Some authors

1 https://www.globethics.net/documents/4289936/13421039/OnlineLibrary_GlobalSeries_6_TrustAndEthicsInFinance_text.pdf/6dfbc602-2716-4036-9010-a94c65215b08
2 https://www.imf.org/external/am/2014/pdf/AM14_recreading.pdf

pushed their analysis far beyond finance, while others focused on specific possible remedies. The mix of analysis and proposals for action is, without doubt, one of the welcome characteristics of the "Ethics & Trust in Finance" Prize.

In the last edition of the Prize (2016-2017), young authors still express deep concerns about the persistence of financial misconduct, scandals and manipulation and the resulting "trust deficit" in banks and financial institutions, but their contributions place more weight on issues related to ethics and technology. This new thematic orientation is interesting, not only because technology is impacting every aspect of our lives, but also because, if a great deal has been written about the digital transformation of finance, very little has been said about its impact from an ethical perspective.

At the same time, it is increasingly recognized that new technologies bring structural changes "disrupting" the financial sector. After the Internet and all kinds of related technologies, today it is automation that is considered as a new "revolution". This will have a deep impact on our economies and societies, in the same way as the industrial revolutions in the past. In effect, finance has become a "high tech business", with electronic trade platforms, new digital currencies such as Bitcoin and blockchain technologies, as well as algorithmic trading, in which computer programmes decide and execute trades for investment banks and pension funds.

In light of these evolutions, instead of asking how humans can better deal with the financial system they create, it is worth investigating how the creation and application of these technologies impact human relations, and more specifically, finance ethics. Indeed, technology itself is challenging our value systems, pushing financial actors to discover new frontiers of ethics and responsibility.

Along these lines, it can be argued that technological changes create "moral and social distance" which make it more difficult to exercise and ascribe responsibility in global finance. On the one hand, humans have less control since the transactions are delegated to algorithms; on the other, they are far removed from the environments, people, goods, and places influenced by their trade and investment activities. This "moral distance" or "moral blindness" is one the consequences of technologies, which create a setting in which ethical behaviour becomes more difficult[3]. As reflected in the present volume, these concerns stand out in the contributions of young authors.

3 Marc Coeckelbergh, *Money Machines. Electronic Financial Technologies, Distancing, and Responsibility in Global Finance*, London, Routledge, 2015.

The evolution of the global Prize

The "Ethics & Trust in Finance" global Prize was first launched in 2006. The award ceremony took place in 2007 just as the global financial crisis was starting. Twelve years later, in August 2019, the Prize is thriving globally and the award ceremony of the 7th edition is forthcoming. Throughout all these years, the Prize has accomplished an impressive journey, to the pride and joy of its initiators. It has become today the world reference in the field of ethics in finance.

Since it was established, the Prize has stimulated a global debate on the role of ethics and integrity in finance. More than 270 papers have been submitted on the question of ethics in finance and more than 300 young finance professionals or academics from more than 110 countries have reflected on this topic. What contributed to the interest is that the topic "ethics in finance" is routinely present in internal discussions of companies, institutions and human resource development organizations which are concerned with the training of finance professionals, especially post crisis. In practical terms, largely due to the recognition they have won thanks to the Prize, the laureates have gained higher status – both in the finance sector and in the academic world – which has increased the impact of their insights and proposals.

Alongside the global competition, the Prize has expanded through the continuing development of "linguistic chapters", in collaboration with partners sharing the same commitment to ethics in finance. The development of "linguistic editions" pursues three objectives:

- It allows candidates to write in their mother tongue, which is very important when speaking about ethics, a theme that is nuanced and subtle.
- It guarantees at a global level the expression of a variety of themes and sensitivities. The concept of "ethics in finance" is not the same in London, Geneva, New York, or in Buenos Aires, Johannesburg or New Delhi.
- It creates the possibility of award ceremonies at both the global and the local levels, which increases the visibility and the proximity of the Prize.

Today, we have the following three ongoing linguistic chapters that are largely autonomous with their own budget and supporters:

- A Francophone chapter – open to all French-speaking authors (notably France, Belgium, Luxembourg, Switzerland, Canada, Africa, Vietnam, Romania).
- A German-language chapter – open to German-speaking authors (mainly Germany, Austria and Switzerland).

- A Polish chapter – open to Polish-speaking authors.

Each of these linguistic chapters collects essays in the given language, has its own Jury and has its own series of awards and a ceremony. The winning papers are translated in English and enter an advanced stage of the global competition. Conditions to participate are the same as for the global Prize. In order to keep a common level playing field, the Jurys overlap to some extent.

During the period (2012-2017) covered by the present volume, the Prize has gained in visibility and recognition thanks to prestigious financial institutions hosting the Award Ceremonies. In particular, the Award Ceremony of the fifth global competition (2014-2015) was co-hosted by the International Monetary Fund on 21 September 2015 at its headquarters in Washington. Ms. Christine Lagarde, Managing Director of the International Monetary Fund, gave a keynote address and congratulated the Prize laureates. Similarly, the Award Ceremony of the sixth global competition (2016-2017) was hosted on 15 January 2018 at Banque de France, in Paris. The Governor of Banque de France, Mr. François ViIlleroy de Galhau and Mr. Angel Gurria, the Secretary-General of OECD, gave keynote addresses and congratulated the winners.

In conclusion, it should be recalled that, in 2015, after ten years of hard work as well as fruitful and close collaboration with the Observatoire de la Finance, Mrs. Carol Cosgrove-Sacks decided to step down as co-president of the Prize, to have more time for her family and other activities. In order to express her continuing support for this initiative, Mrs. Cosgrove Sacks accepted our invitation to remain as an honorary member of the Jury. At the same time, Mrs. Josina Kamerling – Head of regulatory Outreach for EMEA at CFA Institute, – accepted to become the co-president of the Prize and has acted in this capacity for the sixth and seventh editions. Reflecting this change, the name of the Prize was adapted, in 2016, to "Ethics & Trust in Finance" with the mention "previously Robin Cosgrove prize".

About this book

The thirty-three nominated papers for the various competitions for the global Prize "Ethics & Trust in Finance" between 2012 and 2017 offer a wide range of innovative ideas and stimulating insights on ethical issues in finance.

The objectives pursued with the publication, in 2012, of the first volume of collected essays are still highly relevant in the context of the publication of this second volume, ethics being still insufficiently integrated into financial activities. Indeed, this book aims to:

- advance the vision of ethics in finance, by offering a synthetic overview of the best essays submitted to the Prize
- stimulate a global debate among the young generation regarding ethical issues in finance
- promote the Prize as an agent for change, going beyond compliance to promoting real value.

Of the thirty-three papers selected for publication by the global Prize Juries between 2012 and 2017, eleven are from the 4th edition (2012-2013), eleven from 5th edition (2014-2015) and eleven from the 6th edition (2016-2017). They came from thirty-five authors – two papers had combined authorship – emanating from a wide variety of countries: Argentina, Australia, France, Germany, Mauritius, Mexico, Panama, Philippines, Poland, Portugal, South Africa, Spain, United Kingdom, the USA and Zimbabwe.

The book is organised in four parts which do not follow the chronological order but which revolve around 4 predominant themes. *Part I* reflects on the "Conceptual challenges" related to the analysis of the relationship between finance and ethics. Ethical issues are often neglected in the study of financial activities – notably in insurance and fintech - and most of the papers in this part try to fill the gap by building on new approaches and conceptual tools with a view to obtain a more precise diagnosis of current problems. Such theoretical reflections are indispensable on the one hand to define remedial measures and on the other to promote more relevant education in training institutions concerned with finance.

Part II is entitled "Ethics, Technology and Innovation" and collects the nominated essays that focused on the ethical issues raised by fintech, such as blockchain solutions, biometric technology, artificial intelligence or mobile payments. Can fintech substitute for some ethical concerns due to the automation of traditional finance? Or does fintech require additional ethical standards to control it? What are the compliance and ethical concerns around the adoption of fintech? The diverse contributions show that fintech offers opportunities, for example mobile banking for the underbanked, but it also creates new challenges, for instance in the field of Big data and privacy protection.

Part III brings together nominated essays dealing with the theme "Ethics, Regulation and Culture". Several authors investigate various episodes of financial misconduct or manipulation that have occurred since the 2007-2008 financial crisis, such as the LIBOR rate-rigging scandal, stressing the persistent breakdown of public trust in the financial industry. They pose the question of what type of regulation should be adopted and 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. Several papers also stress the influence of organisational cultures on ethical decision-making. This is a key element which shapes the regulators and practitioners. It is there, at the level of organisational cultures, that with or without the various technological tools, the future of ethics in finance will be played out.

Part IV, entitled “Exploring avenues for action”, gathers papers whose common denominator is to propose reforms, measures or mechanisms with a view to enhance the implementation of ethical standards into the operation, management and regulation of financial activities. Should the financial system be regulated as a common good? Could an online Interbank Funding Platform improve the financing of social-impact projects? One of the essay looks at using a MOOC that could treat ethics on global scale. Another one proposes to apply the principles of medical ethics to finance to help professionals to make better choices. The proposals are as varied as they are innovative and stimulating. They show impatience that changes go too slowly in the opinion of the young authors who wish to advance good order in their profession.

Conclusion

“*Changing frontiers of ethics in finance*” offers a collection of fresh and innovative insights emanating from the best candidates whose essays were nominated for the “Ethics & Trust in Finance” global Prize between 2012 and 2017. We hope that it contributes to fill the gap in the literature about ethics in finance while providing a diverse and interdisciplinary contribution to the topic.

The organizers and promoters of the Prize have successfully sought to exert influence above their weight and have been motivated to print the results of the competition, edition after edition, in a spirit of commitment, service and concern for the common good. Despite its growing appeal, the Prize remains, however, a fragile enterprise, organized and coordinated with limited resources, beyond the energy and commitment of its co-presidents, the members of the distinguished Jury and, by no means, the candidates themselves.

Therefore, the support of the strategic partners and contributors to the Prize (CFA Institute, Euroclear, OECD, Swift Institute & Swift, ACCA) is crucial and we would like to express our gratitude as it is their contributions that render the competition possible. We also would like to record our sincere appreciation of the commitment of the members of the Juries who have worked intensively on the analysis of the essays by devoting their free time. Considering that they are all highly-placed, distinguished persons who already carry a heavy workload, their contribution is all the more commendable.

The seventh (current) global competition (2018-2019) was launched on 18 September at the OECD headquarters in Paris and the award ceremony is foreseen for the end of 2019. We hope that the continuing success of the Prize will lead to a third volume of collected essays bringing together the future nominated essays of the 7th, 8th and 9th editions.

Part I

Conceptual Challenges

Epistemological foundations for the relationship between ethics and finance

Ethics in Finance, Robin Cosgrove Prize
Iberoamerican edition 2012-2013

First Prize *ex-aequo*

Germán Scalzo
Argentina
*PhD in Government and Organizational Culture and a member of the Philosophy and Economics research group at Spain's University of Navarre**

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

'Even though they are specialists, financial professionals can also learn something by considering their activities in a broader intellectual context'

Ramiro de Maeztu,
El sentido reverencial del dinero

Reflecting on the relationship between ethics and finance is currently an *oxymoron* and not just in scientific terms but also, and above all, in terms of what ordinary people think – in other words, in terms of common sense. Luckily, the most elementary common sense tells us when something is wrong, as is clear from the general public's growing criticism of 'the system'. In my view, the now widespread distrust of anything connected with the economy and business – let alone finance – is due to a failure in understanding these activities, and ultimately to a misunderstanding of humanity itself. Although this growing aversion leads many to dismiss theoretical reflection in favour of action, the reality is that, without appropriate theoretical foundations, practice gets lost in good intentions.

The economy's present identity crisis is the result of its continuous, progressive shift away from reality toward an impersonal, objective and universal (in-human) science that is not so much based on a true anthropology, but rather on a reductive, pragmatic and ideological view of humanity. In what follows, I will attempt to explain the ultimate cause of the contentious relationship between finance and ethics in modern thinking and, in doing so, I must first analyse the technical nature of

La méfiance désormais généralisée à l'égard de tout ce qui concerne l'économie et les entreprises est due à une défaillance dans la compréhension de ces activités, et finalement, à une mauvaise compréhension de l'humanité elle-même. A travers ce texte, je vais tenter d'expliquer la véritable cause de la relation controversée entre la finance et l'éthique dans la pensée moderne. Pour y parvenir, je dois d'abord analyser la nature technique de la finance et sa relation avec l'activité humaine, afin que nous puissions véritablement parler d'éthique.

Aristote, qui peut être considéré comme le premier économiste analytique, décrit l'homme comme un animal politique, consacré au bien de sa maison puis à celui de la ville où il vit. Pour Aristote, la gestion de l'économie est avant tout une éthique de la vie privée, qui implique la quête des besoins relatifs à la maison et au bien être. A l'opposé de l'enrichissement personnel, superflu et inutile.

finance and its relationship to human activity, so that we can truly speak of ethics.

The private dimension of the economy

In classic Western thinking, man is considered a social being by his very nature. Aristotle defines him as a 'political animal' (*politikon zoon*), i.e. a being devoted to the good of the city (polis). But, before being a political animal, he is a 'householding animal' (*oikonomikon zoon*)[1] and Aristole's analysis of the configuration of the home, known as 'domestic economy', constitutes his most innovative contribution to the history of economic thought. Thus we may say that 'Aristotle was the first analytical economist... It was he who laid the foundations of science and who first posed the economic problems with which all later thinkers have been concerned.'[2] From a philosophical point of view, the history of economic thought is a dialogue with Aristotle.[3]

The meaning Aristotle gives to the economy is very different from its meaning in modern times.[4] He understands the economy (*oikonomike*) as 'household management', and to refer to this idea he uses a word derived from *oikos*, which means dwelling, home or family. The economy is an art and an ethic of private life, for the family obtains what it requires to meet its basic, limited needs. Within the management of the home, Aristotle identifies chrematistics (*chrematistike*) as the component devoted to acquisition rather than use, (Aristotle. *Politics,* 1256a) i.e. it is at the level of means. There is a natural chrematistics, which concerns what is needed for the home and good living (and hence has a limit), and another, unnatural chrematistics, which seeks to acquire that which is unnecessary, or superfluous. (Aristotle. *Politics,* 1257a).

Seen in this light, the economy is not just an organization of instruments or means, not just a technique, but also includes an ethical component. It is concerned with the good of man and the community (the common good). Chrematistics, on the other hand, has no end, for its object is not need, but money and if it is not then subordinated to economics, it boosts human desire, as Aristotle illustrates in a poem taken from Solon: 'No bound to riches has been fixed for man (Aristotle. *Politics,* 1257b). Wealth, then, when it is seen in terms of the abstraction of money, rather than in terms of the reality of things, becomes aimless.

[1] See *Eudemian Ethics*, VII, 10, 1242 at 22-3. The noun zoon means 'living being, animal'.
[2] Roll (1950), p. 33.
[3] Berthoud (2002), p. 60.
[4] Modern economic theory is considered to have begun with the publication of Adam Smith's *The Wealth of Nations* (1776), which to some extent represents its independence from moral philosophy and hence the start of value neutrality. Cf. Finley (1973), pp. 17-20.

L'économie comporte donc un volet éthique car elle concerne aussi le bien être de l'homme et de la communauté dans laquelle il vit.

Dans leurs écrits, Platon et Aristote ont été les premiers à relater la première crise économique, qui était avant tout une crise de la vie publique. Aristote était déjà conscient de l' importance des échanges pour le développement de la ville.

Le principal problème des échanges est de définir le montant d'un bien pouvant être échangé contre un autre sur une base équitable et juste. Les notions de nécessité et d'utilité sont ici essentielles. La solution, qui va rendre les échanges possibles, est l'argent, soit une représentation conventionnelle de la nécessité.

Indeed, 'ethical questions refer to the way in which man wants,'[5] and so education is needed if we are to want the right things.

The public dimension of the economy

While the private aspect of the economy appears at the start of *Politics* – as a condition of possibility for the polis – its political dimension is discussed in Book V of *Nicomachean Ethics*, which deals with justice. Here Aristotle distinguishes between universal and private justice, and within the latter he distinguishes between distributive justice (equality according to geometrical proportion) and commutative justice (equality according to arithmetical proportion). Immediately afterwards, in Chapter 5, and in the context of commutative justice, he discusses the subject of justice in exchange as a form of reciprocity that keeps the community together (Aristotle. *Nicomachean Ethics*, 1132b).

Although rationality in the ancient world was very different from what it is today, in this particular case we could say that Plato and Aristotle were reflecting on the first economic crisis, which was a crisis of public life. However, unlike his master Plato, whose solution not only inspired socialist currents of thought, but also pervades the dominant modern economy[6] – and who, in *The Republic*, ends up abolishing money – (Plato. *The Republic of Plato*, V 464d), Aristotle was aware of the importance of exchange for the development of the city. Yet, he realized that the logic of *do ut des* ('I give that you may give') is not a sufficient basis for the unity of the city, which is why he mentions the *spirit of grace*, the 'gift', as it were, that is present in all exchange and transcends its technical aspect: 'This is why they give a prominent place to the temple of Graces – to promote the requital of services; for this is characteristic of grace – we should serve in return one who has shown grace to us, and should another time take the initiative in showing it' (Aristotle. *Nicomachean Ethics*, 1133a).

The main problem of exchange is how to determine which amount of a good to exchange for another on a fair basis; this is known as the 'problem of commensurability' (Aristotle. *Nicomachean Ethics*, 1133b). Strictly speaking, things in themselves are incommensurable, i.e. they cannot be compared from the ontological point of view, but in terms of need (*chreia*) or usefulness (for instance, St Augustine shows how a mouse is ontologically more valuable than wheat, and yet we prefer the latter for its usefulness to hu-

[5] Cruz Prados (1999), p. 159

[6] There is no technical solution to the problem of social order, and any claim to the contrary leads to the tyranny of turning the city into a 'big family' where all things are held in common.

En analysant les différentes formes d'échanges, Aristote conclut qu'ils sont de deux natures: l'une naturellement propre au bien être de l'homme dans la communauté, et l'autre qui ne l'est pas, le problème étant de pouvoir distinguer les deux. Le troc est ainsi opposé à l'échange qui implique de l'argent.

La nature même de l'argent est très fallacieuse car elle pousse l'homme à accumuler peu à peu, à devenir riche pour être riche, soit un système sans limite qui corrompt en poursuivant une fin inappropriée.

man life). The solution that makes exchange possible is money (*nomisma*), which comes to be a conventional – not by nature but by law (*nômos*) – representation of need (Aristotle. *Nicomachean Ethics*, 1133b). There are those that claim Aristotle laid the foundations for the analytical treatment of money, yet, as Aristotle worried, the introduction of money[7] into exchange poses a risk to the city.

The development of exchange

In Book 1 of *Politics*, he analyses the birth of exchange and identifies various forms of it: barter, or exchange that does not involve money; using money to acquire something one needs; buying and selling in order to earn money; and lending money at interest (known as usury).[8] He examines the development of relations of exchange over time, and investigates the nature of exchange value and its impact on human behaviour. As regards the end (*telos*) of these forms of exchange, he concludes that they are of two different kinds: one that is natural to man's good life in the community, and one that is not. The problem of course remains how to distinguish between the two.

[7] See, for example, Polanyi (1977), Schumpeter (1954), or Moreau, (1969).

[8] Nowadays the term 'usury' means lending money at excessive rates of interest. However, Aristotle does not admit differences in degree: all interest is usury and, given its purpose, is intrinsically bad and equally unjust.

In the city, men 'exchange with one another the necessaries of life and nothing more' (Aristotle. *Politics,* 1257a). In this way Aristotle presents the need for exchange and the first form it takes: barter, i.e. exchange of goods that does not involve money, represented by C-C´ (commodities). This kind of exchange is necessary in order to supplement natural self-sufficiency; but it logically leads to the other kind, involving money: a good is sold (C-M), and the money it is sold for is used to buy another good (M-C´). This is represented by C-M-C´, and as long as things are sold in order to buy other things, money is a means of obtaining a good that one wants to consume. Aristotle accepts the C-M-C´ circuit,[9] since its end is consumption; but when things are bought (M-C) in order to sell them for a larger amount of money (C-M´), i.e. when the M-C-M´ circuit is created, money is pursued for its own sake, and Aristotle considers this unjust.

The nature of money

The difference between C and C´ in the first case is qualitative (they are incommensurable) and they refer to things that are used in different ways. But the difference between M and M´ is quantitative; M´ is neces-

[9] The distinction that Aristotle makes between exchange value and use value may create ambivalence on this issue, for the exchange value of a good is not its 'proper and particular' use. Yet Aristotle does not use the term 'unnatural' (*para phusin*), and the fact that something is not 'proper and particular' does not mean that it is bad.

Le fait de pouvoir échanger générant des abus potentiels de pouvoir et de l'injustice, il faut réduire au minimum les effets indésirables des rapports d'argent. La question est de savoir si l'argent est un moyen ou une finalité en soi.

Aristote distingue trois types d'activités humaines, chacune régie par un type de rationalité. La contemplation est ainsi régie par la raison théorique, l'action par la raison morale et la production par la raison technique. Chacun des différents usages de la raison donne lieu à un genre différent de la connaissance.

sarily a larger amount because this is the only possible difference between two amounts of money, which is commensurable. So the risk here is that if M can be turned into M´ there is nothing to stop it from increasing further to M´´, and so on ad infinitum: 'there is no limit of the end, which is riches of the spurious kind, and the acquisition of wealth' (Aristotle. *Politics*, 1257b). The fourth type of exchange involves money but no goods, i.e. M-M´, or usury. 'The most hated sort, and with the greatest reason, is usury, which makes a gain out of money itself, and not from the natural object of it... interest is money from money… that is why of all modes of getting wealth this is the most unnatural' (Aristotle. *Politics*, 1258b). Money produces interest, yet it was not invented for that purpose, but rather to facilitate exchange. For ancient Athenians, lending money was a sign of friendship, and its purpose was to keep the polis stable.[10] In the same way, any activity or profession can be corrupted by pursuing an inappropriate end: 'The quality of courage, for example, is not intended to make wealth, but to inspire confidence; neither is this the aim of the general's or of the physician's art; but the one aims at victory and the other at health. Nevertheless, some men turn every quality or art into a means of getting wealth; this they conceive to be the end, and to the promotion of the end they think all things must contribute' (Aristotle. *Politics*, 1258a).

[10] See Millet (1991) and Meikle (1995).

The key to grasping the difference lies in the relationship to money and the distinction between goods presented in Ethics. Natural chrematistics pursues useful things, for their use value; but unnatural chrematistics – which includes trade (*kapelike*) – is guided by exchange value, which is ultimately the same as desire for money. Exchange value quantifies things, assigning them a logical category different from that which is naturally theirs (the ability to satisfy a need). The essence of money is to be an exchange value, and as such has no inherent limits (it is a quantity, not a quality), which is why it cannot become an end in itself.

What is certain is that money, although ambivalent, is nonetheless necessary and cannot be eradicated.[11] Instead, its adverse effects must be minimized, for the possibility of exchange opens the door to abuse of power, injustice, violence and lack of reciprocity. The great problem of usury (M-M´) is the claim that technique can, by itself, ensure gain, distorting the idea of wealth. As Aristotle saw it, the city is viable as long as chrematistics does not predominate and this duality remains a latent element in modern economic thought.

[11] This is what Plato and Marx expressly claim, but it is also implicitly derived from the theory of Walrasian equilibrium in which, paradoxically, money is logically unnecessary.

Toute pratique étant normative, elle doit réfléchir sur les moyens et les fins. L'économie devient donc une science pratique.

Neoclassical economists tried to solve this duality by creating a conceptual link to the notion of utility. If utility is the only purpose of action, they postulated, its results matter more than action itself and the question of whether money is a means or an end becomes irrelevant.[12]

Three kinds of rationality

Aristotle identifies three kinds of human activity (*energeia*): contemplation (*theoria*), action (*praxis*) and production (*poiesis*), each governed by a different kind of rational excellence (*arete*). Thus contemplation is governed by theoretical reason (*sophia*), action by moral – practical – reason (*phronesis*) and production by technical reason (*techne*). Aristotle does not contrast thought with activity, recognising that all complex human activity is marked by unity between conception and execution, and that in relation to this there are three kinds of thought (*dianoia*): theoretical thought, which speculates on something; practical thought, which works; and productive thought, which makes (Aristotle. *Metaphysics,* II 2 y VII 1).

Each of the various uses of reason (theoretical, practical and technical) gives rise to a differentiated kind of knowledge – or science in the broad sense – depending on the object of its study. Theoretical reason enables us to know the essence and causes of things, which is fundamental for an overall view of things. Practical reason enables man to reflect on his actions so that they are organized to their own perfection. That is why all practice is normative, and must reflect on means and ends. Technical reason, on the other hand, only moves in the realm of means, and is aimed at results.

Seen in this light, economics is a practical science, whereas chrematistics is a technical one, meaning that it cannot lay claim to the clarity of the exact sciences, as most positive schools of thought suggest. In *Nicomachean Ethics*, Aristotle warns that 'Our discussion will be adequate if it has as much clearness as the subject-matter admits of, for precision is not to be sought for alike in all discussions … We must be content, then, in speaking of such subjects and with such premises to indicate the truth roughly and in outline … for it is the mark of an educated man to look for precision in each class of things just so far as the nature of the subject admits' (Aristotle. *Nicomachean Ethics*, 1094b).

Understanding the economy in this sense presupposes a difference between action (*praxis*) and production (*poiesis*), which are two different ways of doing things (Aristotle. *Nicomachean Ethics*, 1140a). Even though the way in which Aristotle makes this distinction has been greatly criticized (in his day the diffe-

[12] Basically, utilitarianism insists on quantification in monetary terms, for it maintains that there are no incommensurable ultimate values. Williams (1972), pp. 96-112.

Pour Aristote, l'analyse de la technologie est nécessaire: il s'agit d'une sorte de vertu, car orienté vers la notion de bien, mais elle peut aussi être utilisée de mauvaise manière. Les questions instrumentales deviennent donc toutes des questions morales. Selon lui, dans tous les arts et les sciences, la fin et les moyens devraient être sous notre contrôle de manière équilibrée.

rence was not just internal, but rather external, since production was a job for slaves), there is certainly an implicit reference to the relationship between technical reason and moral reason (*phronesis* and *techne*), which is one of subordination. In any case we are faced with two kinds of teleology: 'For while making has an end other than itself, action cannot; for good action itself is its end' (Aristotle. *Nicomachean Ethics*, 1140b).

Epistemology of technology

There is some ambiguity in the term *techne*, alternatively translated as 'art' or 'craftsmanship', i.e. to refer both to manual or industrial arts and to instrumental methods – used by people who are skilled at something – in order to achieve ends. Aristotle sometimes refers to *techne* as a state (*hexis*) and sometimes as a faculty (*dynamis*). In the first sense, 'art, then, as has been said, is a state concerned with making [*poietike hexis*], involving true reasoning, and lack of art [*atechnia*] on the contrary is a state concerned with making, involving a false course of reasoning; both are concerned with the variable' (Aristotle. *Nicomachean Ethics*, 1140a). Here he defines *techne* as a kind of virtue (or vice) that does not lead to the morally good, but to the intellectually correct – i.e. *techne* provides the most efficient means of achieving the proposed ends, whether these are good or bad. This is a 'kind of virtue', for virtue is strictly directed towards the good, whereas *techne* is ambivalent and can be used badly. Aristotle refers to this second meaning of art as a mere faculty (*dynamis*), for he is loath to state that something can be intellectually good but morally bad.[13] In order for *techne* to be a virtue, it must be subordinated to *phronesis*.[14] Technical reason certainly requires moral reason in order to be good, but the latter also needs the former in order to achieve good, for 'practical wisdom is a virtue and not an art' (Aristotle. *Nicomachean Ethics*, 1140b). Thus *phronesis*, as a moral and intellectual virtue, includes and perfects *techne*, allowing for a human use of it (Aristotle. *Nicomachean Ethics*, 1141a, 1141b, 1142a, 1143b, 1153a).

Ultimately, all instrumental questions are moral questions, but the ends must be human – they cannot be relegated to mere mechanical causality. 'There are two things in which all well-being consists: one of them is the choice of a right end and aim of action, and the other the discovery of the actions which contribute towards it… In all arts and sciences both the end and the means should be equally within our control' (Aristotle. *Politics*, 1331b).

Action and production

Aristotle's distinction between action and production had major consequences for the modern economy,

[13] *Dynamis*, unlike *hexis*, can be used for opposing purposes.
[14] Murphy (1993), p. 106.

La distinction d'Aristote entre l'action et la production a eu d'importantes conséquences pour l'économie moderne.
Les techniques sont moralement ambigues. Telles une expression de la capacité de l'homme à faire les choses, elles sont devenues plus complexes et plus puissantes au fil du temps. Il n'y a pas de technique neutre et objective: elle est toujours guidée par des intérêts humains et la finance ne fait pas exception. Je vais vous démontrer que la prétendue neutralité de la science et de la technique est une illusion.
L' autonomie de la raison est de loin l'élément le plus caractéristique de la modernité.

Orienter l'action depuis l'extérieur, comme cela se pratique habituellement dans le monde physique, est problématique car cela revient à annuler l'action. Ce qui determine l'action est pourtant bien son caractère subjectif, soit ce qui se passe au sein du sujet qui agit.

often owing to misinterpretation.[15] When he says that, in addition to an internal end, production has an end outside itself, whereas action does not (it is an end in itself), he is thinking of the rationality that underlies every kind of activity. As Crespo says, echoing Agazzi, 'The practical dimension concerns itself with knowing and justifying the end, a value in itself that implicates all action. This of course involves means, but only insofar as they are implicated in an end, which is what leads to action. In reality, when moving into the practical field, these are not really means, but rather parts of the end. Practical rationality does not address means as means, but rather in themselves, as particular ends that must be in harmony in a horizon of totality. This totality is a certain way of conceiving life itself.'[16]

We can thus conclude that techniques are morally ambiguous. As an expression of man's ability to make things, they have become more complex and powerful over time, capable of determining future possibilities and making it difficult to correct wrong decisions. There is no such thing as a neutral, objective technique, but rather is designed and driven by human interests – and finance is no exception. Thus, in the next section, I will turn to demonstrating that the supposed neutrality of science and technique is a fallacy.

[15] The interpretation was that production has a tangible purpose and action an intangible one; this is reflected in Smith's notions of productive and unproductive labour.
[16] Crespo (2006), p. 28.

Modernity and the reign of technique

The autonomy of reason is by far the most characteristic feature of modernity. Indeed, there has been a radical change in the understanding of the rational, which lost its profound sense of openness to truth and has become an instrument for the pursuit individual certainty. This change resulted in the consideration of man as an individual, who can act only by using his thinking mind, as seen in Descartes, without any need for tradition or community. Those who set out in pursuit of certainty end up abandoning the language of culture and tradition in favour of a supposedly universal, objective language, whether in its natural form (physics) or its abstract one (mathematics), finally applying it to human action, which is reduced to a mere externality.

For Hegel, the political economy of the Scottish Enlightenment represented the science of modernity *per excellence,* whereas Kant believed that Newton's physics were the leading science of modernity. Although there were other schools of thought, modern economic theory originally arose in response to the need to explain the meaning of society. Yet, it seriously erred in designing the political economy as a kind of 'social physics', forcing a hypothesis of man that has caused all kinds of problems. This hypothesis considers man as an isolated, pre-social individual, a concept that is known as 'methodological individualism,' and gave rise to the famous notion of *homo oeconomicus.*

Le problème n'est pas dans les technologies qui sont appliquées, mais plutôt dans la mentalité dominante, basée sur la technique, et dans la manière dont la finance est utilisée pour retrouver une dimension pratique de l'action.

Modern physics (Galileo, Newton, Descartes) has been so idealized because it reveals an order behind the seeming chaos of nature, an order that, moreover, admits mathematical expression, as observed in astronomy. Yet, approaching the coordination of individual decisions as a mathematical problem requires an *a priori* theoretical rationality, reducing human action to an external theory of decision-making. It was not until the late nineteenth century, when Lagrange's model of mechanistic equilibrium in mathematical physics influenced the German empirical philosophy of Weber and Fechner, that some economists, such as Jevons, Edgeworth and Walras, attempted to explain the meaning of society by turning political economy into mathematical psychics. Yet the 'flight from psychologism' initiated by Pareto and concluded by Debreu was needed in order for a new axiomatic mathematics (Hilbert) to develop, so that action could be deemed a mere externality. This led to what has been called the 'formalist revolution' in economic theory.

The impact of the formalist revolution

Action theory comes down to *a priori* calculation of plans that maximize individual advantages not on the assumption of personal interest, which presupposes a degree of intentionality, but as a mathematical property. The problem in guiding action externally, as usually happens in the physical world, is that, instead of maintaining action's decisive, subjective character, it cancels action out by depriving it of its meaning, i.e. 'When human action is reduced to a mathematical decision-making problem, the agent disappears. He does not act or even think; rather, his action is thought for him; he does not move, but rather is moved.'[17] The purpose of the economy is not consumption, which by definition is concrete and limited, but chrematistic production, understood as a mathematical function that is dominated by calculation. As for technique, it is nothing more than instrumental domination.

Constructing a kind of 'neutral' foundation for society is seriously problematic because a semblance of order is achieved by eliminating multiple views of the common good, which – however paradoxical it may seem – are precisely what keeps a political community together. Inevitably, economics – or rather its chrematistic aspect – becomes a substitute for what was once meant by politics. Making it part of a theory turns the human acquisitive process into an autonomous, neutral activity, ratifying the moral neutrality of the maximization of gain, 'a manifestation of the European spirit's move toward individualism, subjectivism and rationalization.'[18]

As Koslowski points out in his famous essay *Ethics of Capitalism*, the liberation of the economy from morality leads to justification of contracts on the basis of mere formality rather than their substance (which is justice), probabilistic morality – in other words, laxity – as an expression of

[17] Martínez Echevarría (2012).

[18] Koslowski (1997), p. 31.

Le caractère éthique de l'économie dépend du fait que la politique, activité pratique dont le but est le bien commun, ne perde pas son caractère dirigeant. Il faut mettre en avant les efforts conjoints des hommes pour se procurer les moyens de mettre leur capacité productive au service et à la disposition de la société.

subjectivism, and loss of control over interest payments (in accordance with market forces rather than conditions of justice).[19] Ultimately, this is a consequence of not facing up to the complex problem of value, by transferring it to the individual and reducing the incommensurable to common terms (with money acting as a 'common denominator'). Ultimately, ethics in economics, and hence financial ethics, is only possible if politics – a practical activity whose purpose is the common good (including partial and instrumental goods, and hence all technologies) – retains its governing role.

A return to practical reason

Such an extensive theoretical discussion to arrive at general, straightforward conclusions may seem unnecessary and even absurd. It is indeed very typical of modern thought to give priority to action. Yet, as we have seen, it is theory that guides practical and technical action. When there are no firm theoretical foundations for reality, i.e. when we do not look more closely at causes, we cannot move beyond the mere level of means. This is clearly seen in the repercussions of economic crises (especially the one in 2008), when analysts solely discussed issues of *financial engineering* – whereas all crises reflect the vast number of personal decisions that are made in society. The problem is not in the technologies that are applied, but rather in the prevailing 'technicist' mentality and the key to changing the way finance is used lies in a return to the practical dimension of action.

This has major implications. Modern economic rationality, as it has developed, is an attempt to control reality, whether theoretically or technically, by claiming to predict the future in absolute terms. In this sense, the problem of coordinating a multitude of individual decisions ends up as a regression to infinity, as can be seen in game theory. Human rationality develops within practice, and hence is uncertain. That is why economic theory systematically fails in its precise approach to human existential time, for it has to develop more and more hypotheses in its attempts to explain reality in terms of models.

Reason is a single power with two uses: theoretical and practical. Theoretical reason is open to truth and clings to it once it possesses it; it is thus more thoroughly and definitively updated than practical reason. Practical reason, on the other hand, is open to many possibilities and so is never 'closed', not even to error (theoretical reason does not make mistakes, only the person who reasons), which is why it has to be corrected. A re-evaluation of practical reason requires the present tense, for practical reason cannot hope to know reality without action.[20] Practical reason enables us

[19] Koslowski (1997), p.46.

[20] However, acts of practical reason are not actions but acts, and their known objects are mental forms commensurate with their acts. Reason has four feasible acts: practical concept, counsel or deliberation, practical judgement and precept or command. Thomas Aquinas, *Summa Theologiae* II-II ps., q. 153, a. 5, co.

to compare contingent goods that are within our control and are open to many different possibilities – ultimately, means – in order to find the best among them (*practical counsel*), to be aware of our deliberative ability, to assess our acts, to correct them when they do not improve reason, and to differentiate between what is urgent and what is important (*euboulia*); to judge what is probable (particular, contingent, possible and plausible), arranging the order of things with more or less good sense and experience (*practical judgement*); to choose – decide on – the most appropriate of possible actions, and finally to receive a mandate to work towards an end (*precept*). The key to progressing in this direction lies in an appropriate anthropological underpinning, which implies understanding reality, tradition and culture as they really are. New financial trends are moving further and further away from stock markets and complex derivatives, to focus instead on initiatives that involve communities and acknowledge their real needs and capabilities. The 'anti-community' gains that resulted from speculation and the efficient use of 'language' are increasingly being replaced by communal efforts to put its productive capacity at society's disposal. The concept of capital, synonymous with wealth until most recently, is now expanding to include relational, cultural, intellectual and moral aspects, with a growing cooperation and respect for nature. With a true anthropology to guide it, technique, finance in particular, can be geared toward the service of man and its potential will then be truly remarkable. •

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When Banks do not Always Know Best

Ethics & Trust in Finance
Global edition 2016-2017

First Prize

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

The highly esteemed 20th century British novelist C.S. Lewis once remarked that: "a tyranny sincerely exercised for the good of its victims may be the most oppressive" (Lewis, 1987). He went on to explain that this is because a tyranny that exists for the sake of evil can only be evil for so long – "It would be better to live under robber barons than under omnipotent moral busybodies. The robber baron's cruelty may sometimes sleep, his cupidity may at some point be satiated". A tyranny exercised by people he referred to as "moral busybodies", however, would "torment us without end for they do so with the approval of their own conscience" (Lewis, 1987).

In many respects, such sentiments describe the situation in the financial technology (fintech) world today with regard to the mass issuance of contactless cards by banks and other financial institutions. We are told that contactless cards "are good for us" and we need not question our supposed "betters" who know more than we can ever hope to know with regard to our payment preferences. Those who want to opt out of using contactless technology are told they have no choice in the matter (Collinson, 2015).

Why is this a problem?

This is problematic as it is underpinned by what is known in the academic literature as "paternalism". Paternalism[1] is defined as an "interference of a state or an individual

1 The etymology of the term is also indicative of its meaning. It is ultimately derived from the Latin word "pater", meaning "father", and is also the root word for other words such as "paternal" and "paternity".

Une « tyrannie sincèrement exercée pour le bien de ses victimes peut être la plus oppressive », a affirmé C.S. Lewis, parce que les « bienfaiteurs moralisateurs » « nous tourmenteraient sans relâche car ils le feraient en toute bonne conscience ». Concernant l'émission massive de cartes sans contact par les banques et autres institutions financières actuellement, on nous dit que les cartes sans contact « sont bonnes pour nous » et que nous n'avons pas à remettre en question nos supposés « supérieurs » qui connaissent mieux que nous nos préférences de paiement. On dit à ceux qui ne veulent pas utiliser la technologie sans contact qu'ils n'ont pas le choix.

with another person, against their will, and defended or motivated by a claim that the person interfered with will be better off or protected from harm" (Dworkin, 2017). In its more extreme forms, which some authors distinguish as "hard paternalism", this entails using force to alter a person's actions (Dworkin, 2017). This can range from punishing children for eating unhealthy food, to holding back a depressed man who is about to kill himself by jumping off a bridge. Its counterpart, that is soft paternalism, is distinct from hard paternalism in that it at least seeks to persuade and communicate the consequences of the action to the person in question but does not prevent them from following through with their intended action if they still wish to do so. Thus, it would allow children to eat unhealthy food if they wish to, even after telling them the health risks, or permit a depressed man to jump off a bridge even after he has heard why that might not be a good idea (Dworkin, 2017).

Libertarian paternalism

Thankfully, cases of hard paternalism are few and far between in the fintech world today. But this poses problems of its own as it allows other instances of paternalism to go unchecked. The paternalism that describes the mass issuance of contactless cards is referred to in the academic literature as "libertarian paternalism" (Dworkin, 2017). This was first coined by behavioural economist Richard Thaler and legal scholar Cass Sunstein (Bovens, 2009). It entails allowing people to be technically free to choose, but permitting the government or an organisation like a bank to "nudge" people in the "right" direction (Bovens, 2009). This usually involves exploiting certain cognitive biases such as our tendency to be reluctant to give something up once we already have it (endowment effect) or our apparent preference to read from left to right (left to right bias). In the case of contactless cards, the bias that banks and other financial institutions primarily seek to exploit is what is known as the "default effect". That is, individuals, as a number of experimental studies have shown (Kahneman, 2013), are biased towards what is known as the "default" option. That is to say, if a certain option is given as the default, there is an increased likelihood that it will be chosen, even by those who would not have chosen that same option in an alternative world. In the case of contactless cards, the default effect is seen because people who would not have chosen contactless cards as a means of payment nevertheless remain with it as they don't – either because of laziness, ignorance or some other factor – opt out. Outside of finance, the default option bias has been utilised to increase organ donor rates, boost newsletter subscriptions and combat obesity. Sometimes referred to as "nudge policy", it played an important role in the policymaking of the British Government during David Cameron's premiership (Bovens, 2009).

Ce manque de choix est un problème parce qu'il est sous-tendu par le paternalisme. Le paternalisme est une « ingérence d'un Etat ou d'un individu dans la vie d'une autre personne, contre son gré, et au motif que la personne qui subit cette ingérence se trouvera dans une meilleure situation ou sera protégée contre le mal. ». Dans ses formes les plus extrêmes, il implique le recours à la force pour modifier les actions d'autrui. Le paternalisme qui sous-tend l'émission de masse des cartes sans contact est décrit dans la littérature académique avec la notion de « paternalisme libertaire » et ne comprend pas l'usage de la force. En finance, cela implique généralement d'exploiter certains biais cognitifs tels que notre réticence à abandonner quelque chose une fois que nous l'avons déjà en notre possession.

The relevance of paternalism to ethics

The issue of paternalism strikes at the heart of applied ethics (Dworkin, 2017). Most immediately it calls into question the ability of people (or what ethicists refer to abstractly as "moral agents") to be truly rational. The notion of rational moral agents arises from the argument of the German philosopher Immanuel Kant that morality is nothing else than obedience to the categorical imperative and that we ought to follow the course of action that we wish to have universally applied everywhere (Kant, 2008). If people are not truly rational, if they behave in ways that can even at times seem contradictory or suboptimal, then this raises many questions not only about being moral in our day to day lives, but even raises a fundamental question about the discipline of ethics itself.

Yet the issue of contactless cards being issued by banks by default also touches upon other issues such as the classical liberal belief that people ought to be able to enjoy an ability to pay in a variety of ways. The 20th century Austrian political philosopher and classical liberal Friedrich Hayek argued that an economy should have competing currencies issued by private issuers as opposed to one currency mandated by a government (Hayek, 1976). Not only does this have the advantage of promoting monetary stability, it also ensures that there is diversity to accommodate people's preferences (Hayek, 1976).

The mentality behind contactless technology represents a slippery slope

However, we find today that banks are acting very much like a government as portrayed in classical liberal literature, in that they offer individuals little to no choice in how they pay. Individuals are simply told they must adopt contactless technology for their apparent benefit or do without (Collinson, 2015). Again, it should be stressed that this is no small matter: if banks can effectively "dictate" that people use contactless technology, what stops banks in the future from requiring people to insert an implant in their body if they wish to enjoy the services that the bank has to offer? Indeed, there is an entire genre in Christian eschatology on this very matter[2]. Furthermore, the issue of contactless cards was highlighted by the Financial Conduct Authority (FCA), the independent financial regulatory body in the UK (Salmon, 2017). The FCA insisted that banks ought to make it easier for customers to opt out of contactless technology, reflecting the fact that this issue is now one of growing regulatory concern (Salmon, 2017).

2 Consider the words in Sacred Scripture that a number of Christian groups interpret as an omen for the future: "And he causeth all, both small and great, rich and poor, free and bond, to receive a mark in their right hand, or in their foreheads: And that no man might buy or sell, save he that had the mark, or the name of the beast, or the number of his name." (Revelation 13:16-17, King James Version)

Dans le cas des cartes sans contact, le biais que les banques et autres institutions financières cherchent principalement à exploiter est connu sous le nom de « l'effet par défaut ». L'effet par défaut décrit le fait que les personnes qui n'auraient pas choisi les cartes sans contact comme moyens de paiement continuent néanmoins à les utiliser du fait qu'elles ne décident pas - soit par paresse, ignorance ou d'autres facteurs – d'en sortir.

La FCA a insisté sur le fait que les banques devraient permettre aux clients de se retirer plus facilement de la technologie sans contact, montrant par là-même que cette question est une préoccupation réglementaire grandissante.

Does paternalism necessarily lead to the right decisions being made?

Then there are other issues with contactless cards and paternalism. One of them is whether it is, indeed, pointing people in the right direction. There are some psychological studies that show that contactless cards make people spend more (Poulter, 2016). This can be problematic at a household level – households may find it difficult to live within their means – and could potentially be problematic at the aggregate level for an economy in terms of macroeconomic stability. It was overstretching, after all, that led to the financial crisis of 2007-2008. When this is considered, then one can say that a paternalistic attitude to contactless cards has "unintended consequences".

An overview of this paper

This paper argues that a paternalistic attitude by banks when it comes to contactless cards is unjustified: the benefits arising from greater adoption of contactless card technology, such as the potential for increased convenience and reduction in queues, pales in comparison to ethical considerations, cybersecurity concerns as well as the potential financial implications involved. It instead argues in favour of what is known in the academic literature as the "capabilities approach", a framework developed by thinkers such as Amartya Sen and Martha Nussbaum (Robeyns, 2016).

The capabilities approach argues that development and human flourishing should be seen as an expansion in human freedoms and the ability for people to live a life "they have reason to value". This paper argues that if banks and other financial institutions are to really make a positive impact, then they should not judge themselves on whether they have made people's lives easier in the form of increased convenience or reduced costs – though these factors, of course, play a part – but rather, they should judge themselves on whether they have expanded people's freedoms. In the context of contactless cards, this means the real possibility of being able to opt for a non-contactless card, if one so wishes, and that this opportunity should be made as transparent as possible.

What is libertarian paternalism and how is it relevant to contactless cards?

Libertarian paternalism advertises itself as distinct from other forms of paternalism in that it simply changes the way choices are presented to people, as opposed to eliminating choices, or forcing people to accept particular choices (Dworkin, 2017). Underpinning libertarian paternalism is the notion that people are bad decision makers (Dworkin, 2017). They can make

Le paternalisme libertaire se présente comme étant différent des autres formes de paternalisme, dans la mesure où il modifie simplement la façon dont les choix sont présentés aux gens, plutôt que d'éliminer les choix des gens ou de les forcer à adopter certains choix. Cependant, la liberté est fondamentale à l'éthique.

irrational decisions, or contradictory decisions, or decisions that are plainly incorrect. However, with the help of findings in disciplines such as behavioural economics and psychology, people can be "nudged" into making the correct decision. Indeed, the very term "nudge" is apt as it overlaps with the notion that harks back to Adam Smith of an "invisible hand". This has come to frequently feature in libertarian literature only that, in this context, the invisible hand is being used by policymakers to achieve certain social outcomes.

There is ample evidence in the academic literature that people can make what might appear to be "wrong" decisions – everything from psychological pricing to the Allais paradox shows this[3]. Consider the following question: Would you prefer being paid £10,000 at the end of every year forever, or £200,000 now, both compounded annually at a 5% interest rate? Most people would opt for the first option, but from a purely mathematical standpoint there is no difference between the two and thus a person should actually be indifferent when presented with such a scenario. And in the case of a person who lives a finite number of years (i.e. all of us), it is in fact better to go for the £200,000 now.

Libertarian paternalists point to such lack of rationality as a justification for intervention. Libertarian paternalism can be seen as getting the "best of both worlds" – allowing people to be free and to have a full range of choices available to them, but still indirectly managing them to achieve certain social outcomes.

The relationship between libertarian paternalism and contactless technology

Libertarian paternalism is relevant to contactless cards for two reasons. The first is that contactless cards are issued by banks with the belief that the technology is in their interest. One major bank insists that customers are automatically given contactless cards because they are quick, convenient and secure (Salmon, 2017). The bank goes so far as to believe that this benefit is large enough to justify phasing out non-contactless credit cards entirely. That means that those customers who wish to use non-contactless credit cards are simply unable to do so (Salmon, 2017).

The second reason is that the issuance of contactless cards exploits a cognitive bias, one well documented in the literature: the default option. That is to say, rather than customers having to "upgrade" to a contactless card, they are given one from the outset, and this is the default option. Given that people are inclined to stay with what they are given, banks and other financial institutions can advertise that uptake of contactless cards has increased even though this is actually less to do

3 See also Kahneman (2013)

with people's innate preferences and more to do with the psychological reality that people generally remain with the default option.

Does offering contactless cards intrude on freedom?

The 17th century British philosopher John Locke posed a problem: imagine waking up in a room that you do not know is locked but that is, in fact, locked (Rickless, 2015). To think that one has freedom in such a situation would be mistaken: one is certainly free to remain in the room, but has no freedom to leave because the room is locked. Therefore, it is mistaken to describe the man in the room as free, inasmuch as it is mistaken to describe a man who is paralysed as "free" to move his or her limbs (Rickless, 2015). Any belief in "freedom" in this context is illusory. Locke's account of the man in the locked room has fascinated philosophers ever since.

Freedom is fundamental to ethics. Without the ability to act freely, it is disingenuous to speak of ethical behaviour. The concept of freedom is fundamental to virtually every ethical system. In Christian ethics, it is taught that free will is a gift from God and that furthermore, a "Christian life" is the highest expression of freedom. Hence St. Paul writes: "Where the spirit of the Lord is, there is freedom" (Philippe, 2007). In deontological ethics, the normative branch of ethics that emphasises adherence to rules, freedom is also emphasised very strongly – as one sees in the writings of many of its thinkers. For example, John Callanan notes that much of the reasoning behind Immanuel Kant's agnosticism (Kant being a deontological ethicist), can at least be partially explained by the historical context in which he lived. Kant helped form the thinking of the Enlightenment period and he sought a system that embraced tolerance at a time when religious persecution was still an issue (Immanuel Kant, 2016). Freedom also features prominently in the writings of some of Kant's followers, such as Johann Gottlieb Fichte. Even in utilitarian ethics, the branch of ethics that emphasises the maximisation of happiness and is traditionally seen as the branch of ethics most divorced from an emphasis on freedom, certain branches of the paradigm highly emphasise the importance of freedom.

En outre, la théorie des choix publics nous enseigne qu'à l'instar des gouvernements et des politiciens, les banques et autres institutions financières sont aussi susceptibles de commettre des erreurs. Nous avons relevé que les cartes sans contact soulèvent une grande variété de problèmes de cyber-sécurité, allant du « clonage » de cartes, à la possibilité de dépenser un montant illimité dans une devise étrangère, en passant par le vol de carte et l'autorisation du détenteur de la carte à dépenser de l'argent sans avoir à composer un numéro de code PIN.

Infringing on freedom is no small matter

Given the importance of freedom in many ethical worldviews, it naturally follows that violating another person's freedom is looked upon extremely unfavourably. Herein we encounter the controversy surrounding paternalism: to interfere with someone else, and thereby with their freedom, is considered to undermine that person's integrity. Therefore, when it comes to having a paternalistic policy, there needs to be sufficient justification for interfering with the freedom of others, even if it is, indeed, for their benefit.

In the case of contactless cards, and bearing in mind the words of Locke as mentioned previously (Rickless, 2015), it could be argued that the automatic provision of contactless cards, based on a paternalistic mentality, is an infringement of the freedom of others. This is because, much as in Locke's argument (Rickless, 2015), there is only an illusion of freedom. People, if we are to go by experimental studies at least, are inclined to remain with the default option even if they oppose it. Being presented with two options does not mean that customers are predisposed to picking either using all their rational faculties. Cognitive bias(es) have a part to play.

L'un des principes fréquemment invoqués pour expliquer la grandeur du libre-marché est celui de la souveraineté du consommateur : l'idée selon laquelle « le client à toujours raison ». Cependant, avec les progrès de la technologie ainsi qu'une meilleure compréhension de la psychologie humaine, de tels principes sont progressivement remplacés par la notion selon laquelle « les entreprises ont toujours raison. ».

Indeed, this points to a problem that is inherent within libertarian paternalism. Libertarian paternalists argue that libertarian paternalism is distinct from other forms of paternalism in that it does not restrict the array of choices available to people as, for instance, with hard paternalism, but that the array of choices is simply presented in alternative ways for the good of those in question. But we have to ask ourselves: 'where exactly is the line drawn?'

Take, for instance, the traditional example frequently cited in the literature of the cafeteria (Bovens, 2009). Schools know that, if they place unhealthy food away from eye level in a cafeteria, this will reduce consumption of unhealthy food by children. This is because only the children most eager for it will seek the unhealthy food. By placing the unhealthy food away from eye level, schools can achieve the objective of reducing consumption of unhealthy food among children whilst at the same time preserving their freedom (or at least so libertarian paternalists believe). But suppose schools decide instead to cover unhealthy food altogether with a blanket of some kind so that children are not cognisant of what exactly remains under the cloth. This is problematic because it could be said that the unhealthy food is still there. It could be said that the freedom of the children to choose has been preserved. Yet in covering the food the children are ignorant of the unhealthy food actually being there and, being ignorant, cannot actually exercise their freedom to choose unhealthy food. Freedom means the ability to choose good and the ability to choose evil. This points to the issue raised by Locke with regards to the man in the closed room (Rickless, 2015). It is difficult to see how this is consistent with the claim that libertarian paternalism preserves choice.

Like the cafeteria example, much the same can be said about contactless cards. If people are automatically enrolled onto contactless cards and are not informed about the possibility of remaining with or reverting to traditional "chip and pin", then it could be said that the freedom of customers has, indeed, been infringed.

Dans le contexte des cartes sans contact, les avantages liés à leur adoption accrue ne semblent pas suffisamment décisifs pour l'emporter sur les autres préoccupations éthiques soulevées par l'atteinte à la liberté. Nous espérons que cette contribution sera pertinente pour éclairer les banques et autres institutions financières sur les enjeux éthiques qui découlent de l'inscription automatique des personnes à la technologie sans contact.

What can public choice theory teach us about the problems with paternalism?

Public choice theory is an important school of thought that came to prominence in the 20th century, although its origins can be seen as far back as the 19th century, and perhaps even further back. Public choice theory analyses the decision-making processes of politicians and governments. One of the crucial conclusions of public choice theory is that politicians and the government are people too: they are susceptible to making bad decisions, engaging in unscrupulous behaviour and so on, and so forth. This stands in stark contrast to the belief usually assumed, but never made explicit, in policy debates that the government is objective and unable to make suboptimal decisions[4].

Public choice theory teaches us that, in the same way that governments and politicians are prone to error, so too banks and other financial institutions can make mistakes. A paternalistic relationship conveys the mental image of banks and other financial institutions "knowing more" than the "little people" who are being nudged in this direction and that direction. However, it is also completely plausible that banks and other financial institutions are also prone to irrational decisions and suboptimal choices.

Consider the issue of unintended consequences. This concept describes a situation where a policy has consequences that are not otherwise intended, almost always negative. Imagine throwing a ball upwards with the intention to catch it as it falls back down, only for a strong gust of wind to suddenly blow the ball away from you as it falls back into your hands. Unintended consequences are a result of a complex world with many variables, the effects of which cannot be predicted from the outset. In the case of encouraging contactless cards, whilst some banks have said their use should be encouraged because they are quick, convenient and secure (Salmon, 2017), what hasn't been noted is the potential downsides that could come with increased adoption of contactless cards.

Disadvantages of contactless cards

One such potential downside is the inability for people to live within their means as a result of having a contactless card. Research (Poulter, 2016) suggests that ownership of a contactless card can encourage overspending because it removes the "psychological brake" that occurs when someone has to get money out of a purse and ask themselves: "Do I really need this?" The researchers also found that this over-spend effect is particularly pronounced on those who have low self-esteem (Poulter, 2016). This again points back to

4 In the literature, public choice theory gave birth to the term "government failure", a good counterpoint to frequently used "market failure".

the issue of "manipulation" when it comes to exploiting cognitive biases, raising ethical concerns about paternalism. Most people would not tolerate businesses exploiting the mentally disabled to sell their items, and indeed, there have been a number of scandals in the lending industry already to this effect[5]; in a similar way, it seems unethical to exploit the cognitive biases of others, some of whom invariably will have low self-esteem (Poulter, 2016). Herein it is perhaps relevant to make an allusion to the argument of Kant that such behaviour is unethical as we are treating people not as ends in themselves but as a mere means to an end. As Wilkinson explains: "Nudging uses the clever tricks of modern psychology and economics to manipulate people. We don't like manipulation when it's done to sell us things; we shouldn't like manipulation when our governments do it to us." In the context of this paper, we could change the word "governments" to "banks" (Dworkin, 2017).

Paternalism potentially conflicts with honesty

Of course, it could be argued that this is all "part of the plan". Banks issue contactless cards with the knowledge that people are more inclined to spend using one than using a non-contactless card, which means they can increase their profits. However, this undermines the notion of paternalism, which implies that those being interfered with are being interfered with for nonmonetary reasons. As one bank said, customers are automatically enrolled onto contactless technology because the bank believes that contactless payments are secure, convenient and quick (Poulter, 2016). If, indeed, banks are issuing contactless cards to exploit the cognitive bias of remaining with the default option then this merely highlights the issue that public choice theory raised with regards to politicians and governments: claims of interfering in someone else's freedom for their apparent benefit are usually based on self-interest rather than altruism.

It would not be so bad if banks stated plainly that they are issuing contactless cards to increase their profit margins. However, when it is said that contactless cards are a function of nonmonetary concerns, like convenience and security, and there is some degree of probability that this is not true, we are confronted with a lack of transparency[6] when it comes to libertarian paternalism. Transparency is a fundamental value that many societies in the Western

5 See Poulter (2015)

6 Transparency is particularly pertinent here. It might be believed that those doing the nudging (in this case the banks) would find it more effective if they did not publicly communicate their actual intention. However, Dworkin (2017) notes that findings from psychology show that there is no significant difference in outcomes between a nudge policy that does communicate its intention and one that does not. Therefore, there is really nothing that stops a bank from being transparent about why exactly it is issuing contactless cards as a default option.

world aspire to and libertarian paternalism seems to conflict with that (Dworkin, 2017).

Other disadvantages with contactless cards

There are other downsides that come with the increased adoption of contactless cards. For example, it has been noted that contactless cards are bedevilled by a wide range of cyber-security concerns, from "skimming", through the ability to spend an unlimited amount in a foreign currency, to the card being stolen and allowing the person with the card to spend money without the need to enter a PIN number. If a person has a very high preference for cyber-security, a preference that completely outweighs that of convenience, it seems unethical for those doing the decision-making to say that such a "choice architecture"[7] is wrong and that the customer must prefer convenience to cyber-security. Indeed, we can say here that it is the decision-makers who are being irrational as opposed to those who choose to remain with non-contactless cards. This is because the decision-makers say in many contexts that they value cyber-security and regard cyber-security as the most pressing concern for banks and other financial institutions, but then suddenly discard this preference when it comes to the issue of contactless technology. In fact, this is nothing else than a conflict with the principle of transitivity[8], and thus represents irrational decision-making. This shows that even the decision-makers can be irrational, just as implied with public choice theory and politicians and governments, and therefore also raises the question of the *legitimacy* of their authority in trying to nudge people in certain directions.

A capabilities approach to financial technology

Exchange is vital to human existence. Adam Smith remarked that humans are distinct from other species in that we live by exchange: "Nobody ever saw a dog make a fair and deliberate exchange of one bone for another with another dog. Nobody ever saw one animal by its gestures and natural cries signify to another, this is mine, that yours; I am willing to give this for that". He went on to add that, "But man has almost

7 Choice architecture is the term commonly used in libertarian paternalist literature to describe how choices are presented in order to influence decisions –
eg sweets are removed from a child's field of view.

8 This says that if A is preferred to B and B is preferred to C then A must be preferred to C. Any other arrangement is deemed irrational. The principle of transitivity is violated here because banks and other financial institutions constantly preach that security should be prioritised over convenience. An example of this is found in passwords, with banks advising customers not to choose convenient passwords like "abcd" or "1234" or one's birthday. Yet this same insistence of prioritising security over everything else is quickly forgotten in favour of convenience when it comes to contactless technology, reflecting a violation of the principle of transitivity and thus providing an example of irrational behaviour on the part of banks and other financial institutions (the "choice architects").

constant occasion for the help of his brethren, and it is in vain for him to expect it from their benevolence only" (Smith & Skinner, 1982).

The capabilities approach emerged from the ideas of economist Amartya Sen and political scientist Martha Nussbaum – primarily as a reaction to mainstream welfare economics because it was underpinned by utilitarianism – but also in response to the political theories of thinkers such as John Rawls, who argued that a society should be rationally arranged such that the least well-off benefit from any benefits reaped by society as a whole (Robeyns, 2016).

It is relevant to mention Rawls here because Sen lauds his framework but argues that it does not go far enough, Rawls' framework ultimately boiled down to an assurance that the least well-off were guaranteed the provision of *material* goods, whilst Sen believes that development should be seen as much more. Sen argues, as does Nussbaum, that development should be seen as an expansion of freedoms and the ability to live a life that one has reason to value.

If fintech is to promote human flourishing, then it needs to put freedom at its heart of self-evaluation. Sen gave the example of a person who is fasting. A person who is fasting in a developed country can hardly be said to be malnourished, at least when compared with people in developing countries. The difference between a person who is fasting in a developed country and a person who is malnourished in a developing country is that the person who is fasting in the developed country at least has the freedom – the "capability" – to nourish him or herself. The same cannot be said for someone in a developing country.

How do we gauge progress in fintech?

In a similar way, it is not an example of progress if people are "forced" to use contactless cards, even if statistics show increased convenience, reduced queues or better security. We should analyse the question of whether the growth in contactless cards is a good thing. First, we should ask whether people have naturally chosen to use contactless cards as a means of payment. Second, we should ask whether those who choose not to pay with contactless cards can pay with other means. These are not trivial questions. As mentioned previously, the ability to exchange is fundamental to human existence. Forcing people to pay in certain ways has at times in history been accompanied by persecution. Furthermore, there are cybersecurity concerns as well as concerns about possible unintended consequences.

A capabilities approach to the issue of contactless cards ensures that people can continue to pay using non-contactless means. It guarantees the freedom to live a life one sees fit to live. Upon closer inspection, it is also noteworthy to see how the Rawlsian criterion is satisfied. Older people, for example, are known to be reluctant to use contactless cards. By ensuring that there is always a viable alternative to contactless technology, or by refraining from using cognitive manipulation to surreptitiously encourage the uptake of contactless technology, banks and other financial institutions can make sure that the most vulnerable – such as the elderly – are adequately catered for.

Conclusion

Our liberal society prides itself on diversity. A free market is a subset of that diversity and it is seen as a mechanism through which people's preferences can be satisfied. One of the principles frequently touted as fundamental to the free market is that of consumer sovereignty: the idea that "the customer is always right". However, with the advance of technology as well as a better understanding of human psychology, that principle is gradually being replaced with the notion that: "Businesses know best". This has led to an increased prevalence of a paternalistic mindset: rather than consumers choosing what is placed on the market, businesses are collectively determining what consumers can get in the market. It is an inverted relationship, and that is also seen with the issue of contactless cards. Was any consultation held with customers and other stakeholders about whether contactless cards were wanted? Was any discussion held as to how to provide for those who choose not to opt for contactless cards?

Paternalism is relevant to ethics because it encompasses the issue of liberty and freedom: interfering with someone else's choices is a very controversial issue indeed and makes those who suggest it liable to accusations of "manipulation" and "deceit". It would not be true to say that contactless cards represent the only instance of paternalism by banks and other financial institutions. However, it does serve as a useful microcosm of paternalism in the banking and financial industry and paternalism more generally speaking.

The author is not so ambitious as to try to deal with paternalism as an overarching concept and to try to say whether *all* instances of paternalism are acceptable or deplorable. But in the context of contactless cards, the advantages gained from their increased adoption do not seem compelling enough to override the other ethical concerns raised by the infringement of freedom. It is hoped that this paper proves insightful to banks and other financial institutions regarding the ethical issues that may arise from automatically enrolling people into contactless technology. •

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Behavioural Ethics and the Next Generation in Finance

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

First Prize

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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. •

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Ethics at the New Frontiers of Finance

Ethics & Trust in Finance Global edition 2016-2017

Finalist

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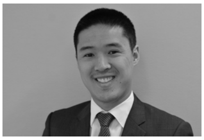

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"Ethics change with technology."

– Larry Niven, American science fiction writer

In 2011, the Court of Justice of the European Union (EU) ruled that European insurers must, after a short transitional period, no longer use a person's gender as a factor in calculating insurance premiums (Court of Justice of the European Union, 2011). The ruling was roundly criticised for being likely to raise the cost of insurance for female drivers and incentivise riskier driving behaviour (HM Treasury, 2011), and even for trivialising the very concept of human rights (Booth, 2011). Equality between men and women is a bedrock principle of the EU. Indeed, Articles 21 and 23 of the EU's *Charter of Fundamental Rights* require gender equality to be ensured in all areas. Why, then, should insurers be exempted from the most basic precepts of anti-discrimination policy? And, as private firms collect more and more data about our driving histories, medical records, and personal lives, what other protections might be needed to ensure equitable access to insurance coverage?

Deep beneath the North Atlantic Ocean lies the Hibernia Express, a 4,600km transatlantic cable system that connects Europe with North America. Completed in 2015 at a cost of US$300 million, the system lowers the latency of communication between traders in London and New York by 2.6 milliseconds (Buchanan, 2015). The Hibernia Express is just the latest addition to a global superstructure of privately-owned fibre-optic cables, microwave and millimetre-wave relays, and laser-

Les assureurs ont pendant longtemps pu utiliser le sexe comme clé pour calculer les primes d'assurance différentiées. La Cour de Justice de l'Union Européenne a maintenant déclaré que c'était illégal. Au niveau global, les opérateurs de marché dépensent des milliards de dollars en technologies pour gagner des avantages minuscules en vitesse sur leurs concurrents.

Quel est le bénéfice sociétal de cette « course aux armements » technologique, et est-ce que cela rend le marché injuste pour les autres investisseurs ? Ces deux exemples illustrent quelques-uns des nombreux dilemmes éthiques urgents auxquels seront confrontés les professionnels de la finance de demain.

based networks that connect the world's most important financial exchanges. Market participants worldwide spent some US$1.5 billion in 2013 on technology to increase trading speeds (Patterson, 2014). But researchers remain deeply divided on the societal benefits of this technological arms race: while high-speed trading improves liquidity, the speed advantage enjoyed by professional traders may have irrevocably rigged the market against pension funds and 'mum-and-dad' investors.

These two examples illustrate some of the many pressing ethical dilemmas that will confront the finance professionals of tomorrow. Past submissions to the *Robin Cosgrove Prize* have explored how the finance industry could be rendered more ethical through avenues like better instruction in behavioural ethics and design thinking. While these ideas are meritorious, I argue that they have three principal weaknesses.

Building on the literature

The first is that past essays have been overwhelmingly concerned with the business of banking and securities trading. But finance is a diverse profession: millions of people work in asset management, insurance, broking, venture capital, financial technology ('fintech'), and other fields. Ethical impasses in these fields are often overlooked in the literature. This essay attempts to partially fill the gap by investigating some of the emerging ethical issues in insurance and fintech.

The second weakness is that past essays (e.g. Murdoch, 2015) have tended to focus on high-profile instances of wrongdoing, like Bernard Madoff's infamous Ponzi scheme, that were clearly *illegal*. Insofar as a nation's laws broadly express the combined ethics of its citizens, it is not hard for a dispassionate external observer to clearly recognise these actions as being unethical. More interesting, from my point of view, are examples of financial practices or innovations that are legal but whose ethicality is presently *ambiguous*.

The third weakness is that past essays (e.g. Godbold, 2015) propose illusorily simple heuristics, like "putting the customer first". These may be suitable for decision-makers working in customer-facing retail financial services, but provide little guidance for professionals in other segments of the industry. In addition, as I write in this essay, putting the customer first does not always lead to desirable outcomes when viewed through the broader prism of distributive justice.

The motivation for this essay comes from my time as an analyst focusing on financial regulation at the Australian Treasury, and then as a researcher at a leading think-tank. I quickly came to see how decisions made by industry executives, regulators, and government ministers are rarely value-neutral. When the Australian state of

Les textes retenus par les éditions précédentes de ce prix, ont trois principales faiblesses. Premièrement, ils portent en grande majorité sur le secteur bancaire et le commerce de titres, laissant de côté d'autres segments d'une industrie financière diversifiée. Deuxièmement, ils ont tendance à se concentrer sur des actes qui sont illégaux. Il est plus intéressant d'examiner les pratiques financières ou les innovations qui sont légales, mais éthiquement ambiguës. Troisièmement, certains auteurs ont conclu que les entreprises pouvaient être éthiques « en mettant le client à la première place » – mais ceci est en conflit avec la réalité. De plus, le fait de mettre le client à la première place n'aboutit pas toujours à des résultats satisfaisants lorsque l'entreprise a de nombreuses parties prenantes en concurrence.

Queensland was hit by a series of massive flooding events over the summer of 2010-11, it was revealed that a great many households were unknowingly uninsured because of their opaque insurance contracts. 'Greedy' insurance companies were quickly portrayed as the villains (Lutton, 2011). Insurers fired back, arguing that poor government policy had rendered large areas of Queensland uninsurable. As a public policy analyst, I was required to reflect on the many competing claims to 'fairness' that this disaster provoked: whether it is reasonable to ask an insurer to pay a claim where it has no contractual obligation, at the expense of its shareholders; whether it is equitable for the government to provide aid to disaster-affected families, but not to those suffering from non-disaster related misfortunes; whether disclosure is a sound basis on which to build a framework of consumer financial protection.

This essay is about ethics in a world where the financial industry is being buffeted by the great winds of technological change. The next section of this paper looks at the insurance sector, and examines the ethics of discriminating between different consumers based on their observed or unobserved risk profiles. The following section investigates the costs and benefits of financial innovation, with a specific focus on the growing uptake of cryptocurrencies and algorithmic decision-making systems. The penultimate section draws out some useful lessons for young finance professionals. The final section concludes the article.

Insurance and discrimination

Insurance is vital to the smooth functioning of modern economies. By mitigating the effects of exogenous events over which we have no control – illnesses, accidents, natural disasters – insurance allows people and businesses to recover from sudden misfortune. This risk mitigation is often a precondition for other productive activities, such as buying a home or starting a business (Geneva Association, 2012). In addition, the price of insurance often serves as an important signaling mechanism that can incentivise *ex ante* risk-management behaviour.

Insurance companies are in the business of discrimination. Insurers aim to charge different premiums to different groups of people based on observable variations in their risk profiles. There are limits, however, to the types of discrimination that society considers tolerable. In the United States (US), for example, federal legislation forbids health insurance companies from considering gender or 'pre-existing conditions' in the underwriting process. However, fewer than half of the American states ban the use of racial factors in life, health, and disability insurance. Only 15 states ban the use of sexual orientation in underwriting health insurance, and

L'industrie d'assurance a fait de la segmentation / discrimination son métier de base. Les assureurs visent à facturer des primes différentes selon le groupe de personnes en se basant sur des différences observables de leurs profils de risque. Il y a toutefois des limites aux types de discrimination que la société considère comme acceptables. Les différents pays, ont des niveaux de tolérance variables pour la discrimination basée sur le sexe, la race, l'orientation sexuelle, etc. Clairement, il n'existe aucun consensus sur quelles formes de discrimination sont justes.

Une majorité de gens pense que les fumeurs devraient payer plus pour l'assurance-maladie. Cependant les coûts et bénéfices d'un tel changement de politique sont incertains. Le fait de facturer aux fumeurs des tarifs plus élevés peut les pousser à renoncer complè-

only nine ban the use of gender in motor vehicle insurance (Avraham, Logue & Schwarcz, 2014).

Clearly, there is no consensus on which forms of discrimination should be permissible. At first glance, the correct moral position might be to suggest that discrimination on the basis of immutable factors outside of one's control – gender, race, sexual orientation, and so on – ought to be outlawed. But this in itself raises at least two new ethical questions. First, is it then fair to charge people higher premiums for factors that are *within* their control? Second, is it fair to charge an individual a higher premium simply because the particular demographic group to which they belong presents a greater risk *on average*?

When is price discrimination fair and equitable?

I argue that the first question has no clear answer. Take smoking, for example. A majority (59%) of Americans say that insurers would be justified in setting higher health insurance rates for smokers (Gallup, 2017). After all, smoking-related illnesses cost the economy hundreds of billions of dollars a year in healthcare expenditure and lost productivity. The theory goes that charging smokers more would encourage them to quit, improving their health and lightening the burden on the public healthcare system. Counterintuitively, however, some studies show that because regular smokers are more likely to die at a younger age, lifetime health expenditure is actually *greater* for healthy people than it is for smokers (van Baal et al., 2008). In addition, charging smokers higher premiums might cause them to forego health insurance altogether, thereby preventing them from accessing insurer-funded smoking-cessation programs (Resnik, 2013). The costs and benefits of penalising unhealthy behaviour are more complex than they seem.

When responding to the second question, it is tempting to conclude that the only equitable approach is to set premiums commensurate with a policyholder's *individual* risk characteristics, rather than proxy factors like their age, ethnicity, or other demographic grouping. But here, too, society faces troubling quandaries. 'Telematics' – the fitting of devices to motor vehicles in order to track real-time driving behaviour – is revolutionising the auto insurance industry. Usage-based insurance might allow safe drivers who would otherwise be considered high-risk based on their demographic profile (e.g. men under the age of 25) to prove to insurers that they should not be punished for the sins of others. Similarly, the 'Internet of Things' may one day provide property insurers with information about our homes and offices, and wearable sensors could transmit real-time biometric data to health insurers, so that insurers rely less on self-reported medical information. However, such tement à l'assurance-maladie. De nouvelles avancées dans la « télématique » et l'idée des primes basées sur le comportement effectif, pourraient permettre aux assureurs de différencier plus facilement les individus sur la base de leurs caractéristiques de risques réels, plutôt que d'après leurs seuls profils démographiques. Il reste encore à savoir, cependant, si de telles technologies valent le prix de l'intrusion dans la vie privée.

Les données peuvent être une épée à double tranchant.
Les tests génétiques peuvent aider les individus à comprendre leurs risques médicaux, mais les assureurs peuvent utiliser les résultats pour identifier les gens avec des gènes à risque.
Certains pays ont choisi de promulguer des lois pour empêcher la discrimination génétique.
De même, la tarification du risque d'inondation a été peu sophistiquée, mais pro-

devices are necessarily intrusive and raise a host of issues around data privacy and security (Schumer, 2014).

Insurance data and public policy

How much data is too much? This question has been given renewed impetus by technological advances in areas like genetic testing. There have already been cases of individuals being denied life, disability, or travel insurance due to their genetic test results. Anxiety about potential discrimination by insurers deters people at high risk of cancer from taking up genetic testing, with potentially damaging consequences for their health (Keogh et al., 2009). The industry's response has varied from country to country. In the United Kingdom (UK), insurers have voluntarily committed to allow customers *not* to disclose adverse genetic test results. The US, Sweden, Germany, France, and Canada have all enacted laws prohibiting genetic discrimination.

In a similar way, advances in flood modelling and satellite technology are a double-edged sword. They threaten to simultaneously make property insurance markets 'fairer' and to render large swathes of flood-prone areas uninsurable (or prohibitively expensive to insure). In the past, knowledge of flood risk was relatively unsophisticated, and the consequence was that insurers applied a degree of collectivisation – where those at low risk informally cross-subsidised those at high risk. In the UK, this cross-subsidy, valued at £180 million per year, is now unwinding (Cullen, 2015). Greater granularity of data is resulting in a greater dispersion of premiums, creating winners and losers. The key issue, of course, is whether it is equitable for those who live in flood-prone areas to be subsidised by other policyholders (or by the taxpayer where government insurance schemes exist)[1]. While some householders might be able to mitigate risks by erecting flood defenses or relocating, others simply may not have the financial means, or may have purchased a property without full knowledge of its flood risk. The trade-off between economic efficiency and social justice is a vexing one.

Developed nations have instituted a wide variety of models for the regulation of insurance. These range from completely deregulated systems to those exhibiting partial or full solidarity (i.e. the prohibition of using certain types of information in underwriting) or mutuality (Liddell, 2002). Until recently, the flood insurance regime in the UK was largely market-based, while in France the principle of solidarity for natural disasters is written into the French constitution itself (O'Neill & O'Neill, 2012). When it comes to health insurance, some countries

1 In the US, the benefits of the National Flood Insurance Program (NFIP) appear to accrue largely to wealthy households concentrated in a few highly-exposed states (Holladay & Schwartz, 2010).

gresse avec la modélisation des inondations et la technologie satellite aide maintenant les assureurs à mieux évaluer le coût du risque. Ces données plus détaillées aboutissent inévitablement à une dispersion plus grande des primes, et crée des gagnants et des perdants. Certains pays autorisent le marché à évaluer le risque d'inondation. D'autres préfèrent un modèle de solidarité ou de mutualité pour les désastres naturels.

Beaucoup d'innovations financières se développent si rapidement qu'il y a eu peu de débat public sur leurs effets sociétaux. Par exemple, les crypto-monnaies résolvent un important problème en facilitant un transfert sûr de valeur ou de propriété entre les parties sans avoir besoin d'intermédiaires. Elles pourraient baisser les coûts pour de petites entreprises et les transferts de fonds. Cependant, comme les utilisateurs ne sont pas soumis à une vérifi-

arbitrarily treat genetic information as different to more observable forms of medical information, such as a person's cholesterol level, so that underwriters can consider one type of data but not the other. Even within countries, there are often significant variations in laws between regions. The World Economic Forum (2015) has noted that the greatest impact of technological disruption in finance is likely to be felt in the insurance sector. The ethics of insurance are unlikely to be settled soon.

The frontiers of financial technology

Financial innovation has been integral to the development of modern life. During the Song Dynasty in China, the invention of paper money provided a way to efficiently transport value across great distances. The growth of finance in Europe in the late 1600s was essential for the Industrial Revolution. Government bond markets have helped to finance wars from medieval Europe, to the American Revolution and beyond (Goetzmann & Rouwenhorst, 2007).

Today, financial services remain surprisingly expensive – in fact, the unit cost of financial intermediation in the US has not fallen for the past 130 years. This helps to explain the emergence of new entrants (Philippon, 2016). Large and unwieldy financial institutions are primed for modernisation. Mobile-money systems like M-Pesa have brought financial inclusion to the 'bottom of the pyramid' in Kenya, Tanzania, Afghanistan, and India. In developed nations, peer-to-peer (P2P) lenders and insurers are disintermediating traditional markets. Cryptocurrencies – new forms of digital currency based on 'distributed ledger' (blockchain) technology – promise to do away with high-cost incumbents altogether. But many of these innovations are taking hold so rapidly that there has been little public scrutiny of their effects on society.

Take cryptocurrencies, for example. By facilitating the safe transfer of value or ownership between parties without the need for middlemen or trusted intermediaries (i.e. banks, credit card companies, payment companies etc.), they solve an important societal problem (Blundell-Wignall, 2014). Distributed ledgers are resistant to tampering and inherently difficult to hack. There is typically no central authority charged with creating units of cryptocurrency or verifying transactions. Because cryptocurrency transactions are cheaper and quicker than traditional payment methods, they could help to lower costs for small businesses and alleviate poverty by facilitating instantaneous, inexpensive remittances or micropayments (Brito & Castillo, 2013). Researchers are now investigating the use of the underlying blockchain technology for managing healthcare records, land title registries, supply chains, aid delivery, and even electronic voting.

A crucial feature of cryptocurrencies like Bitcoin is their cation d'identité, les crypto-monnaies ont été associées au crime et au terrorisme. Les crypto-monnaies de nouvelle génération permettent de faire des « contrats intelligents » directement exécutables. Ceux-ci peuvent faciliter une gamme plus large de crimes comme le kidnapping ou l'assassinat.

provision of *pseudonymity*: while transactions are visible, the 'public keys' associated with transactions are not tied to real-world identities. No personal information is required to create an account on the Bitcoin platform. Bitcoins have consequently been used to purchase illicit goods online, most notoriously through the 'Silk Road' electronic black market. Supporters of Islamic State of Iraq and Syria (ISIS) and other terrorist organisations are actively promoting the use of Bitcoin to mitigate the risks associated with traditional funds transfer methods (Irwin & Milad, 2016). Next-generation cryptocurrencies like Ethereum offer even richer functionality. They support 'smart contracts', self-enforcing computerised contracts[2] that could enable a wider range of new crimes, like kidnapping or assassination. A person with malicious intent could theoretically set up a smart contract to pay for a criminal act to be committed and walk away, allowing the contract to self-execute once it determines that the crime has been carried out (Juels, Kosba & Shi, 2016). The blockchain's distributed trust structure is what facilitates smart contracts between unknown and untrusted counterparties.

2 The critical distinction between smart contracts and other forms of electronic agreement is enforcement. The computers in the blockchain network ensure performance of the contract, rather than any government authority. Sometimes a smart contract may need to refer to facts in the world – such as when a contract pays out if a stock exceeds a certain price on a certain date. In this case, the ability to read an external data feed and verify contractual performance must be coded into the smart contract from the outset. See: Werbach & Cornell, 2017.

Algorithms in finance

Tout indique que le commerce algorithmique améliore la liquidité du marché et la recherche du prix efficient.
Cependant, les ordinateurs peuvent traiter des quantités énormes d'informations à grande vitesse, désavantageant ainsi potentiellement les investisseurs ordinaires. De plus, les sociétés de trading à haute fréquence sont connues pour payer des infrastructures chères ou un accès prioritaire aux données afin d'élargir leur avantage informationnel sur d'autres investisseurs.

More broadly, consider the employment of algorithms in finance. There is good evidence that algorithmic trading – the use of computers to automate certain trading decisions – improves market liquidity and efficient price discovery (Hendershott, Jones & Menkveld, 2011). Recent years have seen the emergence of a new form of algorithmic trading: high-frequency trading. The US Securities and Exchange Commission (2010) notes that the speed of financial markets trading has increased to the point that the fastest traders now measure their latencies in microseconds. Computers are able to process vast amounts of information at superhuman speed, potentially putting ordinary investors at a disadvantage. In addition, high-frequency trading firms go to great lengths to be faster than their competitors – by co-locating their computer servers with those of exchanges, buying access to expensive telecommunications infrastructure (like the subsea cables mentioned in this paper's introduction), and even paying for early receipt of market-moving data (Mullins et al., 2013) – seemingly doing away with any pretense of a level playing field. The social welfare benefits of this high-priced technological arms race are dubious.

Les algorithmes de notation en matière de crédit sont déjà utilisés par les prêteurs pour déterminer quels clients devraient recevoir une carte de crédit ou une hypothèque. Souvent, le fait de déléguer ces décisions à un ordinateur peut permettre de corriger les biais dans la prise de décision humaine. Toutefois, les algorithmes d'apprentissage-machine contiennent des biais humains préexistants. Comme ces algorithmes sont des secrets commerciaux, il existe peu de moyens pour remédier aux biais.
Nous devons commencer à penser comment ces technologies sont appliquées pour s'assurer qu'elles ne renforcent pas les préjugés existants ou ne facilitent pas la violation des lois.

Can algorithms make human decision-making fairer?

When an algorithm gets things wrong, who is responsible? Credit-scoring algorithms are already used by lenders to determine which customers should receive a credit card or mortgage. In many cases, these systems can help to correct inevitable biases in human decision-making. Most of today's automated credit decisions rely on 'traditional' data inputs, such as disclosure of a prospective borrower's income and assets. Yet the use of such data means that certain minority groups – like the recently widowed or divorced, or new immigrants – are often invisible to the mainstream credit system. They may be forced to resort to high-cost products that do not help them to build a credit history (Bureau of Consumer Financial Protection, 2017).

Here, innovative companies offer a promising path to financial inclusion. Fintech lenders have emerged that assess credit by mining all sorts of alternative consumer data, from mobile phone usage and social media footprints to Web search and e-commerce histories. But machine-learning algorithms could unwittingly internalise pre-existing biases – as is the case in advertising, where it has been discovered that a search on Google for the term 'CEO' returns images almost exclusively of white men, and delivers far fewer advertisements for high-paying executive jobs to women than to men (Walport, 2017). Similarly, underwriting algorithms that factor in where a potential borrower attended college may tend to exacerbate socioeconomic stratification, and those that use measures of residential stability to predict creditworthiness may unfairly discriminate against members of the military (Crosman, 2017).

In insurance underwriting, some types of data may correlate with or act as a partial proxy for race (e.g. where a consumer lives, or what type of food he/she purchases). Using such data for underwriting may be statistically valid but run contrary to anti-discrimination laws (Actuaries Institute, 2016). But because most algorithms are jealously-guarded commercial secrets, the lack of transparency – as well as the lack of avenues for review and redress – makes counteracting bias difficult.

Advocates of novel inventions sometimes argue that while a technology itself may be morally neutral, policies must still be designed to limit the harm they can do (Extance, 2015). In a democratic society, it is chilling to think that algorithms that purport to offer objectivity might simply be holding a harsh mirror to the flaws that we, as humans, like to overlook. We need to start thinking about how these technologies are applied if we are to ensure that they do not reinforce existing prejudices or enable the breaking of laws.

Engage with legitimate public concerns

Les futurs dirigeants doivent être préparés à partager les préoccupations légitimes du public sur la vie privée, la responsabilité, l'inégalité. En même temps, ce n'est pas à la régulation d'empêcher des manquements éthiques.

Le secteur privé devrait être prêt à prendre l'initiative en développant des protocoles qui minimisent le risque de conséquences imprévues, et en fournissant aux communautés les moyens d'accéder et de rectifier les données. Les prochains grands fournisseurs de services financiers pourraient bien être des entreprises de technologies comme Facebook, Google, et Apple. Les sociétés feront face à un nouvel ensemble de questions éthiques, par exemple comment utiliser les données présentes sur les réseaux sociaux de façon à promouvoir l'accès à la finance, sans violer la vie privée.

So what lessons can be surmised for tomorrow's leaders of the financial industry? I offer a handful here.

Future leaders must be prepared to engage with legitimate public worries over privacy, accountability, and inequality. The financial industry has often used its money and political power to hijack the regulatory reform debate, and financiers and regulators have lived and worked in the same echo chamber (Foroohar, 2017). The success of financial innovations is often measured by short-term *efficiency* criteria such as lower transaction costs and expansion of corporate profits. These criteria may be used to retrospectively legitimate an innovation, while negative externalities are glossed over (O'Brien, 2017). As Rodrik (2017) argues, the mistake of many economists and policy technocrats has been their unwillingness to confront serious normative fairness considerations that do not fit neatly with theories of efficiency. Just as the public has grown increasingly concerned about the impact of technology-driven disruption on jobs, so too will public debate be necessary as new financial technologies come to the fore.

At the same time, it cannot fall to regulation to contain ethical failures. The bureaucratic process is, by its nature, cumbersome and regulators will inevitably struggle to keep up with a changing industry. Instead, companies must develop protocols to extensively test new products and services to minimise the risk of unintended consequences. Human executives must ultimately be held accountable for decisions made with the aid of computerised systems. As a recent White House report noted, companies should consider providing individuals and communities with the means to access and correct data, and promulgate industry best practices for the fair and ethical use of 'big data' techniques (Executive Office of the President, 2016).

Finance industry leaders will need to become well-versed in mobile and computer technology. As Bill Gates, the then-Chairman of Microsoft, quipped in 1994, banking is necessary but banks are not. The next big providers of financial services may well be technology firms like Facebook, Google, and Apple. Financial leaders at these firms will face a new set of ethical issues, not the least of which is the question of how vast troves of social data might be 'mined' to expand access to finance without violating society's standards of privacy. In addition, technology may widen the informational gap between providers and customers. For instance, health insurers might soon know more about a consumer's health than that consumer. Even where the law is successful in creating what appears to be a level playing field, markets in reality tend to be defined by asymmetric information. Ethics

Il est possible pour des personnes soucieuses d'éthique de parvenir à des conclusions très différentes sur le même problème. Par exemple, certains investisseurs ont choisi de faire face au changement climatique en se désengageant des actifs liés aux combustibles fossiles; d'autres ont choisi l'activisme actionnarial pour exiger un changement de l'intérieur des entreprises. Il faut reconnaître que les analyses conventionnelles coûts–bénéfices sont inadéquates si elles oublient d'importantes parties prenantes ou négligent des effets distributionnels plus larges. La technologie ne devrait pas être invoquée pour fournir des solutions soi-disant objectives à des problèmes qui concernent vraiment des valeurs sociétales. En conclusion, la finance demeure essentielle, et de nouvelles technologies peuvent aider à en démocratiser l'accès.

should reject the old *caveat emptor* as a regulatory fallback and ethical providers must devise new ways of helping consumers to understand their rights and obligations.

Concluding remarks

It should be remembered that it is possible for ethical people to come to wildly varying conclusions on the same issue. For instance, in 2015, Norway's parliament voted to require its government pension fund – the largest sovereign wealth fund in the world – to divest from companies involved in the coal industry, following the lead of other prominent institutional investors including AXA and the Church of England (Schwartz, 2015). Proponents of fossil fuel divestment often frame their position in stark moral terms: a "moral obligation", as Valerie Rockefeller Wayne, the chair of Rockefeller Brothers Fund, puts it (Goldenberg, 2015). But opponents of divestment activism, like climate researcher David Oxtoby, view divestment actions as little more than symbolic "feel-good measures that have no effect on actual greenhouse-gas production" (Oxtoby, 2014). In 2017, three of the world's largest investment managers – BlackRock, Vanguard, and State Street Global Advisers – took an entirely different approach. They supported a shareholder resolution demanding that ExxonMobil, the world's largest publicly-traded oil and gas company, report on the impact of global measures designed to limit climate change to two degrees Celsius. Here, two groups of influential investors reached diametrically different conclusions on how to tackle the same moral challenge: climate change.

Finally, it must be recognised that conventional cost-benefit analyses of new products and services may no longer be adequate insofar as they miss important stakeholders and neglect broader distributional effects. For instance, a utilitarian analysis of incorporating more granular data into insurance underwriting processes might suggest that more data is always better. But concerns about equity cannot be pushed to the background. The implicit system of cross-subsidies in many insurance markets is not simply a pricing inefficiency – it is also a contributor to social cohesion. Important social policy questions can rarely be reduced to a set of numbers. Technology should not be invoked to provide supposedly objective solutions to problems that are really about societal values. This may be an uncomfortable proposition for an industry built on ever-greater quantification.

At its core, the financial sector is a place where people with ideas can meet people with money, where buyers can meet sellers, where individuals can borrow against their future income to meet present needs, and where people bearing risks can meet others willing to take on some or all of those risks (Peirce, 2014). Finance remains essential. But our

Il est important que les jeunes professionnels aient la créativité et la latitude de réfléchir sérieusement aux problèmes éthiques quand ils apparaissent.

sclerotic industry is in desperate need of an overhaul, with new business models to loosen the grip of incumbents and restore trust in the eyes of consumers. New technologies may help to democratise access to financial services and improve the functioning of modern economies.

Like most things in life, ethics aren't static. What is most important is that young finance professionals have the creativity and latitude to think deeply about ethical issues as they emerge. It falls to our generation to make this happen. •

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Financial Services as a "Common" Good

Ethics & Trust in Finance
Global edition 2016-2017

Finalist

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Financial services are essential to the growth of economic activity in both developed and developing economies. However, multiple economic, social and environmental crises have recently called the functions of financial services into question in the public mind (Melé et al., 2017) and financial intermediaries are sometimes considered greedy and untrustworthy (Carucci, 2017). To promote ethics in finance, a number of citizens and practitioners have started to redirect funds into activities that aim to generate social and environmental benefits (Nicholls & Pharoah, 2008). In this article, we investigate how the growing sector of social finance can promote ethics and trust in finance. To this end, we explore whether social finance can be considered as a common good and promote personal and collective wealth.

The concept of the commons is increasingly debated in the academic literature examining social finance (Hudon & Meyer, 2016; Meyer & Hudon, 2017; Paranque, 2016; Périlleux & Nyssens, 2017; Servet, 2013, 2015). The commons refers to collective ways of organizing economic activities according to shared values and ethical principles (Bollier & Helfrich, 2014). This concept is closely tied to the notion of the common good, and these two words share the same etymological roots in the Latin word *communis*, meaning "common" and "which belongs to several or all". The concept of 'commons' can shed new light on finance in that it understands financial organizations as communities of people who share similar beliefs and purposes. It can also be instructive through its openness to new forms

La notion de communs se réfère à des façons collectives d'organiser les activités économiques d'après des valeurs partagées et des principes éthiques. Ce concept est étroitement lié à la notion du bien commun, le terme commun provient du mot latin communis, qui signifie « commun » et « qui appartient à plusieurs ou à tous ». Par conséquent, cette notion peut apporter un nouvel éclairage sur la finance en considérant les organisations financières comme des communautés de personnes partageant des croyances et des buts semblables. Dans cet article, nous examinerons si la finance sociale peut être considérée comme un bien commun pour promouvoir la richesse personnelle et collective. Nous utiliserons trois traditions académiques et tendances de recherche dans la littérature en économie et en gestion : 1) l'économie institutionnelle, 2) les études sur les organisations à but non lucratif, et l'éthique des affaires.

of governance, which are more participatory and inclusive.

To investigate the extent to which social finance can be understood as commons, we use three academic traditions and research trends in the economics and management literature: 1) institutional economics (e.g. Ostrom, 1990, 2010), 2) nonprofit and organization studies (e.g. Bushouse et al., 2016; Lohmann, 2016) and 3) business ethics (e.g. Akrivou & Sison, 2016; Argandoña, 1998; Melé, 2009, 2012). Each of these traditions has investigated commons from a particular approach, whether focusing on the shared resources, the management and governance mechanisms, or ethics and responsibility. Our investigation of finance as commons is based on multiple examples of social finance services, namely responsible investment, stakeholders' banks, community microfinance, and complementary currencies.

This article proceeds as follows. First, we present some characteristics of social finance. Second, we develop three approaches to and theoretical perspectives of the commons, in particular with regard to studies in institutional economics, nonprofit and organization, and business ethics literature. Third, we investigate the extent to which social finance can be considered as commons and promote the common good. Fourth, we summarize our findings and establish how social finance can promote ethics and trust in finance.

The rise of social finance

Social finance is an emerging phenomenon of interest to investors, policy-makers, social entrepreneurs and citizens (Benedikter, 2011; Lehner, 2016). Social finance refers to the deployment of financial resources for primarily social and environmental returns. It is a broad and heterogeneous field that covers a wide range of instruments and practices, such as *socially responsible investment* (Louche et al., 2012), *social banking* (Cornée & Szafarz, 2014), microfinance (Armendáriz & Labie, 2011; Hudon & Sandberg, 2013), and complementary currencies (Seyfang & Longhurst, 2013).

The demand for social finance is increasing worldwide. In the United States, the **Forum for Sustainable and Responsible Investment identified that the sector had** $8.72 trillion professionally managed in assets in 2016 – which represents a 33 percent increase since 2014 (US SIF, 2016). This growing trend is also seen in Europe. Eurosif, the association for European Sustainable and Responsible Investment, identified about 21 trillion euros in responsible investment assets under management in 13 European countries in 2015 (Eurosif, 2016: 56). In Europe, such assets grew by 25% from 2013 to 2015 indicating an increasing market for social finance.

More broadly, this sector raises questions about the nature of financial

La finance sociale se réfère au déploiement de ressources financières pour des bénéfices principalement sociaux et environnementaux. Il s'agit d'un champ large et hétérogène qui couvre un large éventail d'instruments et de pratiques, tels que l'investissement socialement responsable, la banque sociale, la micro finance, et les monnaies complémentaires. De plus, ce secteur soulève des questions sur la nature des services financiers dans les sociétés modernes. La finance sociale représente quelque chose de nouveau dans la société : une aspiration individuelle et collective pour changer le rôle de la finance en faveur de l'intérêt collectif.

services in modern societies. As highlighted by Nicholls and Pharoah (2008) social finance "is about more than just the flow of money into social or environmental projects. It is an ethos about the way money is used […]. So, social investment can be seen as the discourse around such flows that is developing in concrete terms in the new institutions of supply, intermediation and demand" (Nicholls & Pharoah, 2008: 11). Hence, social finance is part of a broader philosophical debate about the role of money in our economies and the ethos it conveys. From this perspective, it echoes the long ethical and theological traditions of condemning greed, speculation and usury (e.g. Aquinas, 1981; Aristotle, 1925). In this philosophical tradition, the pursuit of wealth accumulation as an end and not a means is considered as leading us astray from virtue and the social nature of humans.

As that suggests, social finance conveys certain ethical perspectives toward finance and its relationship with society. Social finance acts as a driver for economic change, particularly when developed by grassroots actors involved in "new social economic movements" (Gendron et al., 2009). *Several* bottom-up initiatives are spreading worldwide to (re)take control of the financial and banking system in order to promote economic stability, community development and financial inclusion (Lietaer et al., 2012). These social actors often aim to build another financial system, one more embedded into local realities and responsive to needs that are not met by purely commercial actors. These grassroots experiments often rely on collective decision-making to decide which activities to finance, while promoting new social ties and sociability among users and investors (Cornée & Szafarz, 2014; Hudon & Meyer, 2016).

All the above arguments show that social finance is a promising and expanding phenomenon. In a context of financial crisis (Sun et al., 2011), it represents something new in society: an individual and collective aspiration to change the role of finance in the collective interest.

The commons and the Common Good

In the encyclical *Laudato Si'- On care for our common home*, Pope Francis (Francis, 2015) highlights the interdependence between ecology, society and the economy. Considering poverty, social inequalities and environmental degradation – from climate change, to the overexploitation of fishing resources and loss of biodiversity – Pope Francis calls for a deep change in the economic system and the adoption of a responsible long-term perspective. From this point of view, individuals and organizations are responsible for their actions and inactions with regard to the environment and social degradation. The preservation of "our common home" therefore requires an economy

Le pape François appelle à changer profondément le système économique et à adopter une perspective responsable de long terme. À cet égard, les individus et les organisations sont responsables de leur action et inaction en ce qui concerne la dégradation environnementale et sociétale. La préservation de « notre maison commune » nécessite une économie qui soit plus inclusive et qui prenne soin en même temps des êtres humains et de la nature. Dans cette ligne, les acteurs économiques devraient suivre des principes éthiques dans le but d'atteindre le bien collectif et individuel. Le concept de communs convient pour établir l'interdépendance entre la société et l'économie. En effet, les communs sont de plus en plus fréquemment développés par la société civile pour résoudre des problèmes socio-économiques à travers une organisation collective.

that is more inclusive and caring, both of human beings and nature. To this end, economic actors should follow ethical principles targeting both collective and individual good (Frémeaux & Michelson, 2017; Melé, 2009).

The concept of commons is sufficient to establish the interdependence between society and the economy. Indeed, commons are increasingly developed by civil society to resolve socio-economic problems through collective organizing (Bollier & Helfrich, 2014). Social movements use the term 'commons' to qualify new organizations with the objective of promoting both personal and community interest (Dardot & Laval, 2014). The academic literature proposes various interpretations and definitions of the commons. In this section, we present three main theoretical approaches to the commons in the economics and management literature.

Commons as accessible and shared resources

The understanding of commons was confined for many years to common goods, or common-pool resources (CPRs). In institutional economics, CPRs are resources that are subtractable through use (consumption by one user decreases the amount of the resource available for others) and non-excludable (excluding someone from having access to the resource is difficult and costly). These two characteristics vary in terms of degree, from high to low. These characteristics incentivized commons scholars to focus on natural CPRs (Ostrom, 1990, 2010), such as fisheries, groundwater and irrigation systems, communal land and the climate. Because of their characteristics of subtractability and non-excludability, CPRs could presumably be overexploited, as individuals would tend to maximize their own appropriation of the resource. This is the so-called "tragedy of the commons" (Hardin, 1968), where users of a shared resource are guided by their own interest and unable to cooperate.

However, the pioneering work of Elinor Ostrom revealed that the tragedy of the commons is avoidable. Ostrom's seminal work *Governing the Commons* (Ostrom, 1990) shows many examples of CPRs that were collectively managed by communities, without requiring public intervention or privatization of resources. Communities can self-organize and develop adequate institutional arrangements to ensure the sustainable use of CPRs for long-term periods. These institutions rely on strong social ties and cooperation among users. Users self-govern and monitor their behavior to avoid overexploiting the resources. Ostrom's work shows that shared resources can be preserved and remain accessible if users set up effective institutions. This analysis of collective governance has been used for multiple settings (Lohmann, 2016), including community finance (Hudon & Meyer, 2016).

La compréhension de ces biens a été confinée durant de nombreuses années aux ressources communes. L'ouvrage précurseur d'Ostrom « Governing the Commons » (Ostrom, 1990) donne de nombreux exemples de ressources communes qui étaient collectivement gérées par des communautés, sans intervention publique ni privatisation des ressources. Les communautés peuvent s'auto organiser et développer des arrangements institutionnels adéquats afin d'assurer une utilisation durable du ressources communes pour des périodes de long terme. Ces institutions reposent sur de forts liens sociaux et la coopération parmi les utilisateurs : les utilisateurs auto-dirigent et contrôlent leur comportement pour ne pas surexploiter les ressources. Ostrom montre que les ressources partagées peuvent être préservées et demeurent accessibles si les utilisateurs mettent en place des institutions efficaces. Cette analyse de gouvernance collective peut être utilisée dans de multiples contextes, y compris la finance.

Collective action in commons

Building on Ostrom's theory of the commons, several nonprofit and organizational scholars have analyzed how non-natural commons could be established (Bushouse et al., 2016; Coriat, 2015). Therefore, the understanding of commons evolved from an "essentialist approach" (Périlleux & Nyssens, 2017), defining commons by their intrinsic nature and the characteristics of CPRs, to a "constructivist approach", based on the idea that commons are socially constructed through practices and cognition (Dardot & Laval, 2014).

Hence, commons can potentially emerge from resources that are shared and collectively managed. This is known as 'commoning' (Meyer & Hudon, 2017). Commoning is a widespread practice in self-managed organizations, and in projects where users co-produce rights and duties linked to a shared resource (Coriat, 2015). Examples of commoning include transition towns, collaborative consumption of food, and complementary currencies (Bollier & Helfrich, 2014; Meyer & Hudon, 2017).

From this we can conclude that commons are created through the voluntary association of people sharing common purposes and values (Lohmann, 2016). Based on the principle of self-management and autonomy (Bushouse et al., 2016), commons are embedded in territorial contexts as users decide how to share and manage these resources for common objectives. These commons therefore both rely on, and strengthen, social relationships at local scale, whilst fostering a shared social identity enabling users to cooperate and act collectively (Bollier & Helfrich, 2014).

The common good of communities and society

Commons are developed by, and provide support to, communities. Commons organizations, like other organizations, are "communit[ies] of persons" (Melé, 2012) in which people meet to achieve common objectives (Gomez & Jones, 2000). However, commons organizations usually go beyond the sole interest of their members and also engage in the interest of society (Nyssens & Petrella, 2015).

Hence, commons organizations follow the common good principle with the objective of contributing to the collective interest (O'Brien, 2009; Sison & Fontrodona, 2012). The common good principle is particularly present in the social teaching tradition of the Catholic church (e.g. Conférence des Evêques de France, 2014), which aims to foster social justice, responsibility and fraternity in modern societies. In this contect, the common good is the philosophical principle that "entails cooperation to promote conditions that enhance the opportunity for the human flourishing of all people within a community" (Melé, 2009: 227). It refers to the inherent tendency of human beings to associate, collaborate and socialize in order to achieve common objectives (Aristotle, 1925).

The common good principle is also attached to the personalist philosophical approach, which holds respect for human dignity and individual rights sacred (Melé, 2012). It assumes that societies should provide conditions that foster humans' flourishing through the achievement of their personal goals. Individual flourishing is crucial for collective well-being since the

Plusieurs chercheurs et experts de la société civile ont analysé comment des biens communs non naturels pouvaient être établis. Ainsi, ils peuvent potentiellement provenir de ressources qui sont partagées et gérées collectivement : ceci s'appelle le « faire en commun ». Il s'agit d'une pratique largement répandue dans les organisations autogérées, et dans les projets où les utilisateurs coproduisent des droits et des obligations liés à une ressource partagée. Les biens communs sont créés à travers l'association volontaire de personnes partageant des buts et des valeurs communs. Ils reposent donc sur et renforcent les relations sociales au niveau local, tout en favorisant une identité sociale partagée qui permet aux utilisateurs de coopérer et d'agir collectivement.

Table 1: Definition and characteristics of the different concepts linked to the commons

Concept and Terminology	Definition and Characteristics
Common goods	We define common goods as the resources characterized by intrinsic dimensions of subtractability of use and non-excludability of access. As such, these goods are synonymous with common-pool resources, or traditional commons. Examples of common goods are environmental resources that are open-access and deplete with consumption. This approach to common goods is used mainly in institutional economics and environmental science.
Commons	Commons can be considered as shared resources that are collectively managed by a group of users who design and implement the rules for their provision, allocation, withdrawal, control and monitoring. Commons are therefore not defined by the internal characteristics of their resources but by collective organization that institutionalizes them as commons. Examples of commons are digital and informational commons, or urban commons. This concept of commons is increasingly present in nonprofit studies, organization theory, and computer science
Common Good	The common good is a philosophical principle guiding individual and collective action to contribute to the wellbeing of society. Taking into account the collective dimensions of individuals in societies, there are multiple meanings, since the common good will depend on collective-choice and virtue behavior. According to this idea, individual and collective action should not be undertaken if it destroys others' wellbeing. This concept is mainly present in business ethics, philosophy and theology.

Les organisations de biens communs suivent le principe du bien commun avec l'objectif de contribuer à l'intérêt collectif. Le principe du bien commun est particulièrement présent dans la tradition de l'enseignement social de l'Eglise catholique qui vise à favoriser la justice sociale, la responsabilité et la fraternité dans les sociétés modernes. Le bien commun est considéré comme le principe philosophique qui « entraîne la coopération afin de favoriser des conditions pour augmenter le bien-être humain de toutes les personnes à l'intérieur d'une communauté » (Melé, 2009: 227). On se réfère à la disposition des êtres humains de pouvoir s'associer, collaborer et socialiser afin de réaliser des objectifs communs. Le bien commun suppose que les sociétés devraient fournir des conditions qui favorisent l'épanouissement humain à travers l'accomplissement de leurs objectifs personnels.

fulfilment of society both results from and contributes to individual welfare (Frémeaux & Michelson, 2017).

For the sake of clarity, Table 1 presents a summary of these three meanings of the commons and their respective scholarly disciplines.

Social finance and the commons

In this section, we investigate the extent to which social finance can be considered as commons, however these are understood. Our analytical framework relies on the three approaches of the commons described in the above section: 1) commons as accessible resources, 2) commons organized collectively, and 3) commons promoting the common good.

Finance as private or common goods?

Commons were historically attached to natural common-pool resources meeting the two characteristics of subtractability and non-excludability (Ostrom, 1990). However, finance can instinctively be considered as a private good as it is easy to prevent people from having access to financial services and the amount of money used by one person is not available for other users. By way of illustration, credit is a substractable good, in the sense that the consumption of credit diminishes the total amount available for others. Also, as billions of individuals do not have access to financial services, these services are not easily accessible and exclusion is prevalent (Demirgüç–Kunt et al., 2015).

Nonetheless, several microfinance organizations aim to promote financial inclusion. In these cases, access is facilitated and contributes to less "excludability" of these resources. For example, in their analysis of a community bank in Brazil, Hudon and Meyer (2016) show that collective and participatory governance can make financial services more "commons-like" and accessible. The authors argue that organizational form and corporate governance affect the nature of the financial services provided. In this case, microfinance community banks include multiple community stakeholders in strategic decision-making. These stakeholders have the tendency to use the microfinance organization to promote local development and financial inclusion. Therefore, they tend to promote inclusive financial programs, ask for limited – if any – collateral and to lend to community members registered with the credit bureau.

Other types of social finance services can be driven by economic inclusion aims. This is, for example, the case with complementary currencies (Lietaer et al., 2012). These monetary systems are developed by local nonprofits and business networks with the objective of promoting supplementary means of exchange to businesses, La gouvernance collective et participative peut rendre les services financiers plus similaires aux biens communs et accessibles. Par exemple, les banques communautaires de micro finance au Brésil incluent dans la prise de décision stratégique de multiples parties prenantes communautaires. Ces parties prenantes ont tendance à utiliser l'organisation de micro finance pour promouvoir le développement local et l'inclusion financière. Des monnaies complémentaires peuvent aussi être centrées sur le but de l'inclusion économique des organisations et les gens qui sont traditionnellement exclus des systèmes monétaires officiels. Ces monnaies doivent aussi permettre de promouvoir une nouvelle sociabilité dans le commerce et les échanges sociaux.

Les organisations qui promeuvent la participation des parties prenantes dans la gestion stratégique et opérationnelle mettent

organizations, and people who are traditionally excluded from official monetary systems (Seyfang & Longhurst, 2013). There is a broad diversity in these systems. Some are used in barter markets, whereas others are shaped as local currencies to promote consumption on a local scale. Well-known examples of complementary currencies are time banks, which are used to exchange services and goods in neighborhoods. For example, people can exchange one hour of piano or language lesson for bike repairing or gardening. These currencies are usually based on reciprocity with the objective of building social ties and promoting social inclusion (Servet, 2013, 2015). They also convey a strong symbolic power as they value territories and local identity (Blanc & Fare, 2016).

A substantial number of these currencies emerged and were used during financial and economic crises. In these cases, citizens started to use these currencies to access goods and services they could not acquire with official currencies. Several inclusion mechanisms are implemented in these monetary systems, such as free access to credit and no demands for previous acquisition of capital or the provision of collateral. These currencies also have the objective to promote a new sociability in trade and social exchange (Meyer & Hudon, 2017).

Stakeholder participation in financial organizations

Both community banks and complementary currencies rely on the participation of multiple local stakeholders – such as customers, staff members, community leaders and representatives of local nonprofits and government – in their governance and management. As Ostrom (1990) explained, the efficient management of natural commons relies on the establishment of rules that are collectively defined, produced and respected. In a similar vein, financial commons could emerge from collective action. Financial commons could refer to the resources that are shared and regulated by institutional arrangement co-established by stakeholders (Nyssens & Petrella, 2015).

Based on this approach, organizations promoting stakeholder participation in strategy and operational management are potentially commons organizations. Co-governance of resources is particularly present in grassroots social finance organizations, such as community banks and complementary currencies, but also in more established organizations, such as stakeholder banks. Stakeholder banks, also known as social banks (Cornée & Szafarz, 2014), are financial institutions promoting both social and financial objectives. They are distinct from

en place potentiellement une logique de biens communs.
La co-gouvernance des ressources est particulièrement présente dans les organisations de finance sociale locale, telles que les banques communautaires et les monnaies complémentaires, mais également dans les organisations mieux établies telles que les banques coopératives.
Les banques sociale sont des institutions financières qui promeuvent des objectifs à la fois sociaux et financiers. Elles se distinguent des banques commerciales traditionnelles car elles veulent promouvoir de la valeur pas seulement pour les actionnaires, mais aussi pour toutes les autres parties prenantes, telles que les employés, les clients et les communautés. La structure organisationnelle de ces banques favorise une orientation sociale plus forte : les banques communautaires et sociales ont une plus grande propension à promouvoir l'inclusion financière et elles ont un impact positif sur le développement économique local.

traditional commercial banks in the sense that they aim to promote value not only to shareholders but also to other stakeholders, such as employees, clients and communities.

Stakeholder participation can take different forms. For example, cooperative banks are owned and controlled by members on the basis of 'one member, one vote' and community banks have community representation on their boards of directors. Nonetheless, participation is not systematic and not easy to organize. Many social banks do not have a participatory governance structure and sometimes larger cooperatives do not use the 'one member, one vote' feature even if they have it.

However, studies investigating stakeholder participation have shown that the organizational structure of these banks favors a stronger social orientation: community and social banks have a greater tendency to promote financial inclusion by dealing with customers who are underserved by commercial banks. By doing this, they have a positive impact on local economic development. According to Almandoz (2014), motivated owners and deposit holders in US community banks aim to focus first on community needs and have a smaller tendency to prioritize profits.

Likewise, Cornée, Kalmi and Szafarz (2016) showed that social banks' depositors and investors share a common social identity with borrowers as they adhere to similar sets of values. The authors argue that a common social identity engenders "reciprocity" among lenders and borrowers: funders accept the "financial sacrifice" of lending below market rate whilst borrowers show a lower probability to default (Cornée & Szafarz, 2014). These results bring to the forefront the difficulty of having both social and financial returns, since social and environmental benefits are often at the expense of financial considerations (Nicholls & Pharoah, 2008). It might be this cost that reflects the individual commitment to the collectivity: it is a personal financial sacrifice for the development of other members of the community.

Promoting the Common Good

Beyond financial inclusion and stakeholders' participation, social finance has features of commons when it promotes the common good. We base our understanding of the common good on the social teaching of the Catholic church: the common good is founded on both societal and individual development and fulfilment (e.g. Argandoña, 1998; Conférence des Evêques de France, 2014; Frémeaux & Michelson, 2017). Social finance, and particularly responsible investment, can promote the common good when using screening mechanisms to direct finance towards ethical activities for individual and collective interests (Louche et al., 2012). Responsible

La finance sociale, et en particulier l'investissement responsable, peut promouvoir le bien commun en utilisant des mécanismes de sélection afin de diriger la finance vers des activités éthiques. Les investisseurs responsables acquièrent généralement des actions d'entreprises basées sur des facteurs éthiques prenants en considération l'environnemental, le social et la gouvernance. La sélection négative consiste à éviter et à exclure l'investissement dans des entreprises qui mènent des activités qui ne sont pas conformes aux valeurs des investisseurs (pornographie, l'alcool et les arme). Au contraire, la sélection positive consiste à investir dans des entreprises ayant une forte responsabilité sociale et des impacts sociaux positifs.

investors typically acquire companies' shares based on ethical factors such as environmental, social, and governance considerations.

Negative screening consists of avoiding and excluding investment in companies that are engaged in activities considered not in conformity with investors' values. Activities in pornography, alcohol and weapons are typically screened negatively. In contrast, positive screening consists in investing in enterprises that have strong corporate social responsibility and positive social impacts. Generally, both positive and negative screenings help promote the fulfilment of human beings, and further social development and/or ecological preservation.

Environmental preservation

Banks and investment funds have an important role to play in preserving and protecting the environment. Recently, they have been urged by several social movements to massively divest from fossil energies to contain climate change. An increasing number of financial actors have agreed that it is their historical responsibility to promote the decarbonization of the economy and have started to divest from fossil fuels (e.g. Mooney, 2017; Morgan Stanley, 2016). To illustrate: the insurance company Axa decided to remove around €500m of coal investments from its portfolio (Harvey, 2015), based on the role of ethics and values in investment decisions and the reputation risk that fossil fuels represent for companies (Carrington, 2015).

Divestment from greenhouse gas emitting activities is an important and necessary step for containing and mitigating climate change. It certainly contributes to promoting ethics in finance and provides concrete examples of what responsible financial actors can do to preserve the environment. It is also worth mentioning that the preservation of the environment should not be restricted to work on climate but also embrace forest, seas, and biodiversity preservation – to name but a few (Francis, 2015). Hence, the responsibility of investors is broad and can also apply to a vast array of natural resources.

Promoting human dignity and decent work

Promoting the common good is inseparable from the promotion of individual and personal good (Frémeaux & Michelson, 2017). According to Catholic social teaching, human dignity is one of the key ethical elements involved in personal good. As work has a central role in our lives, human dignity is increasingly shaped through working conditions and decent work (Conférence des Evêques de France, 2014).

According to the International Labor Organization (ILO) decent work "involves opportunities for

Récemment, les banques et les fonds d'investissement ont été pressés par plusieurs mouvements sociaux de se désengager massivement des énergies fossiles afin de freiner le changement climatique. Un nombre croissant d'acteurs financiers ont reconnu leur responsabilité historique en promouvant la décarburation de l'économie et ont commencé à se retirer des combustibles fossiles. Le désengagement des activités émettrices de gaz à effet de serre est un pas important et nécessaire afin de freiner et d'atténuer le changement climatique. Cela contribue certainement à promouvoir l'éthique en finance et fournit des exemples concrets de ce que les acteurs financiers responsables peuvent faire pour préserver l'environnement. La préservation de l'environnement ne devrait pas être réduite au climat mais devrait aussi inclure la forêt, les mers, la préservation de la biodiversité, pour n'en citer que quelques-uns.

work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men"[1].

However, decent work is a major challenge in global supply chains. This is particularly the case in the textile industry. The Rana Plaza tragedy showed that the working conditions in the textile industry remain dangerous in developing countries (Jopson et al., 2014). In 2013, a textile factory working for international clothing companies – the Rana Plaza – collapsed and killed more than 1,100 workers. This tragedy revealed the parlous working conditions of the Bangladeshi workers and fostered a debate about the responsibility of multinational corporations outsourcing to suppliers who do not respect decent work (Croft, 2016).

To prevent similar disasters, financial actors could promote decent work by financing companies who show responsibility in their supply chain management. Banks and investment funds could invest in companies promoting decent work and having a code of conduct. Since this would increase the due diligence costs of financial intermediaries, investors could refer to auditors and the multiple forums and networks promoting ethics and responsibility in finance. Such networks provide expertise for institutional investors to incorporate environmental, social and governance factors into their investment and ownership decisions. They are present in the USA (US **Forum for Sustainable and Responsible Investment**), Europe (Eurosif, Principles for Responsible Investment), Australia and New Zealand (Responsible Investment Association Australasia), France (Forum pour l'Investissement Responsable), and the United Kingdom (UK Sustainable Investment and Finance Association), to name but a few.

1 Retrieved from http://www.ilo.org/global/topics/decent-work/lang--en/index.htm on 23 June 2017.

Building an inclusive and responsible financial system

Financial resources, such as credit or currencies, are often considered as private goods. However, our investigation shows that some organizational mechanisms increase access to these resources, making them more inclusive and commons-like. This is particularly the case of grassroots microfinance organizations, such as community banks, and complementary currencies. Therefore, based on solidarity and inclusivity principles, social finance can promote access to financial services – a crucial aspect of social integration and a key factor in economic development and poverty alleviation (Hudon, 2009). As argued

La promotion du bien commun est inséparable de la promotion du bien individuel et personnel. Comme le travail occupe un rôle central, la dignité humaine est de plus en plus façonnée à travers les conditions de travail. Un travail décent est un défi majeur dans les chaînes d'approvisionnement globales. C'est particulièrement le cas dans l'industrie textile où les conditions de travail demeurent dangereuses dans les pays en développement. Les acteurs financiers pourraient promouvoir un travail décent en finançant des compagnies responsables de leur gestion de chaîne d'approvisionnement. Comme cela augmenterait le coût de la « due diligence » des intermédiaires financiers, les investisseurs pourraient se référer aux auditeurs et à de multiples forums et réseaux de promotion éthique et de responsabilité en finance.

by Nobel Peace Prize Laureate Muhammad Yunus, access to finance offers those traditionally excluded the means to develop new economic opportunities and, therefore, is instrumental in human fulfilment (Yunus, 1999).

Corporate governance and institutional design are important in conditioning the provision of these resources. Social finance organizations, such as stakeholder banks, use several participatory mechanisms enabling clients, employees and other stakeholders to participate in strategic management. The inclusion of stakeholders in decision-making not only favors collective action in finance but also has a positive impact on the social orientation of finance. Stakeholder banks promote a sense of reciprocity and social identity among financial clients (Cornée & Szafarz, 2014; Paranque, 2016). This can be a strong factor in generating trust in banking activities, even though it has a financial cost for investors.

Finally, with a particular focus on responsible investing, we discovered that social finance can also contribute to the advancement of the common good. More precisely, we explored two possibilities for finance to have positive impacts on climate change mitigation:divesting from oil and coal industries and improving working conditions in developing countries by investing in companies that promote responsible supply chain management. Ethical considerations on environmental preservation, and the promotion of human rights and dignity, correspond to the historical responsibility investors have towards societies and communities.

Financial commons for ethics and trust in finance

The recent crises have damaged the general perception of the financial and banking sectors. Increasingly, society denounces the greed and speculation associated with these sectors and the risk they represent to economic stability (Carucci, 2017). To contain public opinion defiance, there is a need to promote ethics and trust in finance.

In this article, we have adopted the lens of the commons to explore how social finance can contribute to restoring both public trust and ethics in finance. The commons refer to conventions and interrelations in socio-economic activities. They are not only ruled by market mechanisms, but also include reciprocity and gift characteristics among financial users (Servet, 2013). This favors a new form of sociability among users, as well as transforming the relationships between collectives and individuals on one hand and finance on the other. For example, complementary currencies foster new forms of exchange and trade while simultaneously building social ties among exchangers and stakeholder banks bring a common social identity and a sense of belonging to financial intermediation (Périlleux & Nyssens, 2017).

Commons require cooperation and rely on coordination between actors. Greater participation of users in governance allows both depositors and borrowers to determine their common concerns and decide on actions to achieve their interests (Hudon & Meyer, 2016). Hence, the construction of participatory spaces in banking institutions can redefine the financial resources according to the needs expressed by users and their representatives. While financial services are the subject of international deregulation, community redefinition of finance in participatory spaces allows it to be embedded in the social, cultural and political structures of each territory.

To conclude, considering finance as commons enables to reflect on the relationship between finance and society. The commons approach conceives of economic and financial activities as essentially human activities, embedded into social relationships, values and ethical concern for the common good. Therefore, the commons propose to understand what is shared and common in human communities. Considering social finance as commons therefore advances a new project of society in which the collective interest predominates and is considered as essential for individual fulfillment. Hence, focusing on the interdependence and interconnectedness among investors and society can potentially generate a renewed perception of responsibility in the financial sector for human dignity, social justice and environmental preservation.

Acknowledgements

I thank Marek Hudon, Marc Labie, Ariane Szafarz, Patrick Reichert, and Majid Lemqaddem for their comments on earlier versions. I also acknowledge the financial support of F.R.S.-FNRS to conduct this research. •

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Objectivity - a Pipe Dream ?

Ethics & Trust in Finance
Global edition 2016-2017

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On Price Indices and Objectivity

What will the rate of inflation be next year? That question can be answered in several ways. A skeptic who adheres to the Pyrrhonic conviction that it is impossible to make predictions will look at last year's inflation figures, which, assuming random changes in this macroeconomic indicator, would be the best estimate. An econometrician will apply his mathematical knowledge and modeling ability to analyze how inflation has been trending over the past years and whether it has been correlated with other variables. A (theoretical) economist will build a mathematical model determining the essential relationship between the endogenous inflation rate and exogeous determinants.

The estimates obtained in these three ways are likely to differ more than the average value of their *ex-post* error. Moreover, even an answer to the question about the inflation rate that was measured in the previous year is ambiguous. It can be given by indicating the value of the Consumer Price Index (CPI) or Producer Price Index (PPI) published by the US Bureau of Labor Statistics. Or one might use the value of the GDP deflator whose estimates are delivered by the Bureau of Economic Analysis. Then, for the sake of simplicity, one might compare the cost of the same basket of shopping bought today and a year ago. Finally, the value of each of the inflation indicators mentioned above can be calculated with the Paasche and Laspeyres indices, which will also influence the estimate. As that

Quel sera le taux d'inflation l'année prochaine ? La réponse dépend de la méthode de calcul. Les évaluations obtenues de différentes façons sont susceptibles de différer plus que la valeur moyenne de leur erreur a posteriori. Même une réponse à la question du taux d'inflation de l'année précédente est ambiguë, on peut la donner en indiquant la valeur de l'Indice des prix à la consommation (le CCPP) ou l'Indice des prix à la production (PPI). Ou, au contraire, utiliser la valeur du facteur de déflation du PIB. La valeur de chacun des indicateurs d'inflation susmentionnés peut être calculée avec les indices de Paasche et Laspeyres qui influenceront aussi l'estimation.

Nous pouvons trouver les exigences d'objectivité dans plusieurs codes de conduite en matière éthique établis tant par des associations de banque internationales que nationales, des autorités de surveillance

shows, any answer to a question concerning an economic fact depends on the methods applied to getting that answer.

We can find demands for objectivity in many ethical codes of conduct in financial services. In those from national and international bank associations, from supervisory authorities, and from professional organizations. For instance, Polish banks have voluntarily agreed to be bound by the *Code of Banking Ethics*, which provides that disputes with clients are resolved "in an objective way" (ZBP 2013, p. 5). Similarly, the *Code of Ethics and Standards of Professional Conduct* published by the CFA Institute (2014) obliges financial analysts to "deal fairly and objectively with all clients" (paragraph III.B) and also "to achieve and maintain independence and objectivity in their professional activities" (I.B). Objectivity is mentioned as principle 2 by the *Code of Ethics and Professional Responsibility* set up by the Certified Financial Planner Board of Standards (2016). Being objective is also mentioned in the codes of conduct of many banks and financial institutions (cf., for instance, JPMorgan Chase&Co. 2016).

Now, though induction is an uncertain source of knowledge, I will take the liberty of claiming that objectivity is, if only implicitly, demanded by all ethical codes of conduct established by financial institutions. (How uncertain a route to knowledge induction is was convincingly argued by Taleb (2010, p. 40), when described the thoughts of a doomed turkey that took what it had seen of life so far as proof that it would live forever. Until, that is, Thanksgiving came along.)

In this essay, I advance a thesis that fulfilling such demands for objectivity is impossible. Objectivity is out of the question not because of the malice or greed of the people working in the financial sector but because an objective or – in other words – true viewpoint either does not exist or is epistemologically inaccessible.

It is clear that most of the issues dealt with by the employees of the financial sector are not matters for philosophical debate. For instance, there is an objective answer to a client's question about the commission in a relevant table of fees and commissions. Similarly, there is one mathematical formula for calculating the profit on a deposit given its value, maturity, and the interest rate. However, as I intend to highlight in this introductory section, situations in which an objective answer cannot be reached occur more often in financial services than is commonly believed. Below, I briefly review the philosophical sources of the idea of objectivity and the accessibility of truth and go on to analyze several case studies that seem to contradict such a viewpoint. Finally, I offer a few solutions.

et des organisations professionnelles. Par exemple, le Code d'Ethique et de Normes de Conduite Professionnelle publié par l'Institut CFA (2014) oblige les analystes financiers à «traiter de manière équitable et objective tous les clients» (paragraphe III.B) et aussi à «atteindre et conserver l'indépendance et l'objectivité dans leurs activités professionnelles» (I.B).
Dans cet essai, j'avance la thèse que satisfaire les exigences d'objectivité est impossible. La raison est qu'un point de vue objectif ou – en d'autres termes – vrai, soit n'existe pas, soit est épistémologiquement inaccessible.

Les sophistes ont rejeté une grande partie des débats philosophiques (particulièrement métaphysiques), parce que «bien que les réponses aux questions philosophiques puissent exister, on ne peut pas connaître la vérité sur les énigmes de la nature et de l'univers». Protagoras a observé avec justesse que «l'homme est la mesure de toutes choses ».

A Few Words on Philosophy

In ancient Greece, beside the mainstream philosophers we recognize today, there were also sophists, who – as Sophie's teacher aptly observed in the fictionalized introduction to the history of philosophy, *Sophie's World* – rejected a huge part of philosophical deliberations (particularly metaphysics), because "although answers to philosophical questions may exist, man cannot know the truth about the riddles of nature and of universe" (Gaarder, 1994, p. 60). One of the sophists making a living out of teaching Athenians, Protagoras, rightly observed that, for human beings, "man is the measure of all things." However, it was not the philosophical viewpoint supported by the practically-oriented sophists that earned popularity. That is why science is now seen as an activity aimed at discovering truth.

This truth is understood as an objective description of reality, rather than as something that offers models to help deal with the world. The objective of eternal truth was established by one of the Socrates' students, Plato, who believed that truth, or – in other words – what science produces, should describe eternal ideas rather than a changeable everyday experience. Plato (2000, p. 220) believed that our experience is mere illusion, similar to the shades of reality, of ideas on a wall of the cave seen by the people held inside.

Graph1: Plato's Allegory of the cave.

Source: Saenredam J., *Plato's Allegory of the cave*, *http://www.britishmuseum.org/research/collection_online/collection_object_details/collection_image_gallery.aspx?partid=1&assetid=261145001&objectid=1490634*, (CC BY-NC-SA 4.0). Access: 1 March 2016.

Mirroring reality

However, Plato optimistically assumed that, through rational inquiries, we can understand the reality which, located in front of the entrance to the cave, casts the shade. Indeed, understanding reality, or, in other words, explaining it, is the main goal of the most popular paradigm of the philosophy of economics – scientific realism. This trend emerged in the mid-20th century in an attempt to respond to the severe difficulties faced by the Vienna Circle positivists. It was also a response to the success of the physical sciences. Even though calling economics a successful science is a risky and questionable thesis, the methodologists of this particular discipline seem to be those most supportive of the idea of scientific realism.

La science est maintenant considérée comme une activité destinée à découvrir la vérité comprise en conséquence, c'est-à-dire comme une description objective de la réalité au lieu d'offrir des modèles pour aider à affronter le monde. Cet objectif de vérité éternelle a été établi par l'un des élèves de Socrate, Platon, qui croyait que la vérité, ou – en d'autres termes – ce que la science produit, devait décrire des idées éternelles plutôt qu'une expérience quotidienne variable.

Selon le réalisme scientifique, l'objectif premier d'un scientifique est d'expliquer les phénomènes analysés. Les scientifiques réalistes croient que les théories et les modèles sont (en général) exacts. En d'autres termes, les entités invisibles (par exemple, les fonctions utilitaires, le PIB (pro-

According to this approach, which gets its strongest underpinning from the work done on the philosophy of economics by Uskali Mäki (2011), an analytic philosopher from Helsinki, the primary aim of a scientist is to explain analyzed phenomena. The truth or rightness of theories and models is defined with reference to "essesimilitude", a term coined by Ilkka Niiniluoto (2002), a Finnish philosopher of science, who attempted to describe a model depicting the key (or essential) aspects of the economic reality. Moreover, scientific realists believe that theories and models are (in general) right in their depiction of unobservable entities. Hence, their ontological status is the same as that of the reality experienced every day. In other words, those entities (e.g. utility functions, GDP and profit-maximizing companies) exist.

If you accept scientific realism you also accept that objectivity can be required of the personnel of financial institutions through their codes of conduct. According to this viewpoint, there is only one appropriate description of reality or a solution to a problem that we attempt to deal with.

That does not hold in two cases: (1) if we do not have full knowledge of the facts (even though it might possible to gain it, at least in theory) and (2) if the economic or financial reality that we are facing is inherently indeterministic. In fact, the difference between the epistemic and ontological indeterminism[1] is negligible for the purposes of further argument. Even though scientific realism is the most popular approach among philosophers of economics, thinkers interested in other, usually more successful sciences, do not support this viewpoint (Tegmark, 1998).

Heterodox approaches

There are a few alternative philosophical approaches to the issue of the truth. Milton Friedman (1953) who developed monetarist macroeconomics, supported instrumentalism. Deidre McCloskey (1983) supported the rhetoric of economics. Ludwik Fleck (1979) advocated sociologically grounded constructivism. According to the most widely supported interpretation of the essay, *The methodology of positive economics,*[2] the creator of monetarism defined the truth in an instrumentalist way: those theories and sentences are true that make fruitful predictions

1 The epistemic indifference is an outcome of our limited knowledge of the mechanisms governing the reality or the initial conditions. For instance, a roulette game is random for us even though it is governed by the perfectly deterministic laws of physics. On the contrary, the ontological determinism constitutes real randomness which could not be dismissed even if we possessed all the information. As if God played dice.

2 However, it should be highlighted that it is one of the most cited and interpreted articles focused on the methodology of economics, which results from Friedman's unclear style of writing and (supposedly) an attempt to appeal to economists holding various points of view.

duit intérieur brut) et les entreprises maximisant le profit) existent. Accepter le réalisme scientifique entraîne l'acceptation d'un point de vue inscrit dans la demande d'objectivité exigée de la part du personnel des institutions financières dans leur code de conduite. Selon ce point de vue, il y a seulement une description appropriée de la réalité.

Contrairement au réalisme scientifique, Friedman (1953) a supporté l'instrumentalisme selon lequel ces théories et affirmations qui rendent possible des prédictions fructueuses, sont vraies/réelles. De façon similaire à un physicien qui applique les lois de la thermodynamique pour analyser le processus de refroidissement du café et la mécanique quantique pour décrire les mouvements des particules de caféine dans sa tasse, un économiste devrait choisir parmi quelques modèles en fonction de leur intérêt. Aucun des modèles n'est vrai/

possible (Friedman, 1953). Similar to a physicist who applies the laws of thermodynamics to analyze the process of coffee cooling down, but quantum mechanics to describe the movements of caffeine particles in his cup, an economist should choose among a handful of models depending on their utility. However, according to the instrumentalist methodology, none of the models is true. They are just useful in particular situations. Or, to put it differently, models are true as long as they are useful.

The professor of history of economics from Chicago criticized the realist approach and, instead, advised that we choose those theories that are an outcome of a discourse among economists. This is because comparing a theory with God's mind (the poetical postulation of the correspondence theory of truth) is virtually impossible (McCloskey, 1998). Ludwik Fleck (1979), an early 20th- century microbiologist (by profession) and philosopher of science (for a hobby) analyzed the historical development of microbiology and discovered that the descriptions of the same phenomenon differed over time and depended on previously created definitions and methods of measurement. His constructivist point of view, according to which theories depend on ways of thinking (thought styles), can be exemplified by the thought experiment that I outlined in the opening section of the article. The dependence of theoretical descriptions on the research methods employed, together with the absence of a unified theory of economics is, according to Fleck (1979), a strong argument in favor of the utilitarian definition of truth.

Shedding the light of anti-realist philosophies (either the instrumentalist one supported by Milton Friedman or the constructivist one coined by Deidre McCloskey and Ludwik Fleck) on the problem of truth shows that being objective is impossible because there is no one, fixed truth. Instead, there are only various theories, methods, and models that deal with the world of finance in a more or less successful manner. Therefore, I can only repeat McCloskey (1998),"[t]he best you can do, then, is to recommend what is good for science now, and leave the future to the gods," (p 186) because "man is the measure," as Protagoras wrote, "of the things that are, that they are, and of the things that are not, that they are not" (Reale and Catan 1990, p. 157). Below, I provide several examples from contemporary economics, which are faced by people working in the financial sector.

Your Truth and Mine

One of the conclusions drawn by Ludwik Fleck (1979) shows that results depend on or, to put it more accurately, are the outcome of, conventional definitions and selected methods. This viewpoint can be best exemplified by comparing the results of marketing research conducted by Coca-Cola and Pepsi Co. Kanner (1981), in his article for the *New York Magazine*, indicated that the two old réel. Ils sont seulement utiles dans des situations particulières. Le fait de projeter la lumière des philosophies anti réalistes sur le problème de la vérité montre qu'il est impossible d'être objectif car il n'y a pas une seule vérité immuable.

D'après Fleck (1979), les résultats sont le fruit de définitions conventionnelles et de méthodes choisies. Par exemple, Kanner (1981) a indiqué que les deux vieux concurrents avaient publié des résultats selon lesquels les consommateurs à qui l'on avait demandé d'indiquer leur boisson préférée au coca ont tendance à choisir le produit fabriqué par le sponsor de l'étude de marketing. De tels résultats empiriques ne sont pas une exception, mais une règle. Selon les estimations grossières de Goldfarb (1997), approximativement un article économique sur dix est en contradiction avec les autres. Un des cas les plus virulents et célèbres du phénomène

competitors had published results, according to which, consumers who had been asked to point to their preferred cola drink tended to choose the product manufactured by the sponsor of the marketing survey. Most of us, educated in the spirit of the realist philosophy, will defend objectivity and the corresponding definition of truth by indicating that these contradictory results must have been obtained fraudulently and with a view to boosting sales and profit. It cannot be otherwise. Researchers struggling for truth and objectivity do not produce contradictory findings. But, is this really the case?

Contradictory results in econometrics

In economics, there are many cases that seem to undermine such a sanguine view of truth. One of the most vocal and famous cases of the 'emerging contrary result' phenomenon[3] is the Reinhart-Rogoff controversy. Given that the most quoted publications are usually the least read ones, I will briefly review the two contradictory articles and have a closer look at their methodologies.

Five years ago, Carmen Reinhart and Kenneth Rogoff (2010) published an article that made a lot of waves in which they analyzed their own database covering public debt and the economic growth of 44 countries and spanning 200 years. They arithmetically averaged the pace of economic growth for each of four buckets of country/year observations organised by the level of debt to GDP ratio (less than 30%; 30-60%; 60-90%; over 90%). The Harvard economists concluded that economic growth is much slower when the ratio exceeds 90%. Their conclusion immediately attracted attention, being quoted by Paul Ryan, the author of the Republican budget, and mentioned by several of most influential politicians worldwide, including Angela Merkel, Wolfgang Schäuble, Oli Rehn, and Manuel Barroso. *Growth in a Time of Debt* was referred to by Paul Krugman (2013) as "surely the most influential economic analysis of recent years".

Three years later, at the peak of popularity of Reinhart and Rogoff's (2010) paper, Thomas Herndon, a Ph.D. candidate at the University of Massachusetts, was asked to replicate their analysis. After many failed attempts, and having received the original spreadsheet of data from Reinhart and Rogoff, Herndon and his research mentors Michael Ash and Robert Pollin (2014) published an article that pinned down three errors made in the original study: (1) a non-standard averaging scheme; (2) a failure to include several post-war observations; and (3) a miscoded Excel formula that caused the exclusion of five countries at the start of the alphabet. According to Herndon, Ash, and Pollin (2014), the adjusted findings give altered results: public debt does not harm economic

3 According to Robert Goldfarb's (1997) rough estimates, approximately one in ten articles on economics contradicts the others.

du « résultat contradictoire émergeant » est la controverse de Reinhart-Rogoff. Reinhart-Rogoff (2010) et Herndon Ash et Pollin (2014) ont donné des réponses opposées à la question de savoir si des mesures d'austérité étaient nécessaires. La controverse est le résultat de préférences méthodologiques différentes plutôt que de formules Excel mal codées. (Maziarz 2017).

Un autre exemple montrant qu'il n'y a pas de connaissance objective en économie est la recherche selon la cliométrie sur l'hypothèse de contraction fiscale expansionniste. Alberto Alesina et Silvia Ardagna (2009 et Jaime Guajardo, Daniel Leigh et Andrea Pescatori (2010) ont analysé comment les coupes dans les dépenses publiques influencent l'économie à court terme. Les deux groupes d'économètres américains ont essayé de démontrer si, comme le proverbe anglais le dit, le toit

development in a non-linear way.

In spite of commonly held beliefs, a precise analysis of the two methodologies and other cliometric studies of the issue (cliometrics being an analysis of economic history using quantitative methods), show that only one of the three challenged errors (the miscoded Excel formula) is actually an error. On the contrary, the other two deficiencies identified by Herndon, Ash, and Pollin (2014), i.e. the averaging method[4] and the data exclusion[5], should be seen as methodological decisions rather than errors. Considering the negligible influence of the spreadsheet error (up to 0.3 pp) compared with the impact of the two methodological decisions (up to 1.7 pp in the case of choosing the averaging scheme), a dispute on which of the two conclusions is justified should be dismissed. Though I will refrain from choosing a winner in the "Growth in a Time of Debt" controversy, the controversy is the outcome of differing methodological preferences, rather than of a miscoded Excel formula. (Maziarz 2017).

If one only reads the popular press, one might develop the mistaken belief that the Reinhart-Rogoff controversy is an extraordinary case. It certainly garnered considerable attention, but there are many econometric disputes[6] similar to the one discussed previously where – as Ludwik Fleck wrote almost a century ago – the findings are determined by a conventionally chosen research method.

Reinhart and Rogoff (2010) and Herndon Ash and Pollin (2014) reached different conclusions on the question of whether austerity measures are needed. Alberto Alesina and Silvia Ardagna (2009) from the National Bureau of Economic Research and Jaime Guajardo, Daniel Leigh and Andrea Pescatori (2010) employed at the International Monetary Fund analyzed how government spending cuts influence the economy in the short term and also had divergent findings. However, in this case, the discussion appropriately focused on methodological issues instead of on picking on mistakes and a purposeful fudging and flubbing aimed at arriving at the expected result. Their main aim was to attempt to determine whether, as the English proverb says, the roof should be fixed while the

4 Reinhart and Rogoff (2010) employed a weighted averaging scheme calculated in two steps. First, they averaged the pace of economic growth for each country in every of the four baskets. Second, they calculated four average paces of economic growth for every basket (i.e. averaged over countries regardless of a number of country/year observations). In contrast, Herndon Ash and Pollin (2014) applied an unweighted averaging scheme, arithmetically averaging the pace of economic development observed in each of the four baskets. Both methods are justified to a similar degree (for a more detailed analysis, see my recent article (Maziarz 2017).

5 Similarly, excluding the post-war period in a few countries was attributed to the lack of an appropriate estimation of the GDP of Spain and the existence of two divergent estimates for New Zealand.

6 To be honest, I believe that theoretical economics is even more contradictory than the empirical branch, but it is not my field and hence I limit myself to discussing cases from econometrics and finance.

devrait être réparé pendant que le soleil brille, ou, au contraire, si les réparateurs devraient attendre jusqu'à la fin de la récession. Comme dans le cas de la controverse de Reinhart-Rogoff, les constatations sont divergentes, mais la discussion s'est concentrée de façon adéquate sur les problèmes méthodologiques au lieu de s'en prendre aux erreurs.

Le phénomène de parvenir à des résultats contradictoires est-il spécifique à l'économie?

Au début des années 1999, le gouvernement kenyan décida de financer l'administration de médicaments antiparasitaires aux enfants en âge scolaire. Miguel et Kremer (2004) ont analysé cette initiative. Les deux économètres spécialisés dans l'économie du développement ont indiqué qu'en plus de réduire l'épidémie parasitaire, le programme a limité l'anémie, a amélioré la nutrition infantile et a réduit l'absentéisme scolaire (d'un tiers).

sun is shining, or, in contrast, the roofers should wait till the end of the recession.

The basic issue in such a research project is to grasp the timing of the spending cuts made by governments. In many cases, the changes in public debt levels can be attributed to other factors, such as a volatile macroeconomic situation, which has an impact on tax income. Alesina and Ardagna (2009) identified years in which tax reforms took place based on an analysis of changes in the cyclically-adjusted primary balance. A team at the IMF employed a divergent methodology, which was based on analyzing government papers (e.g. official documents, reports from financial institutions and international organizations, etc.). The two methods pinpointed different years as the time of fiscal reforms (to be exact, they concurred only 30% of time), even though the question of the timing of spending cuts seems to be easy to address as a historical fact.

On the one hand, of course, the results are to some degree similar. Namely, both studies demonstrate that fiscal reforms involving spending cuts and not raising taxes are better for economic development. On the other hand, they produce conflicting answers to the question whether fiscal contractions have a positive influence on economic growth in the short term. Alesina and Ardagna (2009) support the 'expansionary' fiscal contraction hypothesis. In contrast, Guajardo, Leigh, and Pescatori (2010) oppose it and argue that fiscal contractions cause a short-term recession because of reduced demand. An important conclusion for this essay is that both methods are widely accepted among the cliometric fraternity.

An objective medical treatment?

Cases such as the expansionary fiscal contraction hypothesis, in which econometricians arrive at contradictory results because of a preference for alternative methods, are not uncommon. Such problems also surface in the analyses of scientists working in different fields. For instance, in early 1999, the Kenyan government decided to finance administering antiparasitic drugs to school-age children. Miguel and Kremer (2004) investigated this initiative. The two econometricians from Berkley and Harvard, specializing in development economics indicated that, apart from helping to control the epidemic of parasites, the program reduced anaemia, improved child nutrition and cut school absenteeism (by one-third). Their results, published by *Econometrica,* become very influential and made the World Health Organization advise dosingthe whole population with the antiparasitic drugs every six months, without prior screening tests.

Eleven years after the original research, Aiken et al. (2015) attempted to replicate it. Their results were published in the *International Journal of Epidemiology*. The researchers from the London School

Leurs résultats ont eu une grande influence au point que l'Organisation Mondiale de la Santé a recommandé de donner des médicaments antiparasitaires tous les six mois à toute la population sans tests de dépistage préalables. Des années après la recherche originale, Aiken et al. (2015) ont essayé de la reproduire. Les chercheurs n'ont pas trouvé que la différence en ce qui concerne les enfants anémiques et l'absentéisme entre les deux groupes était statistiquement significative.

Les décisions et la connaissance dépendent de suppositions et des méthodes d'évaluation aussi dans la finance. Au cours des dernières années, on a reproché aux banquiers polonais d'offrir des hypothèques en monnaies étrangères. À cause de la fluctuation

of Hygiene and Tropical Medicine employed an alternative method of model estimation and slightly redefined the test groups (control and treated) because, in their opinion, the trial was not strictly randomized. Aiken et al. (2015), contrary to the econometricians who first analyzed the issue, concluded that the treatment under consideration was not efficient. Namely, they did not find statistically significant differences between the two groups with regard to anaemic children and school absenteeism. These three cases show that, as Ludwik Fleck observed in the case of medical research, the findings depend heavily on the methods employed. Thus, constructing the truth – instead of discovering it – seems to be the main aim of the researchers. If that is the case, and if employees in the financial sector find themselves in situations similar to those dealt with by academics, the demands of objectivity cannot be met.

The struggle for objectivity in the financial sector

In the last few years, Polish bankers have been reproached for offering foreign currency mortgages. Because of unfavourable way in which currency exchange rates fluctuated, the value of such loan often exceeded the actual value of the property. In addition, some of them are likely to turn into bad debt in the near future. So, can advising customers to take foreign currency mortgages be called unethical in the light of the above arguments? In other words, is the creditor – at the time of conducting the analysis (which, according to the ethical codes of conduct, should be objective) – able to predict that a mortgage denominated in Swiss francs is likely to become he less optimal product, i.e. more expensive than the one denominated in the domestic currency? A few years ago, when the Swiss franc was cheaper (and devaluating) and the interest rates were much lower, taking out a foreign currency mortgage was more efficient. At that point, it was considered a better choice even if moderate and unfavorable exchange rate changes were to occur. As in the case of calculating how public debt might affect economic growth, what advice should be given to someone applying for a mortgage depends on the assumptions used. In this case, calculating the risks for various foreign exchange rate distributions may change the advice given to a property buyer applying for a mortgage. Of course, from today's perspective, it is easy to reproach financial advisors for underestimating the risk of changes in foreign exchange rates. However, a few years ago, say in 2008, when the Swiss franc was constantly devaluating, almost no one could predict how much this currency would appreciate in the next few years. Behavioral psychologists coined the term outcome bias to describe the human tendency to condemn decisions that lead to a bad (défavorable) des taux de change, la valeur d'un tel prêt a souvent dépassé la valeur réelle de la propriété. Dans ce cas, le fait de calculer les risques pour des distributions de taux de change variés peut modifier le conseil donné à un acheteur de propriété sollicitant une hypothèque. Bien sûr, en se basant aujourd'hui, il est facile de reprocher au conseiller financier d'avoir sous-estimé le risque de fluctuation des taux de change.

Le problème a aussi été expérimenté par plusieurs institutions financières américaines qui ont échoué à évaluer le risque.
Si nous supposons qu'il y a un risque objectif de défaut d'une entreprise X, qui vient de demander un prêt, il est impossible d'anticiper le fait de devenir insolvable et n'importe quelles suppositions ou estimations faites par les analystes de risque de crédit sont hautement différenciées. On peut comprendre le problème de l'évalua-

outcome without actually considering what those decisions were and why they were made. .

However, there are many other problems where there is no single, objective solution. When applying for a mortgage, in addition to choosing a currency, borrowers ask their financial advisors whether a fixed or variable interest rate is more efficient, better, or – simply – cheaper. This question also cannot be answered in an objective way. Advisors do not have the knowledge to do so. That is, advice given to a loan applicant depends on estimated future interest rates over the repayment period and the risk appetite of the financial advisor's customer. Even economists who think such things can be modelled would admit that the forecasts depend strongly on the methods used and – as is the case when predicting future inflation rates, the forecasts differ more than their *ex-post* error will. There is no one, true answer to such questions. Therefore, the demands of objectivity cannot be met by a financial advisor because, in some cases, objective knowledge is out of reach – as demonstrated by the cases discussed above.

Similarly, from the point of view of a financial institution, obtaining objective information is also impossible. For instance, in order to make a profit, financial institutions should estimate credit risk appropriately. Mistakes and negligence in this area resulted in the major crisis of 2007/2008 when several major financial services companies declared bankruptcy and others were nationalized. However, even if we assume that there is an objective risk of default that can be assigned to a company X, which has just applied for a loan, insolvency[7] is impossible to foresee and any guesses or estimates made by the credit risk analysts vary hugely. However, sometimes, as was the case just before the last financial crisis erupted, though the ratings published by rating agencies did not vary much at all, the consistency did not indicate their accuracy.

The problem of objectively estimating credit risk can be seen when looking at the differences in estimated future gains and the profit actually earned by companies. For instance, Barber et al. (2001), in their work, [*Can*] *investors profit from the prophets?*, simulated the strategy of buying (or short selling) stock with best and worst recommendations produced by security analysts applying fundamental analysis. According to their calculations, when transaction costs are incorporated, buying undervalued stock and selling overvalued stock generates profit that does not significantly differ from zero. Many researchers analyzed different time periods, markets or the details of trading strategy, and their conclusions are comparable.

The strategy of finding overvalued and undervalued stocks failed

7 This would imply that our world is perfectly deterministic and none of us, even the CEO managing company X, has a free will (Lawson, 1997, p. 29).

tion objective de risque de crédit quand on voit les différences entre l'estimation des gains futurs et le bénéfice effectivement réalisé par les sociétés. Par exemple, Barber et al. (2001) ont indiqué qu'en achetant un stock sous-évalué et en en vendant un surévalué génère un bénéfice qui ne diffère pas significativement de zéro.

because financial analysts, referred to by Barber et al. (2001) as "prophets," failed to predict the future profit levels. Considering the efficient market hypothesis and the fact that smaller markets are less likely to be efficient, it might be better to look at an analysis based on the Polish Warsaw Stock Exchange instead of the New York Stock Exchange. Kowalke (2015), contrary to Barber et al. (2001), did not analyze whether it is possible to profit from listening to the fundamental analysts but compared their predictions (strictly speaking, the net profit and earnings before interest and taxes (EBIT)) with the actual data published by companies. The Polish economist found the accuracy of financial analysts' forecasts was "considerably low".

However, being objective is impossible not only in estimating risk or the likelihood of insolvency. Financial advisors are often confronted with a question of how to invest the customer's money. On the one hand, there are more profitable (and more risky) options, such as stock markets and investment funds. On the other, banks offer a safe haven approach to deposits. Of course, the majority of economists point out that the stock market is more profitable in the long run. However, how long is the long run? And, as Keynes (1971) wrote in *A Tract on Monetary Reform*, "in the long run we are all dead." In the short term, say five or ten years, stock market profits will depend on the macroeconomic situation. To predict it is, based on my experience, much more complicated than foreseeing the income of a single company. Of course, the risk aversion of a customer seeking a piece of financial advice can be measured and professional help appropriately adjusted. However, such a measurement, based on a psychological test, will not be objective either. Just think of acquiescence bias (e.g. Friborg et al., 2006). According to this, people are more likely to agree with the questions asked in questionnaires rather than oppose them. Therefore, an unethical financial advisor who makes a living out of commissions from selling financial products could set up a test in a way that reduces their customers' risk aversion in order to sell, for instance, shares instead of bank deposits and make a higher commission. But, even without finding fault with employees in the financial sector (and that is not my intention in this essay), it is impossible to say which of the scores aimed at measuring risk aversion based on a handful of options is objective.

D'un côté, selon les codes de conduites existant, les gens qui travaillent dans le secteur financier devraient être objectifs et donner des informations vraies à leurs clients. De l'autre, de nombreuses études de cas analysées montrent qu'il y a bien des situations auxquelles sont confrontés les chercheurs économiques, les employés de banque et les institutions financières où les exigences d'objectivité sont impossibles à respecter.
La raison n'est pas l'avidité. Au contraire, même lorsqu'on travaille de bonne foi, être objectif est impos-

How to Make the Pipe Dream Come True?

On one hand, according to existing codes of conduct, people working in the financial sector should be objective and provide true information to their customers. On the other hand, several analyzed case studies show that there are many situations faced by research economists and the personnel of sible car les résultats des estimations, les modèles développés et les indices financiers de prédiction ainsi que les mesures de risque dépendent fortement de suppositions et de méthodes conventionnelles et, assez fréquemment, arbitraires.

Puisque le fait de choisir une des alternatives ne peut pas avoir lieu d'une façon rationnelle (sachant que des arguments tels que «c'est ce que la plupart des gens font»), il n'y a pas une seule vérité objective. Il y a seulement des modèles et des hypothèses qui sont construits. Les exigences d'objectivité ou le fait de donner une information vraie sont, dans bien des cas, impossibles à remplir et il faut l'attribuer à une raison épistémique. Est-il possible d'assurer les intérêts des clients des institutions financières sans établir des normes éthiques qui sont impossibles à respecter ?

banks and financial institutions where the demands of objectivity are impossible to meet. The reason is not greed or malice on the part of the financial sector. On the contrary, even if they worked in good faith, being objective is impossible because the results of estimations, models and predicted financial indices, as well as of risk measures, depend heavily on conventional and, not infrequently, arbitrary assumptions and methods.

Consider, for example, each of the following choices: the weighted averaging scheme preferred by Herndon, Ash and Pollin (2014) or the unweighted one employed by Reinhart and Rogoff (2010); one of the methods of indicating when governments cut their expenditures based on assessing credit risk, or quantifying the inflation rate with the Paasche or Laspeyres formula. Both are supported by a number of arguments and these methodological choices create alternative truths. Since choosing one of the alternatives cannot be conducted in a rational way (assuming that arguments such as "this is what most people do" or "it is conventionally right" do not convince us), there is no single, objective truth. There are only models and hypotheses that are constructed. Of course, in everyday practice, the employees of the financial sector mostly deal with the situations of a lower epistemic complexity. I certainly do not argue that there is no objective answer to the question: "what is the euro/dollar exchange rate now?", but the situations described above are much more interesting from an ethical point of view.

The above considerations lead to the conclusion that the demand of being objective or providing true information is, in many cases, impossible to fulfill and this is attributed to an epistemic problem. Can we make the pipe dream come true? And, if yes, how? In order to answer these questions, we should have a closer look at what the demands of objectivity are aimed at. Is it "the love of wisdom" (i.e. literal translation of the Greek term A life without objectivity φιλοσοφία – *philosophia*)? Or, in contrast, were those who penned ethical codes of conduct – supervisors, bank and financial institution executives or professional associations – driven by the desire to safeguard customers' interests? Paraphrasing Richard Rorty's (2009) book title, the truth cannot be mirrored because, as Ludwik Fleck argued, it depends on the methods applied. Hence, various analysts, using alternative methods, arrive at different and sometimes contrary "truths." However, I should highlight that the microbiologist used this word in a way similar to that done by Milton Friedman (1953) to refer to the high utilitarian value of a model compared to verisimilitude understood in the realist way.

A life without objectivity

Since the viewpoint of people interested in ethics in finance, despite their philosophical erudition, is closer to the one presented by

À la place des exigences d'objectivité, les codes de conduite éthique devraient inclure l'exigence d'agir dans l'intérêt des clients. Cependant il y a deux défis à cette approche. Tout d'abord, même si les banques et les institutions financières fournissent des services utiles, leurs intérêts sont parfois en opposition avec ceux des clients. Ensuite, nous ne savons toujours pas si les gens sont des individus guidés par des principes moraux ou des homo oeconomicus centrés sur le profit. Au lieu d'exiger l'objectivité, les employés du secteur financier devraient être rémunérés de façon à ce que leurs revenus dépendent du bénéfice des clients ou de l'efficacité de leurs décisions.

the instrumentalist economist/ philosopher or the constructivist microbiologist/philosophers rather than the realist philosophers (only), the second of the above two reasons for demanding objectivity is more likely. Is it possible to ensure the interests of customers of financial institutions without setting ethical standards that are impossible to meet? Instead of demanding objectivity, ethical codes of conduct should include a demand for acting according to the customers' interest. However, there are two challenges to this approach.

First, even though banks and financial institutions deliver useful services, their interests are sometimes at odds with those of the customer. Apart from the obvious conflicts (e.g. banks want their commission to be higher, customers want to see them lower), there are also a few epistemically interesting cases. For example, a bank analyst is likely to estimate company's creditworthiness in a conservative way in order to reduce the risk to the bank. The company's management, in contrast, in planning to build a new factory, will prefer estimates that reduce the interest rate they have to pay on borrowings.

Second, it is a pity that the question of whether codes of conduct should be followed remains open. Even though a lot of water has passed under the bridge, we still do not know if people are individuals driven by the moral principles described by Adam Smith (2005) in *The Theory of Moral Sentiments* or, on the contrary, profit-focused *homo economicus* as described in *The Wealth of Nations* (Smith, 2003). Since the latter possibility cannot be eliminated (not to say that it is more likely based on common sense), a better solution for the problem described in the essay is to reform institutions in such a way that the interests of bank clerks and financial advisors are aligned with those of their customers.

Financial sector personnel should not be required to be objective, but should be incentivised in such a way that their earnings depend on customers' profit (in the case of financial advice) or on the efficiency of their decisions (when, for instance, estimating creditworthiness). Once implemented, this approach would most likely resolve the problem of the impossible-to-meet demands of objectivity and the provision of 'true' information. This approach would also omit the question of whether ethical standards shape human behavior. Reforming the remuneration system in the financial sector and removing the demand of objectivity from ethical codes would help favor those analytical methods and models that would be conducive to arriving at such results that would be most beneficial for both financial institutions and their customers. And these results, according to the terminology coined by Milton Friedman and Ludwik Fleck, will be true. •

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Is Moral Hazard Always Immoral?

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

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

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? •

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

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

Finalist

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* 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.

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?

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.

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).

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.

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.

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-Garrigues, 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.

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?

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.

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.

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.

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 on-going 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. •

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Common sense

Ethics in Finance, Robin Cosgrove Prize Iberoamerican edition 2012-2013

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Even today many people are still clutching their heads and wondering 'How did we ever get into this situation?' The economic, financial and housing crisis that the world is now experiencing is appalling, and every aspect of every society throughout the world has been affected by the 'miracle' of globalization. Worse, this recession (like so many before it) has been overshadowed by the lack of ethical values – which is the most worrying thing about the whole crisis.

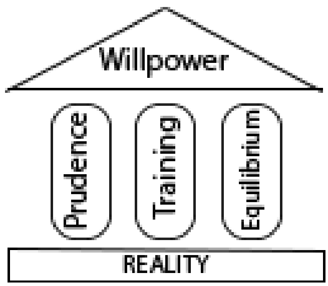
The purpose of this paper is nothing less than to appeal to common sense and the principle of prudence (cast aside for reasons of convenience, self-interest or simply greed) in every area of society, but above all in the financial sector, so that we may return to economic growth that is sustainable in the medium and long term. We have to restore ethical values and live in accordance with the truth, rather than a 'reality' invented and sustained by a semblance of controlled market disequilibrium. When we go to university we are told that the market cannot be controlled, and that we must adapt to it, managing our businesses or investments in response to the changes imposed on us. However, in recent decades we have seen only too often how the market has attempted to control itself using rules whose effect was to heat up an already overheated economy – as dictated by fallible central regulators.

Alexander Pope (1688-1744) said that 'to err is human; to forgive, divine'. Some have added 'to rectify is for the wise' – and, since the damage has been done and there is no point in adding fuel to the fire, La crise financière, économique et immobilière a touché l'ensemble de la société, mais elle a surtout mis en avant le manque de valeurs éthiques, ce qui est le plus inquiétant. Le but de ce texte est de faire appel au bon sens et au principe de prudence, dans le domaine financier, afin de revenir à une croissance économique durable. Il faut restaurer les valeurs éthiques et vivre en conformité avec la vérité.

Nous devons être sages, apprendre de nos erreurs et voir cette crise comme une opportunité de changement. Les piliers fondamentaux de la croissance sont la formation, la prudence et l'équilibre, le tout avec de la volonté et une base solide qui est la réalité.

we have to be wise, learn from our mistakes and finally see this crisis for what it is: an opportunity for change. To grasp this opportunity, we must erect the basic pillars of growth (prudence, training and equilibrium) on solid ground (reality), with a strong, dynamic roof (willpower) to protect the structure.

See the following illustration:



Solid ground: reality

Any decision, whether it be in the economy or in any other area of society, must be based on reality, for otherwise we would not be able to perform even the most basic transactions, from applying for a loan to buying a loaf of bread. To make a decision to consume we first need real money, for however great our desire to consume may be, the inescapable bottom line is reality. Yet financial institutions have responded to our immoderate desire by creating various means of consumer credit or other instruments that have fed this expansion in artificial credit. In recent decades we have seen how decisions made by businesses were largely determined by variables exogenous to the actual market (such as governments, or central banks), forcing economic agents to take unnecessary risks. To take just one example, one of the many causes of the current crisis was the low interest rates imposed by central banks all over the world. By keeping interest rates low, what these institutions did was increase demand for cheap money. The law of supply and demand tells us that, when an increase in demand exceeds the increase in supply, the prices of the product – in this case, the rates of interest on money – must increase in order to maintain market equilibrium. And yet this did not happen. So as not to hamper their competitive growth, the central banks used monetary policy to keep interest rates lower than they should have done. This policy forced financial institutions to increase supply in some way or other just to stay in business. This is where human imagination came into play, with the development of the notorious 'subprime' mortgages and other mechanisms designed to turn illiquid assets into securities negotiable on secondary markets. At the same time, under pressure of market forces, financial institutions tried to increase their liquidity by granting loans to people with a high risk of default. This artificial growth in credit was built on the sandy, unreliable soil of a market with too much public intervention. The regulators opened a seemingly protective umbrella that many convinced themselves could never leak. When reality caught up with the institutions' balance sheets, and hence with all

Toute décision doit être fondée sur la réalité. Les institutions financières ont répondu à notre désir immodéré en créant divers moyens de crédit à la consommation qui ont nourri cette expansion du crédit artificiel. Ces dernières décennies, les décisions prises par les entreprises ont souvent été déterminées par des variables exogènes à la réalité du marché, ce qui a obligé les spécialistes à prendre des risques inutiles.

Alors que le secteur financier repose sur la confiance, l'intervention publique excessive a fortement nui au système financier. Les banques centrales ont perdu le contact avec la réalité.

Si la survie des entreprises financières dépend de la prise en compte de nombreuses variables, elles ont tendance à avoir plus de succès dans leurs démarches que les gouvernements qui confondent rentabilité et intérêt, sécurité et risque.

the businesses that had bought these negotiable securities throughout the world, billions of dollars evaporated in a matter of minutes – for balance-sheet assets were recorded at their *market prices.* These were much higher than the assets were actually worth – and now all the unnecessary risks the system had been forced to bear came home to roost.

Our financial system depends on trust. Intermediaries' main function is to ease the flow of money from savers to investors through trust, since savers do not trust investors but do trust financial institutions. If the intermediaries fail to do their jobs properly, trust breaks down – and the system collapses.

Although this is just one example of what has happened in recent years, it is easy to see how excessive public intervention can damage the financial system. When central banks believe they *are* the market and act to maintain sustainable growth within in, they lose contact with reality and with the real value of assets and investments, creating a discrepancy between the risks assumed and the returns to be obtained. This sounds like common sense – and that is precisely what it is. The West has got used to manipulating a market with thousands of variables, most of which are ignored when decisions are made. Cultural standards, levels of satisfaction with politicians and people's levels of education are no less important variables than inflation, interest rates or taxes. Even though businesses' survival depends on taking all these factors into account, they tend to be more successful in their investments than governments, which confuse profitability with interest, and security with risk.

Governments have an important part to play in controlling abuses and protecting investors, especially if they set out to increase the available information on market players. However, information will never be perfect – this is a natural limitation of the market – and so central banks and other public institutions will never be able to know the full impact of their actions upon the market. Thus, in the clear absence of systemic vision, governments, central banks and other regulators should avoid intervening in the day-to-day workings of the markets, for – among other things – this may favour established major businesses and curb new initiatives that are more innovative and, if they have the necessary opportunity and funding, perhaps more profitable. Markets are fairly free to self-regulate: they find and exhaust opportunities for arbitration; but when information is imperfect abuses also occur, for in that case a handful of people are able to play with a great deal of information. That is why, as stated above, the role of such institutions must be to increase the available information on the market, to penalize abuses by businesses, to protect investors and to supervise compliance with the basic principle of prudence, which will be described below. The result will be a market with less intervention, more freedom and more justice for all.

Les banques centrales et autres institutions publiques ne seront jamais en mesure de connaître l'impact de leurs actions sur le marché. En l'absence de vision systémique claire, elles devraient éviter d'intervenir dans le fonctionnement au jour le jour des marchés, qui sont assez libres de s'autoréguler. Ces institutions doivent se contenter d'augmenter l'information disponible sur le marché pour pénaliser les abus commis par les entreprises et protéger les investisseurs. Le résultat sera un marché avec moins d'intervention, plus de liberté et de justice pour tous.

La prudence, premier pilier, signifie étymologiquement la mise en garde que toute personne doit observer lors de la prise de décisions. Directement liée au risque et au rendement, elle est une notion fondamentale pour le système financier.

The role of the regulators must be confined to this, for too much intervention creates a gulf between businesses and reality. The more infallible the regulators think they are, the wider the gulf becomes – and the wider the gulf, the more painful the eventual readjustment. So why not stay as close to the solid ground of reality as possible, rather than have to jump off high cliffs to get back down there? *That* is common sense.

The first pillar: prudence

Before discussing the value of this pillar, we need to understand what the word means. Etymologically it comes from the Latin *prudentia*, which in turn comes from the Latin *providentia*, i.e. looking ahead, being able to see the future consequences of one's present actions. In this paper it is used more in terms of accounting, but its etymological origins are the same: prudence means the caution that every person – whether an individual or a legal entity – should observe when making decisions, the ability to analyse and to distinguish the truth amid the haze of disinformation. This pillar is directly related to risk and return: higher rates of return mean greater risk, and so greater prudence is required when making a decision. This pillar is of immense value to the economy. Banks rely on it to stay in business, companies invest on the basis of it and even the smallest investors are very much aware of this principle when making decisions.

Prudence is essential to the financial system, and lack of it is what has got us where we are now. When regulators kept interest rates low, 'anything goes' became the order of the day, and financial institutions threw caution to the winds. Many businesses depend on efficient risk management in order to survive, but it is of truly vital importance to the success of any financial institution. When banks were forced to keep interest rates low at a time of growing demand for credit, they imprudently granted substantial loans to unemployed people and turned them into liquid assets in order to survive in the competitive market. The lenders took the money and invested it in housing speculation: house after house was bought simply to be sold at a profit, and public investments were made with dubious rates of return, for purely selfish reasons. Regulators also forgot the principle of prudence when they decided to change the rules for company balance sheets so that assets were no longer recorded at their purchase prices but at their market prices – in other words, they artificially inflated trust out of all proportion. Businesses, in turn, were caught in a spiral of competition, interest and speculation that spread to the smallest investors – who have been hit hardest by the whole situation, for they are far worse placed than businesses to obtain truthful information. When reality, and real value, caught up with these inflated balance sheets, the readjustment was very painful for all concerned, but especially for the most vulnerable people: small investors. And this is what has hampered economic recovery most of all – for they, the small savers, are the very people regulators were supposed to protect. They no longer trust the system, and with good reason: their money has vanished in investment funds that were given the highest ratings by supposedly impartial agencies. And now that the agencies have been proved wrong, they are not being forced to face the consequences. Those who have misbehaved beneath the regulatory umbrella must not be allowed to get away with it. It is only when investors see justice done in the market that they will dare to invest and credit will again start circulating through the system – which is why public disintervention in markets is so urgently needed.

In short, companies' and banks' balance sheets must once again record the *purchase* prices of their assets, and prudence must once again become a key part of their decision-making. Only thus, by keeping a cool head, can we find the way back to trust and stable economic growth. It is vital to restore market trust and credibility, otherwise there is a risk that normal market mechanisms will break down. If investors cannot entrust their money to intermediaries – through deposits, investment funds and other instruments – who *can* they trust? Are we about to see the re-emergence of small local moneylenders? Probably not, but we must face the fact that the market's engines have been very badly damaged. Once trust in them evaporated, the whole system ground to a halt.

The middle pillar: training

As already stated, the most worrying thing about the crises we are now experiencing is the lack of ethical values in the economic system and in education, and the disturbing dehumanization of the global education system, whose consequences can be seen in all areas of human life. Especially in the economy, professional success has come to depend on greed, selfishness, individualism and lying. The current ideal is to *win*; if you are at the top of the pyramid, you are considered a success. Yet nowadays success is confused with power and fame. To be truly successful, professionals must have experience – not just CVs full of all the right things, but specific obstacles they have surmounted and barriers they have overcome in order to achieve their full potential.

Today, in offices throughout the world, we can observe the phenomenon of demotivation: people unable to find meaning in their lives, wandering through the corridors with no other aim than to get back home at night. The conformity of easy, comfortable living is distracting us from our potential and depriving the world of top researchers, ethical investors and great philosophers. Winning is a concept that is part of success. The dehumanization of education does not mean the end of this – for it is the goal everyone

Beaucoup d'entreprises dépendent de la gestion efficace des risques pour survivre. Ces dernières années, les principes de prudence ont été oubliés, en particulier par les régulateurs quand ils ont décidé de changer certaines règles.
Les petits investisseurs ont été parmi les plus touchés et ont perdu la confiance qu'ils avaient accordée au système. L'intervention des banques centrales et autres institutions publiques dans les marchés doit cesser urgemment.

Il faut être prudent si nous voulons retrouver le chemin du retour à la confiance et à la croissance économique stable. La confiance dans les intermédiaires financiers doit être rétablie.
Le pilier du milieu est la formation. Face au manque de valeurs éthiques dans le système économique et dans l'éducation, il faut privilégier la véritable expérience qui garantit l'efficacité.

La démotivation croissante dans les bureaux et la déshumanisation des activités financières ont généré la domination du concept de succès. Il est l'objectif à atteindre et il détermine ce que vous valez. Tel est le triste constat actuel.

La seule façon de prévenir la récurrence d'une crise comme celle que nous vivons actuellement est la formation. Les professionnels doivent être formés dans la finance et la comptabilité, mais aussi dans la philosophie, la sociologie et d'autres disciplines humanistes, ainsi que le droit et la politique. Ils doivent apprendre à travailler en équipe, pour unir leurs forces et créer des synergies.

is still blindly pursuing – but something worse, which is mistaken for success: the idea that what you *have* says what you are *worth*. And this is the root of the problems we now face: anything goes, provided you are *worth something*. How often have we seen businessmen commit crimes in order to maximize their personal profits, or governments give preferential treatment to 'friendly' businesses, purely out of self-interest? Such things destroy trust, and the repercussions are disastrous. Who will ever reinvest in a business whose CEO has run off with millions? Who will deposit their money in a bank that has failed to make a correct market analysis? The lack of truth, information and partnership that appears to underpin professionals' success has destroyed trust both within and outside the system, corrupting it and preventing it from working as it should.

The only way to prevent recurrence of a crisis like the one we are now experiencing is training – but not just any training. What the system needs is professionals with *all-round* training. Excessive specialization, without a broad humanistic base, produces blinkered people. They lack a systemic view of what is going on and end up making the wrong decisions, with serious consequences – and, to make matters worse, unpredictable ones, for people do not know exactly who they are dealing with. The disinformation that affects the system in general – and this is where governments *should* intervene – is aggravated by the poor individual training of its economic agents. Professionals need to be trained not only in finance and accounting, but also in philosophy, sociology and other humanist subjects, as well as law and politics. They must know how to work in teams, so that they can pool their strengths and create synergies. In most industrialized countries' education systems, teamwork is indeed encouraged – but it is not *taught,* for the social component of man has been forgotten. Teamwork involves collaboration rather than cooperation – in other words, it means that individuals arrive at conclusions and solutions they would not have arrived at by themselves, and so optimize their performance. Such collaboration depends on individuals sharing their ideas generously and openly. This notion is completely at odds with today's culture of the power of information, and yet it is the lack of truthful information – in the Information Age – that has helped us dig this hole under our feet.

Such systemic training of the individual must be provided from earliest childhood right through to postgraduate university studies. Such all-round training will ensure that professionals are able to analyse and understand the problems they face more broadly, fully and holistically, so that they can make the best decisions and keep any adverse consequences to a minimum.

Being an ethical person does not just require good all-round training, Les professionnels pourront alors prendre de meilleures décisions en minimisant les conséquences fâcheuses. Ils devront faire preuve de détermination et d'une sensibilité accrue. Notre système financier a urgemment besoin d'une génération de professionnels capables de voir au-delà de leurs décisions en étant créatifs et novateurs. Si nous voulons changer le marché, c'est nous même qu'il faut commencer par changer.

Le troisième pilier, l'équilibre, est essentiel. La notion de proportionnalité est ici importante car elle permet de créer une confiance dans le système en le rendant plus prévisible. Le meilleur exemple d'équilibre doit être trouvé dans les entreprises, qui doivent en priorité équilibrer leurs budgets. Pour rester solides, saines et honnêtes, il faut aux entreprises financières un personnel dynamique, une grande prudence et enfin de l'équilibre et de la cohérence pour optimiser leurs performances.

but also great determination and awareness in order to make the right choices – a predisposition to do good, which must be promoted by a just society in which bad behaviour has bad consequences. Justice will be done in the economy when the market is free to self-adjust, for it will expel businesses that do not create enough value; but the same coherence must apply to everything professionals do.

All-round professionals would have made an exhaustive analysis of investment funds before risking their depositors' money in them; all-round professionals would not have jeopardized their companies' viability by speculating in securities that inflated their balance sheets; all-round professionals would have known that high-return investments are also high-risk investments; and so on. Our financial system urgently needs a generation of professionals who are able to see beyond their decisions and be creative and innovative *without forgetting that there is no escaping from reality*. The market is the outcome of the decisions made by the people in it – which means it is simply a reflection. If we want to change the market, we must change ourselves.

The third pillar: equilibrium

Equilibrium is essential in all areas of society, not just the economy. If justice is to be done, the punishment must fit the crime. University results are usually proportionate to the effort the student makes. Such proportionality generates trust in the system by making it to some extent predictable. If the return on a treasury bond is 8%, we know there is a high risk of losing our money. The problem is when this equilibrium is upset and investments that appear to challenge this proportionality rule appear on the market, offering high returns for low risk. Common sense tells us one of two things: either whoever is offering the product does not know what he is offering (which is most unlikely), or else it is a scam – in other words, people who are better informed than the rest are using their knowledge for personal gain. In recent years, unfortunately, there has been a proliferation of such products, which take advantage of investors' lack of information. Many have been duped, but others have followed their instincts and kept out of trouble.

The best example of equilibrium is to be found in businesses. All businesses have to balance their budgets: their assets must equal their liabilities plus their net worth. In the final stages of the boom, businesses all over the world had balance sheets that were far removed from reality, with billions' worth of underlying losses that remained undeclared thanks to creative accounting by their finance departments. However, as stated earlier, when a business is built on the sandy soil of lies, it ends up leaning like the Tower of Pisa and eventually collapses under its own weight. For a business to remain strong, healthy

La volonté est le moteur du changement et le toit principal nécessaire à la croissance. Il faut changer ses habitudes et considérer le bien-être des générations futures. Pour changer la situation actuelle, il faut former les individus et pour cela, il faut une volonté profonde de changement et d'amélioration.

Tout repose sur la volonté, mais utilisée à bon escient, c'est à dire pour le bien être de la société et non pas pour satisfaire des fins personnelles ou une volonté de puissance. Si un seul gouvernement avait eu la volonté de cesser de se focaliser sur le court terme et de tester l'efficacité de ces piliers, la crise n'aurait pas duré aussi longtemps. La volonté protège et garantit les piliers évoqués comme le toit protège une maison. Sans lui, il n'y a que quatre murs à la merci des éléments.

and upright, it needs three main supporting beams: (1) dynamic staff with all-round training and a systemic view of the market; (2) large doses of caution that encourage it to seek real information about the market, rather than rely on appearances; and (3) equilibrium and coherence, allowing it to maximize its performance because it operates as a whole rather than as the sum total of its various departments.

The roof, and the engine of change: willpower

Every journey begins with the first step. To change a situation, you have to want to change it. The leaders of the world's countries have to see their nations' need for change and truth. Willpower is the most difficult part of the structure to build, for it is made up of habits that are acquired by repetition. Good actions lead to good results, and bad ones to bad ones. Willpower is difficult enough at individual level, but with countries the difficulty increases exponentially, for no country wants to take the first step in the wrong direction and risk being left behind on the road to growth. And yet we urgently need to abandon short-term thinking and consider the well-being of future generations. Disinformation, lack of ethics, poor training and greed are now flooding through our financial system, which is a reflection of our society. Whether from ignorance or fear, the citizens of many countries now think of financial markets as ogres. The only way to change this is to train people – and the only way to train them is to want to.

We live in a dynamic world, a complex environment. There are thousands of businesses constantly innovating, and spending thousands of millions on the process. Why? Because the only way to survive in the market is to adapt to the environment. Businesses have to be dynamic in order to survive, but governments do not. Businesses do not control the market, but simply adapt to it; but governments – far from adapting to market changes – thought *they* were the market. This ignorance turned the desire for change into a desire for power. They all thought they knew what was best, for between them they formed the market. Yet reality, and the real value of investments, trump all speculation. The market has meted out the punishment we deserved. All countries fear change, because what they have seems to work from time to time, and they prefer not to take risks. On the other hand, change brings more change. But not all change is for the better. If it is in accordance with human nature there will be hope; but, if not, we will keep on having the same problems, and keep on destroying ourselves. If just one government had had the willpower to stop focusing on the short term, look beyond the next general elections and test the effectiveness of these pillars, La cohérence est une notion très importante car il est nécessaire d'agir et de penser sur la base du bon sens. Quand nous sommes cohérents, nous sommes moins susceptibles de prendre de mauvaises décisions. La cohérence conduit à innover pour créer de la valeur ajoutée, l'incohérence détruisant la confiance dans le monde financier. Nous avons une belle occasion de passer à un modèle de croissance stable et durable à moyen et long terme. Les marchés dépendent finalement des personnes qui les composent. Pour restaurer la confiance, ce sont donc les gens que nous devons changer en priorité.

the rest would have followed suit and the crises would not have lasted so long.

Willpower protects the pillars just as a roof protects a house. Faced with a harsh climate and unpredictable events, we must always have the willpower and determination to do the right thing – for a house without a roof would be nothing but four walls at the mercy of the elements.

The beauty of coherence

Besides training or the proposal to reduce public intervention, the purpose of this paper is to raise awareness of the need to act and think on the basis of common sense. The main problem right now is the lack of trust in the financial system – made worse by the lack of information throughout the economic structure. There are many ways to restore trust, some of them very ingenious and innovative, but the most obvious one is also the most effective: common sense. When we act on the basis of common sense, we are coherent, and when we are coherent we are much less likely to make wrong decisions. Coherence means that we will act correctly, but not unadventurously. It leads us to innovate in order to create added value that is recognised by the market, and to make prudent decisions. However, in order to be coherent and prudent, we need a broad basis of training, failing which we could not make judgements and decisions based on reality. This century's professionals have forgotten the systemic view. A decision affects more than one variable; in fact it affects all the variables that depend on it, and the ability to see these links entirely depends on the person that is looking. That is why we must train professionals to see them – not just the obvious numerical ones, but also the social and human ones, as well as the holistic system of the economy and business. What is more, reality is governed by a key principle that we all have to live by, namely that everything is in equilibrium. When businesses or other institutions fail to take account of this, they lose touch with reality; and eventually that means having to lie. But lies soon catch up with you, and there is a great likelihood of incoherence, which – as already stated – destroys trust.

We are in serious trouble; but the greatest obstacle is refusing to make the necessary leap. We now have a golden opportunity to shift to a stable growth model that is sustainable in the medium and long term. Markets are not good or bad in themselves, but depend on the people within them. If we want to change the direction of the market and create trust, we have to change the people within it.

So let's do it. •

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Part II

Ethics, Technology and Innovation

Hard Coding Ethics into Fintech

Ethics & Trust in Finance
Global edition 2016-2017

Third Prize ex-aequo

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

Fintech[1] fuses digital technology with traditional finance. The field of digital finance that results is often claimed to be a disruptive hybrid that will displace 'old' finance. However, a significant amount of fintech innovation can best be understood as the automation of traditional finance, or the automation of its user-experience layer. Many fintech start-ups build platforms that either replace financial professionals with algorithms – for example, an automated 'robo-advisor' wealth manager[2] – or that replace front-office customer service staff with self-service interfaces, as in the case of artificial intelligence 'chatbots'[3].

These innovations increase the speed and lower the costs of providing financial services, and may enable services to reach a wider range of people. That said, they do not necessarily challenge the underlying principles of the existing financial system. Indeed, fintech mostly aims to make the existing system faster, more convenient and cheaper for people to interact with. We should thus ask whether the digital format challenges or reinforces established systems of financial ethics. Furthermore, we should consider whether it introduces new ethical issues previously not as prominent within finance, such as data ethics.

This essay aims to lay out a programme for the ethical study of fintech. Since the financial crisis, much attention has been given to the ethics of 'high finance', the world of

1 Financial technology
2 See, for example, Wealthfront (https://www.wealthfront.com/) and Betterment (https://www.betterment.com/)
3 See, for example, Kasisto (http://kasisto.com/) and Cleo (https://meetcleo.com/)

Fintech fait fusionner la technologie numérique avec la finance traditionnelle, et peut être le mieux appréhendé comme l'automatisation de la finance traditionnelle. Les start-ups de fintech cherchent à remplacer les professionnels de la finance par des algorithmes, et à remplacer le personnel au service du client par des interfaces numériques. Il se peut que cela rende l'interaction avec le système financier plus facile pour les gens, mais il faut nous demander quel est son impact sur l'éthique en finance.

Cet essai énonce un programme pour l'étude éthique de la fintech en quatre parties. La première partie décrit la différence de puissance entre l'industrie financière qui crée des contrats financiers et les clients de détail qui accepte ces contrats.
La deuxième partie montre comment le Fintech est en train d'automatiser la création de ces contrats.
La troisième partie

investment banks and trading. The everyday finance of retail banks and pension funds, despite scandals such as PPI, has often escaped attention. Furthermore, the fintech companies building services on top of these institutions have been viewed largely as positive innovators who will only benefit customers. A more balanced and critical view needs to be developed. We cannot allow ethical considerations to be *post hoc* 'add-ons' to technological innovation. They must be considered prior to us building dependence upon digital finance.

This essay will proceed in four parts:

1. I start by describing finance as a realm of monetary contracts, but draw a distinction between the professional financial industry that creates these contracts and the retail customers who accept them.

2. I then argue that the fintech industry is attempting to automate the creation of these contracts, and our interaction with them.

3. In order to assess how this process impacts ethics, I then establish a baseline snapshot of the ethical dimensions of existing retail finance.

4. This makes it possible to consider how the digital format might impact those existing ethics.

It is impossible to comprehensively assess every ethical issue raised by fintech within a single essay. It is possible, however, to identify what we should be looking at and watching out for. Part four of this essay thus sets out five discreet research programmes that are required if we are to understand the ethics of fintech.

The power dynamics of monetary contracts

Basic finance – debt or equity – involves the creation of contracts that give one party rights to future money in exchange for granting rights to present money to another party. The latter party may use the money to mobilise labour, resources and technology to produce goods and services, which in turn are exchanged in markets for money, which creates the flow of future money promised in the contract.

In an idealised sense, a contract implies a certain equality between signatories to the contract. In reality, though, when it comes to *retail finance* many people experience financial contracts as a one-way 'service' offered to them – or perhaps forced by circumstance upon them – by a large financial institution.

In the best case this can be a mutually beneficial contract. In the worst case it can involve 'asking permission to be exploited'. A power differential exists between individuals and institutions. For example, a person 'applies' for a mortgage from banks who advertise their willingness to entertain such contracts, but the legal, informational and political resources of the banks are often much greater than that of the customer. Likewise, a retail établit un instantané de l'éthique de la finance de détail. La quatrième partie propose cinq programmes de re-cherche pour examiner comment le nouveau format numérique peut impacter cette éthique.

La finance implique la création de contrats monétaires, mais beaucoup de gens appréhendent les contrats proposés par la finance de détail comme une proposition à sens unique, émanant d'une grande institution financière aux pouvoirs légaux et politiques bien plus importants qu'eux. La finance de détail consiste soit en de grandes institutions qui offrent de petits contrats standards à un grand nombre de personnes, soit en de grandes institutions qui agrègent l'argent de petits investisseurs afin de leur permettre d'of-frir collectivement des contrats à plus grande échelle à d'autres grandes institutions. Le client de détail moyen est se sent écrasé par les grandes institutions financières qu'il utilise. Elles sont souvent si grandes qu'elles ne sont pas

investor trying to invest for future returns often operates via a large intermediary like a mutual fund. Retail finance thus either involves large institutions offering small-scale contracts to large numbers of people, or it involves large institutions pooling the money of small-scale investors to enable them to collectively offer large-scale contracts to other large institutions.

The automation of financial contracting

We can thus distinguish between two camps. On the one hand we have the *financial sector*, consisting of large, well organised financial institutions that specialise in offering financial contracts, or in investing in those on other's behalf. Then we have the general public, the dispersed, uncoordinated retail customers who often feel like passive *receivers* of 'financial services'. We may distinguish between members of the general public who are subject to obligations to financial institutions – like someone who must pay their mortgage – and those who feel the institution is obligated to them, like a pensioner or a bank depositor, but the common factor is their feeling of being on the 'receiving end' of a contract.

The disparity of scale is crucial. The retail customer may feel dwarfed by the financial institutions they use, and those institutions are often so large as to be unable or unwilling to engage with the particular circumstances of each customer. The impulse of financial companies is to present retail customers with standardised menus, interfaces and rule-sets for interaction: *If you want this mortgage, fill out this form and prove X, Y and Z.* The scale necessitates bureaucratic rule systems, brings a tendency to rely upon statistics and modelling rather than personal interaction, and creates pressure to automate processes to lower the costs of interacting with so many small players.

Following the distinction established above, we can see two broad components of financial services that can be automated. The first is the internal activities of financial professionals within financial institutions. The second is the institution's points of interaction with customers who approach to make requests.

Automating financial professionals: machines to robots to AI

In principle, financial contracts require little more than a written document with a legal system to enforce it. Indeed, an ancient financier may have used manual *tools* such as a quill pen and paper, along with an abacus and calculation methodologies to work out a contract. Modern financial institutions, however, use more advanced technologies to speed up the process for deciding who gets to enter contracts, for calculating contract terms, for executing the contracts, for valuing the contracts once created, and for transferring them.

capables de prendre en considération les caractéristiques particulières de chaque client. La grande taille est à l'orgine d'une pression pour automatiser les processus afin de baisser les coûts d'interaction avec autant de petits acteurs.

Des pans entiers des services financiers peuvent être automatisées. En premier, les activités des professionnels financiers à l'intérieur des institutions financières. En second, l'interaction de l'institution avec les clients extérieurs.

Les institutions financières modernes utilisent des technologies pour accélérer le processus de création, de valorisation et de transfert des contrats financiers. Un exemple de machine financière est le système de notation de crédit automatisé. Les robots financiers sont des machines qui sont capables d'intégrer des intrants variables et d'exécuter des décisions définies d'avance, tel qu'un système pour approuver automati-

Manual tools have been surpassed by *financial machines*. For example, an Excel spreadsheet partly automates and greatly speeds up the process of storing and analysing large amounts of data. Likewise, an automated credit-scoring system may take in data inputs about a person – such as their spending behaviour, location and age – and output a score for them.

Increasingly, though, we are seeing the rise of *financial robots*, machines endowed with the ability to take in variable inputs and execute pre-set decisions based upon that data. Automated trading algorithms are perhaps the most well-known of these, but a 'robot' might also include, for example, a system that automatically approves a loan to a person who scores above a certain threshold on a credit-scoring model.

At the frontiers we have *financial artificial intelligence*, financial robots with variable parameters that can shift depending on the data presented to them, allowing them to make more advanced decisions or predictions. A traditional credit-scoring model operates with a pre-set methodology implemented as a step-by-step algorithm that takes data inputs and converts them deterministically into data outputs. A *machine-learning* system, though, can calibrate its operations in response to past data, 'learning from past experience' rather than merely 'following orders'.

These technologies are being used to remove human calculation and decision-making processes within financial institutions. While they may not immediately threaten professionals who work in corporate finance – such as experienced bankers financing a major infrastructure project – they are proliferating within retail finance, where large numbers of smaller decisions have to be made.

Automating the user-experience layer: from service to self-service

Financial institutions are increasingly automating the process via which customers interact with financial professionals. This is made possible by technologies like home computers and smartphones that allow people to communicate their intentions to institutions via an Internet connection. Interaction options can be presented to customers via smartphone apps and internet banking portals. This also necessitates the development of ways for people to prove who they are when communicating, such as smartphone biometric finger-print readers. To make these self-service experiences feel more 'human', institutions are experimenting with 'chat-bots', digital interfaces presented as living beings with personality, equipped with natural language processing (NLP) capabilities that allow them to interpret human speech or writing. Institutions are also developing new ways to automate customer support.

quement des prêts à des gens qui obtiennent un bon score de crédit.

L'intelligence artificielle appliquée à la finance, implique des robots qui peuvent prendre des décisions plus avancées, telles que le système d'apprentissage automatique qui peut calibrer ses opérations en réponse aux données passées, « en apprenant de l'expérience passée » plutôt qu'en « suivants des ordres ».

Les institutions financières sont en train d'automatiser le processus par lequel les clients interagissent avec les professionnels financiers. Les options d'interaction peuvent être présentées via des applications de smart-phone, qui nécessitent de nouveaux moyens pour que les clients s'identifient, tels que des lecteurs d'em-preintes numériques sur smartphone.

Le vieux modèle selon lequel un client rentre dans une succursale pour consulter le mana-

The digital institution

These innovations give rise to visions of completely digital financial institutions that integrate an automated customer interaction process with an automated decision-making process. Thus, the 'old' model in which a customer walks into a branch to consult with a manager – who looks over their business plan and makes a loan decision – may be replaced with a customer inputting data via a smartphone interface into a machine-learning model that has been granted power to approve or reject the application. At the frontiers are systems that do not even require the customer to input data, but that extract data about them from external sensors, such as the location data on their phone[4].

The digitisation process can be applied on both sides of banks' balance sheets, with automated interfaces presented to both depositors and borrowers. In the case of fund management and financial advisory, points of interaction with retail investors are being automated. These different strands of automation are also enabling the rise of umbrella platforms that mediate between a single customer and multiple underlying institutions via APIs[5]. A person might interact with a bank, FX company, wealth manager and short-term loan company via a single smartphone app[6].

4 See, for example, Costa et al. https://www.omidyar.com/insights/big-data-small-credit

5 Application Programming Interfaces. This is a theme of the EU PSD2 directive. For a summary, see https://www.evry.com/en/news/articles/psd2-the-directive-that-will-change-banking-as-we-know-it/

Towards an ethical assessment of fintech

The replacement of financial professionals with algorithms, and the replacement of customer service staff with self-service interfaces may cut costs and allow financial institutions to deal with a greater volume of customers, but what are the ethical implications? To grapple with this, we must first sketch out a baseline model of retail finance ethics, against which we can assess fintech.

Retail finance ethics are complicated by the power differential between the large-scale financial institutions and the small-scale customers. The greater level of power, expertise, information, and co-ordination possessed by large institutions suggests that they should be subject to greater ethical scrutiny and responsibility than the individual customer. Using this lens, we can see three broad fields of potential ethical concern:

1. How retail borrowers are treated
2. How retail depositors and investors are treated
3. The ethics of what gets financed by large institutions that take money from retail customers

6 See, for example, the services offered by Fidor (https://www.fidorbank.uk/) and solarisBank (https://www.solarisbank.de/)

ger qui prend une décision de prêt peut être remplacé par le client qui rentre des données à travers l'interface du smartphone dans un modèle d'apprentissage automatique qui a le pouvoir de valider l'application. Il existe déjà des systèmes qui n'ont même pas besoin que le client rentre des données, mais qui extraient des données sur celui-ci à partir de censeurs externes, tels que des données de localisation du téléphone. Le processus de digitalisation peut être appliqué des deux côtés des bilans de banque, avec les interfaces automatisées présentées aussi bien aux déposants qu'aux emprunteurs.

Pour pouvoir analyser les implications éthiques du Fintech nous devons d'abord ébaucher un modèle de base de l'éthique dans le contexte de la finance de détail.
Il y a trois larges champs de préoccupation éthique potentielle. Premièrement, comment les emprunteurs de détail sont traités. Deuxièmement, comment les déposants et les investisseurs de

We see historical examples of abuses in all these fields. The predatory issuance of punitive loans to vulnerable borrowers might be an example within the first category. Scandals around banks' mis-selling insurance products to small businesses, or funds charging excessive fees may fall into the second. This essay, however, will focus on the third category.

The ethics of financing

An institutional equity investor helps to finance a property company developing an office block. In such a process, things are created – a building – and things are destroyed – forests used for timber. The workers who built it could be treated fairly or unfairly, and the tenants who move in might be subject to dangerous conditions or safe ones. The financier thus becomes implicated in webs of ambiguous ethics. Their money is used to mobilise energy towards ends that impact both ecosystems and other people, and they receive monetary benefit from that.

Property development is – comparatively speaking – an uncontroversial industry, but whole industries like weapons, tobacco and fossil fuels are viewed by many as being fundamentally problematic. Within the financial sector this is sometimes resolved by making a distinction between 'normal finance' and 'ethical finance'. The former is presented as a default realm of rational and amoral economic principles, a world of mathematical projections and equations. The latter is presented as fuzzy and emotional, a discretionary realm where you can bring in your personal values.

This distinction is false on two grounds. Firstly, within 'normal finance' there are embedded ethical principles that are so taken-for-granted that they are almost invisible. For example, it is taken for granted that it is unacceptable to knowingly finance a company that uses slave labour. 'Rational' 18th century financiers financed slave plantations, but once slavery was rejected as a norm, an anti-slavery principle was incorporated as a baseline principle into ordinary finance. Thus, what ends up being called 'ethical finance' really only concerns those issues that are still morally debated, such as whether undermining ecological systems is acceptable. Mainstream financiers continue to finance ecologically destructive projects, while the 'ethical finance' sector may self-consciously choose not to.

This relates to a second point, which is that the term 'ethical' is often used shallowly to refer to being self-consciously 'good'. This is in contrast to a more holistic notion of ethics as any principles people use to guide their interactions with others. Ethical finance is presented as the realm where you go to overtly *act with ethics*, implying that normal finance is somehow outside the realm of ethics, an amoral zone where you focus on 'being rational'. This narrowly defined 'rationality', however, *is* an ethical détail sont traités. Troisièmement, la place de l'éthique dans ce qui est financé par de grandes institutions qui utilisent l'argent des clients de détail. Cet essai va se concentrer sur la troisième catégorie.

Les financiers sont impliqués dans un tissu de relations ou prévaut une éthique ambiguë. Leur argent est utilisé pour des investissements qui ont un impact sur les écosystèmes ainsi que sur les autres gens. À l'intérieur du secteur financier, ceci est parfois reconnu du bout des lèvres par la distinction entre « la finance normale » et « la finance éthique ». La finance normale est une zone dans laquelle les acteurs sont des « êtres rationnels ». Cette « rationalité » étroitement définie est, cependant, une position éthique. Spécifiquement, il s'agit d'une forme de conséquentialisme que nous pouvons appeler égoïsme monétaire, une version de l'égoïsme éthique qui énonce qu'un investissement est « bon » s'il permet des gains financiers personnels.

position. Specifically, it is a form of consequentialism[7] we might call *monetary egoism*. This is a modified version of *ethical egoism*[8], and states that an investment is 'right' if it leads to personal monetary gains.

This is given formal expression in the mathematical risk-reward calculations of investment: '*How much future money will I get, relative to how much money I have to put in now, relative to how much risk I must take in the process?*' These calculations are nested within a substrate of norms seen to be outside the realm of egoist calculations, like slave labour.

Ethical neutralisation techniques

If we believe in concepts like 'the public interest', it is necessary to instil deeper ethical reflection beyond monetary egoism among financial professionals. This faces hurdles. When confronted with ethical criticism, financial professionals have a range of neutralisation techniques, all of which need to be subject to ongoing challenge. These include:

1. Arguing that a controversial investment or behaviour is not bad (morally neutral), or that it is in fact good.
2. Arguing that the moral character is undetectable, multi-faceted, ambiguous or unknowable in advance. This was used in the wake of the financial crisis, where 'we didn't know that would happen' was a common refrain.
3. Arguing that, even if it is bad, the financier is not ethically responsible, or is subject to a higher-order duty or good that overrides the bad.

This latter category of *justification strategies* is aided by the scale and hierarchal management structure of financial corporations. Large projects may be fragmented into smaller sections, such that nobody feels responsible for the whole. Such settings also allow individuals to assign blame to an 'irresponsible' junior or a dominant senior. Additionally, the sheer scale and geographic dispersion of financing activities can add layers of abstracted distance. A controversial coal mining project in Colombia, for example, is reduced to numeric models on a screen in London. *Indirectness* abounds, such that few feel directly responsible, or even *perceive* distant injustices.

Even when direct responsibility can be ascertained, financiers can justify actions by asserting a higher moral priority (*I had a good reason for it*). A common version is to simply invoke monetary egoism. When a fraudster defends themselves by saying 'I needed money to feed my kids', they appeal to their children's wellbeing as a justification. A

7 An ethical school that considers the outcomes of an action to determine the moral character of that action

8 Ethical egoism asserts that a moral action is one that maximises an individual's self-interest. This weighing of personal costs vs. benefits is unlike consequentialist utilitarianism that weights up costs and benefits to a collective. For a short summary, see Shaver https://plato.stanford.edu/entries/egoism/#2

Il est nécessaire d'insuffler une réflexion éthique plus profonde au-delà de l'égoïsme monétaire parmi les professionnels financiers. Cela fait face à des obstacles, car les professionnels ont une série de techniques de neutralisation pour contrer la critique éthique. Celles-ci incluent soit le fait de nier qu'un investissement controversé est mauvais, soit d'argumenter que même si l'investissement n'est pas éthique, le financier n'est pas éthiquement responsable, car il est assujetti à un ordre supérieur bon qui prime sur le mauvais. Les stratégies de justification incluent l'égoïsme monétaire, en affirmant que la poursuite privée d'intérêt personnel monétaire est vertueuse et qu'elle prime sur les conséquences publiques qui peuvent découler de l'activité financière. D'autres stratégies de justification comprennent le fait de nier l'autonomie de l'action personnelle (« je n'avais pas le choix, je fais simplement mon travail »), assumant le rôle d'un loyal serviteur (« j'ai une responsabilité envers mes clients »),

monetary egoist might leave off the 'feed my kids' part. Financiers may not be engaged in anything illegal, but within the sector it remains comparatively common to assert that there is some inherent rightness to the private pursuit of monetary self-interest that overrides whatever public consequences might stem from a financing activity[9]. Monetary egoism is the counterpart to the concept of 'negative externalities', social losses incurred as a result of economic agents' private pursuit of individual gain.

To illustrate other justification strategies, let us take a hypothetical example of a paper company engaged in irresponsible rainforest destruction, financed in part by a large diversified fund manager. When challenged, the portfolio manager might:

1. Deny personal agency (*I had no choice*): Subsets of this might include presenting themselves as a 'jobsworth' ('*I'm just doing my job. I take orders from senior management*'), or presenting themselves as an embattled follower of the 'invisible hand' ('*we just respond to what the market demands. We'd go out of business if we didn't*').
2. Assume the role of a loyal servant, as in '*I have a responsibility to my clients. Speak to them if you have a problem*'.
3. Deny direct causal responsibility: The fund's scale and diversification add moral dispersion and responsibility dilution, allowing statements like '*we invest in many companies and cannot follow them all, or be held directly responsible for their actions*', or '*we are but one investor among many*'.
4. Appeal to collectives: The presence of a competitive market with other investors allows moral escape hatches like '*many others are doing it*'.
5. Assert inevitability: This includes statements like '*If I didn't do it, somebody else would*', the implied argument being '*It will happen anyway, therefore I'm not really responsible*'.
6. Add diversionary moral indignation: '*It is irresponsible for us to not to. Without these forestry companies you wouldn't have paper*'. This ignores that paper can be produced more sustainably.
7. Finally, they can resort to, '*If you don't like this, we also offer an ethical fund*'.

The financial ethics of the public

One fall-back position of institutional investors is to assert that they are only responsible for the financial interests of their clients, and that it is up to those clients to specify acceptable investments. There is some merit in this argument[10], but

9 This inspires ethical finance practitioners to try win support in mainstream finance by arguing that you can 'make money by being good', an attempt to align monetary egoism with broader ethics

10 There are debates on the nature of the fiduciary duty institutional investors owe to their clients, relative to environmental and social responsibilities. See for example, the 2014 UK Law Commission report on the topic http://www.lawcom.gov.uk/app/uploads/2015/03/lc350_fiduciary_duties.pdf

refusant la responsabilité causale directe (« nous investissons dans de nombreuses compagnies et nous ne pouvons pas être tenus directement responsables de leurs actions »), faisant appel à des comportements de groupes (« beaucoup d'autres le font »), faisant valoir la fatalité (« si je ne l'avais pas fait, d'autres l'auraient fait »), et l'indignation morale de diversion (« ce serait irresponsable de notre part de ne pas le faire »).

Les investisseurs institutionnels affirment souvent qu'ils sont seulement responsables des intérêts financiers de leurs clients, et qu'il revient à ces derniers de préciser ce que sont pour eux les investissements acceptables. Ceci ne tient pas compte de la grande différence de pouvoir entre les clients de détail et les institutions. Les connaissances en matière financière dans le secteur public demeurent faibles et les normes éthiques des établissements financiers spécialisés sont acceptées comme « du bon sens financier ».

it glosses over the large difference in information and power between retail customers and institutions.

While there are campaigns – such as divestment campaigns[11] – that try to mobilise retail investors into demanding higher ethical standards from institutions, public levels of financial literacy remain low, and ordinary customers may be authentically perplexed about finance beyond a shallow surface understanding.

In such a context, it is easy for the ethical norms of expert financial institutions to be accepted by the broader public as 'financial common sense'. These ethical standpoints are embedded within the marketing language of financial products, and many customers do not have enough time or energy to deconstruct this. Indeed, financial products are often marketed to people in narrow *functional* terms that focus on 'what this product will do for you individually', rather than broader *structural* descriptions of 'how it will do that and who else it impacts in the process.'

Combatting ethical indifference

One need not agree with every element of the assessment of financial ethics above to agree that – in general – it would be a positive step to challenge any process that allows both financial professionals and the general public to ignore the ethical consequences of financial decisions.

11 See, for example, the GoFossilFree movement https://gofossilfree.org/

We can thus argue that a more ethical financial system would actively:

1. Encourage greater ethical reflection from financial professionals prior to their decisions.
2. Connect them more closely to the ethical outcomes of their decisions.
3. Encourage customers to take a more active and demanding stance on ethics.
4. Encourage customers to understand what is happening behind the scenes with their money.

We might generalise these by saying the financial system should aim to create opportunities for moments of *ethical pause*, reflection on the implications of investments beyond monetary returns. This is different to asserting that people should be 'good'. Rather, it is to say they should understand and take responsibility for investments they are implicated in, rather than denying responsibility.

Assessing the ethical implications of digital finance: a proposal

In the context of the ethical angles sketched above, the process of automating finance raises two broad sets of questions. Firstly, does the process of automating various elements of the jobs of financial professionals alter the ethics of their decision-making or lead to new ethical justification strategies?

Un système financier plus éthique devrait encourager les professionnels financiers à mener une réflexion éthique plus ample avant de prendre leurs décisions, à les associer plus étroitement aux résultats étiques de leurs décisions, et à encourager les clients à prendre une position plus active et exigeante envers l'éthique.

Le processus d'automatisation de la finance soulève deux séries de questions. En premier, le processus d'automatisation de différents éléments du travail des professionnels financiers altère-t-il l'éthique de leur prise de décision ? En second, l'automatisation affecte-t-elle la prise de conscience du client des problèmes éthiques, et de ses droits ?

Comme les processus de prise de décision sont de plus en plus automatisés, les professionnels financiers individuels peuvent se sentir de moins en

Secondly, does the automation of the customer experience affect customer awareness of ethical issues, and customer rights?

It is beyond the scope of this essay to comprehensively answer this. The aim rather is to propose the outlines of a comprehensive research agenda that we urgently need to undertake if we are to evaluate the ethical impacts of fintech. What follows are short summaries of five areas of concern that need to be tackled by dedicated research programmes.

Research programme 1: Does automation reduce the ethical awareness and responsibility of financial professionals?

A cynic might flippantly argue that ethical awareness among financial professionals is already low, but it seems unlikely that automation would *increase* ethical awareness. It is plausible that as decision-making processes are increasingly automated, individual financial professionals will feel increasingly less responsible for the decisions, or perhaps will not even be *aware* of the decisions.

Once set up, automated financial systems can take on the superficial appearance of being external to, and autonomous of, the individuals that manage them. This may allow financial professionals to use them to further deny moral agency and responsibility. The process of deferring to a non-human third party that apparently makes decisions is common in society: we see it in simple examples like an indifferent waiter shaking his head and pointing to a menu when a customer makes a request for something that is not on it. The menu has no agency, and yet becomes an objectified 'actor' in the situation. With advanced financial machines, robots and AI, this process of pointing to a third-party 'actor' may increase. Furthermore, as financial robots *execute* decisions themselves, professionals may increasingly feel 'it wasn't me'.

Research programme 2: Does automation reduce customer awareness of ethics?

Fintech companies put a positive spin on the speed, ease and *frictionless* nature of digital finance, but does frictionless finance increasingly detach the customer from deeper awareness of what lies behind financial instruments? 'Friction' can be a negative way of framing 'contact', 'engagement' or 'texture'. Much like shopping online can feel 'less real' than testing products in a shop, so interacting via a smartphone interface with financial contracts is a more detached psychological experience. The frictionless interface may further reduce scope for moments of ethical pause. Indeed, robo-advisor services and startups like Nutmeg[12] actively tell people that they need not think about what to invest in, marketing the

12 See https://www.nutmeg.com/

moins responsable des décisions. Les systèmes financiers automatisés peuvent sembler superficiellement être indépendants des individus qui les gèrent, ce qui permet aux professionnels financiers de nier toute nature morale de l'action et la responsabilité.

ability to obtain a diversified portfolio at the click of a button. Could this create a sense of investment as a 'magical process', that 'just happens', rather than a deep process with real moral implications?

Research programme 3: Does automation reduce accountability to retail borrowers?

L'incapacité d'avoir accès au crédit peut mettre en péril le bien-être économique d'une personne, et les établissements devraient rendre compte de leur action quand ils le refusent. À l'inverse des modèles financiers courants où la cause du refus peut être communiquée à un client, les managers des systèmes d'apprentissage automatique II ne peuvent pas nécessairement dire pourquoi un client a été exclu de ces services.

The inability to access credit can be damaging to a person's economic wellbeing, adding credence to the idea that institutions should offer accountability when rejecting them. The indifference displayed by ordinary automated systems is famously encapsulated in the phrase 'Computer Says No', but this could become acute as we move into the realm of machine learning.

Unlike ordinary deterministic models where the cause of rejection can be identified and communicated to a customer, machine learning designers cannot necessarily account for why a customer gets placed in a certain bracket. In a traditional algorithm, the designers take past human learning and encapsulate it within an '*if-then*' algorithmic form (for example, *if person has less the X income, then not desirable*), but in the case of machine learning, the automated system is designed to make inferences itself, which may remain unknown to the creators of the system.

Research programme 4: Does automation lead to financial surveillance?

La numérisation signifie que les gens remettent des quantités toujours plus grandes de données plus complètes. Les gens ne sont souvent pas conscients que de telles données sont collectées, et puisque la technologie

Digitisation increases personal data trails. As non-digital interaction options are removed, people are handing over ever greater amounts of richer data, such as the exact *time* at which they paid for something and their smartphone *location* when they did it. People are often unaware that such data is being collected, and fail to understand where it is taken from and what it is used for.

They may be pushed into giving consent for its usage as a condition for accessing basic services. In innovation areas like 'insurtech' (insurance technology) smartphones and wearable devices like Fitbits can be used by large institutions to monitor behaviour to determine a person's risk profile[13]. These systems are currently optional, but as the technology becomes ubiquitous it could become mandatory for individuals to grant access to this data, or else face exclusion and punitive costs.

Many people feel intuitively concerned about questions of privacy – like '*Am I being spied on?*' – but a potentially deeper concern is the use of peoples' data to steer their behaviour. Financial data reveals very deep insights into how people act in the world, and – when combined with other data sets – potentially allows institutions to 'know you better than

13 See, for example, Fitsense (http://fitsense.io/) and WeSavvy (http://wesavvy.com/)

devient omniprésente, il pourrait devenir obligatoire pour des individus d'accorder l'accès à ces données, sous peine d'être exclu et d'être exposé à des coûts punitifs. Ceci soulève des problèmes en matière de protection de la vie privée. Les données financières révèlent aussi des informations très précises sur la façon dont les gens agissent dans le monde. Ainsi, les établissements peuvent non seulement prédire potentiellement votre comportement, mais aussi le manipuler avec une exactitude de plus en plus grande.

La finance numérique est souvent présentée comme permettant au consommateur d'augmenter ses choix, mais ce qui débute comme un choix peut s'avérer être obligatoire plus tard. Les établissements financiers présentent actuellement de nouvelles options numériques, qu'elles utilisent ensuite pour justifier le retrait des options non numériques qui sont plus coûteuses pour elle. Le self-service numérique implique que les clients

you know yourself'. We already sense this trend in online recommendation engines that use your past interaction data to suggest future paths of behaviour. These fall within the broader field of *predictive analytics*, which not only allow institutions to potentially predict your behaviour, but also to potentially manipulate it with ever-increasing accuracy. While this may be narrowly useful, it can also feel disconcerting, and reduce peoples' sense of autonomous agency.

A related long-term question concerns the psychological impacts that occur when people learn they are being monitored. Are we seeing the incremental growth of a financial 'panopticon' that might cause people to censor and regulate their own behaviour out of fear that their every private move may be subject to monitoring?

This question complements Research Programme 3. The fields of *big data* and *machine learning* are linked, in that machine learning models are trained using large amounts of data collected from multiple sources. Advanced artificial intelligence systems may use such data to come to a deep understanding of your character, but what if – on the other hand – the systems are incompetent and make arbitrary, unaccountable, *Kafkaesque* decisions? The rejected borrower seeking accountability might face a dead-end, trying to guess what element of their behaviour has caused the rejection.

Research programme 5: Does automation reduce customer autonomy?

Digital finance is often presented as increasing consumer choice, but what starts as a choice can later become mandatory. *Email*, for example, started as an exciting new communications option but quickly became *required*, resulting in economic exclusion for those who did not use it. Likewise, automated self-checkout counters at supermarkets might initially be pitched as an *option*, but simultaneously provide supermarkets with a justification for reducing the number of checkout clerks, which in turn may reduce the convenience of using the clerks. Institutions seeking to cut costs through automation gradually make it harder and harder to use non-automated options, 'inspiring' people to 'choose' self-service.

We are currently in the stage where financial institutions are competing to showcase new digital options, but we are likely to see them converge on a common set, which they will then gradually use as a justification to remove non-digital options that are costlier for them to maintain. At that point, we may get locked into dependence upon digital finance.

This raises perhaps the most philosophical concern. Let's return to the waiter analogy used in Section 4.1. An empathetic, innovative waiter can rise above a menu, showing flexibility towards customers. The interagissent avec des managers cachés à travers un menu établi par ses managersL'élargissement des choix peut être une illusion.

Alors qu'il y a de grandes opportunités d'utiliser fintech pour promouvoir le bien social et environnemental, il est crucial de rechercher les potentiels éthiquement négatifs de nos innovations. Sinon nous risquons d'être des somnambules dans un système financier de plus en plus handicapé éthiquement.

self-service world, however, only has customers interacting with hidden managers via a menu set by those managers, with no 'waiter' figure to mediate between them. Menus both define available choices – by highlighting acceptable options – and limit them, by rendering invisible options that are not tolerated. Digital interfaces and apps might come in many colours and designs, but if financial institutions begin to converge on a common set of options, the sense of wide choice may be an illusion. Without an intermediary connection to company management via flexible or empathetic frontline customer service staff, users may find themselves feeling even more like passive acceptors of services from distant, unfathomable financial gods.

In closing

Above, I have speculated on some potentially negative ethical implications of fintech. These need not transpire and, indeed, there are great opportunities to use fintech for promoting social and environmental good[14]. That said, unless we actively start to research these questions and embed awareness of them into our innovations, we may sleepwalk into an increasingly ethically-disabled financial system. •

14 See UNEP 2016

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Making Innovation in Finance Ethical

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

Second Prize

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"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).

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?

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.

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 International, 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).

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.

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. •

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The Digital Panopticon: a Chance for Ethical Change

Ethics & Trust in Finance Global edition 2016-2017

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The Price of Immorality

In 2016, it was estimated that, over the last 15 years, market misconduct has cost the UK Financial Services industry £53 billion in fines, legal fees and compensation pay outs alone (Treanor, 2016). Additionally, market enforcement research identified that in 2014, market integrity violations accounted for 84% of total FCA fines (Duff and Phelps, 2015, p.16). With such damming statistics, alongside a plethora of misconduct cases hitting the headlines and instances of mis-selling, rate-fixing and front running tarnishing industry integrity, it is no surprise that trust in financial services is at an all-time low (CII, 2017). It all portrays an industry where opportunistic behaviours are rife and ethical considerations are a mere afterthought.

Steep financial penalties, when compounded by the reputational impact to firms and individuals actors, are a significant price to pay at both a macro and micro level, but as more examples of misconduct emerge, it appears that many banks view such penalties simply as an operating cost. This was underscored by the 2014 CEO of BNP Paribas, who stated that the $9bn fine imposed for violation of US Sanction laws would have “no major impact on the business” (Plender, 2014). This dismissive culture is now deeply engrained within the industry, and the European Systemic Risk Board acknowledges that the “fear of penalties alone is unlikely to prevent misconduct” (ESRB, 2015). Such thinking has

En 2016, on a estimé que durant les 15 dernières années, les irrégularités commises sur le marché ont coûté à l'industrie des services financiers britanniques £53 milliards uniquement en amendes, frais juridiques et indemnisations. Dans une industrie où les comportements opportunistes sont monnaie courante et les considérations d'ordre éthique ne surviennent qu'après coup, les régulateurs ont à faire face au défi considérable de traiter les irrégularités commises par des entreprises où prévaut une forte complaisance à l'égard des écarts de conduite. La réponse de la part des fonctions de vérification et de conformité vient par la multiplication des technologies novatrices en matière de réglementation (RegTech). Dans le sillage de ce mouvement RegTech, cet article examine les moteurs contextuels qui favorisent les abus du marché et explore l'efficacité des nouveaux contrôles à composante technologiques pour décourager la mauvaise conduite au sein du service financier.

been evidenced more recently. One market analyst stated in reference to PPI compensation remediation: "It is a sign of Lloyds strength that it can shrug off £1.6bn of misconduct charges to post a strong rise in profits" (Burton, 2017).

Against this cultural backdrop, industry regulators face significant challenge. In 2015, we saw the FCA impose the industry's largest ever fine to date – on Merrill Lynch for transaction reporting failures. The penalty, £18.9m, sought to reflect Merrill Lynch's continued failure to address the "root cause" of their misconduct and sent a firm regulatory message to the industry (FCA, 2015). However, as the volume and size of fines intensify to address firms complacency with regard to misconduct, regulators are faced with a tough economic balance: banks are "highly leveraged and any fine that does have a palpable impact… could have systemic implications" (Plender, 2014). With this in mind, a clear need exists to evaluate the effectiveness of alternative market controls in deterring market abuse.

In response to this regulatory challenge, there has been a shift in the focus of industry supervision and across the industry in recent years. Regulators have increased the intensity and focus of their oversight, "to deliver pre-emptive, rather than reactive… supervision" (Financial Stability Board, 2014). We have seen the introduction of enhanced supervision strategies and regulatory reporting requirements, embedded in legislation such as EU Market Abuse Regulation, Banking Conduct Rules, MiFID II and REP-CRIM to name but a few.

In parallel, compliance functions are responding by leveraging innovative regulatory technologies (RegTech) to meet these enhanced supervisory controls. The global demand for regulatory, compliance and governance software is expected to reach $118.7 billion by 2020 (Accenture, 2017).

In the light of this evolving and dynamic RegTech movement, this paper examines the environmental drivers that foster market abuse and goes on to explore the effectiveness of the new technological controls that serve to discourage misconduct in financial services. At the macroprudential level, it explores whether the threat of enhanced market surveillance is truly effective to deter market abuse in an industry where individual self-interest is culturally engrained and driving substantial negative social externalities for the industry and, indeed, society.

Finally, applying a forward-looking lens, it focuses on the social ecology of the industry and considers cultural reform, with a view of holistically remoulding the conduct framework that underpins opportunistic behaviours within the financial services sector today.

Pour évaluer l'efficacité des solutions RegTech, il est utile d'examiner d'abord ce que signifie être « éthique » et ce qui conduit à des comportements contraires à l'éthique à l'intérieur des services financiers. Rousseau suggère que c'est l'environnement qui corrompt l'individu, une théorie renforcée par Bandura dans la Théorie d'Apprentissage Social (1977) qui affirme que les individus apprennent des comportements acceptables en observant leurs modèles de comportement. Les études de la prison de Bentham (Semple, 1993) nous offrent un aperçu précieux par lequel l'individu « se contrôle lui-même de peur d'une punition » depuis la garde du panoptique central. Tandis que la surveillance réglementaire et de conformité a toujours été répandue à travers l'industrie, elle n'a jamais été aussi plus puissante ou agile (Deloitte, 2016). Comment cette vague RegTech va-t-elle changer la face des services financiers ?

The Environmental Incubators and Ethics of Misconduct

To evaluate the effectiveness of RegTech solutions in deterring market misconduct, it is useful to first consider what it means to be "ethical" and what drives unethical behaviours within financial services.

The question of ethics is one is one of the very fundamental drivers of human behaviours, entrenched in the norms and mores of society and a complex topic that has challenged businesses for decades (Stead et al., 1990). A plethora of literature exists in the field of ethical behaviours, with researchers considering an individual's social, economic and religious background to name but a few factors (Treviño and Youngblood, 1990).

However, this paper leans on research by Hamlin et al., (2011), that assessed the ability of a child to distinguish right from wrong. Their experiments highlighted innate feelings of empathy as well as the repeated tendency to "choose good" when faced with a moral decision.

Revealingly, analysis conducted by MoralDNA™ for the Chartered Management Institute contradicts these findings, evidencing that financial services leaders tend to suppress empathy, with their sense of ethical care stronger at home than at work (CMI, 2016). Rest (1986), suggests that "moral awareness" – the identification of a moral issue – is the first stage of the ethical decision-making process. This statistic is particularly interesting, suggesting weakened integrity when faced with moral awareness, leading to unethical business decisions and, consequently, market abuse.

Fundamentally, this research leads us to question what the environmental factors are that drive financial services representatives to cast aside this innate, human moral awareness in the workplace and act opportunistically. Rousseau (1987) offers an interesting perspective, suggesting that it is the environment that corrupts the individual, a theory reinforced by Bandura's social learning theory (1977), which asserts that individuals learn acceptable behaviours through observational learning from their role models. Somewhat revealingly, a study by the Chartered Management Institute found that 29% of financial services managers interviewed rated their organisation as having mediocre or poor standards of ethical behaviour (CMI, 2016).

On balance, a view of the industry is depicted whereby misconduct is broadly accepted by the masses, and regulatory and legal penalties are cast off as a simple operating cost, a relatively small item on a firm's profit-heavy balance sheet.

From a macro perspective therefore, consideration should be given to how we protect the industry and society from the negative externalities of such opportunistic behaviours. Further, at a micro level, how can firms prevent "good

Depuis quelques années, l'industrie a observé une percée technologique majeure quand un foisonnement de start-ups techniques ont inondé le marché alors que les entreprises s'emploient à démontrer la rigueur de leurs contrôles internes et investissent de plus en plus dans des solutions RegTech pour aider leurs écosystèmes internes à promouvoir une conformité plus efficace (Accenture, 2017). En substance, l'industrie financière est entrée dans l'ère du panoptique numérique, avec des solutions techniques qui fournissent un contrôle rapidement renforcé et un aperçu détaillé dans des analyses jusqu'alors inexploitées.

Cependant, comme l'histoire l'a démontré, la peur du contrôle et de la surveillance n'ont pas dissuadé les services financiers de commettre des abus. Tandis que les solutions RegTech permettent certainement aux entreprises de prendre des décisions de risque plus adéquates grâce à des analyses de données améliorées et

people from doing bad things"? (Kaptein, 2012). The Bentham prison studies (Semple, 1993) offer us some valuable insight in to the human psyche. Hobbes (Hobbes cited by Bennett, 2015) asserted that the "bestial nature" of man drives self-interests and that as such, the "intervention of a higher authority" is a necessary control. Bentham's prison studies introduced a central panopticon that provides complete oversight for the watchman (the regulator), however those under observation are unable to look in. As Foucault (1977) describes it:', "he is seen, but does not see; he is the object of information but never communication". As a result of this asymmetric information, the individual "polices himself out of fear of punishment".

In the wake of the global financial crises, many financial institutions have invested heavily to remediate existing control weaknesses and respond to the heightened regulatory focus on oversight. Despite these efforts however, firms "continue to fall short of regulatory expectations, by maintaining highly manual regulatory and compliance processes which lack meaningful data insight" (Humphries, 2016). Further, nd whilst regulatory and compliance surveillance has always been prevalent across the industry, it has never been more powerful or agile than the technological offerings that are flooding the market today (Deloitte, 2016).

This leads us to the question, how will this disruptive RegTech wave, impact the face of financial services?

The RegTech Panacea

Over the last few years, the Industry has observed significant technological disruption as a flurry of tech start-ups has inundated the market, offering technologies in the trade surveillance, risk analytics and fraud prevention spaces to name but a few. As regulatory requirements increase and supervisory controls tighten, firms are eager to demonstrate the rigour of their internal controls. They are increasingly investing heavily in RegTech solutions to support their internal ecosystems and to facilitate more efficient compliance across their lines of defence (Accenture, 2017). In essence, the industry has entered the age of the digital panopticon, with vendors providing firms with rapidly enhanced oversight and offering data solutions that can provide detailed insight in to previously untapped analytics. For example, vendors are offering solutions that can identify "internal collusive networks" through holistic analysis of a firms e-communications and therefore enable firms to take pre-emptive action against misconduct (Catelas, 2017).

However, as history has demonstrated, the threat of oversight and surveillance has not deterred misconduct in financial services to date. Further, whilst RegTech solutions certainly empower firms to à un puissant aperçu du risque, est-ce que le seul fait de se concentrer sur de telles solutions permettra de réduire l'abus du marché ?

Afin d'explorer cette question plus loin, il est utile de s'appuyer sur le paradigme de l'Ancien Testament d'Adam et Eve dans le jardin d'Éden. Bien qu'il s'agisse d'une pseudo réalité simplifiée, cet exemple soulève des considérations très pertinentes autour de l'efficacité des contrôles du marché et du rôle important de la culture quand on cherche à pousser les gens «aux bons choix» (Hamlin et al., 2011).

En offrant aux entreprises un aperçu très pertinent et intelligent, il y a un risque réel que l'adoption rapide de solutions RegTech devienne une panacée inefficace pour tous les défis de conformité d'une entreprise (Deloitte, 2016 p.g 6).

La surveillance du marché, renforcée selon des solutions RegTech est nécessaire pour détecter et empêcher les abus de marché et la mauvaise conduite.

make more informed risk decisions through enhanced data analytics and powerful risk insight, will a focus on such solutions alone truly be enough to curb market abuse?

The Effectiveness of Regulatory Surveillance in the Garden of Eden

To explore this question further, it is helpful to draw on the Old Testament paradigm of Adam and Eve in the Garden of Eden. Parallels can be drawn between the opportunistic behaviours prevalent within the financial services industry and the ethical challenges faced by Adam and Eve. Further, and in particular, this example gives rise to interesting considerations around the effectiveness of powerful RegTech solutions in curbing misconduct.

In this Biblical paradigm, we are told that a set of simple, governing principles has been established within the Garden of Eden. Acting against these, Eve plucks the forbidden fruit from the tree of knowledge and colludes with Adam, aware that their act is prohibited and that it will invoke the wrath of the all-seeing, all knowing regulator.

Although a simplified pseudo-reality, this old-world example raises very relevant considerations around the effectiveness of market controls today and the important role of culture when seeking to drive people to "choose good" in the face of moral hazard (Hamlin et al., 2011). Kaptein (2012) asserts, that "fencing organisations in with procedures, systems and structures provides no guarantee that people will do the right thing". Certainly, the Old Testament example helps to bring this to life. In this instance, Eve's debate with the Serpent evidences her "moral awareness" (Rest, 1986) and despite the threat of powerful, all-seeing market surveillance alongside the inevitable threat of consequence, opportunism and self-interest prevail.

On balance therefore, whilst offering firms very relevant and intelligent insight, there is a very real risk that the rapid adoption of RegTech solutions will become an ineffective, supposed, panacea for a firm's compliance challenges (Deloitte, 2016 p.g 6). Market supervision, reinforced by RegTech solutions and regulatory parameters are necessary controls to detect and prevent instances of market abuse and misconduct. However, as demonstrated by Adam and Eve, ultimately "without strong ethical cultures, regulation and compliance will never be enough". (CII, p.4, 2017).

Cultivating an Ethical Conduct Culture

The European Systemic Risk Board states that the prevention of misconduct is the preferred approach, rather than addressing the issue after the event has occurred (ESRB, 2016, p.9). From an environmental perspective, we have identified that the threat of surveillance, along with

Cependant, comme cela a été démontré par Adam et Eve, en fin de compte « sans une forte culture éthique, la régulation et la conformité ne seront jamais suffisantes ».

D'un point de vue environnemental, nous avons constaté que la menace de surveillance, avec seulement des représailles réglementaires, ne sont pas suffisants pour dissuader les abus du marché. Comment pouvons-nous dès lors assurer un changement dans la conduite éthique de l'industrie et favoriser une culture par laquelle « les bonnes personnes font les bonnes choses » ? La première ligne de défense est vue comme un mécanisme de contrôle intégral dans le « combat contre les abus du marché », cependant, dans un contexte culturel complaisant est-ce que les fonctions de conformité sont suffisantes? Entre 2014–2015, l'industrie a comptabilisé une augmentation de 24 % des Rapports sur des transactions suspectes (Financial Times, 2015), par des entreprises cherchant

regulatory reprisal alone, are simply not sufficient to deter market abuse. How therefore can we achieve a shift in the ethical conduct of the industry and nurture a culture whereby "good people, do good things"? (Kaptein, 2011).

The first line of defence is viewed as an integral control mechanism in the "fight against market abuse" and serves to "protect against, detect and to help prevent against market abuse" (FCA Market Watch, 2016 p. 5). However, against this cultural backdrop we need to ask whether Compliance functions doing enough to effectively prevent market abuse. Between 2014 and 2015, the industry observed a 24% increase in the volume of suspicious transaction reports raised (Binham, 2015), with firms seeking to identify and report instances of market abuse before they were uncovered by regulatory scrutiny (Duff and Phelps, 2015).

This statistic is particularly revealing, demonstrating as it does an environment in which firms are focused on reporting post-misconduct detection, rather than on employing truly effective control mechanisms to prevent misconduct and market abuse. This culture is further illustrated by the Merrill Lynch transaction reporting scandal touched on earlier in this paper. Here the firm exhibited a blatant disregard for known misconduct over a period of eight years. This highlights that efforts are required to uplift the ethical standards of the financial services industry.

Spreading Ethical Conduct from Grassroots to Tree Tops

Misconduct breeds mistrust, and in a fragile political and economic environment such a combustible equation threatens irrevocable, systemic damage to the health of the economy as a whole. It is therefore clear that the financial services industry has a very real, social responsibility to embed good, ethical practices across its workforce and to discard the culture of "unfettered misconduct" (McLannahan, 2017) embedded across the sector.

As established thus far, managing the conduct of the financial services is a complex task, requiring careful balance of regulation, compliance and culture. As previously noted: "without strong ethical cultures, regulation and compliance will never be enough" (CII, p.4, 2017). However, to observe a true shift in conduct, dedicated reform efforts are required across all organisational levels within both the industry and individual firms.

Finding the Right Cure for the Misconduct Pandemic

When considering how to address this challenge, it would be imprudent to not reflect on the management of ethical conduct in other industries. This paper begins this analysis at the macro level, examining the medical industry for direction on ethical leadership, and à rapporter les cas d'abus avant qu'ils n'aient été découverts par l'examen minutieux réglementaire (Duff et Phelps, 2015). Les entreprises se concentrent sur la détection et le rapport sur la mauvaise conduite a posteriori plutôt que d'employer des mécanismes de contrôle véritablement efficaces pour sa prévention.

Le comportement inapproprié et la faute suscitent la méfiance, et dans un environnement politiquement et économiquement fragile, une telle configuration devient explosive et entraîne des dégâts irréversibles pour la santé de l'économie dans son ensemble.

Il est donc évident que l'industrie des services financiers a une responsabilité sociale réelle afin d'inculquer de bonnes pratiques éthiques à ses collaborateurs et de rejeter la culture permissive dominante.
Gérer la conduite des services financiers est une tâche complexe, qui exige un équilibre prudent de régulation, de conformité et de

then goes on to reflect on ethical conduct at the organisational level.

At the core of the healthcare profession sits medical ethics. Essentially, this is centralised around four key principals (Clinical Ethics Network, 2017), further underpinned by the Hippocratic oath, that create a moral code that governs ethical practices and conduct within the field:

I. Autonomy: enabling individuals to make informed decisions

II. Beneficence: promoting what is best for the patient

III. Non – Maleficence: avoiding the causation of harm

IV. Justice: distributing benefits, risk and cost fairly

As in every industry, cases of negligence and misconduct do of course exist within the medical field. However studies have identified that "doctors, nurses and other medical practitioners emerge as the most trusted" roles within the profession. The top three reasons for this trust were: the professional expertise of the practitioners; having no reason to doubt them; and belief in their honesty and integrity (Wellcome Trust, 2016).

The relevance of this particular research to the financial services Industry is two-fold. Firstly, how much of society's trust in these professionals, can be put down to the symbolic moral code to always act in the best interests of the customer? And secondly, to what extent does this personal ethical pledge rein back an individual's "bestial instincts" (Hobbes cited by Bennett, 2015) when they are faced with moral hazard?

Addressing the first of these questions, the introduction of an ethical code for banking is one that has been heavily debated and continues to divide opinion. In 2013, the Dutch Banking Association introduced a mandatory oath applicable across the workforce. The pledge echoed that of the four medical principals. Critically, employees pledged not to misuse their banking knowledge and to be aware of their social responsibilities to society throughout their business transactions (Fox, 2015).

ResPublica, a leading British think tank championed adoption of such an oath in the UK. However the Parliamentary Commission on Banking Standards found that "investing too much in a single solution might be a false summit" (BBA, 2014). Instead, in 2015, the Financial Conduct Authority and Prudential Risk Authority introduced the final rules for "improving accountability in the banking sector" outlined in the Senior Managers Regime, The Certification Regime and Conduct Rules (FCA, 2015).

This paper argues, however, that, although such guidelines are a necessary component of managing misconduct and unethical behaviours, without cultural foundations ultimately such efforts are "devoid of purpose" (Fox, 2015). Further, it challenges culture. Sans de fortes cultures éthiques, la régulation et la conformité ne seront jamais suffisantes. Cependant, si l'on veut constater un vrai changement dans les comportements, des efforts de réforme sont indispensables à tous les niveaux organisationnels de l'industrie et des entreprises.

A cet effet, il serait imprudent de ne pas examiner la gestion de conduite éthique dans d'autres industries. Des études de l'industrie médicale ont identifié que « les médecins, les infirmières et d'autres praticiens médicaux apparaissent comme des rôles de référence » à l'intérieur de la profession. La pertinence de ce constat pour l'industrie des services financiers est double. Tout d'abord, quelle part de la confiance de la société dans ces professionnels peut-elle être mise sur le compte du code moral symbolique de toujours agir dans les meilleurs intérêts du client ? Ensuite, dans quelle mesure cet engagement éthique personnel décourage les « instincts bestiaux » d'un individu (Hobbes cité

the Parliamentary Commission's statement that suggests an oath would be an ineffective "single solution", whilst acknowledging that the management of misconduct is a delicate balance of regulation, compliance and conduct. Although seemingly abstract, this is evidenced in the medical field, where social trust and confidence in the medical profession in many ways can be attributed to the moral code of ethics embedded in the professional discourse. Essentially, therefore, this paper offers the view that an industry-wide pledge would act as a symbolic social commitment and complement the other market controls that serve to deter misconduct in the financial services sector.

The Death of Distance

Again looking to the healthcare industry, we explore the effectiveness of such a pledge at the individual level, examining to what extent such oaths prevent an individual from acting opportunistically when faced with moral hazard.

The patient – doctor relationship is particularly revealing, with trust acting as "the defining element in the patient/physician interpersonal relationship" (Pearson, S and Raeke, L., 2000). Alongside cases of misconduct, the decline of trust in banking can to some extent be attributed to the modern face of banking today. In essence the "death of distance" (Cairncross, 1997) has contributed to the death of relationships and trust, with technological advances removing the interpersonal relationships prevelant in traditional banking.

A plethora of research suggests that the likelihood of misaligned behaviour is significantly reduced when trust and a common, human relationship exists (Griffin, R and O'Leary, K., 2004). In an increasingly digital age, driven by technological advancement, an industry-wide oath would certainly serve as a reminder to financial service professionals of their duty of care to society.

Ethics Are More Than Just Skin Deep

In 2017, the French beauty company L'Oréal was recognised by the Ethisphere Institute as the World's most ethical company (Ethisphere, 2017). Aside from their strong corporate social responsibility, what is it that sets this company out from the rest? From an operating perspective, in 2000, L'Oréal was one of the first companies in France to establish a code of ethics and later, in 2007, they appointed a dedicated chief ethics officer (L'Oréal, 2017).

In essence, this suggests that, at firm level, operating model reform is required across financial services with greater emphasis placed upon ethical conduct. To some extent, we are seeing evidence of this change being championed with many banks seeking to manage "bad behaviour at the source" (Engler, 2017). JP Morgan and Goldman Sachs, for example, are amongst a few Banks par Bennett, 2015)? Un engagement large de la part de l'industrie agirait comme une volonté sociale symbolique complétant les autres contrôles du marché qui servent à dissuader la mauvaise conduite.

La relation patient–médecin est particulièrement révélatrice, ou la confiance agit comme « l'élément déterminant dans la relation interpersonnelle patient–médecin » (Pearson, S et Raeke, L., 2000). La baisse de confiance dans les banques peut être attribuée dans une certaine mesure au visage moderne du secteur bancaire aujourd'hui. En substance, «la mort de la distance» (Cairncross, 1997) a contribué à la mort des relations et de la confiance, et les progrès technologiques ont éliminé les relations interpersonnelles qui prévalaient dans le secteur bancaire traditionnel.
Une pléthore de recherches suggère que la probabilité d'un comportement inadéquat est significativement réduit lorsque la confiance et une relation humaine,

establishing proactive "central supervisory teams" that seek to identify problem areas and strengthen the firm's internal supervisory framework, acknowledging that a new organisational structure is required to truly confront misconduct (Engler, 2017). Ultimately however, with reference to Bandura's (1977) social learning theory, if change is to be successfully adopted, it is important for senior leaders to set the standard for the organisation's cultural agenda. The introduction of the role of chief ethics officer to a firm's board, alongside dedicated, preventative supervisory teams certainly sets the organisational tone in favour of ethical conduct.

Managing the Delicate Ecology of Financial Services Conduct

On balance, therefore, the management of misconduct is a delicate ecology composed of a fine equilibrium of industry regulation and organisational compliance. At the core lie ethics and culture. Throughout this paper we have explored these individual constructs in turn and conclude that, in isolation, these components are quite simply ineffective and will have limited effect without being cultivated as part of an ethical culture.

Returning to the question this paper set out to explore, RegTech is certainly an effective asset to this ecology offering powerful insight to compliance functions and regulators. However, as earlier highlighted, it should not be viewed as a panacea for market abuse. Rather, as the industry continues to adopt disruptive RegTech solutions, we should embrace the opportunity to leverage this change to realise a real and effective shift in conduct across the industry. This should be a shift to a culture in which the innate human desire to want to "choose good" overrides the opportunistic behaviours that business can present.

Certainly, it is fair to argue that this is a topic far wider than the realms of financial services alone, with misconduct an ailment afflicting society as a whole. However, as in the old adage "be the change you want to see" (perhaps somewhat ironically), the first step in this journey starts with us. The financial services professionals of today must chart the new ethical culture of tomorrow. •

commune existent (Griffin, R et O'Leary, K., 2004). Dans un monde de plus en plus numérique, un serment propre aux professions financières servirait certainement à rappeler aux professionnels leur devoir de prendre soin de la société.

L'exemple de l'Oréal suggère que le secteur des services financiers a aussi besoin d'une réforme opérationnelle au niveau des entreprises, avec un accent plus grand mis sur la conduite éthique. L'introduction d'une fonction de directeur en éthique au sommet de l'entreprise, à côté des fonctions de surveillance dédiées à la prévention, pose certainement le cadre organisationnel adéquat pour la conduite éthique.

Tout compte fait donc, la gestion des écarts de conduite est un exercice d'équilibrisme dans un contexte où se chevauchent la régulation de l'industrie, la conformité organisationnelle, avec au cœur, l'éthique et la culture. Prises une a une, ces composants sont tout simplement inefficaces et de portée

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limitée. RegTech est un apport certainement valable qui offre un aperçu puissant aux services de conformité et aux régulateurs ; mais ne devrait pas être considéré comme une panacée pour contenir les abus du marché. Au lieu de cela RegTech devrait être mis à profit comme l'occasion de passer à une culture dans laquelle le désir humain inné de « choisir le bien » l'emporte sur les comportements opportunistes caractéristiques des milieux d'affaires. Ceci est certainement un sujet beaucoup plus large que les seuls royaumes des services financiers, cependant, la première étape de ce voyage commence peut-être par nous ; les professionnels des services financiers d'aujourd'hui affrétant la nouvelle culture éthique de demain.

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Big Data in Finance: Ethical Challenges

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

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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 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).

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.

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).

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.

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

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.

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. •

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The Blockchain Revolution

Ethics & Trust in Finance
Global edition 2016-2017

Finalist

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Is is a revolt? No, your Majesty, it is a revolution.

An exceptionally quiet and warm night – thought Louis seated in front of an old oak table covered with dozens of gold coins. Recently, he had not had much time to sit in silence and immerse himself in studying his favourite objects: coins. *It would be much easier to be a simple banker*, he sighed. The silence in the chamber was disturbed for a moment. His complaint was finally absorbed by the Persian carpet that lay proudly on the old floor. Obviously, there were thoughts and worries running through the monarch's head but he did not pay much attention to them. *Problems are born out of thinking* – he thought. He could not understand people – those strange creatures were a real mystery to him. *The world turns too fast – let's focus on coins, solid objects that, unlike humans and their ideas, are predictable and easy to inspect.*

Even though the night was calm and very warm, anxiety hovered in the air. Something was supposed to happen, something was lurking in the darkness waiting patiently to reveal its face.

Then, the heavily-decorated doors flew open with a *tumultuous bang*. The silver moon shone on the red, frightened face of the figure that had sneaked, unauthorized, into Louis's private kingdom: "My Lord…the Bastille demolished" – said the figure, who turned out to be the Duke of Rochefoucauld.

"C'est une révolte?"[1] - Louis

1 s this a revolt? No, Sire, it is a revolution – the famous words that King Louis XVI and the Duke of Rochefoucauld exchanged just after the people of Paris took the Bastille.

Blockchain est-il une révolte mineure ou s'agit-il d'une Grande Révolution qui va remodeler le monde que nous connaissons ? Dans ce dernier cas, est-ce qu'il y aura un impact éthique ? Une telle révolution sera-t-elle éthique dans son essence même ? Quelles sont les préoccupations en termes de respect de la réglementation et d'éthique que suscite l'adoption de la nouvelle technologie ?

Le concept de chaîne de blocs est similaire à celui de base de données – il enregistre en permanence les transactions d'une façon qui ne peut être effacée ultérieurement ou manipulée mais qui peut uniquement être mise à jour séquentiellement. La technologie est basée sur une chaîne de blocs dans laquelle chaque bloc regroupe l'ensemble des transactions individuelles une fois qu'elles ont été validées. Chaque bloc

asked – he was tired of those people and their ridiculous demands. *Rebels are just part of the way things are* – he thought - *I will not think about it now, I will think about it tomorrow*.

"Non, Sire, c'est une révolution" – the Duke answered and silence followed…

An unusual way to start an intellectual discourse on blockchain, one could say. Two-hundred and twenty-seven years and 92 days after the famous fortress of Bastille was demolished I could not resist the temptation to refer to that famous conversation between Louis XVI and the Duke of Rochefoucauld. The analogy seemed compelling. Given that, we might ask ourselves: Is blockchain a minor revolt or is it a new Great Revolution set to reshape the world as we know it? If the latter is the case, will there be any ethical impact? Will such a revolution be ethical in its essence? What are the compliance and ethical concerns around the adoption of the technology? Whatever the answers to those questions, we should not underestimate the wind of change in the way that Louis XVI once did. What we now might perceive as an evolution, or as a mere revolt, might turn out to be a storm, a revolution redefining finance and/or ethics.

How does blockchain work?

The concept of blockchain is similar to that of a database – it permanently records transactions in a manner that cannot be later deleted or manipulated and can only be sequentially updated. It contains a record of all transactions that have ever been completed on it, creating a never-ending historical trail (Mougayar, 2016).

The technology is based on a chain of 'blocks' where each block groups together individual transactions once they have been validated. Each block is added to the chain through the process of "mining" and, once added, the transactions within the block are considered valid. Since new blocks are confirmed based on the previous block's information, the more blocks that have been added to an existing block, the more a transaction within that block has received confirmation. In order to keep the ledger consistent, any newly created block is broadcast across the network for everyone to see.

Each successive block contains a unique fingerprint ("hash") of the previous code, thus cryptography (via hash codes) secures the authentication of the transaction source and eliminates the need for a central intermediary (Mougayar, 2015). Addresses and signatures are created with the use of private/public key generation. They can only be produced by a private key holder and be verified by anyone seeing a public key, therefore only the private key holder is able to complete a transaction successfully. "It's a bit like your home address. You can publish your home address publicly, but that doesn't give any information about what your home looks like on est ajouté à la chaîne à travers le processus de « minage » qui permet de valider les transactions à l'intérieur du bloc. Afin de garantir la cohérence du registre, tout bloc nouvellement créé est diffusé sur tout le réseau de façon à ce que chacun puisse le voir. Chaque bloc successif contient une empreinte unique (« hash ») du code précédent ; ainsi, la cryptographie (à travers les codes hash) garantit l'authentification de la source de la transaction et élimine le besoin d'un intermédiaire central.

La tempête de Blockchain est analysée de près par les plus importants acteurs financiers et les institutions financières font des investissements considérable dans l'exploitation de la technologie pour leur propre usage. Blockchain peut potentiellement avoir un grand impact non seulement sur les secteurs spécialisés de l'industrie financière mais sur l'ensemble des marchés. Une percée semble imminente,

the inside. You'll need your private key to enter your private home, and since you have claimed that address as yours, no one else can claim the same address as theirs." (Mougayar, 2015).

Wind of change

Blockchain technology is definitely making headlines in newspapers covering many sectors: IT, music, healthcare, politics, law, and social life, to name just a few. The feeling of a breakthrough is almost tangible. Conferences, publications, new impressive ideas and dozens of solemn phrases about blockchain are present in almost every field. For those outside the race, it might look as if blockchain technology is a secret panacea for the world's problems : hunger, economic exclusion, environmental and human exploitation, government abuse, democracy deficit and so on (Meunier, 2017). Is that all? What is there for the financial world, if anything at all?

Those who try to keep up to date with blockchain news will soon realise that the blockchain storm is far from being unnoticed by large financial players. UBS, BNP Paribas, Santander, Société Générale, Euroclear and many other financial institutions have made significant investments in order to harness, rather than hinder, the technology –

to use it for financial purposes (IBM, 2015). At the same time, blockchain has the potential to severely impact wide swathes of the financial services industry. Potentially, it could leave its fingerprint on almost all layers of the market, starting with capital raising, through trading, clearing and settlement, ending with record-keeping.

This is already happening. NASDAQ – using Linq – enabled the first-ever blockchain-documented private securities issuance (Nasdaq, 2015). More recently, in January 2017, SWIFT announced its launch of a proof of concept to explore whether distributed ledger technology (DLT) can be used by banks to improve the reconciliation of their nostro databases in real time, thus optimising their global liquidity. (Ninety banks representing more than 75% of SWIFT's cross-border payment traffic are authorised to participate in this PoC (SWIFT, 2017)). In January 2016, the Australian Stock Exchange announced that it was building a blockchain as a replacement for its current platform for the clearing and settlement of trades (CryptoCoinsNews, 2016).

These are only a few examples, there are more and definitely more to come. The sector is sensing the potential and constantly expanding its knowledge of this ill-understood technology. According to a Deloitte report, 61% of senior executives surveyed claimed to have broad or expert knowledge of DLT, 42% believed it will disrupt their industry and 55% of them said they will lose competitiveness if they don't adopt elle se produit déjà. Le secteur financier perçoit le potentiel et approfondit constamment sa connaissance de cette technologie mal comprise. Cependant, au-delà de la compréhension de la technologie elle-même, ne devrions-nous pas aussi nous intéresser aux défis potentiels en termes de réglementation et d'éthique qu'elle soulève ?

it (Deloitte, 2017). The blockchain storm is so broad that some expect 2017 to be blockchain's make or break year. The time has come, they argue for the numerous proofs-of-concept to finally be implemented (Piscini, 2017).

This is all fair and good. But, beyond understanding the technology itself, should be not also understand the potential compliance and ethical challenges it raises?

The Internet of Value

La technologie a suscité de grands espoirs car elle était censée remédier à de nombreux problèmes économiques et sociaux. Cependant, nous nous sommes rapidement rendu compte que, bien qu'internet se soit avéré un excellent moyen de communication, il n'a non seulement pas permis d'éradiquer de graves problèmes mondiaux mais il a contribué de manière considérable au développement d'autres phénomènes hautement indésirables.

It began with the Internet and it was good. Great expectations were vested in the technology that, it was hoped, would cure many social and economic ills. We realised quickly that, even though the Internet turned out to be a great means of communication, it not only failed to eradicate serious global problems, but significantly contributed to the development of other highly undesirable phenomena.

It was meant to enable the social and economic inclusion of billions of people, but that remained a pipe dream. The Internet had a great impact on all aspects of life – it has changed our perception of the economy and finance – yet the technology did not make financial intermediaries evaporate. Instead, it was consumed by them and utilised for their own purposes (e.g. Internet banking).

The Internet triggered a lot of problems around privacy rights. It also became a weapon in the hands of criminals involved in illicit activities (pornography, money laundering, cyber-attacks, piracy *etc*.). It turned out to be a way of conducting a brand new type of 21st century war: a war of disinformation. We now lead two lives, the physical one and the one where our virtual equivalent leaves its trace online. This trace can be followed. The information might be collected for a number of purposes (both political and commercial) and we might not have any idea that it is happening. This Internet is the Internet of Information, information that is spread across the Web, uncontrolled by data subjects. It definitely has some value but is not value itself. The technology that is sometimes referred to as the Second Era of the Internet: distributed ledger technology (DLT) or its sub-category, blockchain (terms often used interchangeably), is supposed to address the aforementioned issues – it is said to transform the Internet of Information into the Internet of Value (Tapscott, A., 2016).

Emergence of the technology

The most fundamental problem with the Internet of Information is connected to the issue of so-called "double-spending". If one posts a photo on the Web or sends it to someone, one is not deprived of the ownership of it. Once a photo is posted on the Internet anyone can download it – the same photo can be sent an infinite number of times. The question is, how we can we get back to

Internet a créé beaucoup de problèmes autour des droits à la vie privée. Il est aussi devenu une arme pour les criminels impliqués dans des activités illicites et s'est avéré être un moyen de mener un tout nouveau genre de guerre au 21e siècle : les guerres de désinformation. La technologie du registre distribué (DLT) ou sa sous-catégorie blockchain (termes souvent utilisés de façon interchangeable) est parfois vue comme la seconde ère d'internet. Elle est censée répondre aux préoccupations sus-mentionnées et ainsi transformer l'internet de l'information en l'internet de la valeur.

Le problème le plus fondamental avec l'internet de l'information est lié au problème dit de la « double dépense ». Si une personne doit envoyer de l'argent numérique via le réseau, le destinataire visé et les autres internautes doivent être sûrs qu'il/elle est effectivement en possession de l'argent envoyé. Le concept de chaîne de blocs est une

the old good days, where the physical transfer of assets (such as photos or CDs) meant that one relinquished ownership. In this case, that would be the ownership of a digital asset. This issue was identified primarily in relation to digital money. If one is supposed to send digital money via the network, both the intended recipient and remaining web users need to be sure he/she actually owns the money sent (Nielsen, 2013). The concept of blockchain is a solution to that problem. It follows the idea first proposed in 2009 in a white paper by the mysterious Satoshi Nakamoto (a programmer or a group of programmers), whose true identity has never been revealed.

Nakamoto's idea constitutes an underlying scheme for Bitcoin – a cryptocurrency and a payment system based on DLT. The currency itself – Bitcoin – takes the form of an address that is a sequence of bits that can be stored in a "wallet" (a computer programme). Unlike government-issued money that can be inflated at will, the supply of Bitcoin is mathematically linked to twenty one million bitcoins and that can never be changed. A bitcoin holder is anonymous unless the Bitcoin address can be associated with a wallet and a wallet with a person. Bitcoin transactions take place on the bitcoin network that is open to everyone (unrestricted distributed ledger). In order to perform a transaction, a bitcoin owner sends a message along with a signature over the network specifying that cryptocurrency is being sent to a new address. All network participants can verify that transactions are legitimate since addresses associated with unspent bitcoins can be identified in a stored ledger or validated by the entire network. That ledger (a set of accounts) is itself a database spread across multiple sites (a shared database) – and it is called blockchain. The bitcoin blockchain is operated by a decentralised authority not a centralized authority as in the case of government–issued currencies. The participants transact with each other directly without the involvement of any intermediary. Physical bitcoins do not exist – they exist only virtually as balances associated with public and private keys (Koeppl & Kronick, 2017).

Bitcoin's early history is shrouded in controversies (Bitstamp – $5 million loss, Silk Route – $200 million of anonymous online drug sales using bitcoins, Hong Kong's Mycoin and a fraud of at least $21.8 million after the bitcoin trading platform suddenly collapsed (Cryptocity, 2015)). Exchange heists, stolen wallets, mysterious bankruptcies and missing CEOs eroded the image of the technology and quickly many ethical concerns arose. The question emerged – is a technology that is surrounded by scandals regarding its illegal and unethical use in its early stages able to address the ethical issues it was aimed to eliminate? Is the medicine more dangerous than the disease itself?

solution à ce problème. Tous les participants au réseau peuvent vérifier que les transactions sont légitimes étant donné que les adresses associées aux bitcoins non dépensés peuvent être identifiées dans un registre ou validées par l'ensemble du réseau.

Les débuts de l'histoire du bitcoin sont controversés. La question suivante s'est posée : est-ce qu'une technologie, dont les débuts sont marqués par des scandales relatifs à des usages illégaux et contraires à l'éthique, est capable de résoudre les problèmes éthiques qu'elle était censée éliminer ? Le remède est-il plus dangereux que le mail lui -même ? La publicité négative et la confusion conceptuelle ont conduit les gens à considérer le blockchain qu'utilise le bitcoin, comme la véritable innovation issue du phénomène bitcoin. En effet, on s'est rendu compte que s'il n'était pas certain que le bitcoin révolutionne le monde, la technologie sous-jacente, était bien capable de le faire.

Negative publicity and conceptual confusion laid the ground for people to begin to refer to the underlying technology of bitcoin – blockchain – as the real innovation coming out of the bitcoin phenomenon (Allcoin, 2017). It has been realised that even though bitcoin might not revolutionise the world, its underlying technology can.

Ethical application of DLT

Distributed ledger technology might be an impressive catalyst for a whole range of applications that will promote ethics or address unethical activities both in the financial sector and beyond. This technology could enable the inclusion of billions of people into the economy, especially those who, for whatever reason, don't have a bank account (e.g. widespread use of mobile phones for payments in Africa partially replacing the need for having a bank account). The blockchain might create a true sharing economy by providing lending rooms (participants lending and borrowing among themselves without any middlemen) that could help address the problem of inequality and unfair distribution of wealth. The significant cost reduction (potential to reduce infrastructure cost by up to $ 20 billion a year (IBM, 2015)) may once and for all end the remittance rip-off (transaction costs ranging from 0% to 3%). The forgotten idealistic dreams of the direct democracy where voters supervise their representatives and are given back the control over their lives might be possible now as DLT could help to reinvent the government (European Parliament, 2016). Further, two big ethical nightmares of the Internet of Information might be finally addressed. Firstly, blockchain could enable citizens to own and manage their data and protect privacy. In this regard, data would be treated as an asset class and be given back to data subjects. Secondly, the technology has the potential to finally enable an author to command fair compensation for creative work and to protect their intellectual property rights (Tapscott, D., 2016). Imagine a song that has a smart contract attached to it and manages itself. Each time the song is used for a commercial purpose, viewed or downloaded as a ring tone, it executes a contract thanks to protocols encoded in it. This is not fiction, this is already happening (Imogen Heap – a British singer has already put her music on a blockchain (Mycelia, 2017)). As the blockchain technology removes the problem of double-spending, digital assets such as music can now be traded on the secondary market as old CDs used to be – without the risk of being copied an infinite number of times.

Another possible application is record-keeping. It has been estimated that approximately 70% of people worldwide who hold a piece of land do not have a valid title to it (Tapscott, A., 2016). This is a serious economic blocking factor. Those

La technologie DLT pourrait être un catalyseur impressionnant pour toute une série d'applications qui contribueront à promouvoir l'éthique ou à résoudre des problèmes liés à des activités contraires à l'éthique dans le secteur financier et au-delà. La technologie pourrait permettre l'inclusion de milliards de personnes dans l'économie, en particulier ceux qui, pour une raison quelconque, n'ont pas de compte bancaire. Blockchain pourrait créer une véritable économie du partage et contribuer à résoudre le problème de l'inégalité et de la répartition inéquitable des richesses. En outre, deux grands cauchemars éthiques de l'internet de l'information pourraient finalement être éliminés. Premièrement, Blockchain pourrait permettre aux citoyens de détenir et de gérer leurs données tout en protégeant leur vie privée. Deuxièmement, la technologie peut potentiellement permettre enfin à un auteur de recevoir une rémunération équitable pour son travail créatif et de protéger ses droits de

"squatters" cannot borrow money against their invalid titles, which slows down the economy as a whole. Blockchain might solve this issue thanks to immutable records that cannot be tampered with by any central government or individual. Under the new technology, there could be a full record of ownership starting with the point in time when an asset was "issued" to the network. This could finally enable fair trade as there is an impact on the supply chain. Each blockchain user would have the possibility to verify whether a given product was produced in ethical conditions, whether workers were fairly compensated for their work and who will be a beneficial owner of proceeds from a transaction (making sure they don't support individuals or governments violating human rights, laws, destroying the environment). Furthermore, easier traceability of funds might constitute a serious obstacle for criminal activities such as fraud or money laundering.

All indicated ethical applications of blockchain are not abstract concepts, some of them are already operational such as Everledger – a global, digital ledger that tracks and protects valuable assets (e.g. diamonds) throughout their lifetime journey. An asset's defining characteristics, history, and ownership are collected to create a permanent record on the blockchain. This digital thumbprint is then used by various stakeholders across a supply chain to form provenance and verify authenticity (Everledger, 2017). All the aforementioned potential applications of DLT might enable or at least improve transparency, ethical trade, and contribute to a healthy economy based on ethical foundations.

Ethical Revolution?

William Mougayar in his 2016 book: *The business blockchain: promise, practice, and application of the next internet technology* states that blockchain: "Is making us rethink the old ways of creating transactions, storing data, and moving assets, and that's only the beginning. Blockchain cannot be described just as a revolution. It is a tsunami-like phenomenon, slowly advancing and gradually enveloping everything along its way by the force of its progression… Blockchains are enormous catalysts for change that affect governance, ways of life, traditional corporate models, society and global institutions" (p. XXI). This change entails many ethical issues that should be addressed or at least discussed before the technology is fully adopted. Is blockchain a revolution? It might be the case though that is yet to be seen. We might further ask ourselves whether this potential revolution is ethical. We might even broaden the scope of the question and ask whether any revolution – especially a technological one – has ethics built into its DNA. We should not forget that each revolution has also propriété intellectuelle. Une autre application possible est la tenue de registres. Selon les estimations, environ 70% des personnes dans le monde qui possèdent une parcelle de terre n'ont pas de titre valable.

De telles applications éthiques de Blockchainne sont pas des concepts abstraits, certaines d'entre elles étant déjà opérationnelles. Toutes les applications potentielles susmentionnées de la technologie du registre distribué (DLT) pourraient permettre ou au moins améliorer la transparence, le commerce équitable et contribuer à une économie saine fondée sur des bases éthiques.

Blockchain est-elle une révolution ? Cela pourrait être le cas, quoique cela reste à voir. Nous pourrions, en outre, nous demander si l'éthique est inscrite dans son ADN. L'éthique sous-

an unethical face – the face of those who have been left behind, the face of those who will not embrace the technology and so will miss the innovation train, the face of winners and losers.

Ethics stands behind the values for which blockchain technology was created: depriving centrally-own intermediaries of control over individuals' lives. In its essence, the values behind blockchain are not that much different from those fought for during the Great French Revolution: *Liberté-Égalité-Fraternité*. A revolution, however, can have a will of its own. It can live its life in a total contradiction to and separation from morally beautiful virtues that were supposed to underpin it. Blockchain was designed to enable the economic inclusion of those who are economically weak and it is supposed to be the sword pointed at institutions that for ages benefited from the fact that they provided trust to the market. This weapon as any weapon, however, can easily be misused. Rather than the predicted inclusion, we might witness the exclusion of those who do not understand the technology and are left behind.

Blockchain has the potential to be a great force for societal transformation. It might fix some serious problems in modern society: atrocities, rigged elections, decision-making stalemates, governance crisis (Bulkin, 2016). On one hand, the economy based on DLT can offer unprecedented levels of efficiency and the buy-in needed to establish cooperation at the scale required. On the other hand, if no ethical framework is created, a system designed to counteract power imbalances can be used to generate them. This way "blockchain can support a social system that is, in fact, much worse than what we have today, one in which power abuses will become more prevalent and a lot harder to address" (Bulkin, 2016).

The revolution will certainly do away with some financial institutions in the as we understand them today. The blockchain tsunami might leave behind a brand new world of finance – it might be like a fire consuming everything on its path – it might leave only ash or be the new beginning – the fresh rich soil for plants to blossom. We might as well end up seeing "all the vices of the Old World peering from the new garments;[singing] a new song, but it [will end] ever in the old refrain: Bread, meat, gold, and blood!" (Krasiński, 1835)[2].

Trojan horse?

In April 2016 at Metro Expo the Vice President of Sberbank (Andrey Sharov), Russia's biggest bank by assets, opined that the advent and spread of blockchain technology will see banks disappear by 2026 (CryptoCoinsNews, 2016a). It appears to be a great paradox. The industry whose entire existence is

2 "The Undivine Comedy": the Count to Pancras – reflection on revolutionists behaviour.

tend les valeurs pour lesquelles la chaîne de blocs a été créée : priver les intermédiaires centraux de tout contrôle sur la vie des individus. Les valeurs derrière Blockchain ne sont essentiellement pas très différentes de celles défendues pendant la Grande Révolution française : Liberté-Egalité-Fraternité. Une révolution, cependant, peut avoir une volonté propre. Nous ne devrions pas oublier que chaque révolution a également un visage non éthique – le visage des laissés pour compte, le visage de ceux qui n'adopteront pas la technologie, le visage des gagnants et des perdants.

La banque de détail, les services post-transactionnels et la tenue de registres sont des exemples de services financiers sur lesquels l'adoption éventuelle de cette technologie de Blockchain a un impact. L'industrie dont l'existence même est menacée par l'adoption de la technologie investit en même temps massivement dans son développement. Comment expliquer ce paradoxe ? La technologie est-elle un cheval de Troie ou la

jeopardised by the adoption of the technology is, at the same time, investing heavily in its development. This does not relate purely to retail banking. The industry that is said to be greatly impacted is post-trade securities clearing and settlement (a set of services where the buyer and the seller compare trade details, approve the transaction, change records of ownership and arrange for the transfer of securities and cash). In April 2016 the European Central Bank issued an occasional paper in which it stated that DLT has the potential to speed up the settlement and clearing of financial assets (bonds, equities, *etc.*), eliminating the liquidity and credit risk. It has been concluded that almost all post-trade functions will be impacted by the adoption of the technology: a) custody – due to smart contracts and self-executing algorithms that will update accounts automatically; b) settlement – as trading and clearing will occur instantaneously (trading platforms to be connected to distributed ledgers); c) clearing was said to still be required for some derivative transactions, however netting and margin calls will become automatic; d) safe-keeping will be facilitated by recording of ownership in distributed ledgers; e) ancillary banking services are also to be impacted as, for instance, the need for collateral will be dramatically reduced and its availability on the market will increase. Nevertheless, some functions will still need to be performed by post-trade services providers – such as the notary function – as the involvement of regulated entities will still be required at least in the current regulatory landscape (ECB, 2016). This, however, does not apply to reporting obligations as blockchain technology could facilitate the collection, consolidation, and sharing of data for reporting, risk management, and supervisory purposes. With DLT one could easily imagine the world where regulators have real-time access to all relevant records.

Spirit of Laws

Retail banking, post-trade services and record-keeping are only a sample of financial services impacted by the possible adoption of the blockchain technology. What is the source of this paradox? Is the technology a Trojan horse or is the blockchain revolution simply like Saturn: it devours its own children (G. Büchner)? The said paradox brings with it serious conflicts of interests – it is inadvisable to expect a professional to support the development of the technology that might push him off the cliff. The financial institutions face an ethical dilemma here. They should be aware of this and act very cautiously. Distorting the technology to keep a dominant position in the market would mean eroding its ethical roots.

The fact that blockchain technology faces serious governance, regulatory and legal issues is no surprise. In January 2017 ESMA, in its report pertaining to DLT révolution de Blockchain est-elle simplement comme Saturne : elle dévore ses propres enfants ? Ce paradoxe s'accompagne de graves conflits d'intérêts – il n'est pas recommandé d'attendre d'un professionnel de soutenir le développement de la technologie qui pourrait le pousser en bas du précipice. Les institutions financières sont confrontées à un dilemme éthique ici. Elles devraient être conscientes de cela et agir avec beaucoup de prudence. Déformer la technologie pour conserver une position dominante sur le marché signifierait une érosion de ses fondements éthiques.

Le fait que la technologie de Blockchain soit confrontée à de sérieux problèmes de gouvernance, de réglementation et juridiques n'est pas une surprise. Les régulateurs et législateurs du monde entier commencent à reconnaître l'impact que la technologie du registre distribué (DLT) est censée avoir sur le

and securities market, stated that: "at this stage, [it] believes that it is premature to fully appreciate the changes that the technology could bring and the regulatory response that may be needed, given that the technology is still evolving and practical applications are limited both in number and scope"(ESMA, 2017). It is worth noting that regulators and legislators all over the world are starting to recognise the impact that DLT is supposed to have on the regulatory and legal landscape. Laws, recommendations, opinions, interpretations are issued almost each day in all parts of the word. These relate mainly to digital currency but are expected to change in the near future (Hawaii's Blockchain Exploration Bill (Cryptogolds, 2017), Poland's Financial Ombudsman calling for Bitcoin Exchange Regulation (PolskieRadio.pl, 2017), BitLicense rules by NYSDFS (Morgan Lewis, 2015) – these are only a few examples).

The impact that DLT might have on the legal system is colossal. As the technology storms all aspects of life it will besiege all fields of law and change them. Intellectual property law (fair compensation for the intellectual property), property law (land registers), inheritance law (smart contracts), data protection law, criminal law (AML, commerce crime, fraud), administrative law (record-keeping), contract law (smart contracts), securities law, corporate law (IPOs, proxy voting, DAOs[3]), constitutional law (e-voting), banking law (both private and public), patent law – all those and possibly many others are open to blockchain's assault.

The law in its essence is derivative vis-à-vis the reality. It is being created after certain processes, occurrences, phenomenon emerged – it is not created *in abstracto*. This is where ethics might come into play. The technology is hard to capture by legislation, it sneaks, it winds like a wild river and when you think you have already seized it, it turns out to have flooded the brand new area you have not expected it to occupy. The unregulated space is huge. Is this space where things that are not prohibited, actually perpetuating a problem? Are activities that are not explicitly against the letter of law ethical in the eyes of the public? The ethics of blockchain appears to be that the hidden spirit of the law has not yet arrived. However, this does not mean it is not already applicable. A set of ethical norms might be of great value for legal systems based on Roman Law, especially in continental Europe where legal norms are extracted from legal texts: this is where ethics has the final word. The lack of harmonisation and standardisation is blockchain's biggest challenge. The financial industry should make an effort to create common business rules and sound governance arrangements

3 DAO – decentralized autonomous organization – an automated company operated by hard-coded rules enforced on a blockchain.

paysage réglementaire et juridique.
La technologie me se laisse pas facilement circonscrire par la législation, en conséquence un immense espace non régulé subsiste. Est-ce que cet espace n'est pas à la source du problème ? Les activités, qui ne sont pas ouvertement contraires à la lettre de la loi, sont-elles éthiques aux yeux du public ? L'industrie financière devrait s'efforcer de créer des règles communes et des accords de gouvernance sains, basés sur l'éthique, même en l'absence de lois et de réglementations régissant la technologie.

based on ethics, even with the absence of laws and regulations governing the technology.

Ethical Blockchain?

It is time to pose the crucial question: is DLT ethical in its essence? The answer appears to be obvious, a technology cannot be labelled as being ethical or unethical – it is only a tool and the tool is only as ethical as the people who use it. Some claim blockchain could have prevented the DNS's denial of service attack (ConsenSys, 2016), Soros leaks (CoinDesk, 2017), the Wells Fargo scam (Cointelegraph, 2016) or Lehman Brothers collapse (Finance Magnates, 2016), others would rather see the technology as the new Manhattan Project. We have yet to see who is right. However, at this very early stage, some concerns need to be raised.

DLT might consume an unsustainable amount of energy, which is mainly a problem with unrestricted distributed ledgers such as the bitcoin blockchain (and the computing power required for validating transactions). The technology might become a job killer; it might be vulnerable to attacks as the protocols are all based on the same methodology; it might carry operational risks (software can have bugs). The consensus on changes to the network/codes might be difficult to achieve and the management of those codes might give rise to potential conflicts of interest. There is a question mark over the scalability of the technology (can it be replicated on a wider scale?) and over its interoperability with existing systems (Delivorias, 2016). Due to the public nature of a ledger and permanent recording, some personal data protection issues might arise, one of them being the right to be forgotten. Furthermore, there is a potential risk of fraud as private/public keys, when stolen, might be used fraudulently to record fictitious transactions.

A well-known social fact is that people are much more likely to commit violence against victims they can't see. Blockchain is an environment where anonymity is prevalent and physical presence cannot be felt. This might lead to a whole range of unethical behaviour such as child pornography, weapons trade, ransom viruses or attacks on the freedom of speech (Bulkin, 2016). This behaviour might be encouraged by the freedom to use value without restrictions by centralised political powers. The technology might make transactions virtually impossible to trace or control, which can motivate people to abandon essential ethical norms – particularly if there is little or no risk of being found out.

Si les problèmes relatifs au comportement potentiellement contraire à l'éthique ne sont pas traités suffisamment tôt, la technologie du registre distribué (DLT) pourrait devenir un espace idéal pour le déploiement d'abus généralisés. Comment résoudre ce problème ? L'une des réponses possibles passe par les outils offerts par la

If concerns regarding potentially unethical behaviour are not addressed early enough, DLT might become a perfect space for widespread abuse. How can we solve this issue? One of the possible answers is through the tools offered by the technology itself. The unified technologie elle-même. Un ensemble unifié de principes/règles éthiques pourrait être créé et volontairement adopté par les organisations qui opèrent sur une chaîne de blocs. Ces principes pourraient éventuellement prendre la forme de contrats intelligents, intégrés dans le réseau. Si cela se produisait, les règles éthiques seraient propagées à travers les chaînes de blocs et nous assisterions à une diffusion sans précédent de l'éthique à travers le monde. La révolution de Blockchain se transformerait en révolution de l'éthique.

set of ethical principles/rules might be created and voluntarily adopted by organisations that operate on a blockchain (Bulkin, 2016). Those principles could possibly take the form of smart contracts, embedded into the network. If this were to happen, ethical rules would be broadcast across blockchains and we would witness the unprecedented spread of ethics across the world. The blockchain revolution would convert itself into the revolution of ethics.

The wind of change is coming. However, the explosion of enthusiasm might soon need to be tempered. Is the technology a new Great Revolution? Personally, I would say that it is, bearing in mind all obstacles following from the adoption of DLT. We could legitimately assume there will not be one master blockchain but rather an invasion of separate blockchains gradually flooding different sectors (e.g. Euroclear & Paxos bankchain gold initiative). Segmentation appears to be inevitable with some kind of a governing body in the heart of a blockchain network (a restricted ledger) at least at the first stage of the blockchain storm. There is a great risk that the DLT revolution might devour its own children, therefore financial institutions should tackle the ethical aspects of this revolution carefully – otherwise, they might unintentionally contribute to their own collapse as Louis XVI once did.

* * *

It was a sunny day in January 1793. Louis was standing surrounded by the people of Paris. He looked, surprised, at the shining blade that was supposed to end his, a monarch's, life. It was familiar to him. What an irony – Louis thought – I helped to construct it…[4] •

4 Louis XVI was guillotined on the 21st of January 1793. Legend says the king improved the project of a guillotine submitted by A. Louis (Cisek, 2006).

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Blockchain Technology for Reputation Scoring of Financial Actors

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

Finalist

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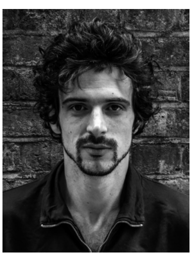

* The views expressed herein are those of the author and do not necessarily reflect those of the Organization he is affiliated to.

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.

5 Mainelli & von Gunten (2014)

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)

très. 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. •

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Bringing In the Underbanked

Ethics & Trust in Finance
Global edition 2016-2017

Finalist

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Current banking provisions leave an estimated 2.5 billion (Chaia, Goland, Schiff, 2010) adults worldwide without access to a formal bank account. This means they are deprived of the opportunity to save and to borrow money at the best, regulated rates. Whilst 2.2 billion of these underserved adults reside in developing markets such as Africa, Asia and Latin America (Chaia et al, 2010), there are also 106 million adults in North America (Ashoka, 2013) and 1.5 million in Britain (FIC, 2016) without the necessary banking provisions.

These individuals may be from low income families, with no credit history. They may have no fixed abode, choosing to live in unconventional accommodation such a boats or caravans, or may be refugees, or internally displaced people who cannot provide formal identification. Furthermore, segments of the populace who are unable to leverage technological developments such as online and mobile banking may also find themselves isolated from these rapidly growing credit channels.

It is these individuals who are defined as 'the underbanked'.

Their inability to access traditional financial provisions can, in part, be due to difficulty in providing the official identity verification documentation that is necessary to open a bank account. This paper will therefore explore a number of barriers that the underbanked face when looking to provide identity documents and the positive impact new technology can play in capturing and storing proof of identification

The inability to open a traditional bank account restricts someone's

Bien que l'activité bancaire trouve ses origines dans l'octroi de financements aux paysans, puis plus tard aux hommes d'affaires de toute l'Italie (Beattie, 2017), une institution financière cherchait alors et cherche encore aujourd'hui rendre accessible à tous des financement à des prix équitables et de manière responsable. Une institution qui limite ses options de financement à certaines catégories de la population, élimine non seulement des sources de revenus potentiels, mais aussi remet en cause l'objectif d'une banque qui consiste à soutenir divers secteurs de l'économie.

opportunity to build a credit score, which is necessary if one is to present oneself as a reputable and trustworthy borrower. Therefore, many underbanked individuals are deprived of the opportunity to take out mortgages, access savings products, and utilise credit provisions from standard financial service providers. Those who want to borrow are forced to seek alternative methods of finance such as 'payday loans'. Such loans can see an average APR of 627.9%[1] and fall outside consumer protection schemes such as the FSCS Deposit Guarantee Scheme (FSCS, 2017) and do not comply with the wide array of regulations that traditional financial institutions adhere to. The underbanked then become trapped in a cycle whereby they cannot build the necessary credit score to access traditional financing. This paper will discuss how innovative approaches to credit scoring could benefit the underbanked and help them to build a holistic score that is accepted by traditional financial institutions.

Inhibitors for the underbanked

The personal cost to individuals who cannot access mainstream finance is not the only question to consider of course. The moral and financial implications for an institution that limits financing to certain segments of the population should also have weight. Not only does such a policy eliminate potential revenue streams, it challenges the purpose of a bank in financially supporting diverse segments of the economy. As such, this paper will explore the benefits for a financial institution of extending financing to the underbanked, and how emerging technologies can be used to capitalise on these benefits while mitigating the associated risks.

"…inclusion is not always about the poor and 'invisible', it's about equal opportunities to access various kinds of products and services, to knowledge, innovation and the ability to make an educated choice." (Mesropyan, 2017)

Given that an estimated 1.1 billion people live without an officially recognised identity (ID2020, 2017) many underbanked customers are unable to prove either their identity, or their creditworthiness, to financial services firms.

Inability to Provide Official Identity Documentation

To open a UK bank account, it is necessary to provide two forms of documentation: proof of identity and proof of a current UK address. The following are examples of satisfactory documentation:

- Full and valid UK or foreign passport
- Full UK or foreign driving licence
- Student ID card
- UK mortgage statement

1 On a £200 loan over 3 months (KnowYourMoney, 2017)

Sans le soutien d'une institution traditionnelle qui fournit un compte bancaire, les personnes « non-bancarisées » sont incapables d'accéder à des prestations d'épargne ou de crédit qui permettent de construire un historique financier et une cote de solvabilité. Cependant, afin que ces personnes puissent accéder aux services bancaires, elles doivent fournir la preuve qu'elles sont solvables et qu'elles disposent d'une identité vérifiable.

- Council tax bill
- TV license or direct debit schedule (Barclays A, 2017)

However, one should note that providing such documentation carries difficulties for many of the underbanked. Firstly, many identification documents are either too costly to obtain or irrelevant for those in low income households. For example, those who do not have the necessary funds to travel abroad or own a personal vehicle may not hold either a passport or driving license. Furthermore, proof of student identification requires the person to be in further education, either at college or university level. However 18 year-olds from disadvantaged backgrounds are nearly 2.5 times less likely to enter higher education than their more affluent counterparts (OFFA, 2017), and mature students may not be able to access funding for a course unless they can commit to full time study (Shaw, 2010) – something not possible for those looking to continue supporting a family.

Where identity documentation is held, there are further difficulties in the verification process as the majority of banks are unable to verify accounts outside of their branch network. However, because 1,032 UK bank branches have been closed in the last 2 years (Boyce, 2016), prospective customers may be forced to travel many miles to their nearest branch and to attend an appointment within work hours.

Evidently this would cause difficulty for all customers. However, for those on low income or with no fixed abode, the ability to attend these appointments may be further hampered by their lack of personal transport, or by inflexible working arrangements. Those in developing nations, where branches are more dispersed and access to official documentation may be even more costly, due to government inefficiencies or corruption, find that the same problems are magnified. All of this means that the underbanked are often unable to open a traditional bank account in order to begin their saving and borrowing journey since no bank is comfortable with the risk of lending to, or holding the finances of, an 'unknown' customer.

Inability to Build a Credit Rating

This creates a catch-22 situation where borrowing cannot be extended as there is no history on which to base a credit decision. Those who are unable to open a traditional bank account from a young age become locked out of the system and, as the period of exclusion grows, the likelihood of their accessing funding in the future decreases.

Leaving traditional financial products on one side, the underbanked may be also disadvantaged by lack of access to other routes that contribute to a credit score. These include: monthly mobile phone plans, internet subscriptions, electoral roll registration, house moves, and timely bill payments (MAS, 2017).

Those from low income families may not be able to afford an internet connection, or pay-monthly mobile contracts. Those with no fixed abode or recent immigrants may have a limited record of accommodation and not be on the electoral register. In addition, those who have found difficulty in adopting more online and digital business channels, as well as mobile banking provisions, may not be able to process payments and set up facilities such as direct debits, thus affecting their ability to manage their funds with regular repayments.

Cela crée un cercle vicieux où le crédit ne peut pas être accordé puisqu'il n'y a aucun historique sur lequel baser une décision. Ceux qui n'ont pas accès aux comptes bancaires traditionnels dès leur plus jeune âge se retrouvent exclus du système et, à mesure que la durée de l'exclusion augmente, la probabilité qu'ils accèdent à un financement à l'avenir diminue.

However it is not only those who are unable to build a credit score who are disadvantaged but also those who have a low credit score – which impacts not only whether they can borrow but also how much, and at what cost. Therefore, those who may require financing at more affordable rates are often prohibited from accessing it – forcing them to utilise insufficient borrowing at a higher cost.

Moral Responsibility vs Profit Pressure

Il est de la responsabilité des banques d'évaluer la solvabilité et les exigences d'un emprunteur potentiel et de décider s'il est prudent d'avancer les fonds.

It is the responsibility of banks to assess the creditworthiness and requirement of a potential borrower and to decide whether it is prudent to advance monies. In such a decision, one must also consider the moral and reputational conditions around the request. This is reflected in the way many banks close the accounts of persons linked to nefarious activities and of businesses that operate in sanctioned countries, but also – more positively – in campaigns to offer financing to socially-responsible businesses and for socially desirable projects.

In doing this, banks must formulate their own internal guidance on where these boundaries and opportunities lie, as well as seeking counsel from governments, NGOs, and lobbyists. However, whilst pressure has been exerted on banks to, for example, exit relationships with companies associated with palm oil production (Paddison, 2017), to increase financing to SMEs (Qell Group, 2017), to desist in dealing with those associated with the gambling (Wessex, 2011) and to promote green bond funds (Deutsche Bank, 2015), there has been limited pressure for banks to increase their appetite for serving the underbanked.

This is in some part due to the perceived risk/return value of an underbanked client, in which the potential for a low-income earner to not repay borrowing is deemed to be greater than the possibility of tapping a larger revenue stream, should the client be assisted with transitioning to the middle-income bracket. Similarly, since methods of assessing the borrower risk remain limited to traditional credit scoring and the collection of a limited number of documents, those who fall outside this scope are unable to demonstrate their true risk profile. Therefore they are provided with the default 'computer says no' response that is

Afin de faciliter l'évaluation de la solvabilité et la vérification sans encombres de l'identité des « non-bancarisés », les institutions financières doivent développer leurs méthodes de collecte de données et élargir l'éventail des documents acceptés. Pour ce faire, elles pourraient envisager d'utiliser les technologies biométriques et de blockchain afin de favoriser la saisie et le stockage de ces documents et également faciliter la collaboration entre les banques et le partage des données.

all too familiar to the underbanked.

The upshot is that the inability to provide identity documentation and build up a credit score inhibits the underbanked from utilising traditional banking provision. In addition, it limits potential revenue streams for institutions that, due to slowdowns in global markets, increasing regulatory requirements and competitive pressure from the *fintechs* (financial technology companies), increasingly find their margins under pressure. Institutions need to strike a balance between meeting shareholder expectations and having too much risk appetite, and to understand how segments, such as the underbanked, can be responsibility served.

This paper will explore how the growth of emerging technologies, and innovative application of digital services within the wider financial ecosystem, brings new opportunities to improve financial inclusion for the underbanked whilst mitigating the associated risks.

Biometrics and Blockchain Technology: Identity Documentation Capture and Storage

In order to facilitate frictionless identity verification for the underbanked, financial institutions must expand their data collection methods and the range of accepted documents. To do this, they could look to implement biometric and blockchain technology to aid the capture and storage of these documents and also better facilitate cross-bank collaboration and data sharing.

Biometric Technology – The Basics

This is most easily seen in common biometric applications such as fingerprint and iris scanners. A fingerprint scanner uses infrared waves to map a person's unique fingerprint, encrypt the data into a string of 1's and 0's, and then store the digital representation of the fingerprint within the device's memory. When one wishes to access the phone, this digital record can be accessed and verified by presenting the required finger onto the touchpad.

The above is an example of single-factor authentication, in which one attribute must be presented. However there is a growing move towards multi-factor authentication where multiple attributes must be presented in order to gain access to an account, device, or product. In this, users are prompted to provide something they know (e.g. a password); something they are/have (e.g. a fingerprint); and something they do (e.g. typing pattern). This is an augmentation of the traditional password-only account access, which financial institutions required for their online and early mobile offering. However, due to a conflict between cybersecurity concerns and customer pressure to streamline account access, the majority of banks now offer some level of multi-factor authentication.

L'identification par smartphone, qui couvrirait 81% des adultes au Royaume-Uni, facilite l'accès des personnes « non-bancarisées » à un compte bancaire. Les avantages de l'identification via application mobile sont particulièrement adaptés aux marchés émergents, où sur les 2,2 milliards d'adultes sans accès aux services bancaires traditionnels, environ 46% de la population possède un smartphone (GSMA, 2016). De ce fait, la prolifération des téléphones mobiles – associée à une préférence de 93% des consommateurs pour la biométrie par rapport aux mots de passe – peut aider ceux qui vivent dans des zones reculées à accéder à des produits financiers.

Biometric Solutions for Identity Collection and Verification

HSBC (HSBC, 2017) was an early pioneer in voice biometrics for telephone bank account access and Lloyds introduced TouchID (fingerprint access) to its mobile app in 2016 (Fintech Ranking, 2016) capitalising on the way in which fingerprint readers on smartphones had become increasingly common (Deloitte A, 2016). Whilst the majority of this innovation focusses on account access for those who have existing bank accounts, advances are also being made in using biometric authentication and verification to improve access to financial provision for the underbanked.

An example of the cycle of small improvements that aims to remedy the difficulty in branch-based authentication can be seen at challenger bank Monzo, which uses facial recognition technology within their mobile-only offering to on-board all customers. Monzo customers are required to provide a photo (taken using their mobile) as one piece of identification as well as a video 'selfie'. Their identity is verified using face matching technology and an account can be requested and opened within 7 days.

This means that, for those able to provide a form of verification with a smartphone, which 81% of UK adults are (Deloitte B, 2016), Monzo removes the obstacle of in-person branch account opening. That gives the underbanked quicker, easier access to a bank account. The advantages of mobile-based identification collection are especially relevant within developing markets where, of the 2.2 billion adults without access to traditional banking services, an estimated 46% of the population own a smartphone (GSMA, 2016). Given this, the proliferation of mobiles – together with a 93% consumer preference for biometrics over passwords (Ball, 2017) – can help those who live in remote areas access financial products.

The Impact of Biometric Technology for the Underbanked

Three pioneering projects are: the ID2020 global project, the UK government's GOV.UK Verify initiative, and India's Aadhaar project. These aspire to create digital identities that can be stored on a national database and accessed by corporates and financial institutions for identity verification. Aadhaar, which is a unique personal 12-digit identity number, has been provided to over 99% of all Indian citizens (Wikipedia, 2017) and includes personal information such as name, address and birth date but also biometric information with 10 finger scans and an eye scan. This data can be used by all citizens as a government supported identification document. Similarly, the GOV.UK Verify scheme (GDS, 2017) and ID2020 (ID2020, 2017) projects

Les projets de vérification numérique fourniraient aux personnes « non-bancarisées », qu'elles soient issues des pays développés ou en développement, une pièce d'identité qui pourrait être acceptée par les institutions financières. Ceci, combiné avec les progrès de la banque multi-canal, pourraient offrir un accès sans encombres aux non ou mal-bancarisées. Malgré cela, il convient de souligner que pour ceux qui n'ont pas de domicilie fixe, d'autres étapes peuvent s'avérer nécessaires afin de contourner la difficulté liée à la précarité de leur lieu de résidence. Cependant, la nature numérique du projet fait que celui-ci est plus adapté à des mises à jour en temps réel grâce à des applications mobiles et à la localisation par GPS.

look to provide a nationally accepted proof of identity to all citizens at zero cost to the consumer.

These projects would provide the underbanked, whether in a developed or developing nation, with an identity document that could be accepted by financial institutions. This, paired with advancements in omni-channel banking, could provide frictionless access to banking provisions for the underbanked. Despite this, one should note that for those with no fixed abode, further steps may be required in order to accommodate their unsettled location. However the digital nature of the project may more easily lend itself to real-time updates through mobile and GPS tracking.

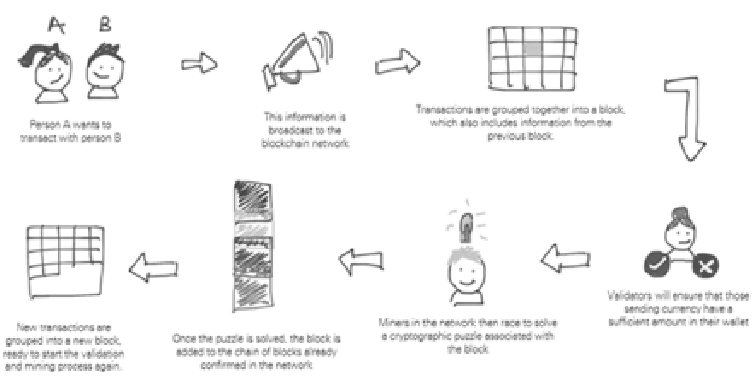
Blockchain Technology – The Basics

Blockchain technology was conceived in a 2008 whitepaper proposed by an anonymous creator using the pen-name Satoshi Nakamoto. It underpins the cryptocurrency bitcoin, an electronic peer-to-peer cash system. However the value of blockchain technology has since been recognised outside of this application and is now being explored by financial institutions worldwide, including its potential to improve provisions for the underbanked.

A blockchain is a shared ledger that records transactions and distributes an updated copy to all participants in the network, in near-real time. Transactions are grouped together in blocks and connected to previously verified blocks in order to form an immutable chain that records the entire history of transactions – hence the term block-chain (diagram 1).

The transactions within each block are verified to ensure that those who are attempting to send funds have the required amount in their accounts. Then, those who

Diagram 1:



(Image: Tara Annison)

help to maintain the blockchain network (called miners), must solve a mathematical problem associated with the particular block in order to be able to add it onto the chain. This helps the network reach consensus as significant computing effort must be employed by the miners to ensure only valid blocks are added to the blockchain. Once a solution is found, it is broadcast to the wider network and consensus can be reached. After this point, new transactions are added to another block and the process begins again.

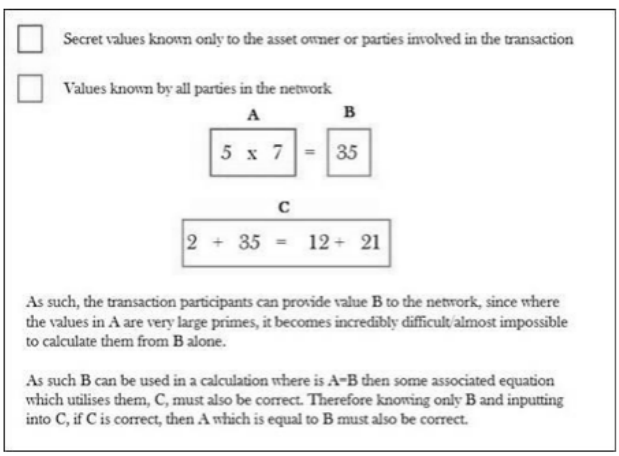
Crucially, and unlike traditional ledgers employed within the financial services industry, there is no single copy of the ledger – it is distributed to all participants in the network, without the need for a central counter-party. This helps to provide the security of a blockchain because there is no single point of failure and anyone attempting to 'hack' the blockchain would need to hack every copy of the blockchain in existence.

Blockchain Solutions to Identity Storage

Importantly, this verification can be completed without the content of the underlying asset being made visible to all on the network. This is achieved by encrypting the information before it is uploaded. The decryption keys are shared between the asset owner e.g. the individual and a trusted stakeholder e.g. a benevolent government. As such, access to the underlying content can only be granted should both the asset owner and stakeholder agree. Furthermore, developments in blockchain technology through zero-knowledge proofs (diagram 2) and confidential transactions can allow for information to be validated in encrypted form, allowing for digital

Si la création d'une identité numérique offre de nombreuses opportunités aux personnes « non-bancarisées », elle s'accompagne d'un risque accru de vol d'identité par le biais de cyberattaques. En tant que telle, la technologie de blockchain permet de protéger l'identité grâce au recours à un registre distribué et immuable, vérifié par la cryptographie, laquelle fournit une seule source de vérité, sans aucune défaillance.

Diagram 2:



(Image: Tara Annison)

En établissant des cotes de solvabilité pour les personnes « no-bancarisées », les banques peuvent tirer parti de la modélisation statistique des profils de risque qui intègrent une grande variété d'indicateurs. Elles pourraient aussi potentiellement utiliser la technologie du blockchain comme une alternative moins coûteuse à l'infrastructure existante. On estime que les applications de blockchain peuvent faire économiser aux banques environ $ 20 milliards par an, à travers des gains d'efficience dans les « middle- et back office », y compris des coûts réduits de traitement des transactions. Par conséquent, il pourrait devenir financièrement possible d'octroyer des prêts de microcrédit aux « non-bancarisés », si les banques, aidées par le blockchain et d'autres technologies émergentes, opéraient dans un contexte de coûts moins élevés.

identity stored on a blockchain to be verified by a third party without revealing the details of the underlying identity information.

Examples of blockchain use for identity storage include the secure identity platform Civic (Civic, 2017) and an initiative led by SecureKey Technologies and IBM (IBM, 2017) who have partnered with leading banks in Canada to build the first ever digital identity network, allowing for the cross-referencing and verification of identities across banks. That means that, should someone be able to provide their digital identity to a bank in Canada, it can also be shared across all other participants in the network in a secure, immutable format. For the underbanked, this secure and distributed network alongside initiatives such as Gov. UK Verify, provides the opportunity to share their digital identity across institutions. This will reduce costs associated with multiple documentation requests and allow greater access to an array of financial products.

However, whilst these innovations look to provide a source of digital identity for the underbanked, a challenge remains around how the underbanked can provide assurance of their creditworthiness to a financial institution.

Blockchain Solutions to Identity Storage

As the use of mobile phones has increased exponentially, so interactions on social media and on applications such as Whatsapp and WeChat have become a dominant form of communication. Technology companies have taken advantage of the data collected by such interactions to provide a holistic personal risk profile. Two companies that utilise such data to provide an alternative credit score are Tala and DeMyst Data.

Holistic Credit Scoring

Tala (Tala, 2017) is a mobile based fintech (financial technology company) that provides micro-financing in developing markets. It assesses the risk profile of customers using their mobile phone profile. By analysing over 10,000 data points per customer including regularity of calls to family and friends, geographical location, finance-related apps on the device, and size of support network, financing can be extended to borrowers within 2 minutes, after asking only 8 questions (Adams, 2016). Whilst the app initially saw default rates of 50-60%, an augmentation of the risk algorithms later reduced this to less than 10% and has resulted in some interesting repayment metrics:

- High regular travel patterns are linked to increases in repayment rates of 4%
- Regular contact with the same family and friends is correlated with a 6% uptick in repayment rates
- A high number of contacts with whom the client is in regular context is associated

Les banques jouent un rôle pivot dans l'économie et dans les opportunités qui s'offrent dans la vie d'un individu. Les « non-bancarisées » auxquelles on donne un accès à des financements auraient une opportunité d'emprunter pour acheter des biens et des services à coûts plus élevés, tels que des véhicules ou des formations supplémentaires. Ils auraient également accès à des produits d'épargne sûrs et à des services bancaires en ligne. Dans l'ensemble, les banques offriraient aux « non-bancarisées » une opportunité d'élever leur degré d'accomplissement et leur niveau de stabilité financière. Il y a aussi une dimension morale : les décisions de crédit des banques peuvent avoir un impact significatif sur la qualité de la vie et les opportunités que l'on peut avoir.

with a boost in repayment rates of 9% (Siroya, 2016)

For the underbanked this provides an opportunity to access financing outside the traditional lending model, at affordable rates, and to build a traditional credit score. For Tala it provides margins comparable to those seen at traditional institutions – and all from a segment deemed 'too risky' to bank.

Another company looking to harness mobile data for credit scoring is Demyst Data. It aims to combine both internal and external data sources in order to build the credit profile of a customer. This includes data from governments, from geolocation services and from social media platforms, email and networks. Corporations who leverage the technology have seen a 20% increase in new customers with the same risk level and 45% fraud reduction (Demyst Data, 2017). As such, the implementation of technologies such as this by financial institutions could allow the underbanked to demonstrate their true risk profile by leveraging the plethora of data available, moving beyond the oversimplified traditional credit score.

Micropayments

This is where a short-term, small (sub $1,000) loan is extended – representing a low capital expense for the bank but providing the borrower with the opportunity to repay funds – therefore possibly improving their credit score.

An example of a fintech utilising micropayments to credit score is Company Mission Asset Fund. It extended microfinancing to 600 low-income individuals based solely on the security provided by signed promissory notes. Of the 260 borrowers which San Francisco State University studied in a two-year review of the project, the average credit score increased by 168 points to reach 603 points (Ashoka, 2013).

This allows a segment of the underbanked to access non-traditional financing whilst improving their credit score. That boosts the possibility that, should they later apply for a financial product with a traditional institution, their request will be accepted.

However, the incumbents are currently restricted in their ability to offer micro-financing because of high overhead costs. These are a result of: inefficient back-end credit processing, primitive risk models that require high levels of capital to be ring-fenced for those within the underbanked category, and of expensive monitoring processes for account utilisation and repayment tracking. However, many institutions are now exploring blockchain technology as a lower-cost alternative to existing infrastructure, and as a replacement for heritage systems. Existing systems are unable to leverage technological advancements due to their inflexible design and as such cannot take advantage of innovations. However implementations of blockchain technology are estimated to save banks an estimated $20billion a year (Perez, 2015) in middle-to-back office efficiencies, including reduced transaction processing costs. Therefore it could become financially feasible to provide micro-finance loans to the underbanked, should banks, facilitated by blockchain and other emerging technologies, operate in a lower cost environment.

Les banques qui offrent leurs services aux «non-bancarisées », en utilisant la technologie pour atténuer les risques, démontreront un engagement aussi bien envers les personnes que les profits. Cela pourrait contribuer à corriger certaines des perceptions négatives des institutions financières qui se sont développées depuis la crise financière globale de 2008/09 – en partie causée par les banques qui se sont concentrées sur les profits plutôt que sur les besoins des emprunteurs.

Morality and Responsibility: Opportunity Capitalisation and Risk Management

The ability of a bank to lend responsibly and fairly contributes to its reputation, therefore a bank with high default rates, an inability to provide access to customer savings, and aggressive sales or repayment tactics, may be perceived negatively. However, a bank that looks to provide financing to those in need, provide a truly omni-channel service, and display a considered but sensible risk appetite, will be understood as serving its customer base.

That is why institutions should look to capitalise on incoming regulations such as PSD2, which mandate data sharing and closer collaboration with fintechs, in order to improve their offering to the underbanked. An example of an app that caters to the underbanked market and could be assimilated within a larger bank offering is Squirrel (Squirrel, 2017), which is designed for low income households and diverts wages into a special account without immediate access. This helps to prevent overspending through the release of small timely payments. Furthermore the use of pre-paid cards such as The Acorns Card (Acorn Accounts, 2017) provides banking services without the ability to enter into unauthorised debt and with automatic saving provisions.

Banks that serve the underbanked, utilising technology to mitigate the risks associated, will demonstrate a commitment to people as well as to profits. This may help to address some of the negative perceptions of financial institutions that have been held since the 2008/09 global financial crisis – in part caused by banks placing greater emphasis on revenue rather than the needs of borrowers. Addressing the needs of the underbanked could help to remove the stigma of 'bad bankers' (Corrigan, 2008).

This is especially important as banks play a pivotal role in the economy and in opportunities within an individual's life. The underbanked who are given access to finance would have an opportunity to borrow to pay for higher cost goods and services, such as vehicles and further education. They would also have access to secure savings products and to online banking. Overall, banks would be providing an opportunity for the underbanked to raise their attainment and level of financial stability. There is also a moral dimension to this: the credit decisions that banks make can significantly impact the quality of life and the opportunities that one may have.

By responsibly extending fairly-priced finance to the underbanked, financial services firms could give them opportunities to help themselves.

Conclusion

Technological improvements in biometrics can assist with personal data collection and identity verification for the underbanked, who have restricted access to branch-based banking or who do not have traditional, and costly, documentation. The implementation of blockchain technology can help to securely manage this digitally-created identity and provide the opportunity for collaboration and data sharing between banks. That means that different institutions could augment an identity profile – thereby removing the burden of verification and authentication from one bank alone and reducing the perception that the underbanked are 'unknown'.

Furthermore, a holistic approach to credit scoring can help banks better understand the true risk-profile of an underbanked customer by capitalising on the vast array of personal data collected through mobile and online interactions. That would allow financing to be extended to those in need without compromising an institution's financial stability.

Finally, we should consider the fundamental role of financial institutions in society and how the erosion of trust, thanks to previous destructive market activity, has impacted customers. Extending financing to many of those most in need, the underbanked, could assist in improving the reputation and image of banks. It also provides the underbanked with an opportunity to utilise this funding to improve their own personal circumstances.

All in all, the technology outlined in this paper can help banks capitalise on this opportunity whilst mitigating the associated risks. •

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Moving Upwardly: Lessons from Mobile Payments in Kenya

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

Special Commandment of the Jury

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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

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.

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

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.

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

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 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.

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.

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.

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.

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.

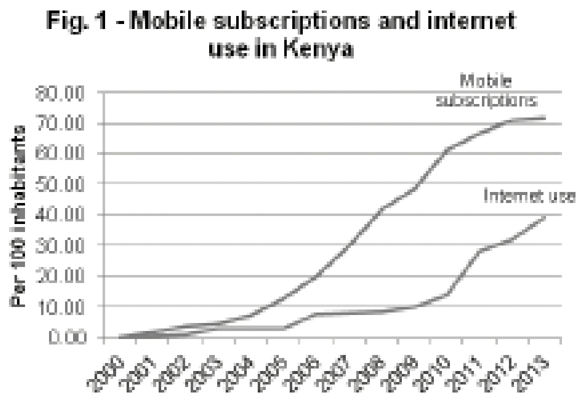
do have access to a bank, there is a serious lack of trust in formal financial institutions, especially in unstable economic and political climates. Some savers pay negative interest rates in order to keep their money safe and accessing funds can be onerous. In Kenya, there are just 5.5 commercial bank 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



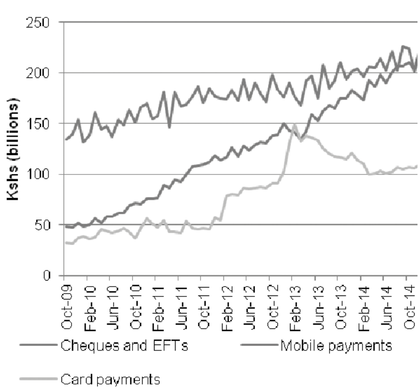
(Source: ITU, 2014)

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.

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).

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

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.

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.

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. •

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Will e-Government Reduce Corruption in Public Tendering? The South African Case Study

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

Finalist

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.

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

Economic Climate: Tumbling BRICS?

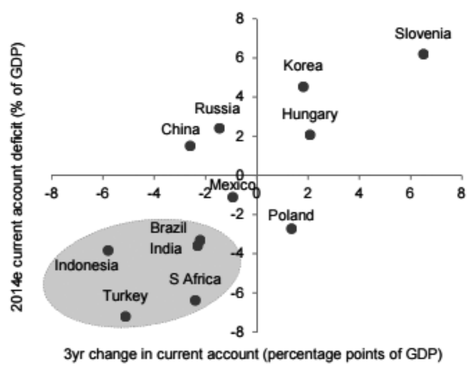
South Africa has experienced accelerated economic growth since attaining democracy in 1994. Prior to this the economy was in decline due to sanctions imposed on the apartheid government (Faulkner & Loewald, 2008). In spite of this, there have been several challenges to developing the country's economy – 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 financial statement fraud than organisations globally … more than a

Figure 1 . Emerging market current accounts, with the 'fragile five' depicted in the grey area



(Source: PwC Global Economy Watch (March 2014) 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 (Februa-ry 2014).

En 1994, le gouverne-ment sud-africain a mis en route le Black Eco-nomic Empowerment ('BEE'). Ce programme d'empowerment (mon-tée en puissance) – qui met l'accent sur l'ori-gine raciale et sociale – a conduit à l'échec des sanctions à l'encontre des comportements non éthiques et a mené à des niveaux crois-sants de corruption et de népotisme dans les processus d'appel d'offres du gouver-nement. 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 rap-ports avec de puissants fonctionnaires.

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 history and no credentials. In September 2014, a statement released

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.

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 Public Works' (hereafter 'DRPW') recommendation to award it to

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.

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.

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.

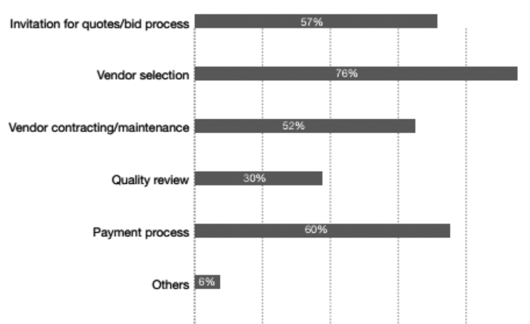
The diagram below, based on a 2014 PwC survey conducted in South Africa, shows the percentage of survey respondents who believed that a particular step in the procurement process is susceptible to fraud (PricewaterhouseCoopers, 2014).

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 financial misconduct totalled ZAR346 million, and only 13% of this amount

Figure 2 . Prevalence of Procurement Fraud by Process Stage



(Source: PwC Global Economic Crime Survey (February 2014)) *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.

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.

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 $p^F=5\%$.

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.

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.

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^')P (1)

p^' P-p_F F>pP (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) (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.

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

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.

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. •

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Part III

Ethics, Regulation and Culture

Corporate market responsibility: ethical regulation for orderly financial markets

Ethics in Finance, Robin Cosgrove Prize
Global edition 2012-2013

First Prize *ex-aequo*

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

'What I'm saying to you is, yes, I've found a flaw. I don't know how significant or permanent it is. But I've been very distressed by that fact'

Alan Greenspan, Chairman of the US Federal Reserve, 2008

Discovering Corporate Market Responsibility

Since the 1980s, we have frequently heard the message 'greed is good', with the rationale that greed drives efficient markets, which in turn drive economic growth.[1] This particular message has in recent years lost its ironic charm. Since the onset of the financial crisis in 2007-2008, it has become more common to hear that greed is 'irresponsible'. The British prime minister told the United Nations in September 2008 that the world had lived through an 'age of irresponsibility' in financial markets (Brown, 2008), and five months later, the American president heralded a 'new era of responsibility', writing:

'This crisis is neither the result of a normal turn of the business cycle nor an accident of history. We arrived at this point as a result of an era of profound irresponsibility that engulfed both private and public institutions from some of our largest companies' executive suites to the seats of power in Washington, D.C. For decades, too many on Wall Street threw caution to the wind, chased profits with blind optimism and little regard for serious risks—

[1] A celebrated quote by the character Gordon Gekko in the film Wall Street (1987), see http://www.youtube.com/watch?v=ONXpaBQnBvE

Appréciée auparavant, la cupidité est depuis la crise financière de 2007 considérée comme un comportement «irresponsable».

En 2009, Barack Obama a déclaré qu'il était temps d'entrer dans une nouvelle ère de responsabilités, source de nouvelles bases de croissance.
Le texte qui suit présente une théorie sur les responsabilités des organismes financiers en matière de stabilité économique et financière.

and with even less regard for the public good ...

The time has come to usher in a new era — a new era of responsibility in which we act not only to save and create new jobs, but also to lay a new foundation of growth upon which we can renew the promise of America' (Obama, 2009, p. 1).

These messages represent a departure from conventional thinking about the economy and the virtues of self-interest, and this paper engages with them.[2] It outlines a theory about companies' responsibilities for financial and economic stability. Three recent controversies suggest that operating efficiently and within the letter of the law does not suffice to ensure economic progress, or satisfy market actors and regulators. These episodes are focus of this paper: Citigroup's infamous Dr Evil trade, the rise to prominence of sovereign wealth funds, and the post-credit-crunch regulatory debate. In each case, corporate responsibilities towards the wider financial system were invoked.

More corporate responsibilities?

How are companies responsible for orderly financial markets? In economic theory the question is redundant, since markets are self-correcting. Stability is an outcome of normal business activity, with support from regulators. Thus, in Milton Friedman's famous words (1970), 'the social responsibility of business is to maximize profits'. Friedman's statement was a response to the concept of corporate social responsibility (CSR), which holds that firms should ensure they have a positive impact on society. But CSR theorists agree with economists regarding the market. The CSR literature distinguishes between a firm's *social* responsibilities (towards the non-market domain) and their *economic* responsibilities. In CSR theory, 'economic responsibility' is to produce goods efficiently and legally, as economists would put it (Carroll, 1979, 1991; Mitchell, 1998; Schwartz & Carroll, 2003; Wartich & Cochran, 1985; Wood, 1991). If our episodes suggest that financial firms are expected to go beyond legal, competitive profit maximization in conducting their business, this represents a departure from conventional thinking.

As a contribution to the post-credit-crunch rethink, this paper analyses these controversies and proposes the concept of corporate market responsibility (CMR) to explain them. Let us begin with Citigroup.

The 'Dr Evil' trade

At 10.28 a.m. on Monday 2 August 2004, four traders at Citigroup's European government bond trading desk activated a proprietary software program they called 'Dr Evil' to sell

[2] I would like to thank Dr Wendy Chapple and Professor Jeremy Moon of the International Centre for Corporate Social Responsibility at the University of Nottingham Business School for their guidance and support during this research.

Outre leur responsabilité sociale, les entreprises financières doivent s'assurer qu'elles ont une responsabilité économique, qui consiste non seulement à produire des biens de manière efficace et en toute légalité, mais aussi à contribuer au maintien de la stabilité financière.

Il faut analyser les nombreuses controverses, qui concernent la responsabilité sociale des entreprises financières et leurs responsabilités économiques, pour mieux les comprendre. Nous commençons par Citigroup.

a large number of bonds very quickly. Twenty seconds later, unsure whether the trades had succeeded, they submitted another sell order. By 10.29 a.m. Citigroup had sold €13 billion worth of 119 different European government bonds across 11 platforms of the Rome-based *Mercato dei Titoli di Stato* (MTS) bond exchange. This was roughly the same amount of bonds as the entire market would typically trade over one day, and it happened in one minute. After reconfiguring their program, the traders bought back €4 billion in bonds, realizing a profit of €15 million by 11.25 a.m.

Although Citigroup was not charged with market abuse, which is illegal, the operation was highly controversial. At the time, it provoked 'bankers' wrath' (*The Daily Telegraph*, 2004a) and 'launched a wave of ill will in the bond markets' (*The Daily Telegraph*, 2004b). The MTS exchange imposed emergency trading limits on the entire market (*Financial Times*, 2004b). Citigroup's rivals, primarily investment banks, 'panicked' during the trade, overwhelmed by its size and speed, and some withdrew from the market for three days. The financial press reported a near-consensus that Citigroup had broken a 'gentlemen's agreement'. Yet no one clearly stated what that agreement had been or what it was for.

When the UK's Financial Services Authority (FSA) ruled on the transaction in June 2005, it levied a fine of £14 million, its biggest to date. The bank had not contravened any laws, but the FSA held that it had 'executed a trading strategy without due regard to the risks and likely consequences of its action for the efficient and orderly operation of the MTS platform' (Financial Services Authority, 2005b). Was Citigroup responsible for the orderliness of its market?

Gentlemen and the market

The notion of a broken gentlemen's agreement emerged two days after the trade, with the *Financial Times*'s Lex column asking 'Has Citigroup, with its audacious selling of €11bn [sic] of Eurozone government bonds within two minutes, been very clever or has it overstepped the boundaries of fair trading?' (*Financial Times*, 2004a). The column sided with Citigroup, saying that 'gentlemen's agreements are not a sensible way to manage risks' (*ibid.*), but failed to explain what a 'gentlemen's agreement' or the 'boundaries of fair trading' are. *The Wall Street Journal* cited traders calling the operation 'savvy, if not slightly untoward', and referred to MTS having introduced measures to stop 'this kind of behaviour' (*The Wall Street Journal*, 2004b), again without explaining the 'kind' of behaviour or why it was 'untoward'. Rival traders had 'felt themselves protected by a "gentlemen's agreement"', but did not elaborate what it was (*The Daily Telegraph*, 2004c). *The Guardian*'s Notebook co-

Le 2 août 2004, quatre opérateurs de Citigroup ont activé un logiciel afin de vendre très rapidement un très grand nombre d'obligations: plus de 13 milliards de dollars en quelques minutes. L'opération fut très controversée et a provoqué la colère des banquiers qui ont accuse Citigroup d'avoir brisé un "gentlemen agreement".

La Financial Services Authority britannique a estimé que Citigroup avait exécuté une stratégie de négociation sans tenir compte des risques et des conséquences pour l'ensemble du système financier.

Les différents journaux économiques ont eu beaucoup de mal à statuer sur le dépassement ou pas des limites de la légalité des transactions commerciales effectuées.

lumn said 'Of course, Citigroup did nothing illegal here. It legitimately filled orders that had been placed by willing counterparties, all of whom were grown-up financial institutions used to dealing in large numbers' (*The Guardian*, 2004a). None of the US or UK newspapers that referred to 'untoward' conduct specified what standard had supposedly been infringed.

One banker's reaction illustrates the problem: 'Really what they did was smart. They didn't do anything wrong, they just cornered the market. I'll tell you this though, $25m doesn't seem like a lot of profit to make when you've got the whole world lining up against you' (*The Daily Telegraph*, 2004c). If Citigroup had been smart and done nothing wrong, then what justified the world lining up against them?

Markets' best interests

Roughly five weeks after the operation, after the MTS lifted the temporary curbs on trading, newspapers picked up a leaked Citigroup memo from Tom Maheras, head of global capital markets, stating that:

Citigroup is committed to holding itself to the highest standards in its business practices. We did not meet our standards in this instance and, as a result, we regret having executed this transaction. ***Unfortunately, we failed to fully consider its impact on our clients, other market participants, and our regulators.***

We need to be sure that in whatever we do, we fully consider the impact of our actions on our clients and the markets. ***We must exercise sound judgement, know our markets and our clients well and act in their best interests*** (compiled from *Financial Times*, 2004d and 2004e, *The Times*, 2004b and 2004c, *The Daily Telegraph*, 2004d, *The New York Times*, 2004; underlining added).

This memo – particularly the reference to acting in markets' best interests – was interpreted as an attempt to placate regulators and clients. Media reports described the memo, which was sent to all of Citigroup's 40,000 banking employees, but not its clients, as 'astonishing' (*Financial Times*, 2004d), 'humiliating' (*The Daily Telegraph*, 2004d) and an 'unprecedented apology' (*The Times*, 2004b). *The New York Times* called it 'an indication that the bank is taking the investigation and the complaints seriously', and drew a parallel between Maheras's language and that used by the FSA: 'When the inquiry was announced, the regulator said that market participants should have "regard to the likely consequences of their trading strategies in the market concerned"' (*The New York Times*, 2004).

A second memo, leaked in late January 2005, revealed that the bank had originally set out to destabilize markets. This significantly damaged Citigroup's standing. The trade's objectives had included imposing costs on competitors, decre-

Pour certains, Citigroup a joué finement sans commettre le moindre délit. Quelques semaines plus tard, une note de Citigroup stipulait que la banque devait désormais considérer pleinement l'impact de ses actions sur ses clients et les marchés, en faisant preuve de jugement.

Cette note a été globalement interprétée comme étant une tentative d'apaiser les régulateurs et les clients impliqués. Une seconde note de la banque, divulguée en janvier 2004, a révélé que la banque s'était, dès le départ, fixé comme objectif de déstabiliser les marchés. Il s'agissait de nuire délibérément aux concurrents européens en diminuant leur attractivité.

La FSA a présenté toute une série de mesures visant à garantir le soin, la compétence et la diligence, que Citigroup aurait dû adopter. La FSA a estimé que l'impact sur le marché au sens large était l'un des principaux problèmes réglementaires.

asing the attractiveness of German bond futures, spurring 'copycat trades', 'killing off smaller dealers', and 'turning the European government bond market into one that more closely resembles the US government bond market' (memo reproduced in *Financial Times*, 2005a). Described as 'hideously embarrassing' by the *Financial Times*'s Lex column (*Financial Times*, 2005b), which had originally supported Citigroup, the memo undid Maheras's earlier PR effort. Various European investigations, led by the FSA (Gans, 2006), culminated in fines from the UK and Portugal. Portugal's regulator used an interesting linguistic flourish to describe Citigroup's operation: 'Repeated violations of the duty to defend the market' (Comissão do Mercado de Valores Mobiliários, 2006). Their inference was clear: markets do not defend themselves.

In detailed analyses of the Dr Evil trade and its aftermath, the FSA outlined a range of measures – related to the exercise of due care, skill and diligence – that Citigroup should have adopted in order 'to consider the impact the trade would be likely to have' (Financial Services Authority, 2005a). The FSA concluded that this wider market impact had been 'the main issue of regulatory concern'. This is an unusual argument: banks were implicitly expected to regulate their own conduct, in pursuit of not only self-interest and transparency, but also market confidence and stability.[3]

[3] See also Beunza *et al*. (2006) on the sociology of bond markets

I will return to these corporate responsibilities later on, after outlining a broader episode.

Codes of conduct for capitalism

Variously labelled 'new global power brokers' (McKinsey, 2007), 'giant locusts' (*The Daily Telegraph*, 2008), and 'a force for stability' (*Financial Times*, 2008), sovereign wealth funds (SWFs) were held up to greater scrutiny in the years before the credit crunch than almost any other kind of financial-market actor. These government-funded investors, primarily from Asia and the Middle East, have existed since the 1950s, but for decades kept a low profile. According to data in the Google News Archive in June 2008, sovereign funds were mentioned in only two news articles in the nine years between 1998 and 2006 – once in 2004 and once in 2006. Then, in 2007 alone, they received over 1,400 mentions, and even more the following year. This was a rapid, though controversial, rise to public prominence, as funds diversified away from low-yield bond markets in the early 2000s and began to invest in high-profile companies and real estate in the West.

The controversy surrounding SWFs is an interesting issue because at first glance there was no clear reason for it – no misconduct by SWFs, or evidence that misconduct was imminent. Some politicians were concerned on protectionist grounds about powerful foreign investors en-

Les fonds souverains, financés par les gouvernements essentiellement situés en Asie et au Moyen-orient, existent depuis les années 50. Ils ont toujours adopté un profil bas, jusqu'à 2007, où ils furent cités des milliers de fois, leur montée en puissance devenant publique. Alors que rien ne laissait supposer que la faute était imminente, ils avaient pourtant ce pouvoir de déstabilisation des marches financiers de par leur grande taille et leur gouvernance opaque.

Dès 2007, les responsables gouvernementaux ont revisé leur politique vis-à-vis des investisseurs étrangers, à l'image d'Angela Merkel et de Nicolas Sarkozy. La position américaine sur les fonds souverains a aussi été précisée.

Mais les fonds souverains pouvaient compter sur de nombreux défenseurs, comme Alastair Darling en Angleterre ou Emma Bonino en Italie. Il y avait un risque d'hostilité politique contre ces fonds, en particulier contre leur comportement discrétionnaire.

tering their economies.[4] Yet the overriding concern was that SWFs might destabilize financial markets due to their large size and opaque corporate governance – even though SWFs, on all the evidence, were profit-maximizing and entirely law-abiding companies. Governments' ultimate response to the funds was to compel them to adopt voluntary codes of conduct which, as I would argue, laid down an ethic for being responsible market actors.

The first signs of controversy emerged when politicians reviewed their policies towards foreign investors. In July 2007 German chancellor Angela Merkel called SWFs 'a completely new conflict situation that one must respond to adequately' (Bloomberg, 2007), and Germany set up a new agency mirroring the US's Committee on Foreign Investment in the United States (CFIUS) to vet foreign investment. France's President Sarkozy stated 'We've decided not to let ourselves be sold down the river by speculative funds, by unscrupulous attitudes which do not meet the transparency criteria one is entitled to expect in a civilized world' (*The Guardian*, 2007a). 'And this,' wrote a Bloomberg columnist in July 2007, 'is happening without anyone [any SWFs] having made any offers [noteworthy investments] recently'.

In turn, the 'US position on sovereign funds was clarified ... in a largely unnoticed speech [by a Treasury official],' in June 2007:

'Identifying the potential "impact on financial market stability", [the official] said that because so little was known about the funds' investment policies, minor comments or rumours could spark volatility. "It is hard to dismiss entirely the possibility of unseen, imprudent risk management with broader consequences," he said...' (*The Times*, 2007).

Controversy begets compromise

SWFs also had their advocates, however. American banks and a range of economists (*The Wall Street Journal*, 2007) pressed the government 'to keep their [policy] reviews narrow enough to encourage foreign investment' (*The Wall Street Journal*, 2008). In Europe, the British chancellor of the exchequer, Alastair Darling, argued that 'calls for the EU to adopt a common approach to vetting corporate acquisitions by foreign state investors' should be resisted (*Financial Times*, 2007). Italy's international trade minister, Emma Bonino, took a similar position, saying in respect of the country's national airline, Alitalia, 'I don't care who buys it, it can be the Chinese, or the Eskimos, so long as they turn it around' (*ibid.*).

Throughout 2007-2008, both sides of the debate recognised there was a risk of political backlash against SWFs, and the debate shifted towards SWFs' discretionary con-

[4] However, there were not many reasons to 'protect' domestic industries from SWFs during the credit crunch. On the contrary, SWF capital helped to save many credit-starved companies, such as investment banks.

Les premiers contours de compromis sont apparus en 2008 avec l'élaboration de codes de conduite pour les fonds souverains, à défaut d'accords juridiquement contraignants. Il leur a fallu adopter une éthique de transparence et de prudence.

Un consensus mondial impliquant les USA, l'Union Européenne et le FMI a pu être trouvé. Ces accords ont abouti en 2008 aux principes de Santiago.

duct. EU monetary affairs commissioner Joaquín Almunia described SWFs as offering 'useful investment', adding that they 'must acknowledge that their growing weight in global financial markets brings responsibilities' (British Broadcasting Corporation, 2008).

Contours of compromise emerged in 2008. One might have expected governments to work on reciprocal official policies – for example, establishing quotas on how much money foreign investors could invest in particular industries, or how much influence they could exert over the companies they invested in. Instead, they focused on developing codes of conduct for SWFs. It was in their view more important – perhaps cheaper or more effective – to ensure that sovereign funds learned good market conduct than to achieve binding legal agreements. Thus SWFs were asked to adopt an ethic of openness and prudence as a way to maintain market stability.

From spring 2008, one year after the controversy erupted, the US, the EU and the IMF acted more or less in concert. The US Treasury agreed the first, trilateral code of conduct for SWFs with the governments of Singapore and Abu Dhabi (US Treasury, 2008). This was framed as an input to the multilateral initiatives under way at the IMF. The EU Council of Ministers, which represents national governments at EU level, agreed on a Europe-wide stance toward SWFs and to channel their input to the IMF (European Commission 2008a and 2008b). These efforts culminated in a private-public initiative hosted by the IMF, establishing the Santiago Principles:

'Participants agreed that SWFs invest on the basis of economic and financial risk and return related considerations … [and established] a common set of **voluntary principles for SWFs**, drawing on the existing body of principles and practices, **to help maintain the free flow of cross-border investment and open and stable financial systems**' (IMF, 2008a; emphasis added).

An editorial in *The Guardian* referred to the codes as 'users' manuals' (*The Guardian*, 2007b) to help SWFs participate constructively in markets. Sceptics such as the Kuwait Investment Authority (initially) and US Senator Evan Bayh derisively referred to them as 'best practice' (*The Guardian*, 2008, *The Wall Street Journal*, 2008a). The adoption of these codes signalled a step change. As SWFs 'learned' good market conduct, adopting responsible management protocols, so public perception matured.

Resolution through responsibility

By November 2009 the IMF, a driver of global liberalization for 50 years, was encouraging the Angolan government to establish its own fund in order to manage its foreign reserves (IMF, 2009). Today, the idea that SWFs pose a threat to the global economy is so outdated as to seem almost quaint.

Les fonds souverains doivent investir en considérant les risques économiques et financiers, avec une participation devant être constructive. L'adoption de ces codes a marqué un changement d'étape, caractérisé par un comportement plus responsable. Aujourd'hui, l'idée que les fonds souverains puissent être une menace pour l'économie mondiale est dépassée. Ils doivent toutefois adopter d'autres comportements éthiques de bonne gouvernance, de gestion des risques et de probité commerciale.

Selon une anecdote qui fait référence à une conversation entre le président de JP Morgan Jamie Dimon et sa fille, les crises financières ayant lieu tous les 5 à 7 ans, il n'y avait finalement aucune raison d'être surpris.

A key feature of the Santiago Principles is the notion that SWFs have to do more than pursue commercial objectives and comply with regulations. If an effective financial system is to be preserved, SWFs must adopt other ethics of sound governance, risk management and commercial propriety. Before elaborating on this, I will discuss the regulatory rethink that has followed the credit crunch.

'Daddy, what's a financial crisis?'

In testimony to the US Financial Crisis Inquiry Commission (FCIC) on 13 January 2010, Jamie Dimon, chairman of JP Morgan, told two anecdotes that offer a curious juxtaposition.[5] The first was this:

'My daughter called me up from school and said "Daddy, what's a financial crisis?" And without trying to be funny, I said, "It's something that happens every five to seven years". And she says "So why is everyone so surprised...?" So we weren't – we shouldn't be surprised.'

Here is the other, an hour earlier:

'The biggest mistake we made [at JP Morgan], somehow, in mortgage underwriting, we just missed that home prices don't go up forever.'

Brian Moynihan, head of Bank of America, told the FCIC that his bank had made the same mistake, and Lloyd Blankfein agreed that stress-testing had been highly deficient at Goldman Sachs (FCIC, 2010, video minute 01:56:00). These banks had ostensibly missed the scenario of falling house prices, even though the Bank for International Settlements (BIS), which oversees international banking policy coordination, warned in its 2003, 2004, 2005, 2006 and 2007 Annual Reports that a downturn in housing prices was a significant risk (see Chapter VII of each report). Yet, according to Dimon, JP Morgan had prepared for 'almost everything else' (FCIC, 2010, video minute 01:53:00).

If a bank's chairman can amiably quip that crises happen every five to seven years, then how does his bank 'just miss that home prices don't go up forever'? The answer is that it may fail to exercise due skill, care and diligence in risk analysis (in contravention of the FSA's Principles of Market Conduct). It may also perceive an implicit guarantee that the state will fund it in case of crisis, to prevent a system-wide meltdown. This is known in economics as moral hazard – over-willingness to take on risk when the consequences will be largely borne by others.[6]

Whether lacking in due care, or influenced by moral hazard, banks engaged in a wide range of legal, yet controversial, activities. Their corporate governance failed to include critical voices on company boards (see UK Treasury, 2009, pp. 91-92) and relied unduly on misunderstood

[5] FCIC, 2010, video minutes 02:34:00 and 01:53:00.

[6] Curiously, moral hazard is rarely discussed as a moral issue; see, for example, Pauly (1968, p. 531), cf. Dembe & Boden (2000).

Comment une telle banque peut-elle négliger la compétence, le soin et la diligence dans l'analyse des risques ? Probablement parce qu'elle sait que l'Etat va intervenir et financer en cas de crise. Ce comportement se nomme le «risque moral». La gouvernance interne des banques est remise en cause tout comme les pratiques comptables qui contournent les exigences réglementaires à défaut d'y répondre.

mathematical models that failed to diversify risk (Financial Services Authority, 2009d). Innovative accounting practices were often predicated on circumventing rather than meeting regulatory requirements (Securities and Exchange Commission, 2009b, 2009c and 2009e). Poorly structured remuneration encouraged excessive risk-taking (Turner & Financial Services Authority, 2009). In capital markets, the practice of short selling (betting that the value of a financial product will fall) created severe instability, leading to temporary bans in Europe (see International Organization of Securities Commissions, 2008, Securities and Exchange Commission, 2009e, UK Treasury, 2009a). In retail banking, so-called 'exploding mortgages' were sold to over-ambitious house buyers, often aggressively or under false pretences (UK Treasury, 2009a). [7]

Responsible compliance

Les entreprises financières sont dorénavant confrontées à une refonte réglementaire durable. Cette réglementation bancaire ainsi que la supervision doivent être enracinées dans une approche systémique, selon la FSA.

Financial companies are now facing a lasting regulatory rethink. Before the crisis, regulators assumed that regulating individual institutions would mitigate generalized risks. Interdependency did not figure highly on their agendas. In the FSA's view, this is the main reason why regulators did not suitably address the issues that led to the crisis: 'The reality of excessive risk can sometimes only be spotted at systemic level' (Financial Services Authority, 2009d, p. 80).[8] Now, wrote the British regulator, 'the future of banking regulation and supervision needs to be rooted' in a systemic approach (Financial Services Authority, 2009d, p. 52). One dimension of this new approach concerns how companies can protect financial markets.

I would highlight two prominent corporate responsibilities in the post-credit-crunch debate: responsible compliance and ethical competence. However specific or prescriptive it may be, all regulation requires discretionary, and responsible, interpretation.[9]

The UK authorities, which favour principles-based regulation, have emphasized this point: 'The Prudential Regulation Authority will expect firms not merely to meet the letter of these requirements, but also to consider the overriding principle of safety and soundness', the Bank of England wrote about the FSA's successor in 2012. Perhaps surprisingly, the Securities and Exchange Commission, a rules-based regulator, also concluded one of its testimonies on 'Securities Law Enforcement' in the following words:

[7] This account is not intended to put the whole blame for the crisis on banks. I am, however, interested in the idea that banks are expected to control certain legal activities when these threaten market stability. I outline these as illustrations (N.B. an 'exploding mortgage' is one with very low but mandatory interest rate repayments that subsequently increase disproportionately).

[8] A systemic risk is one that threatens the entire financial system, or a core part of it (Financial Services Authority, 2009d), for example when one institution's failure leads to large losses for others (International Monetary Fund, 2010).

[9] In some cases, the more specific a regulation, the more interpretation it requires for idiosyncratic applications.

Dans le débat post-crise, il faut mettre en avant deux responsabilités essentielles: le respect de la réglementation, qui est la base de départ et la compétence éthique. Les directions des banques doivent encourager le personnel à développer des techniques innovantes de surveillance et de contrôle.

La compétence éthique des individus est bien sûr primordiale: le jugement humain et responsable doit prévaloir.
C'est souvent un impératif éthique que de reconnaître que l'on est capable ou pas d'effectuer une mission. L'honnêteté et la compétence sont donc étroitement liées.

'...we need to encourage a tone and culture … that mere compliance with the law, narrowly viewed, is not the highest goal to which we aspire, but the base from which we start. The securities industry as whole needs to embrace this compliance culture, and [become] responsible stewards of the assets entrusted to them' (Securities and Exchange Commission, 2009d, pp. 14-15).

Complying responsibly with regulation will entail pursuing some shared objectives with regulators. This should not mean complying uncritically; on the contrary, its focus is the spirit, not the letter, of the law. Under the European principle of 'comply or explain' (UK Treasury, 2009, p. 38, European Commission, 2006), banks may identify innovative ways to implement controls, and these may indeed improve – and cost less than – the official guidelines. Ultimately, senior management must encourage staff to develop innovative supervisory techniques and, often, share them with the industry.

Ethical competence

Individuals' ethical competence is of course paramount. The regulatory debate has frequently mentioned what the FSA termed a 'misplaced reliance on sophisticated maths' (Financial Services Authority, 2009d, 16), where the issue is not only technical content (such as the relative merit of value-at-risk modelling versus stress-testing) but also human judgement. Senior executives have been criticized for failing to understand their risk models, and less senior managers for 'confusing the model with the world' (*The New York Times*, 2008b). As MIT's Andrew Lo put it, 'technology got ahead of our ability to use it responsibly' (*ibid.*).

It stands to reason that the 'job market' does not always replace those who fail to do their jobs effectively with more competent individuals. It is often an individual's ethical prerogative to acknowledge his or her own incompetence for a role. Honesty and competence are closely related. They comprise the twin categories for the UK's 'Fit and Proper Test for Approved Persons', which individuals must pass in order to obtain certain jobs in the financial industry or to purchase major companies. The test's categories are 'Honesty, integrity and reputation' and 'Competence and capability'. Explaining one decision to fail an individual on this test, the FSA cited indications of a banker's incompetence, which as a result 'prejudiced the interest of consumers' (Financial Services Authority, 2009e, p. 2).

Roszaini Haniffa calls for 'training in how to apply codes of conduct in everyday [accounting] situations' (*Financial Times*, 2009). 'Students must be exposed to alternative business models and thinking,' she continues, 'not just trained to resolve complicated financial problems through mathematical modelling. These tend to be detached from the real world and consideration of human elements' (*ibid.*). Ethical competence introduces human, qualitative dimensions to formalist risk

Roszana Haniffa plaide en faveur d'une formation sur la façon d'appliquer des codes de conduite dans la vie financière quotidienne. La compétence éthique introduit des dimensions humaines et qualitatives visant à optimiser la gestion des risques et la conformité réglementaire.

Une démarche non proactive peut mettre en danger l'ensemble du système.

Les établissements bancaires doivent contribuer à assurer un système financier stable et équitable incluant l'adoption d'une nouvelle éthique pour la conduite des affaires.
Parmi les comportements attendus chez les financiers figurent l'adoption de pratiques de gestion des risques pour anticiper les impacts. Repérer les limites des modèles de risques est tout aussi crucial, tout comme la préparation aux scénarios de crise prévisibles.

management and compliance; it looks for weaknesses in the models, and in individuals (see also *The New York Times*, 2008a, and *The Wall Street Journal*, 2009).

Economic theory holds that those who do not demonstrate the necessary skill will succumb to competitors. But it has become clear that those who do not better their ways proactively may put not only themselves at risk, but the entire system. More is at stake than just the firm's and the individual's freedom to compete legally. The market commons relies on responsible compliance and ethical competence.

Corporate Market Responsibility

The controversies involving Citigroup, sovereign funds and many banks during the credit crunch suggest that financial firms must help to ensure a fair and stable financial system, adopting new ethics for business conduct, above and beyond legal regulation and profit maximization.[10] In the course of researching these episodes, I have analysed a data sample of over 540 documents, comprising regulatory papers (as indicators of regulatory risk) and media articles (as indicators of reputational risk). The data point to three central types of ethic expected of financial companies.

The first of these *is adopting risk management practices that anticipate the firm's impact on its market environment*. Incentives for bank personnel should encourage ethical competence at all levels, and accountability at senior level, for the bank's key risk models. Day-to-day management controls, such as risk-taking limits, should be aligned with the company's overall risk appetite, set at board level and informed by broader market conditions. Pinpointing the limitations of risk models and the role of subjective judgement is also crucial. Appropriate risk foresight was important for Citigroup (which failed to consider its trade's impact on the MTS market), for SWFs (to reassure host countries that they would not destabilize their economies) and for the many banks that failed to prepare adequately for foreseeable crisis scenarios.

The second is *implementing a transparent investment policy with parameters for acceptable financial transactions*. This may take various forms. Investment products should be aligned with customers' risk profiles; for example, complex derivatives are generally not appropriate products for pensioners. Financial strategies such as short selling should be suspended when they threaten market liquidity, lest they become self-fulfilling or

[10] In this paper I have used the Oxford Dictionary definition of ethic ('a set of moral principles, especially ones relating to or affirming a specified group, field, or form of conduct') and moral ('concerned with the principles of right and wrong behaviour'). See oxforddictionaries.com.

Il faut aussi mettre en place une politique d'investissement transparente avec des paramètres fixant les transactions financières acceptables, afin de renforcer la confiance dans les marchés et éviter toute controverse.
La troisième mesure éthique attendue concerne le respect de l'esprit des lois et la proactivité nécessaire pour en corriger les lacunes. Il faut coopérer avec les organismes de réglementation dans la compréhension et codification des responsabilités, et dans l'élaboration de techniques de pointe pour surveiller les transactions et détecter celles suspectes.

Le respect de l'éthique est devenu indispensable, son absence générant des risques réglementaires et une atteinte à la réputation. Le modèle d'éthique CMR (Corporate Market Responsibility) est la meilleure incarnation de la méta-régulation.
Le CMR a également une qualité normative: il s'agit de l'intérêt public et l'interdépendance économique.

abusive.[11] Investments should be driven by financial returns on invested assets, and should not aim for unfair advantages in particular markets. In general, parameters that define acceptable financial transactions help to build confidence in markets. In each of the aforementioned episodes, the lack of such parameters (e.g. for the Dr Evil strategy, SWF investments, or 'exploding mortgages') fuelled the controversy.

The third type of ethic is *responsible compliance: abiding by the spirit of the law and correcting shortcomings proactively, even when regulations are not actually breached*. There are many grey areas when implementing both the spirit and the letter of regulations. This type of ethic promotes cooperation with regulators in understanding and codifying responsibilities; developing and adopting leading industry practices; emphasizing the organization's values and reflecting them in procedures; and strengthening compliance departments (for example, improving communication between compliance and client-facing business units). This general expectation was evident in each of our episodes. Citigroup's fine was decreased in response to improvements it made during the FSA investigation (Financial Services Authority, 2005a). SWFs avoided restrictions on foreign investment by helping to design reflexive codes of conduct. Following regulatory calls for proactive improvement, major investment banks have been investing heavily in trade surveillance technology to enable them to detect suspicious activities and report them to regulators.

Enforcing ethics

Together, these ethics represent a new corporate market responsibility (CMR). Our episodes suggest that the absence of these types of ethic increases regulatory and reputational risk, while their adoption decreases those risks. Thus CMR ethics are voluntary, but nevertheless enforced. I would argue the concept of CMR is part of a model known as meta-regulation, also referred to as 'the regulation of self-regulation' (Black, 2006; Braithwaite, 2003; Gray & Hamilton, 2006; Grabosky, 1995; Parker, 2007). In meta-regulation, 'the quality of firms' internal controls is the paramount focus of attention', writes Black (2006), usually with the aim of managing 'the extent to which, and ways in which, those firms will comply with regulatory requirements' (p. 3).

However, CMR also has a normative quality (it is content, not just method): it concerns the public interest and economic interdependency. In this sense, CMR is similar to 'ethical self-regulation'.[12] Chiu (2009) summarizes it thus: 'In a na-

[11] Short selling becomes self-fulfilling when the target company finds it increasingly difficult to raise funds, and ultimately becomes insolvent, as more and more traders become involved in the bet. Shorting can constitute market abuse (which is illegal) if traders conspire to create a self-fulfilling bet.

[12] See also 'enforced self-regulation': Ayres & Braithwaite (1992).

rrow sense ethics may relate to the prevention of … detrimental behaviour that may inflict organizational and social costs. Seen in that light, ethical self-regulation would include risk management, social responsibility in the sense of prevention or mitigation of externalities, and corporate governance. Ethics may also relate to "proactively" adding to social good ... ' (p. 32).

En considérant que les crises financières se reproduisent tout les cinq à sept ans, c'est peut-être le bon moment pour se pencher sur la responsabilité du marché des entreprises.

Illustrating some of the parallels between these various models, Parker (2007) writes of 'legally accountable corporate social responsibility', and Shamir (2008) of 'responsibilization' for moral conduct. CMR is an invitation to implement and develop better market conduct.

Conclusion

It has often been taken as given that, if an economic incentive exists, morality will be subsumed in it; but this way of thinking is rapidly losing credibility. In 2008 one of its most renowned proponents, Alan Greenspan, told the US Congress 'Those of us who have looked to the self-interest of lending institutions to protect shareholders' equity, myself especially, are in a state of shock and disbelief ... I made a mistake in presuming that the self-interests of organizations, specifically banks and others, were such that they were best capable of protecting their own shareholders and their equity in the firms ...' (pp. 35-37).

The old economic morality is being challenged by the emerging ethics of corporate market responsibility. Western financial markets appear to be recovering from the credit crunch. Several investment banks have recovered to pre-crisis levels of profitability. If JP Morgan's Jamie Dimon was right when he said that financial crises occur every five to seven years, now may be a propitious time to attend to corporate market responsibility. •

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Lessons from LIBOR: moving beyond compliance to explore the dynamics of ethics in banks

Ethics in Finance, Robin Cosgrove Prize
Global edition 2012-2013

First Prize *ex-aequo*

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Once more the subject of ethics in finance has been swept into the limelight. The culprit on this occasion is the LIBOR rate-rigging scandal – an episode of fraud and manipulation of the benchmark interbank lending rate, LIBOR, which is controlled by the British Bankers' Association (BBA). In the aftermath of the scandal and the resulting penalties, this paper aims to examine why cultural practices came to prevail over ethical decision-making, resulting in one of the biggest financial scandals in recent times. My analysis suggests that structural regulatory reforms are only part of the remedy in such cases. In exploring the dynamics of how firm, team, and individual ethical values are developed in major banks, I propose that the main focus in future should be to instil ethical standards at all levels of financial institutions by encouraging individuals to develop their own personal vision of ethical integrity.

Many will see ethics as synonymous with a sense of morality, or 'right' and 'wrong'. Others would strongly divorce it from this notion and claim that it is actually an intention to strive for order, and so add value (Casimiro & Pellerin, 2009). A third school of thought may define it in more practical terms as a degree of concern for society as a whole. For the purposes of this paper, I would like readers to accept that ethics is a subjective notion with a different meaning for each individual. There is therefore a danger that, if we define the concept too narrowly, individuals will be encouraged to apply set rules or parameters when evaluating their actions in terms of ethics. The arguments that

Le cas étudié ici est celui du LIBOR, soit l'épisode de fraude et de manipulation du taux de référence interbancaire de prêt, pour lequel les pratiques culturelles l'ont emporté sur la prise de décision éthique. Je pense qu'à l'avenir il faudrait encourager les collaborateurs des institutions financières à développer leur propre vision de l'intégrité éthique.

Il existe plusieurs interprétations du terme éthique. Dans le cadre de cette etude, je considère qu'il s'agit d'une notion subjective qui varie d'un individus à l'autre. Je vais me concentrer sur les avantages des vertus de l'éthique.

Dans le cas du LIBOR la question centrale est de savoir quels facteurs culturels ont créé un environnement où la prise de bénéfices prime sur la valeur de soutien propre à une transaction financière essentielle. Le LIBOR concerne des transactions qui représentent 350 trillions de dollars, soit près de cinq fois le PIB mondial.

I present will move away from rule-based ethics to focus on the benefits of virtue ethics in business. My aim throughout the paper is to bridge the gap between organizational traits in banks and the resulting ethical practices and outcomes. Central to the arguments presented here is the assumption that ethical values underpin people's actions (Locke, 1991). The unethical outcome – the attempt to manipulate LIBOR – thus allows me to derive broader ethical lessons for banks.

The entire LIBOR episode is a highly relevant analytical tool for the subject of ethics in finance. The question that must be asked is this: what cultural factors created an environment in which traders concluded that the financial profits gained from manipulating the system outweighed the broader value of sustaining one of the most integral components of financial transacting? Of course, after a scandal such as this, the immediate question is how such a crime was possible in the first place – i.e. how regulators could actually fail to detect it. This valid question has already been put to the UK's Financial Services Authority (FSA)[1] and the BBA. This paper, however, will focus on the first question, which I believe is more significant if we are to avert future financial scandals.

The significance of LIBOR

LIBOR, which stands for the London Interbank Offered Rate, is a percentage that indicates the rate at which banks can borrow from other banks. Its significance is clear from the volume of transactions that depend on it; according to some sources, more than $350 trillion[2] worth of worldwide contracts, from student loans to derivatives, are linked to LIBOR. To put this in some kind of perspective, that figure is nearly five times global GDP. The mechanics behind setting the rate are simple, but crucial to understanding how it could be manipulated. Every day at 11 a.m. a group of leading banks submit their rates for ten currencies and fifteen lengths of loan, ranging from overnight to twelve months. The key rate among these is the three-month dollar LIBOR, which is a rate that banks pay other banks to borrow US dollars for three months. After the top and bottom quartiles of the estimates are discarded, an average of the remaining rates is calculated, and this becomes the official LIBOR.[3] Therefore, LIBOR manipulation could feasibly be attempted by any of the 'panel banks' that submit estimates.

One of the interesting aspects of the LIBOR scandal is that manipula-

[1] As of 1 April 2013, the FSA (the regulatory authority for financial services in the UK) has been split into two separate authorities: the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA).

[2] *Financial Times* (2013), 'LIBOR heads for history in bank rate hunt', http://www.ft.com/cms/s/0/d2a008ce-abfd-11e2-9e7f-00144feabdc0.html#axzz2UnHOINNc

[3] BBA (British Bankers' Association) LIBOR factsheet, http://www.bba.org.uk/media/article/understanding-bba-LIBOR

La mécanique derrière la fixation du taux est cruciale. La manipulation du taux dépend directement des banques du panel qui soumettent leur estimation du taux auquel les banques peuvent emprunter à d'autres banques.

La difficulté repose sur la quête de preuves qui indiquent qu'il y a eu intention de manipuler le taux. Les extraits de conversations entre les acteurs impliqués sont très révélateurs.

tion occurred for two distinct reasons. On the one hand, traders from the key institutions colluded in submitting false estimates that were higher or lower than their actual estimate. This enabled them to skew the final figure in their favour – thus benefiting any financial transactions on their books that were determined in some part by LIBOR (for example, a trader would want LIBOR to be lower for a forward interest-rate swap, gambling that LIBOR would fall against the set fixed rate). LIBOR manipulation thus allowed them to increase their banks' profits and their own consequent rewards. The other kind of manipulation was done for reputational reasons. Barclays began to submit much lower rates than their actual rates, in an effort to maintain confidence about the state of the bank and its access to credit. This paper will focus on the first type of transgression.

It should also be noted that various empirical studies have found evidence both for[4] and against[5] widespread LIBOR manipulation. It has not been conclusively proved whether attempts to manipulate LIBOR actually affected the published rates. This is an empirical debate that is distinct from ethical issues. Suffice it to say that, from an ethical point of view, intent to manipulate is as pertinent an issue as manipulation itself. In Barclays' case, the FSA has already published a report that lays out all the evidence of this intent to manipulate the rate.[6]

A culture of reciprocity

Much has been made of excerpts of conversations between traders, external traders, brokers and rate submitters that have been released to the public. These exchanges go to the heart of the day-to-day dynamics between traders and offer the best glimpse of the competing forces whenever employees have to make difficult choices with ethical implications. There are some key conclusions to be drawn from these (see appendix). The first impression is that collusion was extremely casual in nature. Rate submitters or internal traders would acquiesce to external traders' or brokers' demands without any serious reactions of surprise or calls for discretion.[7] It is this lack of a reaction that best illustrates how attempted LIBOR manipulation had become a cultural norm at some banks. The second is a more interesting concept that can be referred to as 'reciprocity', and is particularly apparent from the excerpts in appendix A. Traders and brokers often promised to repay the submitters' favours

[4] See, for example, Connan Snider & Thomas Youle, 'Does the LIBOR reflect banks' borrowing costs?', ***mimeo***, April 2010.

[5] See, for example, Jacob Gyntelberg & Philip Wooldridge, 'Interbank fixings during the recent turmoil', ***BIS Quarterly Review***, March 2008, pp. 59-72.

[6] FSA Final Notice to Barclays Bank PLC, http://www.fsa.gov.uk/static/pubs/final/barclays-jun12.pdf

[7] Note that collusion took place among all of these groups: (1) between traders and submitters at the same bank, (2) between traders at one bank and traders at another bank and (3) between traders and external brokers. My arguments about reciprocity apply to all these groups. For examples, see appendix A.

L'analyse de la culture de la réciprocité est très importante pour comprendre la manipulation du LIBOR. Devenue une norme dans certaines banques, la pratique pourrait provenir d'un accord tacite entre les traders et les courtiers pour satisfaire les déposants et vice-versa. Le principe de réciprocité peut parfois s'appliquer même entre partis très opposés, comme des banques concurrentes.

Le principe de réciprocité, prospère dans le monde financier, est à double tranchant car il implique que l'un des acteurs impliqués aura une dette envers l'autre et ainsi de suite. Les négociations se sont toujours effectuées sur la base de performances passées utilisées comme indicateur d'éventuel rendement futur.

in some way. This was a two-way relationship that submitters knew would benefit them in the future, or had already produced dividends in the past. Robert Axelrod points to the potential cultural power of reciprocity in his book *The Evolution of Cooperation*, and stresses that cooperation based on reciprocity can even develop between the most extreme of antagonists: military personnel on opposite sides (Axelrod, 1984). In the case of LIBOR, there is evidence that such collusion based on reciprocity was prevalent not just between individuals at one bank, but also among different banks that would normally be competing.

Reciprocity can thrive at firm level as well as individual level. This type of reciprocity is worth briefly discussing in the broader context of the entire finance industry. The industry as a whole is heavily dependent on strong principles of relationship management. Financial institutions often only deal with other institutions with which they have sound relationship histories. In principle, this approach is easily justified. Firms in any industry want to deal with companies they have done business with before. In doing so, they are using past performance as an indicator of future performance. However, a problem arises when firms begin to use relationship histories as the sole criteria for doing business with another institution – i.e. when they begin to operate solely on the principle of reciprocity. Financial institutions may offer their business to competing firms not on the basis of service quality or pricing advantage, but on past dealings with a particular firm. These are often called 'relationship deals', and the economic loss of efficiency is evident. A firm pitching for business will fail to win the contract even though its product or pricing is superior. A firm putting out a tender for business will often accept sub-optimal service – in terms of either product quality or pricing – for the sake of maintaining or strengthening a strategic relationship. Central to this theme of reciprocity is the notion that one of the parties will always be implicitly owed something in return.

Excessive reciprocity as a cultural habit is not necessarily an ethical problem – until it starts to prevail over ethical decision-making. The LIBOR scandal can be seen as a practical example of this culture of reciprocity between individuals, who allowed it to trump all ethical concerns. Whenever a choice had to be made between acquiescing to the request and rejecting it, rate submitters or internal traders did not display the slightest sign of reflection or conflict. Quite simply, they were willing to compromise their ethical considerations regarding the integrity of LIBOR, as well as run the individual risk that they would lose their jobs if they were caught out. We will now look at the reasons why these two factors, which should theoretically have dissuaded them from manipulating the rate, were not sufficient to counteract such cultural factors as reciprocity.

La réciprocité excessive n'est pas forcément un problème éthique tant qu'elle n'éclipse pas les decisions éthiques. Le rôle de la communauté est important pour expliquer la relégation de l'éthique au second plan. La transgression, pour le LIBOR, était devenue une pratique habituelle historique, acceptée et perçue comme naturelle par l'ensemble des collaborateurs, quelle que soit la hiérarchie.

Le sentiment de protection des traders, au sein des grandes institutions financières, est un autre fait très important à considérer. Agissant en toute impunité, ils pensent être à l'abri de toute sanction. Le sens individuel de la responsabilité éthique est souvent biaisé dans le cas d'invidus croyant faire bien pour leur entreprise, qui est leur famille à laquelle ils sont plus que fidèles. La prise de risques est alors effectuée par procuration.

The role of community

One of the reasons why traders let the culture of reciprocity override their ethical values was that it was acceptable within their team's culture. Virtue ethics theory, which dates back to Aristotle, highlights this 'role of community' by asserting that ethical virtues can only flourish in a 'conducive infrastructure' (Dobson, 1997). The reverse is also true; in a community where ethical principles have been pushed into the background, individuals will attach less importance to these values. There is also a utilitarian aspect to this: over time, transgressions will encounter less peer opprobrium, and hence will become less 'costly'. As fresh evidence emerges that LIBOR rate rigging had been going on to some extent since the 1980s, it is reasonable to assume that the transgression gradually became more acceptable to traders who saw their peers – and possibly superiors – behaving in a similar way. The perception that this sort of behaviour was acceptable at firm level blossomed naturally in some institutions. Of particular note in the LIBOR scandal is the fact that ethical values were undermined not just within individual banks, but across a whole range of banks. As already mentioned, there is evidence that certain banks tried to persuade others to join in with the collusion.

Yet this cultural assimilation is only part of the puzzle. There is an additional, but fundamentally different, effect that is linked to it – namely, the sense of protection that traders feel their firms give them. Broadly speaking, employees of major financial institutions feel they deserve a measure of protection from their banks for the decisions and actions that they take. In many cases this is a reasonable assumption. For example, traders who have been given a mandate by their firm to build exposure to a particular currency would justifiably feel that they are shielded from penalties if any problems arise as a result. This is much the same as claiming they are simply doing what their boss has told them to do.

A distorted view of ethical accountability

Danger looms when the line separating firm- or industry-level transgressions (for which individuals are not held accountable) from individual transgressions becomes blurred. In such cases, individuals have a distorted sense of their individual level of ethical accountability. Evidence of this mentality can be found in another financial scandal: the story of the UBS rogue trader, Kweku Adoboli. He defended his $2.3 billion unauthorized trading losses by claiming that UBS was his 'family' and that 'every single bit of effort [put into that organization] was for the benefit of the bank'.[8] Banks such as UBS have obvious

[8] Adoboli, Kweku, Southwark crown court (London). Quote at http://www.guardian.co.uk/business/2012/oct/26/trader-kweku-adoboli-trial-ubs

Les collaborateurs ont tendance à repousser les limites de ce qui est éthiquement acceptable au niveau de l'entreprise, en raison de la protection institutionnelle à laquelle ils pensent avoir droit.

motives for inspiring such loyalty in their employees, but by doing so may encourage individuals to transpose their own ethical responsibilities to those of the institution. There are clear parallels between the two situations: both the UBS trader and the LIBOR manipulators were trying to increase profits for their banks. As a result, they may have felt that they were taking risks vicariously, through the institutions they were working for. This belief is not as surprising as it may sound. Only two individuals at UBS have so far been formally charged in connection with the LIBOR scandal, although at least 45 are implicated.

Adoboli certainly felt that his superiors at UBS at least implicitly sanctioned his actions. Exactly how much senior management at the banks involved in the LIBOR scandal knew about what was going on remains a matter of conjecture. At Barclays, it led to the departure of the chairman and the CEO, both of whom, it must be assumed, accept some measure of responsibility (direct or otherwise). But the issue of institutional protection remains important, for it hints at a relationship of reciprocity that is similar to the notion discussed earlier in this paper. Employees expect the loyalty they show to the firm to be repaid through some measure of protection; and in some cases they may simply feel that working for the firm shields them from external penalties against their actions. In either case the result is the same: they may tend to push the boundaries of what is ethically acceptable at industry level, because of the institutional protection they feel they are entitled to.

Il faudrait pouvoir imposer les mêmes normes de l'intégrité éthique à l'ensemble des employés, afin qu'ils puissent prendre les bonnes décisions de manière indépendante vis-à-vis de leur institution. Il s'agirait d'un modèle de reference à partir duquel chaque employé développe sa vision personnelle de l'intégrité éthique.

The paradox of imposing firm-wide ethical standards

I have reasoned that individuals working for a bank may be so culturally intertwined with the values of the institution and those around them that they do not make independent ethical decisions for themselves. They may also feel they receive some measure of protection from the institution. As these two effects are enhanced, it is increasingly likely that cultural factors will begin to prevail over independent ethical decision-making. Any institution that demands extreme loyalty from its employees theoretically runs this risk. The only way to avert this danger is to somehow inspire the same 'gold standard' of ethical values in every single employee in the firm. If this could be achieved, any employee taking his or her lead from another would meet the same standard of ethical integrity.

There is thus a paradox: how do you create a firm where ethical values are so strong that they inspire every single employee to adhere to such a 'gold standard', while at the same time everyone is looking to the team around them to substantiate their own ethical beliefs? The answer is that this would be impossible to achieve unless, of course, the firm had already reached this level, Il faut parvenir à créér un processus indépendant de jugement, qui doit poursuivre une forme d'excellence impliquant courage, sagesse, intégrité, équité et cohérence. L'éthique doit être partie intégrante des prises de décisions au sein des banques.

in which case it would be self-sustaining. This teaches us an important lesson. Firms should attempt to set a 'gold standard' of ethical integrity for their employees, but at the same time assume that it will never be achieved. Ultimately, each employee must be encouraged to set about developing his or her personal vision of ethical integrity.

How do we create virtuous agents?

In the case of LIBOR, individuals subject to this process of independent ethical evaluation would never permit themselves to manipulate the rate – regardless of which particular definition of ethics they subscribe to (since manipulating LIBOR is morally wrong, economically inefficient and a threat to the broader banking infrastructure). Virtue ethics theory goes one step further in highlighting this independent process of judgement, stating that an agent should 'not apply any specific rules in making decisions' but instead follow a path 'consistent with the pursuit of a particular kind of excellence that, in turn, entails exercising sound moral judgement guided by virtues such as courage, wisdom, temperance, fairness, integrity and consistency' (Dobson, 1997). Our lessons from LIBOR, as well as recent analysis (Crossan *et al.*, 2013), offer a compelling argument for encouraging the virtue ethics approach to decision-making within banks.

Le sens de l'intégrité éthique propre à chaque individus peut évoluer en fonction de ce qu'il observe autour de lui. L'éthique doit donc toujours être considérée sous deux angles : la culture d'équipe et les valeurs individuelles.
Le lien entre le collaborateur et son entreprise étant très fort, ceux qui arrivent à initier le débat éthique avec eux-mêmes ont franchi la première étape en vue de devenir des agents vertueux.

Some would argue that organizational context is a crucial part of ethical decision-making (Dean *et al.*, 2010). But we should not forget that, in order to have a complete picture of ethical decision-making within organizations, we must consider firms' cultural traits along with individual ethical values. Not every individual at Barclays, for example, would be willing to manipulate LIBOR. This inclination would vary depending on a range of factors including individual ethical integrity, team culture and firm culture. Furthermore, different pockets of culture may co-exist within one institution. As already mentioned, all these factors are interlinked. Individuals' personal sense of ethical integrity may be pushed and pulled according to what they observe around them. The model proposed by Trevino suggests that ethical decision-making behaviour can be better explained by the interaction of personal and situational variables (Trevino, 1986). I would go further and assert that, in any large institution, ethics must always be considered from both angles (team culture and individual values).

As the connection between the employee and the firm grows stronger (as in the example of the UBS rogue trader), the more people within the firm can influence the individual's sense of what is 'right', or in this case merely 'acceptable'. Again, this supports my assertion that every individual in a large firm should be encouraged to develop a personal sense of ethical integrity, rather than automatically subscribe to the firm's 'gold standard' of values

Suite au scandale du LIBOR, de nombreuses mesures sévères ont été prises avec comme objectif un fort effet dissuasif. Mais les sanctions financières ont un impact moins important que l'atteinte à la réputation des institutions impliquées.

(which should nevertheless be established). This is certainly a difficult and sometimes paradoxical ethical analysis for an individual to undertake (given my arguments in the previous section that personal ethics can be influenced by external situations), but it is a thought process that individuals should be compelled to go through. It could even be argued that individuals who initiate this internal ethical debate with themselves have taken the first step towards becoming virtuous agents. Aristotle noted that the process of contemplation is the key to ultimately fulfilling human activity (Aristotle, 1984). At the very least, agents who put themselves through this process show that they are trying to become virtuous agents – which is a virtuous act in itself.

Why we need to look beyond regulation

In the aftermath of the scandal, regulators have come down heavily on the institutions guilty of misconduct. Barclays, UBS and RBS have been fined a total of $2.6 billion. The UK's Serious Fraud Office (SFO) has even launched a criminal inquiry into LIBOR manipulation, and prime minister David Cameron has ordered a parliamentary review of the banking sector, with the avowed aim of ensuring the UK has 'the toughest and most transparent rules of any major financial sector'. The British Bankers' Association will no longer oversee the LIBOR process and will be replaced by a data provider or a regulated exchange.

These stringent measures will undoubtedly have a deterrent effect. It is worth pointing out that the threat of financial penalty will only be part of the impact on institutions of this size. The other is the effect that fines of such magnitude have on the reputation of these institutions' franchises across the globe. This reputational factor is probably the most important, as shown when Bob Diamond resigned from Barclays on 3 July 2012, stating that external pressure on the bank risked damaging the franchise as a whole.

L'examen du processus relatif au LIBOR est désormais si rigoureux qu'il est devenu impossible d'échapper à des sanctions en cas de fausses estimations. Comme il y aura toujours des opportunistes pour tenter de nouvelles manipulations à des fins économiques, il est nécessaire de réformer les individus eux-mêmes à travers leurs banques.

It seems very likely that, in the short term, regulators will be able to correct most of the structural flaws in the LIBOR rate-setting process. Scrutiny of the process is now so rigorous that one can no longer envisage submitters being able to escape penalties if they were to give false estimates. The bulk of this can be achieved by establishing a new oversight committee and a strict auditing process. If we accept this, then we begin to see why ethical considerations are of such paramount importance in the scandal. Today's financial system is so complex that we will never reach a point where all the structural vulnerabilities in the system are resolved at the same time. It is always likely that an opportunistic, skilled banking professional will succeed in manipulating the system for the purpose of profit. Hence the focus must be on reforming the individuals themselves, through their banks. Creating 'virtuous agents' must be the priority.

Why banks should be driving the change

Les institutions bancaires doivent devenir le moteur du changement en se concentrant sur le fonctionnement précis de leurs équipes. La réforme sera plus efficace si elle est conduite par les cadres dirigeants, avec un système de cascade.

This paper has already highlighted the fact that the team culture among traders and submitters (reciprocity) was conducive to such wrongdoing as LIBOR manipulation. The difficulty for outside parties is that they have little insight into the dynamics of individual teams. In some cases, even the chairman does not have a clear view of the prevailing culture within a particular team (consider Barclays chairman Marcus Agius's statement that he was 'sickened'[9] after reading the trader conversations). Yet institutions have a duty to understand exactly how their various teams operate. Thus, although attempts to instil reflective ethical decision-making values are ultimately aimed at individuals, senior management in large institutions should be required to drive this reform. Efforts to change corporate culture should be aimed at the entire institution, for it would be impossible to identify specific teams of individuals with a high risk of compromising ethical integrity for the sake of greater profit. Logically, once we begin this process, cultural and ethical values should cascade down from top to bottom. As a final barrier, individuals should develop their own sense of ethical integrity as a countervailing force against the legacy of negative ethical values within their own teams.

Les directeurs des banques devant inculquer ces valeurs éthiques à l'ensemble de leurs équipes, ils deviennent alors partiellement responsables des éventuels scandales à venir. Le rôle de l'entreprise dans l'acceptation des nouveaux codes de conduite défini est grand car les valeurs clés doivent être assimilées et mises en pratique.

Senior management at these key institutions should be held accountable in order to ensure this happens. The overriding force here is the banks' transparency to the public and the press. In most countries we are seeing this process beginning to work well. If we subscribe to the view that a firm's culture is the chief executive's primary legacy, it follows that cultural changes will eventually cascade down to the point where senior management are satisfied that they have an organization made up of teams reflecting core standards of ethical integrity. Chief executives that have been given enough time to instil these values must therefore be held at least partially responsible for any future scandals.

Putting this plan into practice is easier said than done. Institutional cultures are built up over long periods of time, and it will be a while before we see the impact of any measures to change things. Barclays boss Antony Jenkins has taken a positive step in this regard by telling his staff to sign the bank's new code of conduct or else leave the firm. The code of conduct encompasses five key values – respect, integrity, service, excellence and stewardship. The previous point must again be stressed here: such codes of conduct are worth little unless employees interpret and adopt them alongside their personal vision of ethical integrity. Failing this, there is a danger that they will assume their colleagues are abiding by the code and simply bo-

[9] Smith, Guy (producer & director) (2013), ***Bankers: Fixing the System,*** BBC (British Broadcasting Corporation).

L'une des priorités est de pouvoir déjà évaluer l'éthique lors du recrutement des collaborateurs. Il faut pour cela procéder à de véritables mises en situations réelles pour définir et apprécier les priorités du candidat et donc son niveau d'action éthique. Il faut avant tout embaucher des individus capables de juger ce qui est éthiquement acceptable.

Au-delà de la prescription de codes, les entreprises doivent mettre en œuvre diverses actions pour maintenir l'esprit éthique dans la durée. Des journées de l'éthique avec des exercices et échanges pourraient être un exemple de complément efficace.

rrow their values from those around them. From an ethical point of view, it is just as important that the firm should influence the individual as vice versa.

How to assess ethics in the recruitment process

In principle, when given the choice that Antony Jenkins has offered, most individuals will happily sign up to it. Very few people, especially those who have gone through a demanding recruitment process, will announce from the outset that they refuse to act with respect and integrity. The actual difficulty for the firm, and the individuals concerned, is putting such a code of conduct into practice when a difficult choice has to be made. And here the firm's priorities have to be crystal-clear.

The bank's duty is to select only those people whose ethical integrity will prevail at such junctures. The first step is to clean up things at the point of entry: recruitment procedures for graduates, associates and executives should all include a way of assessing candidates' ethical values, and their commitment to them. But these values should not just be examined in a simple competency-based interview with generic questions such as 'Can you give me an example of a time where you showed integrity?' Instead, real under-pressure situations should be presented to candidates in order to discover how they set priorities between ethical considerations and individual, team and firm goals – in other words, what process they use in deciding how to act ethically. Firms should not expect every individual to be a perfectly 'virtuous agent'. Indeed, in a practical sense, there is little consensus on what this 'gold standard' really means. But firms should ensure that the individuals they hire are exactly that: individuals, who have their own process for judging what is ethically acceptable.

How to keep the flame of ethical reflection burning

I would therefore caution against investing too heavily in traditional methods of corporate ethics training, for these tend to be too prescriptive and rule-based. Instead, anything banks can do to keep the flame of ethical deliberation burning in individuals' minds would be a step in the right direction. For example, banks could hold an annual 'ethics day' on which employees are encouraged to form groups and discuss the ethical issues arising from the decisions they have to make day by day. Robert Solomon, an advocate of virtue ethics, argues that excellence in business comes from understanding what role one plays in the wider company (Solomon, 1992). One simple exercise could be for each person to draw up an 'impact chart', listing every person indirectly or directly affected by decisions they make on behalf of the firm – a complicated task that would force them to think about their specific role in the context of their firm and the broader banking system.

Le devoir des banques est de veiller à ce que leurs employés comprennent que leur protection est limitée lors de décisions pouvant être préjudiciable et que chaque action prise doit toujours favoriser le code de conduite défini, en lien avec sa propre vision ce qui est éthiquement correct.

La promotion des valeurs éthiques doit être effectuée à tous les niveaux des organisations bancaires, notamment afin d'éviter leurs aspirations à couvrir les scandales potentiels.

L'affaire du LIBOR a occasionné une révision éthique de l'ensemble du secteur financier, qui est entré dans une phase positive de réflexion et d'analyse. Une démarche qui pourrait être couronnée de succès.

This could become a key constant in the equation of individuals' ethical decision-making.

Finally, banks themselves must be made to understand that it is not enough to put a basic code of conduct in place. Their responsibility is to ensure that their employees understand the following:

1. There is a limit to the protection that they are afforded by their banks. When making a difficult business decision that may have negative externalities, employees must assume that they will be largely accountable for the consequences.

2. In ethical terms, every decision they make on behalf of their banks should be judged against two criteria:

- The firm's code of conduct;
- The individual's personal vision of what is ethically correct.

The future of ethics in the banking industry

At industry level, fortunately, most of what can be done is now being done. This is largely due to the public outcry over the numerous financial scandals that have occurred in recent times. As already mentioned, few factors are a bigger force for change than the accountability of large institutions to a disapproving public. However, this increased accountability could cut both ways. On the one hand, banks may clean up their act (which is what the evidence suggests is happening); on the other hand, they could become even more determined in their efforts to cover up potential scandals. This danger can be averted by promoting ethical values at all levels of the organization, in line with the recommendations in this paper.

LIBOR was an example of a scandal that had been smouldering away for a very long time, before exploding into the public eye in a matter of weeks. It will be instructive to discover just how widespread manipulation was among the other panel banks. In any case, the evidence regarding the three banks directly implicated is reason enough to justify an ethical overhaul of the entire industry. We have entered a positive phase in which the banking community is actively discussing these issues more than ever before. This process of reflection and contemplation – for banking institutions, teams and especially individuals – is the main indicator that the overhaul may be successful. •

Appendix: excerpts from trader conversations

The following excerpts are taken from the Financial Services Authority's Final Notices to Barclays and UBS in the matter of the LIBOR scandal.

(1) 26 October 2006

External trader: *If it* [LIBOR] *comes in unchanged I'm a dead man*.

After the Barclays trader responded that he would 'have a chat':

External Trader: *Dude, I owe you big time! Come over one day after work and I'm opening a bottle of Bollinger*

Source: FSA (Financial Services Authority), *Final Notice to Barclays Bank* PLC, www.fsa.gov.uk/static/pubs/final/barclays-jun12.pdf

(2) 18 July 2007

Broker B contacted a submitter at panel bank 1 asking about Japanese yen LIBOR submissions that the bank was going to contribute. The submitter was extremely off-hand about his bank's submission (saying *it makes no difference to me*) and agreed to make the submission requested by broker B. Broker B confirmed that the request came from trader A at UBS. The conversation went as follows:

Panel bank 1 submitter: *Alright, well make sure he* [the UBS Trader] *knows.*

Broker B: *Yeah, he will know mate. Definitely, definitely, definitely.*

Panel bank 1 submitter: *You know, scratch my back yeah an' all.*

Broker B: *Yeah oh definitely, yeah, play the rules.*

Source: FSA (Financial Services Authority) *Final Notice to UBS*, http://www.fsa.gov.uk/static/pubs/final/ubs.pdf

(3) 18 September 2008

Broker requests and external requests were coordinated with internal requests. In the course of one manipulation campaign, a UBS trader agreed with his counterpart that he would attempt to manipulate UBS's submission in 'small drops' in order to avoid arousing suspicion. The trader made it clear he hoped to profit from the manipulation and referred explicitly to his UBS trading positions and the impact of the Japanese yen LIBOR on those positions. He offered to 'return the favour' and enter into facilitation trades and other illicit transactions in order to incentivize and reward his counterparts:

(a) Trader A sought to secure the cooperation of traders at other panel banks by entering into trades that aligned their respective commercial interests so that both sides would benefit from the intended Japanese yen LIBOR manipulation.

(b) Trader A and another trader entered into 'wash trades' (risk-free trades that cancelled each other out and had no legitimate commercial rationale) in order to facilitate corrupt brokerage payments to at least three brokers at two broker firms as a reward for their efforts in manipulating the submissions of panel banks. For example, in a telephone conversation on 18 September 2008, trader A said to broker A at broker firm A:

If you keep 6s [the six-month Japanese yen LIBOR] *unchanged today ... I will ... do one humongous deal with you ... like a 50,000-buck deal, whatever. I need you to keep it as low as possible ... if you do that ... I'll pay you, you know, 50,000 dollars, 100,000 dollars ... whatever you want ... I'm a man of my word.*

Source: FSA (Financial Services Authority) *Final Notice to UBS*, http://www.fsa.gov.uk/static/pubs/final/ubs.pdf

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The Ethical Challenge of Systemic Financial Distrust

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Ethics & Trust in Finance Global edition 2016-2017

Second Prize

In one of the opening sentences of his *Meditations on First Philosophy* René Descartes observes that "it is prudent never to trust completely those who have deceived us before" (1996 [1641]: 12). Some 350 years later, Lady Gaga, in her song *Telephone*, agrees: "Trust is like a mirror, you can fix it if it's broke, but you can still see the crack in that [*expletive*]'s reflection!" The near-universal human truth that these two very different thinkers – each in their own idiom – stress is that once it is lost or betrayed, trust is very hard to regain and may never fully recover.

It is this insight that the financial industry has painfully had to confront over the tumultuous last decade. First, there was the *internal* breakdown of trust amongst market participants that triggered, magnified and perpetuated the global financial crisis (Roth, 2009; Shiller, 2008; Krugman, 2013). Second, there was an accompanying *external* breakdown of public trust in those working in the financial industry, its major organizations, and, crucially, the financial system's ability to fairly deliver prosperity. In a 2016 study, only 8% of Americans said that they trust their house-bank or financial intermediary, a figure that used to be well above 50% prior to the crisis (Close, 2016). Another study persistently ranks the financial sector as the least trustworthy industry (de Bruin, 2014; Edelmann, 2016). Perhaps harder to put into figures, but ultimately more consequential is the loss of faith in the economic structure of which finance is an integral part, as witnessed by resurgent populist condemnations

Dans Les Méditations, René Descartes observe qu'« il est prudent de ne jamais faire totalement confiance à ceux qui nous ont déçu auparavant ». Quelque 350 ans plus tard, Lady Gaga, dans sa chanson Téléphone, va dans le même sens : « la confiance est comme un miroir, vous pouvez le réparer quand il est cassé, mais vous pourrez toujours voir la marque dans son reflet ! » La vérité presque universelle qui en découle est le fait qu'une fois la confiance perdue ou trahie, elle est difficile à regagner.

L'industrie financière a dû y faire face avec peine durant les 10 dernières tumultueuses années. D'abord, il y a eu l'effondrement interne de la confiance chez les participants au marché qui a déclenché la crise financière globale. Ensuite, il y a eu une perte de confiance externe du public dans la capacité du système à apporter équitablement la prospérité. La méfiance dans la finance est une préoccupation pour chacun.

of '(financial) globalism' and calls for protectionism and unilateralism. Overcoming internal and external distrust should be a goal for professionals who aspire to work in a prosperous and fair financial industry. But because these breakdowns in trust have the potential to threaten the very existence of a liberal democratic order, distrust in finance is an acute problem that is of *everyone's* concern.

This essay contributes to our understanding of trust in finance. We approach the issue from a new philosophical angle by investigating first the problem of systemic *distrust*. We proceed in four steps: Section two lays the groundwork by offering a philosophically sound account of trust and distrust. Crucially, we demonstrate that distrust is at heart a so-called "thick" ethical concept, which is grounded in the trustee's moral obligations. Section three turns to distrust in the financial system. We distinguish between agential and systemic distrust, and we list some evidence and possible causes. But our goal is more than diagnostic. In section four, we advance proposals for alleviating distrust in the financial system. We present short-term as well as more aspirational ideas, distinguishing three complementary strategies: generating agreement about the obligations of the financial system, introducing reforms to increase its reliability, and communicating improvements.

Trust and Distrust

Trust is everywhere. From the most casual everyday choices to the most agonising and momentous decisions in our lives, we are constantly engaged with assessing whom, what, when and why to trust. Crucially, trust is not just one additional thing to consider – it is almost always a *decisive* concern: As lovers and friends, we end relationships when our trust has been betrayed. As voters and citizens, we do not support a candidate in whose sincerity we have doubts. As consumers and investors, we refrain from purchasing products or shares when we lack faith in the management's truthfulness. Trust relations underpin life as we know it. Without trust, close relationships are inconceivable, democratic politics impracticable, and prosperous market exchanges unworkable.

Some Characteristics of Trust

But what exactly is trust? First, we must distinguish between trust and distrust and trustworthiness and untrustworthiness. Whereas (dis)trust is the *attitude* that we display towards those we *consider* trustworthy, (un)trustworthiness is the property that a trustee must objectively have for trust to be warranted (Hardin, 1996; McLeod, 2015). Thus, we can fail to trust or even distrust those who are objectively trustworthy, and we can trust those who are objectively untrustworthy. With this distinction

La confiance est partout. Comme les amoureux, nous mettons fin aux relations quand notre confiance a été trahie. Comme les électeurs, nous éliminons les candidats pour la sincérité desquels nous avons des doutes. Comme les investisseurs, nous évitons les entreprises dont la gestion ne nous paraît pas sincère. Nous devons distinguer la confiance (méfiance) de la (non) fiabilité: alors que la confiance (méfiance) est l'attitude que nous montrons à ceux que nous considérons comme (non) fiables, la (non) fiabilité est la qualité qu'un administrateur doit objectivement avoir pour être digne de confiance. La confiance est une relation triple entre celui qui fait confiance, celui à qui la confiance est faite et certaines tâches. Faire confiance implique toujours un risque en rapport avec quelque chose de valeur pour celui qui fait confiance. A a seulement confiance en B par rapport à X lorsque A attend que B fasse X. La confiance est basée sur des émotions et des attitudes éthiques.

in mind, let us now confront some necessary aspects that all cases of the form "A trusts B in respect of X" have in common (Baier, 1986; O'Neill, 2002):

1. *Trust is task-focused*. Though we sometimes speak as if there was 'trust *tout court*', trust is to be understood as a threefold relation between a truster, a trustee, and some tasks: When we worry that the average person's trust in bankers is declining, then we of course do not worry about his expectation that his banker will reliably send him flowers on his anniversary, but that she will reliably and faithfully execute those tasks that customers can legitimately expect.

2. *Trust entails risk and vulnerability*. Trusting always involves a risk to something valuable for the truster, and hence vulnerability (Attas, 2016). When I transfer my savings to a wealth manager, I take a risk that trust was misplaced: I may lose my money.

3. *Trust presupposes expectations and reliance*. A only trusts B in respect of X when A expects that B will in fact do X. When I ask my upstairs neighbour to water the tomato plant on my balcony while I am on holiday, but already expect her to forget, then I do not trust her to do it (Holton, 1994: 64).

4. *Trust is grounded in emotions and ethical attitudes*. Trust requires that, when A's belief in B's doing X is frustrated, it is appropriate for A to have certain emotions and attitudes towards B (Jones, 1996). When my slipshod neighbour fails to water my tomato plant, then it is *ceteris paribus* warranted that I am resentful towards her for this omission, and it would be appropriate for her to apologize.

Three Insights About Trust

The aspects identified above indicate that trust is intimately connected to questions of ethics. By its very nature, trust is something that can be betrayed, and when this occurs (and in contrast to cases of mere reliance) morally charged emotions like resentment and blame are in order. Such emotions are *justified* when it is ethically correct to assume that the trustee had a moral duty to do what we trusted her to do. Similarly, we have reason to be regretful when we distrusted somebody and later learn that this distrust was unfounded. So, this is our first insight (Hawley, 2014: 8):

Insight 1*: Trust and distrust (as opposed to reliance) presuppose a moral obligation or commitment between truster and trustee.*

However, the absence of trust is not by itself sufficient for characterising a relationship as one of distrust. While I do not rely on my friend to bring me chocolate if she never does so, it cannot be said that I *distrust* her in this regard. The appropriate response when unexpectedly offered chocolate is thankfulness, not remorse for misplaced distrust. It would be absurd to apologise to my friend for the previous absence of trust in her

Aperçu 1 : la confiance et la méfiance (par opposition à la dépendance) présupposent une obligation morale ou un engagement entre celui qui fait confiance et le trustee.

Aperçu 2 : la méfiance (par opposition à la non dépendance) est le fait de s'attendre à ce que le trustee ne s'acquitte pas de son obligation morale ou de son devoir.

Aperçu 3 : la méfiance systémique est distincte de la méfiance dans un système car elle présuppose la méfiance généralisée entre des acteurs en interaction.

S'il y a méfiance, son existence même contient à la fois une menace et une promesse. La menace est que ceux qui se méfient pensent qu'une obligation morale sera violée. La promesse c'est que ceux qui se méfient croient au moins qu'il y a des obligations morales qui

offering chocolate (comp. Hawley, 2014: 3). This yields our second insight:

Insight 2*: Distrust (as opposed to non-reliance) is the expectation that a trustee will fail to perform a moral obligation or duty.*

We started out by considering not merely *distrust* in finance, but *systemic distrust*. One might think that systemic distrust merely is distrust in the financial system, but this is too simple. If an individual distrusts the financial system, this cannot amount to *systemic distrust*. Systemic distrust presupposes that many agents jointly distrust, where this distrust can in turn undermine the system since it emerges from the interaction of numerous agents:

Insight 3: *Systemic distrust is distinct from distrust in a system as it presupposes widespread distrust among interacting agents.*

These insights clarify when there is distrust as opposed to merely the absence of trust and when distrust amounts to systemic distrust. Moreover, if there is distrust, then its existence holds both a threat and a promise. The threat is that those who distrust believe that a moral obligation will be violated. The promise is that distrusters at least believe that there are ethical obligations that can, in principle, be observed. Put more bluntly: financial calamities are not like bad weather – inevitable facts of life that may disappoint us, but about which ethical judgment is nonsensical. The financial system is human-made and changeable, and therefore assumptions about moral obligations (and hence distrust) are apt.

Systemic Distrust in Finance

It's time to connect our philosophical reflection to empirical practice: We saw that people who distrust will:

(A) believe that some agent or institution (the trustee) has some moral obligations or commitments;

AND

(B) expect that the trustee will betray or violate those obligations.

(A) and (B) together suggest the structure for the following empirical diagnosis of distrust: Subsection 3.1 analyses what people – those who mistrust – see as the moral obligations and commitments of the financial system and those in it. What are possible *objects* of a betrayal of trust? In 3.2 we assess the *grounds* for the expectation of non-compliance.

What People Expect from the Financial System

Of course, there is no clear catalogue of obligations that everybody agrees on when it comes to the financial system. Nor need there be complete agreement on this in a pluralistic society. Our moderate goal here is to sketch important values that we think matter to a vast majority of citizens. We do not draw on extensive empirical survey peuvent, en principe, être respectées. Les désastres financiers ne sont pas comme le mauvais temps – des faits inévitables de la vie qui peuvent nous désappointer, mais sur lesquels un jugement éthique n'a pas de sens. Le système financier est fait par l'homme et peut être changé.

Les gens qui se méfient (a) croient qu'un agent ou une institution (le trustee) a des obligations morales, et (b) et s'attendent à ce que le trustee trahisse ou viole ces obligations. Ainsi, pour établir un diagnostic empirique de la méfiance, nous considérerons d'abord ce que les gens croient être des obligations morales du système financier et jusqu'où ils pensent qu'elles seront honorées. Lorsque les deux sont divergentes la méfiance apparaît. Même s'il n'y a pas de catalogue des obligations clair sur lequel tout le monde est d'accord, les deux points de vue suivants semblent être largement acceptés : (1) l'objectif du système financier de contri-

data but trust that our readers, upon reflection, will agree that these are indeed widely-shared expectations. For analytic clarity, we focus on those outcomes that the financial system *as a whole* is expected to produce, and then on the obligations of *individual agents*, notably natural persons and corporations that matter for trust. For these agents, we differentiate between non-compliance that stems from (i) lack of *competence,* or (ii) lack of *motivation*.

Systemic Purpose: Equitable Prosperity

At the most abstract level, the purpose of the financial system is to serve the common good (Hendry, 2013: 46; Shiller, 2012: 7; Steigleder, 2011). What does that entail? Our suggestion is that the financial system must contribute to 'equitable prosperity', which is shorthand for a system that reliably makes people better off whilst ensuring that nobody is treated inequitably. Finance's crucial role for prosperity consists in efficiently allocating capital to productive resources, providing financial services, and managing risk (Boatright, 2013; James, 2012; Santoro and Strauss, 2013).

With regard to equitableness, the obligation is, at the very least, a negative one, namely (i) to avoid contributing to outcomes that are so bad that they amount to *economic harm*, and (ii) avoiding unfair outcomes where massive gains to some cannot be justified in terms of either some ethically relevant criterion (e.g. hard work, talent) or the contribution that inequality makes to overall prosperity (James 2012; Rawls, 1999).

Agents' Obligations: Competence and Motivation

Beyond outcomes, there are moral expectations about agents of finance, their actions, standards of behaviour, and, more generally, their business culture. Assessment of agents is distinct from the moral assessment of structures and institutions: Agents *act*, i.e. they have plans, form intentions and respond to reasons in the pursuit of their aims. When it comes to placing trust in agents, we do not only care about the outcomes they bring about, but also about why and how they do so. We believe agents in the financial system are considered trustworthy by society at large when they meet two conditions:

1) They are capable of performing the function they occupy, where this function is justified in terms of the system's overall purpose.

2) They are motivated in the right way to pursue these goals.

Just to give an example of this dual requirement: As the CEO of a company looking to acquire a competitor, we will trust our M&A advisor only if, first, we are convinced that she is sufficiently competent to counsel us about the industry, corporate finance, and so forth. But secondly, we will only trust her if she is motivated to look out for our interest, as witnessed, for example, by buer à une prospérité équitable, c'est-à-dire d'améliorer le sort des gens et de ne traiter personne de façon inéquitable. (2) les agents à l'intérieur du système financier doivent être compétents pour exercer la fonction qu'ils occupent et avoir de droites motivations.

Les attentes sont largement basées sur l'expérience passée, nous devons donc prendre en considération les résultats et le comportement dont le public a été le témoin.
Aux yeux de beaucoup, les marchés financiers ont mené à une mauvaise allocation du capital et ont causé la crise financière globale qui a provoqué des réductions dramatiques du bien-être économique général. De même, la promesse de résultat équitable a été ébranlée.

Il y a un sentiment général selon lequel pendant que les gains provenant du boom d'avant crise alimenté par la finance profi-

the absence of conflicting mandates, her own investment decisions, and so forth. Both competency and motivation are properties that are not imminently observable, so that we generally seek to establish their presence by reference to past behaviour and current constraints and incentives on action. This, we shall now see, explains the present problem of distrust.

How Past Experience Give Rise to Distrust

Distrust arises if there is the expectation that obligations will not be met. We have identified what the public thinks are the obligations. What are its expectations? We begin by considering outcomes and behaviour the public has witnessed, assuming that expectations are to a large extent based on past experience. In so doing, we focus primarily, though not exclusively, on the 2008-10 financial crisis since it most drastically shaped the public's current perception of financial markets.

Outcomes of the Financial System

Focusing first on the promise of prosperity, it seems clear that this has been called into severe doubt: Rather than facilitate efficient capital allocation, financial markets have in the eyes of many led to a misallocation of capital, including human capital. And instead of distributing and managing risks emanating from the real economy, the financial industry has, at least during the financial crisis, been a source of instability causing dramatic reductions in overall economic wellbeing (Lowenstein, 2010). Thus, the experience-grounded expectation that the system can robustly produce prosperity has been shaken.

How about its ability to deliver equitable outcomes? The first condition here was that the financial system should do no harm. But, to give just one example, IMF and World Bank estimate that as a result of the financial crisis, up to 83 million people more will have to live below the line of severe poverty (United Nations, 2010: vi). More locally, the financial crisis has in many instances had a dramatic impact on the lives of those already worse off, e.g. low-skilled labourers now unemployed. The second component of equity was basic fairness in distributive outcomes. Here too, there is a widespread sense that whilst the gains of the finance-fuelled pre-crisis boom largely benefitted one layer of society, the subsequent costs of the crisis were fully 'communalized' through bank bailouts, jobs cuts and austerity measures, which disproportionally burden those dependent on social assistance and unfairly exempted those responsible for these outcomes. Whether or not these judgments are accurate, they clearly bolster the narrative that "the system is broken".

Behaviour of Agents in Finance

Beyond the failure to live up to the expectations in terms of taient à une mince couche de la société, les coûts de la crise ont été complètement « socialisés » à travers des sauvetages.

Quelles sont les perceptions des acteurs financiers ? Distinguons les dimensions « compétences » et « motivation ». La crise financière a mis en évidence un manque de compétence grave : de nombreuses institutions ainsi que les personnes à l'intérieur de ces institutions engagées dans des interactions sur le marché ne comprenaient pas pleinement ce qu'ils faisaient. Même les inventeurs des produits financiers complexes ont finalement perdu la capacité de les contrôler. Il y a non seulement eu des cas particuliers de problèmes légales, mais à un niveau plus général, des segments de l'industrie financière ont engrangé des profits à court terme plutôt que de faciliter la prospérité économique.

aggregate outcomes, the financial crisis has also exposed a severe lack of competence among individual as well as institutional agents.

At the institutional level, many banks did not comprehend the products they were dealing with. The German Landesbanken, largely state-owned banks that have historically focussed on doing business with small to mid-sized German firms, are an example. Lured by high returns, they started investing in credit default swaps, collateral debt obligations and other structured financial products, blindly trusting the rating agencies' verdicts. As Constantin von Oesterreich, head of the HSH Nordbank, later remarked: his bank was investing "everywhere without being qualified to do so" (The Economist, 2015).

Remarkably, even those who invented the complex financial products that fuelled the financial crisis eventually lost the ability to handle them (Schwartz & Cresswell, 2008). As mortgages were placed in large bundles, claims to which were divided hierarchically and then repeatedly re-sold, even the constructors of these products could no longer gauge their value, though they knew they were risky. Beyond such product complexity, there is also an impairment to manageability and foreseeability from algorithmic high frequency trading that has, in the past, led to 'flash crashes' and arguably increased volatility.

In addition, there have been concerns about motives. By developing and selling such products, parts of the financial industry had alienated themselves from the fundamental social purpose that finance as a profession was meant to fulfil, namely to manage risk and facilitate real economic growth. What these segments of the industry where doing was in fact the opposite: releasing their 'toxic financial products' into the real economy and killing productivity, employment and growth (Stiglitz, 2010).

Beyond this basic failure to meet its social purpose, the public also witnessed the financial services industry display more specific deficiencies of motivation. The recent string of discoveries of fraud on its own is impressive. In 2008, Bernard Madoff was charged with choreographing the largest Ponzi scheme in history (Ionescu, 2010). In 2012, it became public that banks had colluded to manipulate the London Interbank Offered Rate (Libor) for over ten years (Kennan, 2012). The discoveries of often record-setting fraud have become so regular that it seems the industry is corrupt to the core.

But even where financial institutions have stayed within the boundaries of the law, they have often been deemed to have crossed ethical boundaries. A good example is the recent Cum-Ex scandal in Germany, in which local and international banks effectively conspired to receive €31.8bn tax 'refunds' from the treasury on taxes never paid in the first place (Blickle, 2017).

Il y a en principe deux façons d'atténuer la méfiance : changer les hypothèses relatives aux obligations ou modifier les attentes. En ce qui concerne les hypothèses relatives aux obligations, il est important qu'elles ne divergent pas. Pour cette raison, les agents financiers devraient s'engager à éviter de faire des promesses trompeuses, qui alimentent les attentes irréalistes. Puisque les entreprises individuelles peuvent trouver un intérêt dans de telles règles, si elles sont appliquées conjointement, il n'y a pas besoin d'une intervention de l'État. En même temps, plutôt que de blâmer « les banquiers », les politiciens et les organes de presse devraient identifier avec précisions quelles sont les devoirs et obligations spécifiques que le système financier ou les agents individuels n'ont pas respecté.

Alleviating Distrust: Proposals for Reform

There are in principle two ways of alleviating systemic distrust in financial markets. First, one can dispel the assumption of an obligation: if no obligation is assumed, then there can be a perception of unreliability, but no distrust. Arguably, this was the case prior to the advent of modern economic theory and the belief that governments could and should shape the economic landscape. Second, one can remove the expectation that obligations will be violated, which requires convincing people that the financial system is trustworthy.

This section will look at the merits of these approaches in turn. Our proposals are always split into two categories. First, those that could realistically be implemented in the short-term; second, those that are more aspirational. Through this two-tiered approach we hope to provide a comprehensive 'menu of choice', guarding against pure utopianism while not curtailing ambitions by focussing too narrowly on the feasibility constraints of the moment.

Obligations

It matters what obligations the financial system is assumed to have. While we make some substantive (but we hope not outrageous) assumptions about what these obligations are, we want to preface this with a simple, structural idea: for any chance of systemic distrust to recede, assumed obligations need to be jointly realisable, and hence assumptions of different agents within society need to converge. By this logic alone, it is crucial that whatever changes are implemented are the product of democratic procedures. Our proposals here are invitations for citizens and financial professionals to deliberate. With this expectation management and reciprocal engagement in view, we propose the following:

- **Short-Term Proposals**

(a) Forums should be established to discuss the obligations of the financial system, demarcating them from additional obligations society at large has. Such forums could be held from the local level upwards, bringing together professionals, politicians and laypeople.

(b) Financial agents should commit to avoiding deceitful promises, which could contribute to unrealistic expectations about what finance can achieve. Since individual firms may have an interest in such rules, if implemented jointly, this need not require state intervention.

- **Aspirational Ideas**

(a) At a political level, a list should be composed of the obligations the financial system and the agents within it have. This could be done at different levels, with regions or nations adding obligations to a global list. These lists could then guide reforms.

La réforme actuelle vise à augmenter la fiabilité du système financier, afin que celui-ci devienne plus digne de confiance. Les faiblesses structurelles sont présentes au niveau macro. Elles proviennent tout d'abord de la présence d'institutions d'importance systémique et ensuite d'un manque de transparence. Des règles plus strictes en matière de liquidités pourraient contribuer à la stabilité et il pourrait être raisonnable de transformer les institutions financières d'importance systémique en des entités plus petites. Des règles additionnelles en matière d'information et un changement dans la procédure pour l'évaluation de la solvabilité des produits financiers pourraient augmenter la transparence.

(b) Rather than blaming 'the bankers', politicians and media outlets should be careful to identify specific obligations the financial system or individual agents have failed to meet. As informed debate requires knowledge, better educating students about the financial system may also be an important long-term goal to reinstate trust.

Actual Reform

While there might be disagreement about the precise obligations, those mentioned in 3.1 and 3.2 clearly seem to be part of any reasonable set. On this assumption, the financial system, at least prior to the 2008-10 financial crisis, was not reliable in meeting its obligations, so it was not trustworthy. In order then to effectively and permanently alleviate distrust, there needs to be actual reform to make it more reliable. Our analysis of the origins of the failure of the financial system suggests that there are primarily three sources of unreliability, namely:

(i) structural weaknesses, such as the presence of systemically relevant institutions;

(ii) a lack of competence, such as an inability of asset managers to comprehend the complex products they were dealing with and;motivational shortcomings, such as short-term profit seeking.

A comprehensive strategy should address all three components.

Structural Weaknesses

We suggested that in contrast to agents, trust in systemic institutions is based foremost on outcomes. This subsection considers the financial system at the macro-level. Increasing reliability primarily requires increasing the system's ability to absorb shocks to its components (Goldlin & Mariathasan, 2015). One aspect of this is the presence of systemically important institutions, whose failure could quickly impair the whole system. Another concern is whether market participants are really able, in times of crisis, to quickly evaluate the creditworthiness of financial products and institutions. This form of transparency is vital for maintaining business between banks. In the crisis, it was primarily the collapse of trust in the interbank-lending market that caused havoc in the real economy as credit became unavailable to firms (Krugman 2013).

- **Short-Term Proposals**

(a) To increase the resilience of the financial system, more stringent liquidity rules should be introduced in accordance with each institution's susceptibility to systemic impact (Admati & Hellwig, 2014). The more equity capital financial firms have, the longer they can absorb losses and the lower the likelihood of contagious effects.

(b) Additional disclosure rules could help increase transparency. While it is a task for experts to determine what kind of information

Un comportement de prédateur de la part des institutions financières envers les clients pauvres, tels que le chargement par les banques de frais excessifs en cas de retard, devrait être interdit. Une telle mesure pourrait atténuer la méfiance de deux façons : en premier, elle changera la perception aux yeux du client. En second, en tant qu'exemple de prise en compte de la vulnérabilité du client, elle peut aider à mettre en place une culture moins étroitement axée sur le profit.

Plutôt que de purement proscrire certains produits, la charge de la preuve dans quelques domaines à haut risque devrait être inversée. En utilisant les règles actuelles pour l'approbation de nouveaux produits pharmaceutiques, les entreprises financières devraient alors être obligées de démontrer que les bénéfices attendus des nouveaux

should be published, the aim should be to make it easier to reliably evaluate the creditworthiness of financial products and institutions.

(c) Specific, stricter rules should be developed for institutions that are deemed systemically relevant to ensure that they are in a strong position to absorb even pronounced shocks (IMF, 2011).

- **Aspirational Ideas**

(a) If possible at reasonable cost, all systemically relevant financial institutions should gradually be transformed into entities that are not too big (or interconnected) too fail. Such entities not only constitute an inherent weakness, but also create adverse incentives for risk-seeking behaviour (firms know they will be saved).

(b) The way the creditworthiness of products and firms is assessed should be re-examined. There might, for example, be a case for reducing the epistemic weight assigned to credit ratings (de Bruin, 2017) or for changing incentive structures to ensure impartiality.

Lack of Competence

There are two ways to ensure that an agent is competent to accomplish a given task. One can train her to carry it out, or reduce the skill-level required. Valuable products might be complex, but complexity in finance (as in law) is, also, always in the private interest of those who can outsmart others.

- **Short-Term Proposals**

(a) A non-profit institution akin to consumer advice centres should be created with the expertise to advise firms on risks involved in complex financial products. Firms have incentives to train their employees so that they are aware of all risks involved in products they handle, but might lack the expertise to identify risks.

(b) A study should be commissioned to identify products, trading practices and business models that increase the complexity of financial markets, evaluating benefits and costs. The aim is to acquire data on the basis of which to decide (at the political level) which activities to disincentivise or curtail. For example, existing rules on spoofing, layering and front-running in high-frequency trading should be refined to reduce the danger of excessive volatility.

- **Aspirational Ideas**

(a) At a political level, a decision should be made on how to weigh the benefits of highly complex financial products against the risks they give rise to. Complexity in some areas can likely be considerably reduced at little or no cost to social productivity and welfare.

Motivational Shortcomings

It would be neither fair nor productive to place blame for motivational shortcomings solely on individual agents. The structures in which they are embedded matter as they shape norms as well as incentives (Murdoch, 2015). In addressing

produits l'emportent sur leurs risques. L'atténuation de la méfiance nécessite un changement dans les attentes. Tandis que les attentes du public peuvent s'adapter au fil du temps si le système financier reste fiable, les attentes sur les marchés financiers sont souvent auto-réalisatrices, d'où il est d'importance vitale que les changements soient communiqués rapidement.
Propositions à court terme : imposer un moratoire sur les fonctionnaires voulant travailler dans l'industrie financière ; établir (ou renforcer) des instituts de recherche gérés par l'État afin d'acquérir une expertise publique sur les marchés financiers.
Idées à plus long terme : imposer une séparation stricte entre les régulateurs financiers et les professionnels de la finance (avec pour modèle les relations avocats–juges) ; étant donné les biais dans l'octroi des financements, réguler le financement externe de la recherche académique plus étroitement et introduire un code d'honneur pour les universitaires.

motivational shortcomings, we distinguish between narrowing a trust gap – by making unreliable behaviour less attractive – and bridging a trust gap – by changing cultural norms (Attas, 2016).

- **Short-Term Proposals**

(a) To curtail reckless behaviour, financial firms could be obligated to share in their customers' risk. For example, Mian and Sufi (2014: 171-184) advocate shared-liability-mortgages, where monthly payments shadow movements in the market value of a property while the amortisation schedule is fixed. Such mortgages could be made obligatory for borrowers with low creditworthiness.

(b) Predatory behaviour by financial institutions towards poor customers, such as the imposition of excessive overdraft fines by banks, should be prohibited. Such a measure could alleviate distrust in two ways. First, it will alter the perception of consumers. Second, as an example of taking vulnerabilities of consumers into account, it may help create a less narrowly profit-driven culture.

(c) Criminal prosecution should be reinforced, with individual agents being held responsible where there was clear illegal behaviour. There has been a sharp decline in convictions for fraud in favour of *deferred-prosecution agreements* (Radden Keefe, 2017), which creates a perception (among the public and finance professionals), that one can get away with breaking the rules in finance.

- **Aspirational Ideas**

(a) Rather than merely outlawing certain products, regulators should shift the burden of proof to providers in some high-risk areas. Taking current rules for the approval of new pharmaceuticals as a guide, financial firms might then need to demonstrate that the expected benefits of new products outweigh their risks (Allen, 2013).

(b) A moderate financial transaction tax could be introduced. This has been proposed e.g. by Darvas and Weizsäcker (2009). Plausibly, such a tax would primarily target highly speculative short-term investments that have little economic benefit. Similarly, some regulators (e.g. the Japanese Financial Service Agency in 2017) have proposed 'speed limits' on high-frequency trading to reduce volatility.

Communication

Reforms of the financial system matter, but are not necessarily sufficient. Alleviating distrust also requires changes in expectations. While the public may adapt its expectations over time if the financial system continues to be reliable, communication is needed. Since expectations are often self-fulfilling in financial markets (Farmer, 2014), it is vital that changes can be communicated quickly, so that the public can adjust its expectations. A sensible aim would be to establish a group of experts who can evaluate progress and are able to reach the ear of the public.

L'analyse philosophique était nécessaire pour déterminer l'anatomie de la méfiance ; nous avons ensuite mis l'accent sur les attentes normatives que les sociétés ont à l'égard des résultats que le système financier produit et du comportement que les acteurs adoptent dans ce secteur. Plus loin, nous avons expliqué quels développements historiques ont donné naissance à des doutes profonds sur la manière dont le système financier remplit ces attentes ; finalement, nous avons examiné comment reconstruire la confiance publique dans la finance, en étudiant la gestion des attentes et des obligations, la réforme institutionnelle, et les pratiques de communication. Vaincre la méfiance dans la finance, comme le fait de reconstruire la confiance dans une relation, nécessite de faire des ajustements peu à peu plutôt qu'un geste exceptionnel. Mais (en revenant à Lady Gaga) il y a de l'espoir : un miroir cassé peut ne plus

This was historically the role of academics, public regulators and politicians. However, trust in these groups has also declined (Edelmann, 2017: 6,11). There are two plausible explanations for this. First, there is a perception that there are few competent experts. The fact that few economists predicted the 2008-10 financial crisis has contributed to this impression. Second, publicised conflicts of interest have led to doubts about the impartiality of experts: many financial regulators formerly worked in finance; banks provide grants to economists; high-profile politicians have delivered pricey speeches at investment banks.

- **Short-Term Proposals**

(a) Employment moratoria should be imposed on public officials who want to work in industry. Similar restrictions should be imposed for those who wish to switch jobs in the other direction, but possibly gradually, given the need for expertise in regulation.

(b) State-run research institutes focussed on establishing expert knowledge of financial markets should be established (or strengthened). The state can only claim credibility if it does not need to rely on outsiders who may face conflicts of interest.

- **Aspirational Ideas**

(a) There should be a strict separation between financial regulators and professionals in finance. While an exchange of ideas should be encouraged, fraternisation as well as a change in employment across the divide should not. The relationship between judges and lawyers could serve as a guide.

(b) Given empirical evidence of *funding bias* (Krimski, 2013), external funding of academic research should be regulated more strictly. A code of honour could encourage academics not to accept favours from those who might have an economic interest in questions relating to their research.

Conclusion

We began this essay in the lofty heights of philosophical reflection about distrust, and ended it in the messy lowlands of practical proposals. But we see no reason to apologize for this. To (freely) rephrase a famous Kantian dictum: Theory without practice is empty; reform without reflection is blind[1]

To recap: our philosophical analysis was necessary to determine the anatomy of distrust. Based on this, we focused on the normative expectations that society at large has of the outcomes that the financial system should generate and of the behaviour agents of the financial system should display, as judged by their competence and their motivation. We then explained which historical developments

1 The reference here is to Kant's expression "Gedanken ohne Inhalt sind leer, Anschauungen ohne Begriffe sind blind." (Kant, 2009 [1787]:B75), literally translated as "Thoughts without content are empty, intuitions without concepts are blind."

jamais produire le même reflet, mais une réparation prudente peut transformer une fissure en quelque chose de précieux : un aimable rappel de sa fragilité fondamentale.

and current features have given rise to widespread doubts that the financial system lives up to these normative expectations. Finally, we have chartered the terrain of how to rebuild public trust in finance, looking at expectation and obligation management, institutional reform, and communicative practices.

In fact, our colourful range of proposals is as it should be. Overcoming distrust in finance, like rebuilding trust in a relationship, requires piecemeal adjustments on many fronts, rather than grand one-off gestures. But (and to come back to Lady Gaga) there is also hope. A broken mirror may never provide the exact same reflection, but in time, careful mending and frequent polishing can turn a crack into something valuable: a gentle reminder of fundamental fragility. •

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Ethical Leadership and Ethical Legacies

Ethics & Trust in Finance
Global edition 2016-2017

Third Prize *ex-aequo*

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

Lately, the financial sector has been perceived as being more unethical than any other. This paper will take as an example the Wells Fargo scandal. It shows how, once again, employees are at the heart of an ethical crisis in financial services. Such crises have now become a great concern for moral psychologists, for spiritual leaders, and for behavioural scientists who are trying to understand what led to that situation and what caused such behaviours. How can 5,300 employees all lose their moral compass?

The truth is that we are all vulnerable. Despite our good intentions, we may sometimes be forced to make choices we never thought we would make. According to former prosecutor Serina Wash (*2016*), most of the corruption today comes from "ordinary good people" with whom you "could well have coffee with that morning. And they were still good people who'd made terrible choices."

Lisa Ordonez, Vice Dean and Professor at the University of Arizona talked about how "goals have a strong effect of causing tunnel vision, narrowly focusing people at the expense of seeing much else around them, including the potential consequences of compromised choices made to reach goals."

The first section of this paper is focused on the ethical dilemmas faced by bank employees today and how our financial system is gradually becoming ethically lethargic. Going from ethical to unethical is not a sudden shift, but rather a gradual process that starts with those minor, unethical decisions that employees allow themselves to make. The daily

Le monde de la finance a graduellement passé d'un système hautement éthique à un système éthiquement léthargique. Cette situation de léthargie a été un incubateur parfait pour le dérapage de 5300 employés de la banque Wells Fargo en 2016.

En tant qu'employés de ce système, nous sommes vulnérables et pouvons répéter les mêmes erreurs. La transgression inoffensive de l'éthique que nous nous permettons de commettre régulièrement crée, à long terme, un modèle dans notre subconscient qui force une réaction automatique lorsque nous faisons face à des situations contraires à l'éthique.

Ce papier commence en fournissant au lecteur une analyse situationnelle des dilemmes éthiques auxquels font face les employés de banque dans différents secteurs dans l'organisation et élabore différentes

repetition of dishonest actions creates a pattern in our subconscious. Over time, our reaction to such situations becomes automatic and does not even register as unethical.

By reviving an ancient approach to ethics written some 2000 years ago by Aristotle, I emphasize in the second section the importance of promoting ethical leadership in our organisations to inspire employees' to embrace ethical values in their daily behaviour. I also encourage a re-examination of cultures and whistleblowing systems to facilitate ethical leadership by looking at the following questions:

1. What can management do to create a more ethical organisational culture?

2.How can we optimize the effectiveness of whistleblowing system?

The future and the profitability of our financial system depend greatly on the next generation of employees. It is therefore our responsibility to build an ethical legacy for this digital generation and to ensure that the system that was once created to safeguard the interests of the community still has value and importance in the heart and mind of each person in society.

Tech - no - logic

The transition from one method of communication to another is always morally contentious. Socrates lived in an era when people were moving from communicating orally to a new form of technology which consisted of collecting information in scrolls and books. Socrates refused to write anything down based on his argument that written words "seem to talk to you as though they were intelligent, but if you ask them anything about what they say, from a desire to be instructed, they go on telling you the same thing forever". (*Phaedrus, section 275d*).

Today we live in a world in constant change. Technology has been an important trigger in the evolution that banks have faced over the last decades. Technological development of the banking system and digitalisation of banking channels have enabled customers to have non-stop access to banking services without having to physically enter a branch. Digitalization has swept through bank operations and enhanced customer experience with alternate customer channels. Customers are now being offered multiple interaction points including branches, ATMs, internet banking and, now, mobile banking. The smartphone has brought a real transformation to everyday retail banking. By digitalising customer service, banks have become more effective and faster in their customer interaction. This, in turn, has changed the structure of the organisations: new units have been created such as call centres and back office operations have been extended. At the same time, the front line service is more concentrated on winning business and increasing the firm's portfolio. As a result, employees often face excessive pressure to meet unrealistic targets.

solutions selon des approches telles que, (i) un leadership pour promouvoir l'éthique chez les employés, (ii) l'amélioration de la culture et (iii) revoir le système de reporting. Il s'agit de répondre aux questions suvantes
(a) comment peut-on promouvoir le leadership en matière d'éthique dans une organisation ?
(b) comment la direction peut-elle créer une culture d'entreprise plus éthique ?
(c) comment rendre le système de reporting efficace?

La technologie a été un important catalyseur dans la transformation du secteur bancaire de l'ère traditionnelle à l'ère numérique. On offre maintenant des points d'interaction multiples aux clients à travers les agences, les distributeurs automatiques de billets, la banque en ligne et sur mobile, qui permettent de repousser les limites du service client.

Toutefois, comme l'a bien visualisé Socrates, bien que la technologie

Call centres- The conflict between the needs of customers and the needs of the bank

An article in the *International Journal of Work Innovation* (Csillag et. al, *2012*) identified how work in a call centre is emotionally demanding, with high pressure and routine, and boring and repetitive tasks. Further, employees' performance targets are based on the number of customers dealt with and the employees have little or no control over how work is allocated. Others have described call centres as the: "high tech workplaces of the future, symbolizing the close and value-creating interactions of information technology and human beings" (Moss et al *2008*; Altieri et al *2002*)

This article goes further to identify two ethical issues that employees in call centre face:

1. Organisational issues: Overregulation and control of the employees, together with and the highly unrealistic performance targets reduces the sense of responsibility that the workers have, may numb their conscience and may encourage them to cheat.

2. Customer interaction issues: If staff are encouraged to lie to customers this will, over time, create a moral distance in an employee's subconscious.

Unethical behaviour seen in call centres is, most of the time, a result of the unrealistic goals and standards imposed on the employees. Moreover, the processes and the organisation itself are constantly in flux, introducing new rules and regulations. That churn discourages employees from putting rules and regulations into practice. The rules, regulations and targets imposed are seen as unfair by the employees and cheating is seen by many as the only solution. Employees are also stuck between the competing expectations of the customers and of the organisation. The loyalty and confidential clauses in the employees' contract bind them to sometimes lie, withhold information and giving wrong information to cover up for their organisation.

Back office operators – The factory workers

The job of back office employees has been undervalued over time causing them to become demotivated and adopt a mechanical approach to work. These employees are invisible to the customers and are often viewed collectively by the management as a processing department. Their individual contribution are generally recognized only by their direct reporting superiors who sometimes neglect to reward them accordingly.

Once again, irrespective of how they behave, these employees find that the targets imposed on them are the only measure of their performance. That is why ethical values are overlooked in their quest for better reward and remuneration. Knowing that how they behave is not being monitored, but rather how they

paraisse intelligente, il faut un cerveau humain pour penser et agir pour elle.
Tout ceci débouche sur une pression excessive sur les employés pour suivre la vitesse du développement technologique et respecter les objectifs peu réalistes fixés par les dirigeants de l'organisation.
Pour les besoins de ce texte, nous considérerons trois niveaux différents d'une organisation financière et feront toute la lumière sur les dilemmes éthiques auxquels font face les employés de banque aujourd'hui.

Le Centre d'appels est qualifié comme «le lieu de travail d'avenir et de haute technologie». Ce travail met l'opérateur sous haute pression et il est très exigeant émotionnellement.
L'employé est confronté à deux dilemmes :
1. Réduction de la responsabilité et encouragement à la triche du fait des objectifs inaccessibles et un contrôle rigoureux.
2. Créer une distance morale dans le subconscient de l'employé en le poussant à mentir au clients.

perform, they have a superficial sense of freedom from having to behave ethically all the time.

Not convinced? Let me put it this way: how do you eat when you are having a formal dinner with your boss in a restaurant compared to having a pizza in front of your television alone? Ethics are like good table manners. If they are not recognised, they are ignored. The rule of thumb is that you will behave ethically only when you are being observed, because being observed makes you feel accountable.

Relationship Manager – The Jehovah's Witness of the bank

One morality-diminishing factor that forced employees at Wells Fargo to modify their behaviours was the aggressive sales target imposed. The employees were forced to work unpaid overtime to meet the target. In an attempt to do so, at least 5000 employees became involved in the Wells Fargo Scandal of 2016, (The Guardian, *2016*) reported. A total of at least 2 million deposit and savings accounts were opened in the names of the customers without their consent. Wells Fargo's internal analysis revealed that more than 1.5 million deposit accounts and at least 565,000 credit cards were set up between 2011 and 2015. "This dishonest and unethical conduct", as the top securities regulator of Massachusetts would eventually describe it, was the result of great pressure on, and low consideration for, the employees.

Cross- selling is at the heart of every financial organisation and it is seen as an aggressive sale pitch to increase the earnings of banks, rather than as a means to inform the customers of their options. On top of that, some banks have selling contests in which they reward their best performers with either cash prizes or vacation as, for example, at Morgan Stanley where a total of $24m of new loans was generated in the period 2014 to 2015.

How far these sales can be considered as good sales? For the sake of achieving targets, old people without computers or mobile phones have been granted Internet & mobile banking access. Large loans that had been rated credit-grade became non-performing, because the risks had been neglected to drive a higher profit margin.

The disconnect between the bank's expectations of ethical behaviour by an employee and the goals and restriction imposed on the employee is counterproductive and it increases confusion and doubt in the minds of bank staff. In order to reduce tension and anxiety, employees create a rational explanation for their behaviour without realizing that, over time, they are losing their emotional sensibility and abandoning their ethics to blindly follow procedures.

Employee engagement – The missing carrot

Another major crisis that the financial system has been facing since the credit crunch of 2007-2008

De même, les employés du back-office se défaussent de leurs responsabilités éthiques en échange de meilleures rémunérations et de la reconnaissance. En effet, ils sont notés seulement sur la base de leurs performances mesurables ce qui les entraîne à adopter une approche mécanique dans leur travail. Les chargés de clientèle sont ceux qui se battent sur le front sous haute pression pour respecter les délais serrés et reçoivent peu de considération comme dans le cas de Wells Fargo.

La contradiction flagrante entre les attentes de la banque en termes de traitement éthique et les objectifs imposés aux employés, augmente encore plus la confusion dans l'esprit des employés. Pour pouvoir faire face à cette tension, ils choisissent de suivre aveuglément les procédures tout en laissant de côté leur sensibilité émotionnelle.

is in employee engagement levels. Although organisations worldwide recognize that employee engagement is crucial for their growth, the level of engagement has barely moved over the past decade. Gallup Daily tracking *(2015)*, reports that only 32% of U.S employees are engaged and on a worldwide scale only 13%. Engagement determines the degree to which ethics are displayed. Most of the bank employees today find themselves stuck in Maslow's *(1943)* first level of employee need, the survival level. They have abandoned their hope for a better life; doing more does not necessarily imply being recognized. To be promoted today, you must either be in the good books of the managers, or, sadly, report on your peers. Subsequently, ethics for employees at the survival and security level are quasi non-existent. They are working only to pay the bills and their children's school fees, and to get a retirement pension at the end. They have no vision of being part of the system as an important stakeholder.

Who is to blame then?

The Gallup Report *(2015)* further identifies some of the causes of this disengagement among employees:

1. A focus on surveying engagement, rather than investing in and mentoring employees.
2. Not treating employees as stakeholders within the chain.
3. The wrong culture.
4. Abusive role models.

In an article published by the Asia Pacific Journal of Human Resources, Eve Anderson *(2009)* mentioned how an organisation can "face difficulties" if the interests of individuals aren't considered "when changing work policies and processes". Employees can be disengaged if they feel that they have no benefit from, and value in, the change process.

So why are we still failing despite the many attempts? How can we solve this ethical crisis in our system? The answer is simple; by calling a spade a spade.

Neuroethics – A social practice

Today there are many standards for defining ethical values. For instance, on the basis of pragmatism or of a belief in what is right and what is wrong. According to Howard Gardner's multiple intelligence theory, moral intelligence is a "form of *neuro-biologically-enabled* social intelligence." Moral intelligence is therefore not a matter of the logical accuracy of language. Neuroethicist Antonio Damasio *(2006)* in his book, *Descartes' error* (p.10) claims that "ethical behaviours are a subset of social behaviours". This close connection between social and moral intelligence suggest that the human brain conceives moral intelligence as a socially-interactive intelligence and that it is visible in our interactions; for instance, in negotiating agreements, communication, reciprocity, and mitigating conflicts. Matt Rid-

Le niveau d'engagement parmi les employés du secteur financier est aujourd'hui à son plus bas. Les employés se battent seulement pour survivre et l'éthique à ce niveau est inexistant. Les causes d'un tel désengagement d'après le suivi journalier de Gallup (2015) sont :
1. l'absence d'investissement dans l'employé
2. une considération faible
3. une culture toxique
4. des modèles de rôles abusifs.

La neuro- éthique est définie comme la pratique sociale de l'éthique. Selon Antonio Damasio (2006), la connexion étroite entre l'intelligence sociale et morale permet au cerveau de concevoir l'intelligence morale comme une intelligence socialement interactive. L'intelligence morale permet à l'individu de distinguer les interactions bénéfiques de celles qui sont nocives ; mentir et frauder d'un côté, donner aux gens les moyens de vivre paisiblement, de l'autre.

ley, in *The Origins of Virtue (1996)*, further adds that the brain "is equipped with special faculties to enable it to exploit reciprocity, to trade favours, and to reap the benefit of social living." This includes mutually beneficial forms of conduct that encourage positive feedback, and in turn inspire moral actors to repeat these good social behaviours. Most importantly, moral intelligence empowers the actors to live peacefully with each other and to distinguish between beneficial and harmful interactions, examples of the latter being lying and committing fraud. Such a sense of duty is not only anchored in the psychological approach of the individual, but rather a social practice. This is referred to as the practice of mutual obligations, the equivalent of mutual benefit as in the relationship between management and the employees. In such a relationship, there are both rights and responsibilities. By this token, neuroethics, supports a *social deontology* (a concept of duty) and *social utilitarianism* (mutual benefit).

Ethical Leadership –when everything else failed

We are not only concerned about recent scandals in the financial industry but, taking a wider context, about man-made catastrophes *per se* – such as the latest scandal in the oil industry, which resulted in an ecological disaster and was triggered by profit-oriented leadership practice. The public interest in ethical governance and ethical leadership has grown. Ethical leadership has been shown to have a positive impact on how well organisations function by increasing management effectiveness, job satisfaction, improvement in followers' performance and citizenship behaviour within the organisation.

Ethical leadership is defined as leadership that is directed by respect for ethical beliefs and values and for the dignity and rights of others. It thus relates to concepts such as trust, honesty, consideration, charisma, and fairness. (Wikipedia *2015*). It can also be seen as a function of the leader's personal characteristics and of environmental circumstances. (Lewin, *1951*). It is further defined by Brown, Treviño, and Harrison (*2005*) as the "the demonstration of normatively appropriate conduct through personal actions and interpersonal relationships, and the promotion of such conduct to followers through two-way communication, reinforcement, and decision-making" (p. 120).

Ethical leadership encompasses both a visible and an invisible aspect. The visible side of ethics is revealed in individual behaviour and actions. The invisible part is embedded in the character and moral values of the individual. The first principles of ethical leadership can be traced back to Aristotle. In his work *Nicomachean Ethics*, Aristotle defines *phronesis* as the intellectual capability for combining ethics and actions to help people achieve *eudaimonia* (happi-

Le leadership éthique est un leadership qui est dirigé par le respect pour des croyances et des valeurs éthiques et est considéré comme dépendant de la personne du dirigeant et du contexte.
On trouve le premier principe d'un leadership éthique dans l'ouvrage d'Aristote sur l'Ethique de Nicomachean. D'après lui, la phronesis est la capacité qu'a un individu de combiner l'éthique avec l'action pour parvenir au bonheur.

Une approche plus moderne du leadership éthique est le leadership transformationnel, élaboré par MacGregor en 1978. Selon cette approche de leadership, le dirigeant a la possibilité et la capacité de transformer un individu et d'amener des changements positifs pour ses adeptes.

Bernard M Bass (1985) est allé plus loin dans cette théorie en expliquant que la mesure dans laquelle un leader est transformationnel dépend de son influence sur ceux qui le suivent.

ness). It is "about having the right feelings at the right time on the right occasion towards the right people for the right purpose and in the right manner." *Phronesis* is essential for decisions towards promoting *eudaimonia.*

According to Aristotle, *phronesis* is more like a practical phenomenon than a purely rational one. Men with *phronesis* have developed through experience an "eye for things so they can see correctly".

The eight traits of an ethical leader have been summarized in quotes from Aristotle below:

1. "To avoid criticism say nothing, do nothing, be nothing."
2. "He who cannot be a good follower cannot be a good leader."
3. "We are what we repeatedly do. Excellence then is not an act, but a habit."
4. "To run away from trouble is a form of cowardice and, while it is true that the suicide braves death, he does it not for some noble object but to escape some ill."
5. "Liars when they speak the truth are not believed."
6. "Happiness belongs to the self-sufficient."
7. "Tolerance and apathy are the last virtue of a dying society."
8. "Patience is bitter, but its fruit is sweet."

Next breed of leaders

Ethical leadership is significantly associated with transformational leadership, which is a more modern approach to Aristotlean philosophy. Transformational leadership theory was introduced by McGregor in 1978 in his book "*Leadership*".

In his approach, (McGregor,*1978*) elaborates on the responsibility of both leaders and followers to raise one another to higher levels of morality and motivation. This leadership approach has the ability and capacity to transform an individual. It brings positive change to followers with the objective of turning them into leaders. Likewise, it becomes an example of ethical and moral values to leader peers.

Bernard M. Bass (*1985*) further elaborated on McGregor's theory by explaining that the degree to which a leader is transformational depends on how much influence they have on their followers. The qualities of a transformational leader – such as the ability to inspire trust, loyalty and respect – empower and motivate followers to willingly work harder towards objectives. Along the way, the followers will also develop and espouse the same ethical values as the leader. By providing an inspirational vision and endowing them with a new ethical identity, the leader is offering the followers more than just work self-gain.

Through charismatic and exemplary influence, which is founded in high ethical values, such leaders transform, motivate, and stimulate the intellectual and personal considerations of their followers.

La complexité du monde financier provoque des conflits entre les objectifs éthiques et la pratique permettant de réaliser ces objectifs, ainsi qu'entre les attentes contradictoires des différentes parties prenantes.

Les organisations avec de hauts standards éthiques aident à réduire cette différence en créant une atmosphère propice à la prise de conscience des problèmes éthiques et en développant une sensibilité éthique chez les dirigeants et les employés.
De plus, en tenant les dirigeants responsables de leur conduite contraire à l'éthique, l'organisation envoie un message clair à tous ceux qui en font partie sur le fait que l'éthique est prise très au sérieux.

Given the significance of this subject, how can we promote ethical leadership in our organisations?

It is argued that the complexity of an organisational environment is negatively correlated with the development and maintenance of ethical leadership. Sharfman & Dean (*1991*) defined the three dimensions of environmental complexity as: (a) the level of knowledge essential to understand the organisational environment; (b) the level of changeability in the environment; and (c) the level of existing resource from the environment. In complex situations, leaders have to constantly evaluate and monitor unpredictable changes in the environment to be able to provide the appropriate solutions. Edgar Schein (*1985*) emphasised that it is crucial for an organisation to embrace uncertainty as an advantage in order to be more adaptive. He also does a great job in demonstrating how transformational founding leaders succeed in managing internal and external challenges by incorporating other values and perspectives, thus creating shared culture in young organisations. In his book, *Organisation culture and leadership,* 4th edition, Schein (*1985,*) noted that:

"With the changes in technological complexity, the leadership task has changed. Leadership in a networked organisation is a fundamentally different thing from leadership in a traditional hierarchy" (p.12).

Ethical mandate in organisations

In a complex environment like the financial world, conflicts may arise between ethical goals and the practices for achieving these goals, and different stakeholders may have different ethical expectations. Budde, Child, Francis, & Kieser (*1982*) elaborate on how an organisation with a strong policy of ethical behaviour can create an atmosphere of high awareness of ethical issues, and develop ethical orientations in leaders and employees. In such an environment, leaders develop an increased awareness and sensitivity to humanitarian issues, which is then reproduced in their daily interpersonal and leadership behaviour. According to Festinger's (*1978*) theory on cognitive dissonance, it is impossible to work for an organisation that aims to be highly ethical and simultaneously treat others inhumanely. From the employees' perspective, they become more sensitive to the ethical dimension of leadership and appreciate being treated justly, fairly and humanely.

Based on the theory of social learning, employee support for ethical leadership is linked to positive progression and maintenance though reinforcement and through positive feedback loops. (*Bandura, 1977, 1986*)

Firms with a policy of ethical behaviour moreover attract applicants who embrace greater

On peut comparer la culture au caractère d'un individu. Il est décrit par Schein (1985) comme « les phénomènes sous la surface qui contraignent et guident le comportement » et aussi défini comme la façon dont nous « faisons les choses ».

Une organisation doit aussi être prudente lorsqu'elle décide de fusionner afin d'éviter des heurts de culture comme dans le cas de Wells Fargo, une ancienne entreprise de diligences express qui a fusionné avec Norwest en 1998. Bien que fonctionnant sous le nom Wells Fargo, c'est la culture de vente agressive de Norwest qui a continué de prévaloir. La culture prédominante de Norwest a définitivement été un déclencheur dans la conduite contraire à l'éthique des 5300 employés.

ethical awareness and higher moral development (*Kohlberg, 1976*), which means they have social motivations beyond getting an attractive salary and career prospects. This candidate self-selection in turn facilitates the development and maintenance of ethical leadership in the organisation. Most of the employees will have a more positive attitude to ethical issues and will have more or less the same preferences for ethical leadership.

Accountability of Leaders (Walk the talk)

Too often, leaders take credit for all achievement but when it comes to taking responsibility for failures find ways to avoid it. Instead, they blame employees, the system and the organisation. By holding leaders accountable for unethical conduct, an organisation sends a clear signal to the rest of the firm and society on how seriously ethics is taken. For instance, Carrie Tolstedt, senior executive of retail banking at Wells Fargo, walked away with only a fine of $67 million. Junior employees, in contrast, were the most severely punished as in the case of the 5,300 employees who lost their job. Accountability in leadership builds trust and promotes ownership in the organisation in contrast to the commonly held view that accountability means people are under constant surveillance. When correctly applied, accountability builds employees' confidence in themselves and in their leader.

Culture review

During his speech at Brooklyn College in New York in 2014, the president of the Federal Reserve Bank of New York, Mr. William Dudley, reiterated the necessity for banks to improve their culture and further suggested that senior executives should lead by example and that the banks should reward the employees who dare speak out.

Simply put, culture is “the way we do things around here”. It consists of cognitive entities like leadership style, process, actions and relationship which can be further grouped into **values** and **practices**. A survey conducted in 2016 by MIT Sloan Management review and Deloitte Digital, revealed that financial institutions are investing massively in digital transformation by developing digital products to improve the customer experience and strengthen their engagement. However, many firms today are focusing on the external environment and how to leverage their digital capabilities and are not spending enough resources on the internal development of the organisation and on its culture.

Culture in an organisation can be compared to the character of an individual. Schein (*1985*) describes culture as the “phenomena beneath the surface that constrain and guide behaviour”.

Is your culture toxic?

Have you ever felt like a cog in a machine and that your contribution

Robin et Judge (2009) ont approfondi cinq pratiques qui aident à construire une culture éthique :
1. devenir un modèle de référence visible
2. communiquer des attentes éthiques claires
3. offrir des formations en éthique
4. récompenser des actes éthiques et punir ceux qui y sont contraires
5. installer un mécanisme de protection.

« Le lancement d'alerte » est un système bien connu utilisé par les organisations financières aujourd'hui. Il consiste à offrir un canal anonyme pour signaler des comportements contraires à l'éthique. Selon une étude menée par « Transparency International Global Corruption Barometer» 91500 personnes dans 86 pays sont prêtes à dénoncer les fautes professionnelles pour autant qu'elles soient effectivement protégées.

is not being recognized? Are told to get on with your work and stop asking questions? Those are all signs of a toxic culture. Employees today have switched to "survival mode" in order to safeguard their jobs or get a raise and this often implies making unethical choices. A good example of an unethical organisational culture was Enron. The firm valued profits over ethical behaviour and it was described by Sims and Brickmann (*2003*) as "the ultimate contradiction between words and deeds, between a deceiving glossy facade and a rotten structure behind". (p.243)

Organisations have to also be cautious when deciding to merge. They are not only combining staff and locations, but corporate cultures. The CEO of Wells Fargo, John Stumpf defended his bank culture and put the blame on the "bad" employees. "Everything we do is built on trust," he said. He further defined his bank culture as "a pattern of thinking and acting with the customer in mind… the habit of doing the right things, and doing things right." However, this is not what the organisation's history tells us. Wells Fargo was established in 1852. The bank was a former stagecoach express that carried valuable goods from gold mines. It had merged with Norwest in June 1998. Although the Norwest name no longer exists, its culture still prevails. Prior to the merger of both banks in 1997, Norwest launched a product campaign called "Going for *Gr-Eight*". In an interview with *Fortune Magazine* in 1998, the then CEO Dick Kovacevich explained that his bank was involved in "selling money" through different financial instruments like ATM cards, credit cards, and loans. All the financial instruments were considered consumer products no different from, for example, the bread sold in a bakery. According to him, the branches were the "stores" and the bankers the "sales people" whose only task was to "cross-sell". He said it was his "business model" and "it was a religion. It was very much the culture".

Norwest's dominant culture was a definite trigger in the unethical conduct of 5300 employees despite the Wells Fargo code of ethics that qualifies such conduct as "gaming": "the manipulation and/or misrepresentation of sales and referrals….in an attempt to receive compensation or to meet sales goals".

What can management do to create a more ethical organisational culture?

Truxillo, Bauer, & Erdogan *(2016)* claimed that an organisational culture that emphasizes ethical behaviour can reduce organisational misbehaviour. They say that whether an organisation adopts a culture that "emphasizes doing the right thing even when it is costly comes down to whether leaders, starting with the CEO, consider the ethical consequences of their actions. Leaders with a moral compass set the tone when it comes to ethical dilemmas" (p. 385).

L'efficacité de ce système d'alerte peut être optimisée (a) en promouvant une culture basée sur un haut niveau de conscience éthique et de transparence ; (b) en protégeant les employés qui dénoncent les fautes et en ne les traitant pas avec hostilité ; (c) en établissant un cadre de confiance et un système d'examen les faits et les accusations avant d'entreprendre des actions, protégeant ainsi les employés de fausses allégations.

Robbins and Judge (*2009*) elaborate on five practices that help building an ethical culture which have been adapted for the purpose of this paper:

1. **Become a visible role model**
By acting and behaving ethically, senior management sends a positive message to their subordinates. They provide a model of what behaviour is, or is not, acceptable in the organisation.

2. **Communicate clear ethical expectations.**
Communication is an effective tool in eliminating ethical ambiguities. Ethical rules and code of conduct should be clear at all levels of the organisation. It should be first embraced, as mentioned above, by the organisation's elite and cascaded down to the rest of the organisation.

3. **Provide ethics training.**
Training can be used to reinforce the ethical code of conduct by equipping employees with knowledge of, and practice in, what is allowed and what is not.

4. **Reward ethical acts and punish unethical ones.**
Performance measurements in financial firms nowadays are designed to include measurable targets and achievements. They do not include the evaluation of decisions made according to the code of ethics. Appraisals should, however, not only be focused on the results but on how those results were achieved. And, consequently, the right behaviour should be rewarded, while unethical behaviours should be penalized.

5. **Instate protective mechanisms.**
Employees should be encouraged to report any unethical conduct of peers or managers without fear of being reprimanded. I shall further discuss in the next section the importance of creating a proper ethical reporting platform as a proactive measure to detect any sign of unethicality well before it turns into into fraud and crime.

Ethics reporting

Too often ethics is brought up only after a scandal has occurred, or during the yearly compliance policy review. Employees are not really conscious of the code of conduct expected from them. Without a clear code of conduct in mind, it is difficult to differentiate between what's ethical and what's not. Once employees are clear about the ethical goals, there will be less hesitation in reporting ethical misconduct.

One approach, which is being increasingly used in organisations today, is an ethics hotline or '*whistle-blowing*' system. Its first intention is to provide an anonymous channel where employees can report unethical behaviour without fear of retaliation. The Protected Disclosures Act (*No. 26 of 2000*), the so-called '*whistle-blower act*', ensures that the employees are protected from occupational disadvantage for reporting offenses.

On estime que la génération Z est la première génération qui est née dans un environnement totalement technologique, on présume qu'ils sont très réalistes, avec un esprit entrepreneurial, animés par des valeurs et qu'ils prennent au sérieux les problèmes de stabilité financière. En reconstruisant une forte réputation éthique basée sur un leadership éthique, et en favorisant une culture fondée sur la collaboration et sur la relation bilatérale, nous parviendrons à faire émerger une génération Z d'employés engagés. La seule façon d'atteindre ce but est de retourner aux vieux principes et de recréer un système ancré dans l'éthique pour un meilleur futur.

A survey done by Transparency International's Global Corruption Barometer 2010 revealed that 91,500 people in 86 countries are willing to report misconduct provided they are effectively protected. So why are many employees still reluctant to report transgression?

It depends at which level this transgression is being carried out. For example, employees feel vulnerable when it comes to reporting senior management. They could be at risk of losing their job, a promotion and career prospects.

How can we optimize the efficiency of the ethics reporting system?

First and foremost, the culture of the organisation needs to be conducive to reporting wrongdoings and should encompass high levels of ethical awareness and transparency. Second, the informer should be viewed as a loyal employee safeguarding the interest of the organisation and not be treated with hostility. It takes courage to report such misconduct, and it should be viewed as act of bravery.

Another important factor, which should not be neglected, is the people on the ethics committee. Establishment of a proper trust framework is crucial for the effective functioning of the committee. For example, there could be one committee consisting of board members for the sanctioning of management and another committee consisting of senior management for actions against employees. The actions taken should be matched to the gravity and nature of the charge. The committee should also be aware that this system can lead to false and mischievous reporting. Thus, it is important to also have a review system to verify the facts and accusations before taking action, in order to protect employees from false allegations.

Legacy for the digital generation

Generation Z, born after *1992*, is considered to be the first generation born into a fully technological environment. They are said to be very realistic, entrepreneurial, and very curious and value-driven and, above all, they are said to take financial stability issues very seriously. It is not difficult to see why that might be. They grew up in a period of economic and political instability and have seen the older generation struggle. Gen Zers are determined to avoid committing the same mistakes and they are self-motivated. According to a new global study by EY (*2016*), 71 % of Gen Z view respect and ethical behaviour as the most important characteristic of a future employer. The study also revealed that this generation is not insensible to their parent's experience and that these experiences had a "very or somewhat negative" effect on how much they will trust their future employers.

So how can we ensure the financial system is appealing to the next generation?

My journey as a banker started when I was only 8 years old. One hour spent at the bank with my father was enough to inspire a lifetime's career. The ethical culture and leadership in those days were so strong that it could be felt, although not understood, by a young girl. I believe that by rebuilding a strong ethical reputation based on ethical leadership and authentic brand image, and by fostering a culture built on collaboration and two-way relationships, we will engage Gen Z employees. The striking part is that our system was once built on ethical foundations. However, while we have embarked on a digitalised journey into the future, we have lost track of the ethical values and responsibilities we had in the past. The only way to get back on the right path is to halt and return to the old principles of a system anchored to ethics. That will lead to a better tomorrow. •

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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*

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* 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 have attempted to outline the expec-

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.

tations 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 ethics

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.

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.

The final (ethical) frontier?

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 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

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Banking, ethics and sustainability: the need for a self-critical look at corporate social responsibility strategies

Ethics in Finance, Robin Cosgrove Prize Iberoamerican edition 2012-2013

Second Prize

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Can we still speak of ethics and finance?

It all started in August 2007 – to be precise, on 9 August 2007, when one of Spain's leading newspapers published the news of the subprime meltdown. From this point on, a series of events was unleashed that would culminate in the greatest financial and economic crisis to hit Spain, and the rest of the world, since the Second World War. And at first the source seemed quite unexpected: the banking and mortgage sector.

The Spanish newspaper *El Mundo* was to state that, between 9 and 11 August 2007, the European Central Bank alone put 155,000 million euros into circulation after the famous crises in such financial institutions as BNP Paribas and the German bank Sachsen LB. In September *El Mundo* wrote that the crisis had bottomed out with the failure of the British bank Northern Rock. This was followed by shocking results for banks in general, and Citigroup and Morgan Stanley (complete with resignations) in particular. And while the general public in Spain – and many other countries – were struggling to grasp what a 'subprime' mortgage was, and what the fall-out might be, what is now known as the 'subprime crisis' was starting to trigger a major worldwide downturn in a jittery credit sector, the pillar of the market economy. In December of the same year, US President George W. Bush attempted to tackle the problem by reaching agreement with the banks on a five-year moratorium on changes to interest rates for high-risk mortgages – a solution which already seemed likely to prove inadequate.

Tout a commencé en août 2007, soit le début de la fameuse crise des subprimes. Comme les autres pays, l'Espagne a été durement frappée par la crise.
Le grand public espagnol découvrait pour la première fois ce qu'étaient les prêts hypothécaires à risques, sans réellement comprendre de quoi il s'agissait.

La faillite de Lehman Brothers le 15 septembre 2008 a été le point d'orgue et le point de départ d'une crise qui a touché l'ensemble de l'économie mondiale.
L'Espagne a progressivement été contrainte d'effectuer de nombreuses réductions budgétaires. L'année 2011 fut dominée par le fort taux de chômage, conséquence directe de la crise mondiale pour l'Espagne.

The collapse of Lehman Brothers on 15 September 2008 not only brought the 158-year history of one of Wall Street's flagship companies to an end, but made clear that the financial heart of the United States was in stormy waters. Within days, other institutions on both sides of the Atlantic admitted that they were in serious trouble, causing a precipitate stock-market crash. The collapse of the high-risk mortgage market in 2007 was now having an impact well beyond the institutions originally concerned. Fearful of losing their money, banks stopped lending, and the crisis started to threaten consumption and spread to the rest of the economy.

In 2010 came the Greek bailout, followed by the Irish one. And in this global economic context Spain found itself having to make more and more cutbacks – with the constant suspicion that these would not be enough to satisfy the market's appetite. The global economy appeared to be recovering; some countries began to show positive growth rates and, although they were still unable to create employment, could state that they had bottomed out. But in others, such as Spain, it was a very different story. In 2011 unemployment was the dominant factor and emerged as the most damaging consequence of the crisis, while news about the economy, the problems facing banking institutions or possible bailouts for countries such as Portugal and Spain continued to pour in. This led to the movement known as *los indignados* ('the outraged'), whose slogans against politicians and bankers struck home in a country that was in turn seized by a thirst for change. To this day the movement is actively fighting what it calls the prevailing status quo.

A case in point: Spain

In this increasingly turbulent and uncertain context, Spain's financial sector entered 2012 with such news as the first complaints from victims of the preference shares fraud, a partial government takeover of the Bankia concern, constant rumours of a bailout for Spanish banks and much else besides, and ended the year with the first news of suicides following eviction orders issued by the country's banking institutions.

In 2013 the prospects for Spain's financial sector – and specifically for banks – seem hardly more encouraging. If we look up the term 'bank' on Google (currently the most widely used search engine in Spain), we find that the main information circulated or produced by the media is just as critical and pessimistic as in recent years; to some extent this merely confirms the picture that the general public already has of such institutions and their role in the crisis.

Among the hits are things such as 'Spanish premier Rajoy does not rule out the possibility that the banks will need more money, but it won't come from the bailout', 'the Fitch rating agency calculates that the banks will have to stump up more than 10,000 million because of refinancing', 'par-

L'année 2012 a vu s'établir un contexte général de plus en plus incertain, avec les multiples plans de sauvetage des banques espgnols, à l'image de la situation de Bankia. En 2013, les perspectives pour le secteur financier espagnol, en particulier pour les banques, ne semblent guère plus encourageantes si l'on se réfère aux résultats de recherches relatives au terme « banques » dans le Google espagnol.

Une récente enquête de l'institut espagnol de recherches sociologiques montre que le concept de "banques" est désormais cité comme étant l'un des trois plus sérieux problèmes du pays. Le terme d'expulsions est lui aussi entré dans le trio de tête.

Dans cette situation très difficile, pouvons nous encore espérer que les institutions bancaires vont agir de façon éthique ? Il est probable que les besoins de la société et les intérêts des banques aillent dans des directions très différentes.

liamentary debate on housing associations' debts to banks', 'public prosecutor in the province of Galicia hopes that, in the trial on the mass sale of preference shares, the banks' directors will be required to explain why such "toxic products" were sold in the first place', 'private prosecutor in the Blesa case (the Clean Hands trade union) calls for prison sentence without bail for the former president of the Caja Madrid bank', 'director of the Banco Pastor released on bail following arrest for fraud'... If we add the term 'corruption' to our search, we find such things as 'Société Générale dismisses the head of its subsidiary Rosbank, accused of corruption', 'Banking, short selling and corruption: Spain falls in rankings', 'Blesa, first banker to be jailed', 'Oxfam alleges that 9.5 trillion euros are in tax havens linked to EU'.

All this information appears to confirm the now widespread picture in Spanish society (which can be extrapolated to most developed countries) regarding the crisis, the country's problems and above all who is to blame, including banking institutions. Whether in the media, institutions or NGOs, or even civil society, the general opinion is the same.

Indeed, if we look at the latest (January 2013) Barometer survey by the Centre for Sociological Research in Spain (CIS), some respondents – 5.8% of the sample – have for the first time named 'banks' as one of the country's three most serious problems. This is significant, for in the January 2012 Barometer, just a year earlier, the equivalent figure was 0.0%. 'Evictions' have also appeared for the first time in the same survey as one of Spain's worst problems, with 3.5% of respondents putting it in the top three. In 2012, 'evictions' was not even one of the available options.

Another CIS survey, the February 2011 Barometer designed to measure the concept of 'justice', also yielded interesting information as to what the general public thought about banking institutions. For instance, when asked how much protection they felt they could expect from the law in a dispute with a major concern or a bank, 50.2% of the sample answered 'Not much'. Of the remainder, 22.1% answered 'None at all'.

Two realities?

Given the playing field – or perhaps we should say 'minefield' – that the financial sector and the sectors and authorities linked to Spanish banking are currently operating in, can we still fairly speak of ethics? Is it still possible to assume that banking institutions will act ethically and sustainably while responding to society's real demands? Or, and this is more important, should we not be asking ourselves whether, as seems most likely, society – or what in the business context could be termed 'stakeholders' – and its needs may be going in one direction, and banks and their interests in a very different one?

Under the circumstances, the demonization of Spain's finance

Dans ce contexte, le secteur bancaire a besoin d'un regard autocritique quant à son rôle. Ses actions doivent s'inscrire dans une démarche de développement durable. Il est donc important de se pencher sur la responsabilité sociale des enterprises (RSE) dans le secteur financier.

L'approche sociale stipule que ces denières sont responsables pour l'ensemble de la société, bien au-delà des actionnaires et des clients. Une autre approche concerne les quatre dimensions du rôle des entreprises financières : économique, juridique, éthique et philanthropique.

and banking system (and hence the country's main banks) would seem unfair, given the efforts the various banking institutions are trying to make in terms of Corporate Social Responsibility (CSR). At first glance these efforts have not made any impression, or else the public sees them merely as an attempt to disguise what (in contrast to the information on their websites or in their sustainability) is revealed by reality. And yet the leading commercial banks continue to occupy the top places on the most prestigious national and international sustainability and corporate reputation indexes (Merco, the Dow Jones Sustainability Index or the FTSE4 Good index) and are the organizations most actively involved in CSR.

In this context – which could be described as somewhat confused – the banking sector needs to take a self-critical look at its true role with regard to fundamental issues of sustainable development, and pursue actions that promote sustainability and make it second nature to the sector. Using such tools as sustainability reporting to encourage integration of the concept of sustainable development into the functioning and goals of such institutions, rather than as a reputation-enhancing or PR tool, could be a first step towards bringing about change in this area.

Corporate social responsibility: some key ideas

However, in order to start thinking in this direction, we need to understand and assess what CSR is, and should be, and how the main companies in the sector approach this concept and the way it is applied.

In recent decades we have seen a significant development in CSR and sustainability. Although the 'classic' view of businesses is that their social responsibility is to increase their profits (Friedman, 1970), other authors have focused on other approaches that allow a different view of businesses and their responsibility for the potential impact of their activities. Among these are the 'social approach', which states that businesses are responsible to society in general (Waddock, 2004), the 'stakeholder approach', which states that businesses are accountable not only to their owners but also to all the interest groups that influence or are influenced by their activities (Freeman, 1984; Gray, 1995), and the 'triple approach', which states that the role played by businesses has four dimensions: economic, legal, ethical and philanthropic (Carroll, 1991).

This marked development in CSR and the concept of sustainable development has resulted in numerous definitions. However, considering the literature, the most common definition of sustainable development is the one in the Brundtland Report (1987): 'the kind of development that meets the needs of the present without compromising the ability of future generations to meet their own neds' (UNWCED, 1987: 43). The report already took account of socioeconomic development and respect

L'évolution de la RSE et le concept de développement durable ont donné lieu à de nombreuses définitions, mais la plus courante reste "le développement qui répond aux besoins du présent sans compromettre la capacité des générations futures à satisfaire les leurs". Les définitions du terme durabilitlé sont elles aussi nombreuses et il est primordial de distinguer la durabilité "faible" de celle "forte". Tel est le point de départ de cette étude.

for environmental issues, as stated at the 1992 Rio Summit. One of the most commonly used definitions in Spain was provided by the Spanish Accounting and Business Management Association (AECA), which describes CSR as 'a voluntary commitment by businesses to the development of society and protection of the environment, based on its social make-up and responsible behaviour towards the individuals and groups they interact with.'

Despite this consensus on their definition, the various definitions of such terms as CSR or sustainable development have given rise to an extensive and controversial literature on the subject. Thus, although the term has become commonplace in most corporate discourse, its interpretation clearly continues to vary.

CSR in the business sector: weak sustainability versus strong sustainability?

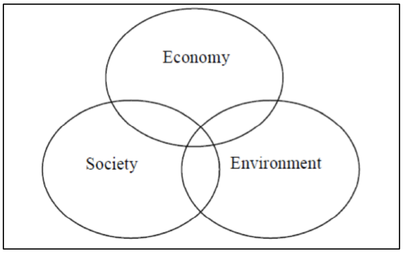
Just as numerous definitions of the term 'sustainable development' have emerged since it was first coined, we can also find an interesting variety of definitions of 'sustainability' in the academic literature. The distinction between 'weak' and 'strong' sustainability, on which many authors have based their work, is in my view an important one. This distinction can also be seen as the starting point for this paper, and hence for the proposed reflection on the use of CSR by businesses in general, and companies in the banking sector in particular.

As I mentioned earlier, the popularization and widespread use of such terms as CSR has set off a similar debate on the various kinds of sustainability. In the literature we can find distinctions ranging from Dobson (1996), who distinguishes between three conceptions of sustainability (critical natural capital, irreversibility and natural value) to Van Marrewijk (2003), who develops a model of corporate sustainability with five different levels of ambition (the levels, which are presented as a continuum, are 'compliance-driven', 'profit-driven', 'caring', 'synergistic' and 'holistic'), and Ayuso *et al.* (2002), who distinguish between three dimensions in sustainable development (environmental, social and economic sustainability). We can thus see that there are very different conceptualizations of the term 'sustainability', depending on whether the emphasis is on environmental, social or economic values. However, there is a dominant current of thought which, rather than focusing on ways of 'looking at' sustainability, considers the distinction between 'weak' and 'strong' sustainable development. Especially in the light of such studies as those by Tregidga *et al.* (2011) or Azcárate *et al.* (2011), we can distinguish between weak sustainability, in which the three dimensions of sustainable development are seen as related but largely separate (figure 1), and strong sustainability, in which the economy is perceived as part of, rather than separate from, society and the environment, while recognising that the

S'il existe différentes conceptualisations du terme durabilité, selon que l'accent est mis sur les valeurs environnementales, sociales ou économiques, il y a un courant de pensée dominant qui considère la distinction entre faible et forte. La durabilité dite faible lie les trois dimensions du développement durable que sont l'économie, la société et l'environnement. Mais le point commun qui les unit est de faible ampleur et non majoritaire. A l'inverse, la durabilité forte présente l'économie comme un élément central intimement lié à la société et à l'environnement, avec une interdépendance totale des trois dimensions.

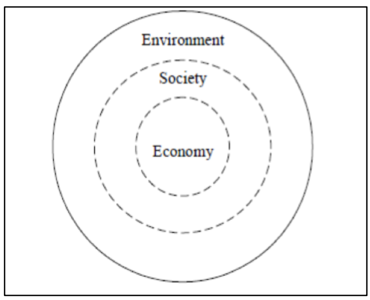
economy depends on these dimensions not only for its success but for its very existence (figure 2).

Figure 1: Weak sustainability



Source: Tregidga, Milne & Kearins (2011)

Figure 2: Strong sustainability



Source: Tregidga, Milne & Kearins (2011)

Using this classification of the concept of sustainability, most recent studies conclude that, although businesses' conceptions of sustainability vary, most of them come closer to weak sustainability. For example, Springett (2003) argues that, although company managers may feel confused about sustainable development, they generally subscribe to a weak, eco-modernist version of it. Some authors even go further and, in different words but in the same direction, have coined the term 'managerial capture' to refer to the process whereby businesses select the meaning and implications of sustainable development (Azcárate *et al.*, 2011; for more detailed studies of this, see also Adams, 2004 or Larrinaga and Bebbington, 2001). In this way, businesses commit themselves to activities designed to reduce current levels of unsustainability, but mainly focus on eco-efficient activities that they can more easily control, involve technological solutions and do not require them to change their current business practices. This is the situation known in the literature as weak sustainability, and it is due to the ambiguous definition of sustainable development.

At the opposite extreme is strong sustainability, which challenges the status quo with a commitment to preserve all living beings, which means reassessing or even abandoning the current model of economic growth as the dominant goal and accepting, as suggested by such authors as Azcárate *et al.* 2011 (see also Gray and Bebbington 2007), that we are a long way from sustainability.

The reality of current practice seems to show that most businesses and organizations adopt a minimalist view of CSR, which could also be labelled 'weak sustainability'. Indeed, sustainability statements or reporting, which are among the fundamental tools in CSR strategies and their application, have been accused from the outset of being a typical instance of management capture, especially in sectors that have come into disrepu-

Les récentes études montrent que la plupart des structures financières analysées pratiquent le modèle de la durabilité faible.

Les enterprises s'engagent alors dans des activités éco-efficaces, mais qui restent axées sur des solutions technologiques facilement contrôlables. De ce fait, les pratiques commerciales demeurent elles inchangées.
La réalité de la pratique actuelle montre que la plupart des entreprises et organisations se contentent d'une vision minimaliste de la RSE, assimilable au modèle de la durablité faible.

Le Global Reporting Initiative (GRI), mis en place depuis l'année 2000, est une étape importante dans le registre du reporting durable. Il est désormais adopté de manière généralisée avec 80% des grandes compagnies qui l'appliquent.

te, including some areas of industry or finance, and the banking sector in particular.

Sustainability reporting, a key, strategic CSR concept: what can lead to change?

Ever since the beginnings of sustainability reporting there has been a succession of proposals or frameworks for reporting by institutions of various kinds. However, this development appeared to have reached its peak with the birth of a new global framework, the Global Reporting Initiative (GRI).[1] Indeed, current reporting models are inextricably linked to the GRI, a pioneering initiative in the development of a framework for sustainability reporting that is now used by businesses throughout the world. In 2000 the GRI drew up its first guidelines, based on the 'triple bottom line' concept coined by Elkington in 1997, which represents the three aspects of sustainable development: economic, social and environmental.

And, even though it has been the subject of a fierce and controversial debate on its implications for sustainability and business practice (Azcárate *et al.* 2011; Correa and Moneva, 2011), the international consultancy KPMG's International Corporate Responsibility Reporting Survey 2011 is quite clear as to the success of the initiative: 'When we last reported in 2008, the Global Reporting Initiative's (GRI) Sustainability Reporting Guidelines were already gaining widespread adoption as the de facto global standard for CR reporting. Today, the GRI has undeniably extended its hold on this position, with 80 percent of G250 and 69 percent of N100 companies now aligning to the GRI reporting standards.'[2]

Despite this data, and when it seemed that CSR reporting practice had reached its culmination with the GRI and its further development, the topic of sustainability has given a further boost to the debate about which reporting practices are most likely to encourage sustainable development. In August 2010, the Prince's Accounting for Sustainability Project[3] and the GRI

[1] The Global Reporting Initiative (GRI) is an organization whose purpose is to encourage all kinds of organizations to draw up sustainability statements. The GRI has produced a comprehensive framework for this, which is widely used around the world. The framework, which includes sustainability reporting guidelines, sets out principles and indicators that organizations can use to measure and draw attention to their economic, environmental and social performance. The GRI is a non-profit organization that includes numerous interest groups. It was set up in the United States by Ceres and the United Nations Environment Programme (UNEP) in 1997. In 2002 it moved its offices to Amsterdam, where its secretariat is currently located.

[2] Global Fortune 250 (G250): the 250 biggest companies in the world; N100: the 100 biggest companies in each country.

[3] The Prince's Accounting for Sustainability Project was launched by His Royal Highness the Prince of Wales in 2004. It works with businesses, investors, public-sector bodies, NGOs and academics to highlight the need to integrate the design and presentation of reports, and to develop practical guidelines and the necessary tools to integrate sustainability into decision-making and reporting processes in order to create a strong, sustainable economy. To date, over two hundred public- and private-sector organizations have been involved in the project.

Un nouvel élan fut donné en août 2010 avec l'arrivée d'un nouvel organisme, l'International Integrated Reporting Committee (IIRC), axé sur un examen radical de la présentation de l'information financière. Un cadre comptable mondialement reconnu pour sa durabilité, qui peut aider les enterprises dans leur démarche de transparence.
Pour les entreprises, c'est un outil permettant de montrer leur capacité de creation de valeur et de résultats en interaction avec la durabilité. Mais le regard autocritique reste nécessaire pour savoir si ce nouveau modèle stimule vraiment le développement durable.

jointly announced the establishment of an International Integrated Reporting Committee (IIRC). The purpose of the IIRC is to create a globally accepted accounting framework for sustainability – and one that can bring together financial, environmental, social and governance information in an 'integrated format' and that can become a more useful tool for helping businesses produce transparent, truthful information and so enhance their contribution to sustainable development (www.theiirc.org).

This proposal states that businesses need a framework that can bring together the various, currently disconnected, sources of information into a coherent, integrated whole and demonstrate an organization's ability to create value now and in the future. Business reporting must thus set a new course by bringing together information that can explain the creation of value and results, in interaction with sustainability, the environment and corporate governance. If this can be done, we may be on the verge of a new opportunity to improve sustainability in the business sector.

In the light of this new proposal, all those involved must now take a self-critical look at whether this new model really does help to boost sustainable development and allow real change and a step forward in favour of sustainability – or, as a first reading of the proposal might suggest, the key aspects of sustainability are pushed into the background in favour of such concepts as creation of value or results, under the motto 'business as usual'. In this connection we can learn a great deal from the banking sector, as one of the key sectors in the present context, an agent that is closely involved in the IIRC itself and one of the sectors that is most active in applying CSR strategies and reporting.

The banking sector and its contribution to sustainable development

One of the main currents of thought in the field of social and environmental sustainability is highly critical of the concept of CSR, maintaining that, although it has traditionally been linked to certain social and environmental concerns and commitments, it is tied to such aspects as corporate governance, innovation, image, reputation or competitive advantage. Although this applies to businesses in general, the financial sector would seem to deserve special attention in the present context, for several reasons:

1. As indicated earlier, it is a sector that was deeply involved in the financial crisis of 2007-2008, a crisis that many authors believe was due to a series of socially irresponsible behaviours, such as lack of humanity and values, a short-term economic approach, management capture, and misunderstanding and misuse of democracy (Correa and Moneva, 2011).

2. The financial sector plays a fundamental, and often underestimated, role in sustainable development. At first glance it might seem

Le concept de RSE est critiqué par certains car il reste étroitement lié à la gouvernance, l'innovation , la compétitivité et la réputation. La crise de 2007 découle en effet directement de comportements sociaux irresponsables.
La gestion des flux financiers, notamment en matière d'investissements, restent très secrète et les décisions prises, quant à l'utilisation de l'argent, ne sont pas toujours inscrites dans une démarche durable.

Outre la gestion des risques financiers, la RSE doit inclure la gestion des risques sociaux, éthiques et environnementaux.
Les informations relatives à la RSE sont de plus en plus transparentes, à l'instar des banques espagnols qui publient dorénavant leur déclaration de durabilité, soit la réponse à ce que la société attend d'elles en matière d'information.

that the financial industry is not exposed to major social or environment risks, since it consists of service companies, 'clean' businesses that simply distribute money (De la Cuesta, 2006). Yet if we consider, for example, financial agents' discretionary powers when managing money and selecting investments, we can see that financial institutions do not just distribute resources from one agent to another, but assume both financial and non-financial (ethical, social or environmental) risks when transferring funds, and make decisions as to the use of the money, which may be more or less sustainable according to circumstances. Thus businesses such as banks understand that CSR cannot be confined to intervening in financial flows by managing financial risks appropriately, but must go further, attempting to assess and manage other kinds of ethical, social and environmental risks and, in the same way, offer products and services that contribute to more human development of the planet.

3. Despite the chequered background, the high degree of censure and even demonization of the banking sector around the world, CSR information in banking institutions may actually be more transparent than in other sectors of the economy. Indeed, in Spain (more than in other European countries) there has in recent years been a boom in such information, and the percentage of banks that publish sustainability statements is significantly higher than in other areas of the economy.

It can thus be said that banking institutions are responding perfectly to what society expects of them as regards information. Indeed, thanks to their CSR practices and, above all, their reporting tools, the leading commercial banks continue to occupy the top places on the most prestigious national and international sustainability and corporate reputation indexes (Merco, the Dow Jones Sustainability Index and the FTSE4 Good index), which list businesses whose conduct stands out when it comes to corporate governance, ethical, social and environmental issues.

Even if we look at the aforementioned accounting models and guidelines (of which the GRI is the most prominent), there is even a sectoral adaptation for the financial sector in the GRI, which was established in 2000 in collaboration with a group of banks and insurance companies in order to create sustainability reporting guidelines, by providing both managerial indicators (policies and activities) and operational ones (the results of policies and activities) for this sector in particular.

However, as many authors have stated, this may not be enough; and, in response to demands from society, well-considered CSR must go beyond mere philanthropy and involve genuine, profound involvement. There must be an integrating concept of CSR, whose social dimension needs to include not only the business's philanthropic activities, but also working conditions and integration of social concerns and

La GRI a notamment permis la mise en place de rapports de durabilité en fournissant des indicateurs de gestion managériale mais aussi de fonctionnement opérationnel.
La RSE doit aller au delà de la démarche philanthropique et bénéficier d'une véritable intégration profonde.
Transparence et crédibilité sont devenues essentielles dans cette volonté d'amélioration qui a encore du chemin à parcourir.

Les banques doivent admettre qu'elles ne font pas les choses de la meilleure manière possible, car il y a la théorie et les soit disant engagements d'un côté, et la réalité d'un autre. Là réside le véritable paradoxe entre ce qu'est la RSE et ce qu'elle devrait être.

respect for human rights throughout the business's value chain and, of course, throughout its range of products and services. Transparency and credibility are thus the two essential values that are required in such practices and reports; but, in the present circumstances, we cannot ignore the fact that there is still much room for improvement.

Conclusions: what can be done?

Banks need to accept that they are not doing things the right way – or, at least, that is what the public now thinks. If we analyse in detail the sustainability sections on the websites of Spain's leading banks and, above all, if we read their CSR reports, we find no mention of the news that Spaniards have constantly been hearing in recent years. The banks' statements refer to their compliance with the Global Compact or the Ecuador Principles, their codes of conduct and their initiatives to combat corruption, their new Socially Responsible Investment products; and this is what is published in most sustainability reports. But, as we have seen, the purpose of all this may simply be to impress their boards of management or the investment community with their listing on the main corporate reputation indexes, or with their results. And this seems to have been the pattern in recent years: businesses on the one hand, and reality on the other. And here lies the true paradox between what CSR is and what it should be.

Yet recently, in a new step towards sustainability, the major financial businesses and corporations have been working on a new challenge in the field of sustainable development: Integrated Reporting, a framework presented as a substantial improvement in favour of sustainability.

In the light of this new proposal, the first thing we must do is appeal for foresight at a moment as important as the emergence of a new frame of reference that could steer business practices in various directions in the years to come.

Unfortunately, one of these directions could be to push sustainability even further into the background and so put an end to the battle that has been fought in various areas ever since sustainability reporting was first developed. Indeed, the first criticisms of this new proposal see Integrated Reporting simply as a new marketing strategy that leaves no room for sustainability.

However, and this may be the crux of the matter, another direction that business practice could take is to use this new Integrated Reporting framework as a way to finally make sustainability a real and logical part of the business and financial sector, and make it second nature to the world's leading businesses – and specifically the financial sector, one of the sectors with the greatest impact on, and implications for, society and its development – by enabling them to reassess the whole concept of CSR.

L'information intégrée est une véritable nouvelle étape vers le développement durable. Elle appelle à la clairvoyance car elle pourrait orienter les pratiques commerciales vers une autre direction à l'avenir.

The world's leading banks are now helping to draw up this new accounting framework; and this is where banking and financial institutions, as agents with a particular interest in understanding the concept of sustainability and CSR, and hence as experts on the subject, have an opportunity to provide a benchmark for other businesses and organizations.

Perhaps the time has come for banking institutions to see the crisis as an opportunity, force themselves to review their precepts in favour of sustainability – and so help bring about change.•

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Why even good people are likely to do bad things in finance – it's not the people that are flawed, it's the culture

Ethics in Finance, Robin Cosgrove Prize
Global edition 2012-2013

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This paper analyses the current state of ethics in finance, and especially banking institutions. The focus will be on identifying the factors that are conducive to unethical practices. I will argue that, although financial scandals are ultimately triggered by individuals, these should not bear the entire blame – for the prevailing work culture at many financial institutions is flawed, and directly encourages and rewards unethical behaviour and practices. This means that the system will face even more turmoil before long.

The paper begins by discussing the definition and importance of ethics in business relations. It then explains why ethical behaviour cannot be ensured by more financial regulation, and how too many rules can actually undermine ethical standards. The third part analyses the ethical shortcomings of the financial corporate culture, and the paper concludes with some final remarks.

What is ethics and why is it important?

Ethics is basically the science of what is right and wrong. However, there is no generally accepted definition of the term. When asked, people tend to confuse ethics with their own feelings, religions, legal principles or social norms (Andre & Velasquez, 2013). For the purpose of this analysis, I will define ethical behaviour in finance as 'acting in a way that promotes and strengthens trust and confidence in mutual relations'. Ethical behaviour is all about honesty and integrity. Its main objective is to promote the common good within society. In business, it means striving for 'win-win situations'. Ethical

Le texte se concentre sur les institutions bancaires et en particulier sur l'identification des facteurs propices aux pratiques non éthiques. Il s'agit d'expliquer pourquoi le comportement éthique ne peut pas être garanti par plus de règlementation financière et comment plus de procedures et règles nuisent aux normes d'éthique.

Dans le cadre de cette analyse, le terme de comportement éthique, dans un contexte financier, peut être défini comme une action qui encourage et renforce la confiance dans les relations mutuelles. Tout repose sur l'intégrité et l'honnêteté, l'objectif étant le bien commun au sein de la société, soit une situation *win-win* en affaires.

standards do not allow abuse of personal privilege through such things as asymmetrical information, strong bargaining power or legal loopholes.

Ethical principles are of fundamental importance in finance. This is because the financial sector is untypical. First, unlike many other industries, it offers intangible, highly complex products whose quality cannot be immediately verified by customers. Second, many financial services are by their very nature provided over a long period of time. Some government bonds or mortgage loans have maturities of 20 years or more. Both factors mean greater uncertainty for the parties involved. The most efficient risk-mitigating factor is thus mutual trust, which in turn must be rooted in high ethical standards. As the next section will show, in the absence of compliance with ethical principles, more regulation can do little to boost confidence in financial markets.

A jigsaw puzzle of ethics and legal compliance

Today's financial regulators seem to believe that systemic stability can only be achieved by more regulation. The fact that market confidence can also be boosted by promoting ethical values appears to have been overlooked. The prevailing ideology is more – and ever more detailed – regulation. Yet this may actually make things worse. Kaptein (2012) has argued that there is an optimum amount of regulation for every organization. Beyond that point, extra regulation will only be damaging, as more effort is put into abiding by the rules at the expense of operational effectiveness and ethical behaviour.

In a recent paper written for central bankers, Bank of England executive director Andrew Haldane said 'Modern finance is complex, perhaps too complex. Regulation of modern finance is complex, almost certainly too complex ... As you do not fight fire with fire, you do not fight complexity with complexity ... [C]omplexity ... requires a regulatory response grounded in simplicity' (Haldane & Madouros, 2012). He proved his point by comparing the size of various pieces of legislation designed to overhaul the system. The 1933 Glass-Steagall Act, adopted in response to the Great Depression, ran to a mere 37 pages, but secured overall financial stability for seventy years. In contrast, the 2010 Dodd-Frank Act, intended as a legislative countermeasure to the current crisis, occupies no fewer than 850 pages, with some 400 more to come in the form of implementing guidelines. The Basel I agreement, signed in 1988, was only 30 pages long. By the time Basel II was signed in 2004 the volume had increased tenfold, to more than 300 pages. The most recent agreement, Basel III, signed in 2010, runs to over 600 pages, almost twice the size of its predecessor. It is not just the length of these documents that is cumbersome, but also their detail. As Haldane says, 'this degree of complexity also raises serious questions about the robustness

Les principes éthiques sont fondamentaux dans la finance. La qualité des produits, souvent très complexes, ne peut pas être immédiatement vérifiée par les clients, tout comme les services fournis pendant de une longue période de temps. Il en résulte une grande incertitude, la confiance mutuelle devenant le facteur de diminution des risques le plus éfficace.

Le fait que la confiance du marché puisse être stimulée par la promotion de valeurs éthiques a été negligée. Dans tout sytème, trop de regulation, au delà de la quantité optimale, devient préjuduciable. Il ne faut pas combattre la complexité avec de la complexité. Une réponse réglementaire fondée sur la simplicité est nécessaire.

Les principes éthiques ne peuvent pas être imposés par la legislation. Les standards éthiques proviennent des valeurs et incitations encouragés sur le lieu du travail. De nombreuses enterprises confondent action

of the regulatory framework, given its degree of over-parameterization' (Haldane & Madouros, 2012).

Preliminary remarks on ethics in finance

In this connection it is also important to realize that ethical principles cannot be enforced by legislation. 'Fencing organizations in with procedures, systems and structures provides no guarantee that people will do the right thing' (Kaptein, 2012). Ethical standards stem from values and incentives that are fostered at the workplace. Many companies confuse acting ethically with legal compliance – which are not the same thing. To understand this, take the simple question of whether slavery or racial segregation were ethical even when they were legal.

Today, because of the bloated regulatory framework, companies pay far more attention to being legal than they do to being ethical. Banks' compliance departments employ hundreds of lawyers, but hardly any banks have hired ethical advisors. And extra regulation is counterproductive for two other reasons. First, it can never be complete, for there will always be gaps, grey areas and loopholes that can be exploited by those who are aware of them. Second, as numerous research results have shown, more regulation actually reduces people's ability to think critically about their own actions. They simply accept the measures and procedures imposed on them (Katz-Navon, T. *et al.*, 2005). Too many rules will undermine ethical standards, as people consult legislation rather than their own consciences when judging what is right and wrong.

On the other hand, the solution is not to get rid of the entire regulatory framework. Lack of regulations and supervisory mechanisms can indeed have destabilizing effects, as the sudden rise and fall of the derivatives market has made clear. Instead, it is a matter of striking the right balance between too little and too much. Regulation is an important stabilizing factor, but should be kept to the necessary minimum. Regulation can hardly promote ethical standards; but too much regulation will certainly undermine them.

The following part of the paper discusses whether people are inherently good or bad. This is a crucial issue, as different measures will be needed to ensure compliance with ethical standards depending on whether people are naturally good or bad. The paper will then examine whether only 'bad people' in the finance industry were responsible for the recent wave of scandal and fraud.

Are people inherently good or bad?

According to classic economic theory and its *homo oeconomicus* model, individuals derive their utility from consumption of material goods. They are driven by rational expectations and self-interest. The happiness of a nation can then éthique et conformité légale. Une réglementation complémentaire est contre-productive car elle n'est jamais complète et réduit le regard critique sur ses propres actions.

Il ne faut pas pour autant réduire la réglementation et les mécanismes de supervision, qui pourrait créer des effets déstabilisateurs. Il s'agit de trouver le juste milieu entre pas assez et trop.
La partie suivante se concentre sur le caractère intrinsèquement bon ou mauvais des gens.

L'utilité des individus, guidés par des attentes rationnelles et leur intérêt personnel, dépend de la consommation de biens matériels. Depuis que les émotions ne sont pas jugées comme pertinentes ni source de bonheur, il n'y pas de place pour la charité et le bénévolat. Les individus ne seraient donc pas dignes de confiance, mais très egoïstes et centrés sur eux-même.

simply be measured by adding up people's individual utilities. This theory ignores the possibility of synergies between individuals, and assumes that people can only increase their utility at other people's expense. Since emotions are irrelevant and cannot be a source of happiness, there is no room for charity or voluntary work. People can be just as happy on a desert island as they can among their families and friends. If this theory is correct, it follows that people should be inherently bad and untrustworthy. With limited, scarce resources, the easiest way for them to increase their utility is to take away what already belongs to others. Nor do they have any interest in contributing to the common good or well-being. This approach is consistent with the views of the English philosopher Thomas Hobbes, who believed that people were extremely egoistic and self-interested, and that in the absence of external authority there would be permanent conflict and war.

A completely different view was advanced by Aristotle and the French philosopher Jean-Jacques Rousseau. According to Aristotle, achieving *eudaimonia* – happiness or self-fulfillment – required people not just to display and practice virtue and excellence; external factors such as health, beauty and social ties were also important. People living on their own, in isolation from others, could never achieve *eudaimonia*. As for Rousseau, he believed that people were naturally good; unlike Hobbes, he blamed violence and conflicts on the corrupting influence of the external environment, rather than people's egoism and self-interest. He also argued that people could, and should, increase their happiness by cooperating with others.

The question of whether people are naturally good or bad has exercised philosophers' minds for centuries. However, the results of recent research on young children suggest it is more likely that people are naturally good rather than bad. Hamlin, Wynn and Bloom (2007) had shown that children as young as six months old are able to unconsciously judge people on the basis of their behaviour, distinguish right from wrong and, faced with a choice, have a preference for what is right. Other research, by Felix Warneken and Michael Tomasello, has shown that children aged 18 months display a tendency towards altruistic behaviour. Even where the people in need were strangers and there was nothing to be gained by helping them, the children chose to help them in the vast majority of cases (Warneken & Tomasello, 2006).

Good or bad? In finance it doesn't matter

However, if we accept that people are basically good, i.e. are not purely self-interested and can cooperate with others in accordance with social norms, where have all these financial scandals come from? Could it be that the financial industry specifically attracts those few 'bad

Selon une autre vision, l'épanouissement personnel repose sur la vertue et l'excellence, mais aussi sur des facteurs externes comme la beauté, la santé et les liens sociaux. Le bonheur serait donc inaccessible à ceux qui sont renfermés sur eux même. Les individus seraient donc bons et leur bonheur reposerait sur la cooperation avec les autres.

Les récentes études sur de jeunes enfants font état de prédispositions naturelles plutôt bonnes que mauvaises. L'entraide se fait de manière spontanée
Le milieu financier attirerait les exceptions, ceux qui se comportment de manière non éthique.

Il est nécessaire de se pencher sur la vie de plusieurs personnalités impliquées dans les récents scandals éthiques au sein d'institutions financières, à commencer par Kenneth Lay, dernier CEO d'Enron. Un homme très apprécié, mais à la double personnalité.

people', or those with a tendency to behave unethically?

To analyse this, we need to look at the biographies of several people who were behind some of the biggest recent ethical meltdowns in the financial sector. Enron's last CEO, Kenneth Lay, was raised in a rural family and his father was a Baptist preacher. Before joining Enron he was a navy officer and, during his time as CEO, he made contributions to charities and cancer treatment centres. He was a sociable and likable person. 'The employees loved him', said one senior executive. There was nothing to suggest he would become responsible for one of the largest corporate scandals in America. It is almost as if Lay had two quite different personas. 'Many … are struggling to reconcile the two images of Ken Lay. The first was a personable, civic-minded multimillionaire who took the lead in ... charity after charity ... The latter reigned over a company ... that spawned an atmosphere of arrogance and greed ...' (Goldberg & Flood, 2002).

A similar story can be told about Lloyd Blankfein – a Harvard Law School graduate, and CEO of Goldman Sachs since 2006. Yet during his tenure Blankfein has done little or nothing to alter the company's infamous culture (Smith G., 2012). His former boss said 'Blankfein was endowed with an unusual combination of humility and self-awareness, two traits not normally associated with hugely successful Wall Street executives' (Cohan, 2011). Other accounts describe him as 'very personable and witty', as well as 'funny and entertaining'. Blankfein appears to be much-loved at the company – 'he is just terrific (…) you will love him', said one of the executives (Pressler, 2011). It is remarkable how someone with such personality traits can run a company whose culture is described as ruthless and nasty.

A much more suitable person would surely be someone like Lehman Brothers' last CEO, Richard Fuld – nicknamed 'the gorilla' because of his confrontational style of management. In a public speech about traders who were short-selling Lehman Brothers stock, he said 'what I really want to do is reach in, rip out their heart and eat it before they die.'[1] He inspired great loyalty, but mostly through fear. 'Those closest to him slaved like courtiers to a medieval monarch, second-guessing his moods' (Oliver & Goodwin, 2010).

Another example is Kweku Adoboli – a UBS rogue trader whose excessive risk-taking lost the Swiss bank $2.3 billion. Given his background, he was rather an unlikely person to behave in this way. He came from an affluent family; his father was a senior UN diplomat. At his prestigious secondary school Adoboli was one of the brightest students – with a particular aptitude for mathematics and logic. In his final year he became 'head boy' of the school. Later on, he graduated with honours from the University of Not-

[1] www.youtube.com/watch?v=GZCmWkQuyPc

L'histoire de Lloyd Blankfein, CEO de Goldman Sachs depuis 2006, est similaire. Un homm très apprécié au sein d'une enterprise dont la culture est décrite comme impitoyable et rude.

Richard Fuld, CEO de Lehman Brothers et Kweku Adoboli, tous deux au parcours pourtant remarquable, sont d'autres exemples très pertinents. Il en va de même pour Nick Leeson, dont les agissements ont conduit à l'éffondrement de la Barings Bank.

La culture d'entreprise, qui prévaut au sein des institutions financiers, serait en partie responsable des pratiques financières déloyales. L'un des facteurs générant ces méfaits est l'objectif unique de rendement propre au secteur.

Les pratiques visant à privilégier ses intérêts au depend des clients sont très répandues au sein de ces institutions. En terme scientifique, un tel dévouement dans un seul but se

tingham in computer science and management (Russell, 2012). At his trial, people who had met him described him as an intelligent, honest, generous and dependable person (Croft, 2012).

Yet his actions were not very different from those of another rogue trader, Nick Leeson, whose reckless trading lost Barings Bank $1.4 billion and led to its collapse. Unlike Adoboli, Leeson grew up in a working-class family, never graduated from a university, and finished his education at secondary-school level, with only limited qualifications. His teachers considered him a poor student and a poor mathematician (AETN UK, 2013). As for his personality, he is said to have been manipulative and deceitful to those around him. Leeson described himself as cynical and inconsiderate.[2]

Why is it so difficult to act ethically in finance?

The previous section has shown that apparently good people, as well as bad people, engage in unethical financial practices, regardless of their background, education or personality. I would argue that this can largely be blamed on the corporate culture that prevails at financial institutions. Below I identify and discuss the most pronounced aspects of this culture that lead to unethical behaviour in finance.

[2] www.youtube.com/watch?v=xfdtK-B_c7c

Focus on a single goal

One important factor that triggers many unethical practices in finance is the sector's extreme focus on a single goal – this year's returns. Virtually the whole organization is centred around generating higher turnover. Banks are said to have been 'focused on revenues and not on other aspects of performance' (The Economist, 2013). Pressure to achieve budgeted plans made some banks intentionally mislead their clients and jeopardize long-term relationships. For example, Barclays was found to be 'focused on revenue at the expense of its clients' (Mustoe, 2013). Goldman Sachs admitted it had misled its investors in failing to disclose relevant information. On the plus side, however, the bank made billions out of these unethical transactions with its own clients (Nasiripour, 2011).

Such practices are widespread across the industry. One former banker writes that a common expression now is '"IBG, YBG" – "I'll be gone, you'll be gone" (…) long-term consequences don't matter; all that counts is this year's kill.' The three most infamous rogue traders – Leeson, Kerviel and Adoboli – all defended themselves by saying that the banks encouraged them to take on more risk in order to boost potential profits, and that this was standard practice at their banks.

In the scientific world, such utter devotion to a single purpose is known as 'tunnel vision'. It has been experimentally shown nomme “tunnel vision”. La concentration sur un unique objectif nuit à la capacité de jugement critique. Le système actuel de valeur bancaire n’a aucun avenir s’il reste en l’état.

Le problème ne vient pas des banques dirigées par l’argent mais des efforts que les institutions financières concentrent sur cet unique objectif qu’il faut atteindre: la maximisation des prévisions de revenus. Il s’agit d’une tentative, vaine peut-être, de réconciliation entre le capitalisme et l’éthique, alors que l’environnement actuel des affaires tend à ignorer les standards éthiques.

Les métiers du secteur financier et bancaires figurent parmi les mieux payés au monde. La célèbre tendance psychologique “effect d’éviction” est ici très présente, les motivations intrasèques étant progressivement dominées par celles extrinsèques. Le sens de la moralité, l’égalité et la contribution à la société ont été remplacées par les hauts salaires et autres primes.

that too much emphasis on a single goal impairs people’s ability to judge situations critically and draw the right conclusions. ‘The focus on a goal then becomes a fixation, and other important things fall by the wayside. Just as with tunnel vision the rest is dark, does not count and is not seen’ (Kaptein, 2012).

The current banking value system, with its overreliance on monetary aspects, has no future. To understand this, we must realize how detached financial institutions and financiers have become from the real economy. In an infamous interview, one trader said of the current crisis ‘We do not care that much about the economy (…) Our job is to make money (…) Personally I have been dreaming of this moment for three years. I go to bed every night and I dream of another recession’.[3] At Goldman Sachs clients were allegedly referred to as ‘muppets’, and at internal meetings no attention was paid to how the bank could help its clients, but rather how it could make money out of them (Smith G., 2012).

In my view, the problem is not so much that banks are driven by money. It is rather that financial institutions are entirely focused on achieving a single goal – maximizing revenue forecasts. In the capitalist system it is natural for businesses to pursue higher sales; but our world has become too complex and interconnected for us to concentrate all our energy on a single goal, with little or no regard for other aspects. This paper is a modest attempt to reconcile capitalism and ethics, something many have argued is no longer possible. Capitalism is the best economic system mankind has so far developed, for it increases productivity and creates opportunities for all. However, financial institutions need to broaden their spectrum of objectives in order to perform their intended role in society. In a business environment where there is so much emphasis on achieving a single goal, ethical standards are likely to be pushed aside.

Intrinsic motives are superseded by bonuses

Some of the best-paid jobs in the world are in banking and finance. Average salaries for first-year analysts at investment banks are $100,000 a year, and the managing director is paid $400,000 or more (Rapoza, 2013). However, these are only *average* figures across the industry – the biggest firms pay much more than that. Of the nearly 30,000 people employed at Goldman Sachs, almost a thousand were paid $1 million or more in 2008. In 2009 the average individual bonus at the same bank was estimated at $675,000 (Quinn, 2009). During his trial, rogue trader Jérôme Kerviel revealed that he had performed risky transactions in the hope of receiving a large bonus – he had expected to net €600,000 for his 2007 results (Benedetti-Valentini, 2008). Wall Street bankers grew so accustomed to large remunerations that in 2009, amid huge losses and multi-billion bailouts with taxpayers’ money, they granted themselves a total bonus of $18.4 billion (Shnayer-

[3] Goldman Sachs Rules the World’, www.youtube.com/watch?v=CTE6nXyKSnQ

L'analyse de l'image de soi et des egos démesurés est importante à considérer dans le cas de pratiques financières déloyales. Les employés de banque perdent progressivement le sens de la proportion et l'humilité. Plusieurs raisons expliquent cette tendance: La grande taille des institutions financières, l'efficacité des lobbies du secteur, le train de vie luxueux de nombreux employés et la dépendance de nos vies au secteur financier qui gère tout.

son, 2009).

A well-known phenomenon in psychology is the 'crowding-out effect', whereby intrinsic motives are gradually pushed aside by extrinsic motives for taking a particular action. In the case of bankers' huge salaries, monetary rewards may well have suppressed such intrinsic motives as a sense of morality, equality or contribution to society. In other words, financiers might in all conscience prefer to be involved in more socially beneficial projects – but their decisions will be affected by the prospect of large bonuses.

This phenomenon has been researched by David Greene, who offered his students a reward for studying harder. However, once he took the reward away, the students studied less than they had done to start with (Greene, Sternberg & Lepper, 1976). Essentially, their efforts were driven by the reward rather than by the wish to study in its own right. By the same token, bankers are driven by their bonuses rather than by what they do, and why.

Self-image and inflated egos

Another important factor when analysing the sources of unethical practices in finance is self-image, or what has been called the Galatea effect. The theory is that people's ideas about themselves can greatly affect their actions and attitudes. Bank employees are seemingly often convinced that they are not bound by society's normal standards. One former investment banker has talked about an atmosphere of 'inflated egos'. A comment by Goldman Sachs CEO Lloyd Blankfein that bankers are doing 'God's work' has been repeatedly criticized, and condemned (Phillips, 2009). According to an internal Barclays report, 'a few investment bankers seemed to lose a sense of proportion and humility' (Treanor, 2013). A feeling that you are not bound by the rules leads to disregard for normal standards, and has surely led to some of the unethical practices at financial institutions.

There are at least four sources of such exaggerated self-esteem. First, many of these institutions are 'too big to fail'; this gives them an upper hand in relations with regulators and the general public, who have to pay close attention to what banks say and do. Second, the financial sector has one of the largest and most effective lobbies. For example, in the early 2000s they proved very effective at making sure the derivatives market remained unregulated. In 2011 the US financial sector spent nearly $500 million on lobbying (Opensecrets, 2011). Third, high levels of remuneration and luxurious lifestyles have convinced many that their privileged status is justified. Finally, all of our lives are affected by finance, but only a few of us really understand it. It is only the bankers that actually know the sector inside-out, and this gives them a sense of power and authority. As one trader famously said, 'governments don't rule the world – Goldman Sachs rules the world.'[4]

[4] Goldman Sachs Rules the World', http://www.youtube.com/watch?v=CTE6nXyKSnQ

L'effet Pygmalion est un phénomène contraire, qui repose sur la perception des autres et leurs attentes en matière de comportement. Les services financiers sont ceux qui inspirent le moins confiance. Selon cette théorie, si les gens pensent que les banquiers ne sont pas dignes de confiance, alors la probabilité est forte pour qu'ils le deviennent.

La pression du temps est un facteur important qui explique aussi les pratiques non éthiques. Il nuit à la capacité de prendre du recul et de juger de manière objective. Dans certaines banques, la semaine de travail comprend 70 à 80 heures et parfois jusqu'à 100 heures.

La très forte compétition interne est un autre facteur expliquant l'avènement de pratiques déloyales. Trop de rivalité interne incite les gens à tricher et à contourner les règles, la course aux primes ne faisant qu'accentuer cette tendance.

Here it is also worth mentioning a contrary phenomenon known as the Pygmalion effect. This concerns how individuals are perceived and expected to behave by others. According to the 2013 Edelman Trust Barometer, financial services have been the least trusted sector for three years in a row (Edelman, 2013). The problem is that if the general public thinks bankers are untrustworthy there is – according to the theory – a higher likelihood that they actually will be. Other people's expectations lead them to act accordingly. For example, the Pygmalion effect has played a part in many recent accounting frauds. One reason why financial statements at HealthSouth or Enron were falsified was to meet market analysts' high expectations (Associated Press, 2006). Another example is the Greek government, which asked Goldman Sachs to help it conceal the true size of its debt (Balzli, 2010). If the Greeks had not expected Goldman Sachs to be able to help, they would have never approached the bank, and the bank would never have had the opportunity to act unethically.

Time pressure

A fourth element conducive to unethical practices at financial institutions is time pressure. Tight schedules are often beneficial, as they make people work harder and more efficiently. However, working under constant deadlines with no time to reflect on what you are doing comes at a cost. This may seem strange, but in fact constant time pressure has much the same effect as the tunnel vision mentioned earlier: it impairs people's ability to judge situations from a different perspective. An experiment conducted by John Darley and Daniel Batson has shown that people tend to focus so much of their energy on deadlines that they fail to assess situations properly and respond in the right way (Darley & Batson, 1973).

Banks are known as places where you need to put in a lot of working hours. According to one former bank employee, 'You do not know how hard you can work, short of slavery, unless you have been an investment banker (…) It is not merely the hours, but the extreme and unrelenting time pressure' (Smith Y., 2010). Normally, a typical working week is 70-80 hours (Comstock, 2010); when necessary, however, this can increase to 100 hours or more.

Internal competition

Another element of corporate culture at financial institutions that is conducive to unethical practices is extremely intense internal rivalry. Research has shown that mid-level competition can be very useful in the workplace; but too much rivalry has been found to prompt people to cheat and bend the rules. This especially holds true in environments where winner-takes-all reward systems are applied. When people are faced with the prospect of failing to secure the first prize, their ethical standards are likely to be cha-

Les institutions financières entretiennent cette compétitivité via des méthodes d'évaluation éreintantes et extrêmement difficiles. La forte remuneration n'est plus le moyen d'acquérir des biens de consommation mais une donnée essentielle de sa propre image avec la reconnaissance comme objectif ultime.

Trois raisons externes expliquent cette constante compétition: le secteur attire toujours plus d'étudiants, il est très homogène au niveau du profil de ses employés, et en fin les résultats des employés sont très facilement comparables.

llenged and indeed compromised.

Jobs in finance are known to be highly competitive. According to an independent report on the culture at Barclays, 'winning at all costs comes at a price: collateral issues of rivalry, arrogance, selfishness and a lack of humility and generosity' (Treanor, 2013). Enron's culture was also based on constant conflict and competition. The company developed the most gruelling and harsh evaluation systems in the US, and each year 10-15% of employees were fired because of their low performance grades (Thomas, 2002). In financial institutions future employment is seldom guaranteed. Managers hold constant feedback sessions, and the poorest performers are quickly fired. At the same time, most banks publish motivational rankings of their best employees. Moreover, internal hierarchy – the 'corporate ladder' – is used to entice employees with prospects of quick promotion. Bank employees tend to be strong-willed and career-oriented. The rules for being promoted are usually laid out clearly in internal documents, so that people are in no doubt about what is expected of them. What makes internal competition even fiercer is that many financiers no longer just see their annual remuneration as a means of meeting their consumption and living requirements, but as a key part of their self-image. They pursue higher bonuses in order to win recognition and build self-esteem.[5]

There are also at least three external reasons for fierce competition. The first is that a large number of finance and economics graduates enter the labour market each year. Since finance offers above-average salaries, many seek careers in this sector. The second reason is that finance is a very homogeneous environment. Financiers' personalities, work cultures, skills and abilities are very similar; almost the only differentiating factor is experience. This makes comparison and internal replacement easier. Moreover, since corporate cultures are almost identical across the industry, it is easy to recruit people from another companies. The third factor that boosts internal rivalry is the fact that employees' results are easily comparable in terms of revenues generated for the company.

Lack of true diversity or strong individuals

A final challenge to ethical standards is that working environments at financial institutions are very homogeneous. Companies impose strict rules and regulations on their employees to ensure similar attitudes and thinking patterns. Goldman Sachs employees were strictly forbidden to talk to the press, could not party in public in groups of more than twelve, and were told what kinds of clothes were and were not acceptable at work (Comstock & Wachtel, 2011). At Lehman

[5] 'Ethical risks: why do good people end up doing bad things?', http://www.youtube.com/watch?v=XtFiHb_c6n4

Le manque de personnalités fortes et de véritable diversité, qui caractérise le secteur, est un challenge pour les standards éthiques. Les enterprises formatent les collaborateurs pour qu'ils préfèrent leur employeur à leur propre famille.

Les employés recrutés doivent rentrer dans le moule pour maintenir la meilleure homogénéité possible. Chaque recrutement peut inclure jusqu'à une dizaine d'entretiens pour flatter le candidat et le rendre encore plus dévoué à son entreprise.

Des études montrent que les individus adoptent très facilement les normes et actions imposés par leur environnement professionnel. Les standards éthiques ont tendance à être plus facilement enfreints dans des environnements homogènes avec une forte loyauté propre à la culture d'entreprise. L'exemple donné par les cadres supérieurs est donc déterminant.

Brothers, allegedly, people were fired because they wore the wrong clothes and were told which charities to support.[6] Employees are expected to show limitless commitment to the company. 'It wasn't uncommon to ask associates to reschedule their weddings' (Smith Y. 2010). A former intern at Goldman Sachs says her internship at the bank was 'deeply upsetting' and she felt 'indoctrinated' (Wachtel, 2011). Yet many bankers do not hesitate to talk about their love for the company. It is as if the institution has actually replaced their families.

The first stage in creating and maintaining homogeneity, commitment and subordination among employees is the recruitment process. Top investment banks typically only target graduates from a very limited number of schools. The recruiters' main job is to assess whether a candidate fits into the corporate culture.[7] They also look for 'money-mindedness', as well as 'hunger and drive'. Before making a job offer, top banks will have up to ten interviews with the best candidates. This is not so much to learn more about them as to make new employees grateful for the opportunity they have been given by being hired, and thus to increase their loyalty and commitment to the firm. The notion of diversity at investment banks is also a myth; it is only a slight exaggeration to say that everybody graduated from a top business school, passed CFA exams, lives a luxury life, is money-oriented and only has friends that work at the same bank.

Three separate experiments by Philip Zimbardo (Zimbardo, 2007), Solomon Asch (Asch, 1955) and Stanley Milgram (Milgram, 1963) have shown that people are very liable to adopt the norms and actions imposed on them by their environment, their peer group or a higher authority, without thinking much about what these really stand for. This is especially true of individuals who lack self-esteem and see themselves as a product of their environment rather than a driving force. A junior banker who lets himself be told what to wear and which charities to support, and cannot even decide his own wedding date, certainly fits this pattern.

Ethical standards are more likely to be violated in such a homogeneous and highly loyal corporate culture, since everybody is expected to toe the line and not ask too many questions. In fact, everything depends on whether a few top executives can set a good example, for middle-level bankers simply adopt the norms and behaviours that trickle down through the organization.

Conclusions

The finance industry is a key element in getting the economy back on track. It has never been bigger and more important than today. With its size, however, comes responsibility.

[6] Lehman Brothers "Terrifying" Culture Exposed…', www.huffingtonpost.com/2010/03/22/lehman-brothers-terrifyin_n_508594.html

[7] 'Overview of the Investment Banking Analyst Recruiting Process', http://investment-bankingjobsguru.wordpress.com/2008/08/22/overview-of-the-investment-banking-analyst-recruiting-process/

L'industrie financière est un element clé pour remettre l'économie sur pieds. La responsabilité est devenue une donnée essentielle. La culture d'entreprise très critiquable a joué un role négatif dans la crise récente. Une action rapide est indispensable pour y remédier. Nous avons tendance à blamer les individus au lieu de s'intéresser aux lacunes du système pris dans son ensemble.

Financial institutions failed the test of the 2008 financial crisis. Since then, owing to banks' stubborn resistance, very little has changed. Every so often yet another story of fraudulent practice comes to light.

Banks' flawed corporate culture has played a negative role in the recent crisis, and swift action must be taken to remedy it. I hope the above diagnosis of its most fragile points will prove a useful contribution. The paper's final conclusion is that the public is often too quick to blame individuals, describing them as greedy, arrogant risk-takers – and overlooking the shortcomings inherent in the system as a whole. •

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Part IV

Exploring Avenues for Action

Online Interbank Funding Platform for social-impact projects

Ethics in Finance, Robin Cosgrove Prize Iberoamerican edition 2012-2013

First Prize *ex-aequo*

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The idea of an online Interbank Funding Platform (IFP) has emerged from the recent growing interest in social and 'impact investment' businesses, which find it hard to obtain funding but are socially very attractive. This has led to the emergence of alternatives to traditional funding, mainly promoted on the Internet, which seek to support such projects through donations, cash rewards or interest rates that are generally lower than those available on the market. At the same time, traditional banking has reached a historic turning point: its behaviour is now increasingly challenged on ethical grounds, and it needs to innovate in response to this. This paper proposes a new Interbank Funding Platform that will put banks in closer touch with Socially Responsible Investment (SRI) and so have a greater social impact by funding a larger number of projects..

The rise and development of Socially Responsible Investment (SRI)

Socially Responsible Investment has gradually developed out of classic financial theory. The first changes were the result of demands by various religious groups which, starting in the United States in 1920s, called for more ethics in investment, with prior selection of assets based on a number of criteria. It was against this background that the Pioneer Fund – usually considered the first ethically inspired investment fund – was established in Boston in 1928.

This was the first attempt to take account of ethical motives, and eventually social and environmental ones, in investment by businesses and individuals. And during the 1960s, 1970s of the Organization he is affiliated to.

Depuis quelques années, les entreprises sociales et l'investissement d'impact suscitent de plus en plus d'intérêt.

Le comportement de la banque traditionnelle est de plus en plus remis en question en ce qui concerne l'éthique, c'est pourquoi dans le contexte actuel elle pourrait tirer avantage en favorisant l'innovation sociale.

Une Plateforme de Financement Interbancaire(PFI) permettrait d'encourager le financement de grand nombre de projets ayant un impact social.

Au cours de la dernière décennie, nous assistons à une augmentation de l'Investissement Socialement Responsable (ISR) ; de plus en plus de portefeuilles tiennent compte des questions environnementales, sociales et de gouvernance d'entreprise (ESG) .

and 1980s, in response to the Vietnam War and South African apartheid, the idea arose on both sides of the Atlantic that investment was a good way to put pressure on businesses with regard to social issues (Eurosif, 2012).

The number of assets managed by SRI investment funds has been growing from year to year (Vigeo, 2012), rating agencies such as KLD and Eiris have proliferated, and SRI indexes have been created, including the Dow Jones DJSI World and DJSI STOXX indexes, and FTSE4Good. This has resulted in more and more investment portfolios being evaluated according to Environmental, Social and Governance (ESG) criteria, rewarding businesses that perform better.

According to data on the European market published by Eurosif (2012) this growth is essentially due to input from institutional investors, which account for 94% of such investment, whereas the other 6% comes from the retail market. One of Spainsif's challenges for the future (2012) is to attract more SRI investment from the retail market.

This growth has led to the market becoming diversified and the definition of SRI becoming more complex. Of the existing definitions,[1] we will keep to the one provided in the analysis by a Eurosif Committee of Experts, which in 2011 defined seven different strategies that would fit into a broader definition of this type of investment, in turn identifying those related to responsible investment, and specifying which ones would be considered true SRI strategies (Spainsif, 2012).

[1] See the United Nations Principles for Responsible Investment (PRI) at www.unpri.org/ or the European Fund and Asset Management Association (EFAMA) at www.efama.org

Table 1. Responsible Investment Strategies

1. Investment in thematic funds
2. Selection of 'best in class' investment strategies
3. No investment in securities
4. Filter based on international ESG standards
5. Inclusion of ESG factors in financial analysis
6. Active dialogue, shareholder activism and voting on sustainability issues
7. Impact investment

Source: Spainsif Report, 2012. (Strategies considered as SRI are in blue)

L'ISR a évolué et est devenu plus complexe et diversifié, générant ainsi de nouvelles stratégies pour investir dans une entreprise socialement responsable.

Les investissements d'impact cherchent à générer un impact social et environnemental positif tout en assurant une rentabilité économique, avec un retour sur investissement.

The most interesting strategy as regards the proposed IFP is 'impact investment'. Eurosif (2012) defines this as investment by businesses, organizations and funds with a view to generating a social and environmental impact as well as economic return, in both developing and developed countries. Such investment seeks a social or environmental impact that is accompanied by a financial return at least equal to the capital invested (Ruíz de Munain and Martín, 2012) or the savings generated.[2] Since the crisis erupted in 2007, Spain has seen a process of innovation among businesses and entrepreneurs, leading to greater awareness of social issues. One reason for this is that the traditional social economy has seen a fall in government contributions owing to budget cuts. According to the 2012 Spanish Social Economy Business Conference, this sector employs 2.4 million people in Spain.

This has coincided with a boom in such impact investment that seeks to fund bodies in the social sector, social businesses and entrepreneurs, and the social economy in general.

At the same time, the European Union is endeavouring to promote such activities. In 2011 the European Commission, through the Social Business Initiative,[3] proposed the creation of a 'European Social Entrepreneurship Fund' label to identify investment funds carrying out social investment in Europe (Ruíz de Munain and Martín, 2012).

The actors that fund such businesses and projects are summed up in the table 2.

Even though crowdfunding may not be considered impact investment in the true sense, it is included here. Some platforms and projects offer

[2] For example through social impact bonds: if a business achieves a given social impact that saves the government money, the latter will repay the capital plus an agreed rate of interest (Narrillos, 2012).

[3] ec.europa.eu/internal_market/social_business/index_en.htm

Table 2. Type of actors

TYPE OF ACTOR	*EXAMPLES IN SPAIN*
Microfinanciers	MicroBank, Microfides
Bodies and initiatives that support entrepreneurs / tenders	Moment Project
Public bodies	Fundación ICO, ENISA
Credit cooperatives	Coop57
Ethical banks	Fiare, Triodos Bank
SRI funds / social venture capital	Fundación Creas, ISIS capital
Banks' social projects / foundations	BBVA, Caixabank
crowdfunding	Goteo

Source: author's own list

Les projets en quête de financement qui ont recours au crowdfunding tireraient avantage de la PFI. En effet, généralement ce genre de projets est plus difficile à financer, leur rentabilité économique n'étant pas assurée.

Trois initiatives ont servi d'inspiration pour la PFI : la plate-forme en ligne de microcrédits Kiva, la plate-forme de financement collectid Goteo et l'initiative *Tú éliges: tú decides* (Vous choisissez : vous décidez) de Banca Civica.

La diversité des communautés de *crowdfunding* permet à l'investisseur de mieux filtrer le type de projets susceptible de l'intéresser. L'inconvénient réside dans le fait que beaucoup de ces plateformes et communautés ne sont pas viables à long terme.

shares of the potential profits, or a rate of interest (X.net, 2013), but in most cases there are donations in return for recognition or products derived from the project. Nevertheless, this paper will not be confined to impact investment, for I believe that projects launched through crowdfunding may benefit the IFP and so reach projects which by their very nature require more complicated funding.

However, it is general practice to receive interest in return for investment. In its annual survey of philanthropic investment (2013), the European Venture Philanthropy Association found that in 2011 there was increased interest in investment that generated a social return as a priority while accepting a financial return, whereas in 2010 the emphasis had been on projects that generated a social return without a financial one.

Learning initiatives for the Interbank Funding Platform

This section identifies three initiatives that have inspired the proposed Interbank Funding Platform.

1. Kiva (www.kiva.org). Kiva is the first online microloan platform for lenders and microentrepreneurs.

What can we learn from Kiva?

Kiva is of interest to the IFP because of its philosophy. Kiva draws attention to entrepreneurs, explaining who they are, why they want money and how much they need. People read these stories, and if they are interested in making a loan they decide how much they want to contribute.

The money is channelled through local microfinancing bodies that have identified the people who need the loans. This means that the borrowers' use of the money is closely supervised. Throughout the duration of the loan, the lender can also be sent updates on the loan and how it is progressing. At the end of the agreed period the loan is repaid, and the lender can then decide whether to reinvest the money in another loan or else withdraw it. 90% of lenders decide to reinvest.

2. Goteo (www.goteo.org). Goteo is one of the leading crowdfunding platforms in Spain. It specializes in promoting investment in social, cultural, scientific, educational, technological or environmental projects that seek to generate new opportunities to improve society and enhance shared goods and resources.

What can we learn from Goteo and crowdfunding?

Goteo seeks funding and economic support for initiatives whose goals are valuable to society as a whole and are hard to fund through traditional channels.

The return to lenders may be symbolic, in the form of recognition, or else material rewards that increase in value in proportion to the amount lent.

Funding through a wide variety of crowdfunding communities is use-

L'initiative *Tú eliges: tú decides* (vous choisissez : vous décidez) permet de découvrir des projets d'impact social, sensibilisant ainsi les clients et la société en général à l' ISR. La revitalisation du marché de détail constitue le principal défi de l' ISR.

Alors que nous pouvons constater que le client est de plus en plus enclin à chercher d'autres alternatives pour gérer son argent (par le biais de la Banque Éthique), la banque espagnole traditionnelle n'encourage pas encore suffisamment le financement de projets ayant un impact social.

ful, for it helps to filter types of projects that may be of greater interest to particular people. The observed drawback is that many of these platforms and communities do not prove viable in the long term, for several reasons:

- A small number of projects. If a platform has only a few projects, it is harder to earn enough money to make the activity profitable. Also, the fewer the projects, the fewer the potential clients.
- A small niche of investors. The more varied the communities are, the fewer people will be aware of the various projects.
- Communities drying up. Those who fund projects in communities involved in specific themes are unlikely to have the capacity to fund all the projects concerned (X.net, 2012).
- Difficulty in attracting large amounts of money, especially if the expected impact of the projects is long-term (X.net, 2012).

3. Banca Cívica (Civic Bank): *you choose, you decide* (www.cajanavarra.com/tu-eliges/que-es). CaixaBank, acting through Banca Cívica (which has emerged from an association of several Spanish banks), has launched an initiative called *Tú eliges, tú decides* ('You choose, you decide'). For example, one of the banks, Caja Navarra, has decided that anyone over 18 in the northern province of Navarre can choose a social project to which the bank will contribute ten euros a head – a total of 5.14 million euros. The novel thing about this initiative is that anyone in Navarre – not just clients of the bank – can help decide where the money will go.

What can we learn from the 'You choose, you decide' initiative?

Caja Navarra brings projects with a high social impact to the attention of the people of Navarre, who usually know nothing about them. This makes the bank's clients, and the rest of society, more aware of SRI. As already mentioned, one of Spainsif's priority challenges (2012, p. 19) is to attract more SRI investment from the retail market, which has a more conservative profile and is unaware of SRI products. This also shows a commitment to projects that have a positive social and environmental (rather than just economic) impact, as well as the need for traditional banks to take greater account of social issues.

An Interbank Funding Platform for social-impact projects

In the wake of the financial crisis that erupted in 2007 and is still being felt in many countries – including Spain – in 2013, there has been a growing interest in the funding of social businesses and initiatives. As we have seen, the number of initiatives to promote SRI is increasing, and there are many different ways of funding projects.

Despite all this, and aside from isolated initiatives, Spain's traditional banks are not doing enough to encourage such funding. This is a matter of increasing concern to their

Les nouvelles technologies, en particulier internet et les réseaux sociaux , ont permis la diffusion d'un grand nombre de projets sociaux. Par ailleurs, ces mêmes technologies, permettent d'établir de plus en plus de filtres pour contrôler l'excès d'informations.

Nous pouvons observer une tendance à l'équilibre entre l'abondance d'informations -nécessaire pour fournir des contenus personnalisés à un public diversifié - et une réduction de l'information fournie à l'utilisateur, permettant ainsi un gain de temps et d'attention.

clients, who are looking for alternative ways of managing their money.[4] What is more, 88% of people in Spain doubt the credibility of banking institutions (Random, 2012).

Added to this loss of clients and credibility are the bankruptcies of Spanish savings banks due what is widely perceived as mismanagement, mortgage foreclosures (and the resulting human tragedy of eviction), and the preference shares scandal.[5]All this has increased the pressure on traditional banks to evolve, innovate and adapt so that they can repair the damage to their public image.

Increase in alternative kinds of funding, and segmentation of the market

In his study of consumption and consumer choices (2004), the American psychologist Barry Schwartz drew an interesting conclusion: a large number of choices adversely affects consumers' ability to choose, for they need more time to gather information, which implies a cost that may not be outweighed by the resulting well-being.

This is a relevant factor, for the initiatives presented in this paper presuppose greater opportunities to invest in the social economy and social-impact projects – but they are just a small proportion of the large number of emerging initiatives. The new technologies, especially the Internet and social media, have drawn attention to a greater number of projects and facilitated the spread of information about them. It seems we humans tend to consume large amounts of information and spread whatever bits of it we like.

The drawback is that the Internet offers us so much information and so many services that we end up needing filters. Evidence of this can be found in the shift from thematic sites and blogs to personal and social bookmarks, news aggregators, social media, applications such as Flipboard and the revolution created by mobile phone interfaces (such as HTC's recent BlinkFeed) which filter information so we only get to see what we want to see. Ultimately, what people want is to be fully informed and yet not be overwhelmed with content, which has to be relevant and easily accessible.

What we are moving towards is a balance between an abundance of existing information (which is necessary in order to offer personalized content to a varied public) and a reduction in the information displayed to users (to reduce the amount of time and attention they have to devote to it). The same thing happens when we want to find out about social investment opportunities on the Internet. Platforms and

[4] Evidence of this can be seen in the growing number of people moving over to the Banca Ética ('Ethical Bank') – in 2012, according to data supplied by Financiación Ética y Solidaria (FETS): www.fets.org/, the figure doubled to more than 100,000.

[5] Many Spanish financial institutions sold people *participaciones preferentes* ('preference shares') and informed them about the potential returns – but failed to mention the associated risks.

Grace à la PFI, les banques traditionnelles dont les clients ne sont pas aussi familiarisés avec la banque éthique pourraient offrir simplement de nouvelles options de placements en accord avec des critères environnementaux, sociaux et de gouvernance d'entreprise (ESG) ainsi que l'accès à des projets classés investissements d'impact ou sociaux, projets qui de par leurs caractéristiques implicites ont difficilement accès au financement.

options are increasing so fast that the market is becoming segmented. This may be a good thing, as everyone can go to the platform most suited to what they would like to fund; but on the other hand it is becoming more difficult to spread information about what is available. Meanwhile, many businesses and projects continue to approach traditional banks, which treat them no differently from other applicants for loans – and so they do not get funded.

The reason for the IFP

The IFP can help social projects and businesses because of:

1. The growing interest in impact investment

2. The rapid expansion in social entrepreneurship and social businesses, their influence and their contribution to employment

3. The difficulty in funding many of these projects

4. The growth in alternative kinds of investment, leading to segmentation of the market

5. The failure of traditional banks to respond to all this, at a time when their public image is declining.

The IFP would enable traditional banks, whose clients are not so familiar with ethical banking, to offer clear and simple investment options based on ESG (Environmental, Social and Governance) criteria and access to projects listed as social and impact investment projects which, by their very nature, have little access to funding. This would allow people to invest some of their money or profits in such products.

Which activities?

The activities to be funded will depend on where they take place. The developed countries, and specifically Europe, are promoting social innovation initiatives. In 2013 the European Commission has defined social innovation as the development and implementation of new ideas to satisfy social needs and create new social relationships and partnerships. These are responses to the pressures of social demand, which affect the process of social interaction. Social innovation is designed to improve human well-being, and the innovations are social in both their ends and their means. Not only are they good for society, but they also increase people's ability to act. The priority goal is to promote social change and create shared economic and social value.

The European Commission's *Europe 2020* strategy defines the type of growth that it seeks for Europe over the coming decade, in order to achieve a smarter, more sustainable and more integrating economy. A number of key areas have been identified: employment; research, development and innovation; climate and energy; education; and poverty and social inclusion. The social innovation and shared value strategies have a great deal to do with these five priority areas.

In developing countries our reference is the Inter-American Development Bank, whose *Opportunities*

Les évaluations de l'impact social permettent d'identifier et de rendre viables des projets sociaux dont le retour économique est plus difficile à monétiser puisque la valeur sociale génère des économies sur le long terme.

De par le grand nombre de clients dont les banques traditionnelles disposent, elles joueraient un rôle fondamental dans la plate-forme de financement de projets à impact social.

for the majority[6] programme has identified five sectors for intervention to achieve growth. The focus is on inclusive businesses and latent development opportunities at the 'base of the pyramid'. The five sectors are finance, housing, education, nutrition and health.

The point here is that the proposed platform has a broad spectrum of fundable projects, in both developing and developed countries, but that the social-impact projects should have a clear purpose.

Types of projects

By the very nature of social projects, some will be easier to monetize than others, and this will affect their viability. The platform should therefore offer both economically viable projects and ones that have a major social impact, but whose economic return is uncertain in the absence of in-depth analysis. Social impact assessments should therefore be extended and the savings that will be generated by long-term projects made visible. Social impact bonds and social impact measurement techniques are in line with this.[7]

There are thus three kinds of projects:

• Those that have a social and an economic impact.

• Those that have a high social impact and generate economic savings. These can only yield economic benefits if one of the parties agrees to pay the interest on the profits generated by the savings. Examples include social impact bonds and the Peterborough prison project in the United Kingdom.[8]

• Welfare projects whose viability is more questionable in both the long and the short term, but that are necessary to ensure social stability.

The actors involved in the IFP are summed up in the table 3.

How the IFP works

The idea is to set up an online platform for identified actors to join. This will create a multidirectional link in support of projects that generate a social impact.

In accordance with the table, the projects to be funded can come through two channels:

• projects selected by banking institutions;

• projects selected by collaborating bodies.

The value of the IFP lies in its potential to give traditional banking institutions a leading role, since they have clients who may be interested in funding such projects. The platform can help people become aware of the projects and hence the possibility of investing in them without having to spend too much time gathering information.

[6] www.iadb.org/en/topics/opportunities-for-the-majority

[7] ROI (Social Return on Investment) is becoming one of the main techniques for measuring the social impact of projects, monetizing the social impact generated for each euro invested.

8 www.socialfinance.org.uk/sites/default/files/SF_Peterborough_SIB.pdf

La PFI contribuerait à faire connaître les projets d'impact social, et de par là même elle promouvrait l'investissement tout en générant un gain de temps en recherche d'information relativement important.

Les fonds éthiques d'investissement, les dépôts bancaires, le client direct, les PFI, les institutions associées et l'État constituent la palette de possibles acteurs pour la levée de fonds de projets sociaux.

The facilities that banking institutions can provide thus include informing clients on the various ways of investing in or donating to social-impact projects, letting them know the opportunities they have to participate directly in the projects that can be funded through the platform, and filtering the projects according to the types that are likely to be of interest to their clients, e.g. the type of sector or the type of compensation they wish to receive.

The IFP is the nucleus, but investors and bank clients do not have to be in direct contact with it, thus simplifying their investment decisions if the banks make a selection in accordance with their clients' interests.

Once the projects are selected, the selected amount of money is channelled to the various projects. These can get started as soon as the required amount is collected, as in crowdfunding.

In addition, the funded projects must show investors the social impact that is being generated with the invested resources through periodic updates and measurement of the results achieved.

How investment funds are gathered

There are various ways of gathering funds:

1. Ethical investment funds. This does not mean investment funds that use filters to manage an investment portfolio, but ones that invest in social-impact projects.

2. Bank deposits that are invested in such projects, with interest rates lower than market rates.

3. Helping clients invest a certain proportion of their money in projects that are more difficult to fund:

- by donating or investing some of the interest provided by the banking institution;
- by investing a small percentage of their earnings in such initiatives;
- by pursuing a bank policy of investing in such initiatives, for example by investing additionally in investments made by their clients.[9]

4. True IFP: offering people alternative forms of investment or donation and facilitating investment through banking institutions that are part of the platform.

5. Collaborating bodies: gathering funds through their networks and making people more aware of projects in other networks.

6. Government: supporting such initiatives by:

- paying interest on the savings generated for the government;
- granting tax breaks;
- spreading the risk by participating with a percentage of public funds.
- providing public guarantees for such projects.

[9] Examples include businesses that double the value of their employees' investments in projects, or the more recent instance from the Goteo crowdfunding platform, Capital Riesgo: goteo.org/service/resources

La PFI permettrait non seulement de partager le risque entre un grand nombre d'acteurs, mais également de regrouper l'information concernant les projets sociaux. Ceci permettrait d'améliorer la qualité de l'information tout en réduisant le facteur temps (pour le choix), considéré comme le principal obstacle lorsqu'il s'agit de capter des clients.

Conclusions

As argued above, the idea of the platform is to centralize efforts in support of projects that generate a greater social impact. Many such projects have a questionable economic return, and innovations are needed in funding so that they can get off the ground.

The platform's greatest potential lies in **spreading risk** over a wide range of actors and **concentrating information** about such projects in a global platform that can improve information and reduce the time people need in order to make choices (which is considered the main barrier in reaching clients).

Ultimately, the proposed platform is an innovative tool designed to involve the main actors and encourage change in traditional banking institutions, so that they will finance this type of project and at the same time make the general public aware of opportunities for such investment and how it can benefit economic development and society in general. •

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Table 3. Actors involved in the IFP

Actor	ACTIVITY	VALUE TO THE IFP
Independent body	*· Managing the platform* *· Centralizing and drawing attention to the various projects to be funded, with support from banks and collaborating bodies* *· Pooling the interests of banks, investors and promoters* *· Providing information on the need to fund each project* *· Certifying the value of the projects* *· Providing information on the state of the various projects being funded*	*· Centralizing social investment options to increase the impact* *· Channelling money more directly towards the projects* *· Spreading awareness of SRI* *· Sharing risks between citizens, banks and the government*
Banking institutions	*· Offering clients investment and/or donation alternatives for the projects in the platform* *· Making its clients aware of SRI and promoting it among them* *· Including new projects in the platform*	*· Reducing the risks of projects by sharing them among various bodies and investors* *· Renewing perceived commitment to society at a time of tension* *· Banking innovation: new products and services in response to social change*
Project promoters	*· Demonstrating the social value that their projects create (as a condition for taking part in the platform)* *· Providing information on how their projects continue to develop when funding comes to an end*	*· Opportunities to generate positive social change* *· New opportunities to generate employment and work in sectors that would not normally be considered profitable*
Government	*· Using public funds to reduce the risk involved in certain projects, in an innovative form of public-private partnership* *· Guaranteeing the viability of projects through measures to encourage enterprise*	*· Saving costs on programmes through early intervention to avoid social problems that may arise* *· Increasing tax revenues through increased employment and reduction in social welfare benefits* *· Facilitating compliance with the goals of the Europe 2020 strategy for the EU and its member states*
Collaborating bodies	*· Bodies that spot projects to invest in. The range is very wide – for example, they may be established crowdfunding networks or non-profit bodies that carry out projects or work with microentrepreneurs* *· Networking by offering the platform additional services*	*· Promotion: making their own network/organization more visible* *· Possibility of obtaining more funds for projects that wish to develop*
Investors/ donors	*· Investing in projects offered by the platform* *· Types of investment:* *-Direct investment, with greater focus on more committed investors, who themselves select the projects of most interest to them* *-Indirect investment: using preselected parameters, the bank will allocate the money to similar projects and ones that it considers of value to the client or of greater social value*	*· Clients commit themselves to the development of initiatives that enhance social cohesion, improve opportunities and reduce inequality* *· They receive an economic as well as a social return, or other kinds of material reward or gratitude* *· Greater individual and social happiness through the act of giving*

Pour un marché du crédit aux particuliers plus éthique : l'introduction d'une composante conjoncturelle anticyclique dans le coût du crédit

Ethique en Finance, Prix Robin Cosgrove Édition Globale 2012-2013

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Économie et cycles

La science économique n'atteint que rarement le stade de la certitude. Mais s'il est une chose certaine, c'est que l'économie connait des cycles. En 1926, dans *Les vagues longues de la conjoncture*, Nikolaï Kondratiev proposait l'une des premières analyses des cycles de long terme. Mais en plus de ces tendances de long terme, l'économie est sans cesse traversée par des perturbations. Selon un autre grand économiste des années 1920, Irving Fisher, « Il y a toujours d'innombrables cycles, longs et courts, grands et petits, conçus comme des tendances (de même que de nombreuses tendances non cycliques), chaque événement historique étant la résultante de toutes les tendances à l'œuvre ».[1] Ces fluctuations de l'économie peuvent être comprises comme des risques. Or le rôle de la finance est justement de gérer et de distribuer le risque. Le point de départ est donc le suivant : la distribution du risque représenté par les fluctuations de l'économie est-elle équitable ?

Dans le fonctionnement actuel du système financier, ce sont les personnes les plus vulnérables qui subissent le plus violemment les cycles, parce qu'elles n'ont pas le capital nécessaire pour se protéger en période de récession. Cet article propose une solution simple à ce problème : faire peser sur le prêteur une plus grande partie des risques associés aux cycles économiques. En apparence, c'est

[1] Fisher, I. (1933). La théorie des grandes dépressions par la dette et la déflation. *In: Revue française d'économie*, Volume 3 N°3, 1988.

Economics is always about cyclical movements. Periods of weak growth and recession are therefore to be expected.

un renversement total, qu'aucune banque ne serait prête à accepter. En réalité, grâce à l'ingénierie financière, il est tout à fait possible d'envisager un tel fonctionnement du marché du crédit, sans mettre en péril ni la rentabilité des prêteurs, ni la stabilité du système financier.

L'objet de cet article est donc de militer pour l'introduction d'une composante conjoncturelle anticyclique dans le coût du crédit. Autrement dit, il s'agit de faire varier la somme payée mensuellement par l'emprunteur en fonction de l'état de l'économie. Quand survient une récession, les emprunteurs, en particulier les plus vulnérables, disposent ainsi d'un temps supplémentaire pour reconstituer leur solvabilité, par exemple en retrouvant un emploi. En résumé, cet article a pour but :

• d'alerter sur le caractère inéquitable du crédit lorsqu'il fait porter à l'emprunteur le risque économique

• de proposer un mécanisme qui rendrait le crédit plus juste en déplaçant le risque sur la banque prêteuse

• de démontrer la faisabilité de ce mécanisme en expliquant comment une banque peut augmenter sa rentabilité tout en supportant un risque en apparence plus élevé.

Le fonctionnement actuel du crédit aux particuliers est éthiquement critiquable, comme le prouve l'étude des conséquences du retournement du marché immobilier aux Etats-Unis depuis 2006. La solution proposée est l'introduction d'une composante anticyclique dans le coût du crédit immobilier, de façon rentable pour les banques. Il est ensuite possible d'imaginer comment adapter ce type d'outils dans différentes situations de crédit.

Les limites éthiques du fonctionnement actuel du marché du crédit aux particuliers

Si vous devez 100 livres sterling à une banque, vous avez un problème ; mais si vous lui devez un million de livres, c'est la banque qui a un problème (John Maynard Keynes)[2]

Le crédit aux particuliers a fait l'objet d'une attention croissante au cours des dernières années. Les prêts immobiliers ont joué un rôle fondamental dans la constitution de la bulle dont l'éclatement a provoqué la crise financière de 2008 ; et les prêts à la consommation sont accusés de contribuer au développement du surendettement chez les particuliers. Ce phénomène de surendettement prend une telle ampleur qu'il existe à l'Assemblée Nationale française un groupe d'études parlementaire dédié uniquement à ce sujet. Ainsi, l'encadrement du *credit-revolving* en France vise à protéger les personnes considérées comme incapables de gérer ce type de mécanisme financier. Cette régulation par la prévention est utile, mais nous nous concentrerons ici sur les prêts effectivement accordés.

[2] Il s'agit en réalité d'un vieux proverbe que Keynes a cité à plusieurs reprises, et qui lui a été attribué par la suite.

The role of finance is to manage and share risk, so recession tends to hit the poor hardest. In view of this inequality, we propose an anti-cyclical component in credit instruments - short term loans to individuals could be repaid over a longer period. This would enable lenders to maintain profitability whilst pursuing more ethical actions, assuming a commitment to equity and strong risk management.

Dans un prêt, il y a deux risques :

• Le risque interne ou risque de contrepartie, lié à l'emprunteur lui-même : est-il solvable, est-il honnête…

• Le risque externe ou risque économique : en cas de retournement de la conjoncture, un emprunteur *a priori* solvable peut devenir insolvable. Pour la banque, ce risque se traduit à l'actif par une dépréciation des prêts. Au passif, le risque externe peut provoquer une hausse de son coût de financement.

Actuellement, comment fonctionnent les prêts immobiliers ? Certains pays européens pratiquent essentiellement les prêts à taux fixe. Dans d'autres pays, les taux sont le plus souvent variables. Dans ce cas, ils sont le plus souvent indexés sur des indices qui ne font aucun sens pour les emprunteurs. Pour ne donner qu'un exemple, les taux de nombreux prêts immobiliers sont calculés à partir du LIBOR (voir par exemple sur ce lien[3] une offre de crédit sur le site de FreddieMac, un organisme public de crédit immobilier américain, qui a connu une quasi-faillite en 2008). Faisons abstraction des révélations récentes sur la manipulation de ce taux. L'élément important est que le LIBOR est un taux interbancaire : il exprime le coût de l'argent pour la banque qui, avec de tels prêts est ainsi assurée contre l'évolution du prix de sa «matière première». Cela implique qu'un prêt indexé sur le LIBOR fait porter la totalité du risque économique à l'emprunteur. D'autant que si le LIBOR n'avait pas été manipulé à la baisse en 2008, il aurait probablement augmenté, entrainant une hausse du coût des prêts de millions de foyer dans le monde, au beau milieu d'une récession économique. Certes, les taux d'intérêt sont en principe liés à la situation macroéconomique, mais :

• la variation des taux d'intérêt comme le LIBOR obéit aussi à d'autres facteurs, et l'ampleur des variations ne correspond pas toujours à celle qui serait nécessaire pour exercer une influence significative sur les coûts d'emprunt ;

• surtout, le taux LIBOR, qui bénéficie de la plus grande liquidité, a été utilisé pour indexer des prêts dans différentes régions du monde. Dans le choix d'un taux variable, la banque accorde plus de poids aux contraintes des marchés financiers qu'au sens économique du taux retenu.

Le rapport inégal entre prêteur et emprunteur

Avec ce type de prêt, la banque, qui est l'acteur le plus puissant, ne porte que le risque interne. La totalité du risque externe est transmise au client, alors même que l'absorption et la dispersion du risque constituent le cœur du métier du banquier. Cette inégalité est permise uniquement par la puissance de négociation de la banque face aux particuliers. Il est vrai que lorsqu'une entreprise fait face à des difficultés économiques,

[3] Consultable sur : www.freddiemac.com/sell/factsheets/liborarms.htm

Lenders have great power over individual borrowers. Financial innovation has greatly improved risk management for market finance, but small borrowers hardly benefit from that innovation.

les créanciers bénéficient en général de «*covenants*», des clauses particulières dans les contrats, qui leur permettent de déclarer la déchéance du prêt pour tenter de récupérer une partie ou la totalité de leur argent. Mais en pratique, le plus souvent, les banques négocient avec les entreprises des délais, des remises, qui permettent de ne pas accroître leurs difficultés et réduire leurs capacités de remboursement. Les clauses dites de «retour à meilleure fortune» visent ainsi à suspendre le remboursement d'un prêt jusqu'à l'amélioration de la situation d'une entreprise. Les particuliers ne bénéficient pas de cette clémence, parce que, comme Keynes l'a parfaitement exprimé, les gros clients bénéficient structurellement d'un traitement préférentiel.

Une autre composante du marché du crédit aux particuliers peut s'avérer inéquitable. Il s'agit du calcul de scores, comme le FICO, le plus répandu aux Etats-Unis. Pour décider si vous pouvez bénéficier d'un crédit, la banque vous demande votre situation et, à partir des informations recueillies, calcule ce score de crédit. Pour le FICO, 50% du résultat dépend de votre historique de paiement.[4] En théorie, c'est parfaitement normal, il faut bien que la banque détecte les mauvais payeurs, pour réduire l'aléa moral. Mais si une fois dans sa vie, une personne fait défaut car elle a souffert de la conjoncture économique, cette personne mettra des années avant de pouvoir obtenir un nouveau crédit, et elle n'aura peut-être jamais accès à la propriété immobilière. Macroéconomiquement, il est inefficace d'exclure ce type de personnes du crédit, car cela réduit la consommation, alors même qu'il peut s'agir de «bons payeurs» qui auraient remboursé. Une étude de 2010[5] montre qu'entre 1997 et 2006, la titrisation des prêts immobiliers a renforcé le rôle joué par le score FICO dans la décision d'octroyer un prêt.[6] Au lieu de prendre en compte la situation individuelle des emprunteurs, les banques se sont de plus en plus contentées de calculer mécaniquement des scores FICO. C'est le paradoxe de l'innovation financière actuelle : elle se concentre en aval, rendant le fonctionnement des marchés de plus en plus complexe, mais elle aboutit en amont, au stade de la relation client, à des décisions de plus en plus élémentaires.

La crise du marché immobilier américain depuis 2006 fournit une excellente illustration du caractère potentiellement inéquitable du marché du crédit.

[4] www.myfico.com/crediteducation/whatsinyourscore.aspx

[5] Rajan, U., Serut, A. & Vig, V. (2010). *The Failure of Models that Predict Failure: Distance, Incentives and Defaults*. Consultable sur : ssrn.com/abstract=1296982

[6] La titrisation des prêts est une technique qui consiste à regrouper différents prêts dans un package unique, et à revendre ce produit sous la forme de titres qui en représentent une certaine quotité. La principale conséquence est que l'organisme prêteur ne conserve pas les prêts accordés. Selon Rajan ***et al***. (2010), cela incite les prêteurs à octroyer les prêts uniquement en fonction de critères standardisés, comme le score FICO, pour faciliter la revente, au lieu de prendre en compte l'intégralité de l'information disponible sur l'emprunteur.

The property finance crisis in the USA in recent years placed millions of individual borrowers in extreme difficulty. It was inequitable that the impact of the risk fell mainly on the most vulnerable section of the population.

Two solutions are given to reduce the risk to the poor: first, to impose limits to over-indebtedness, but that tends to reduce further the access of the poor to finance; the second traditional solution consists of a direct intervention for debt relief. But this is morally ambivalent as all debt should, in principle, be regarded as repayable.

Conséquences du retournement du marché immobilier américain:

La finance, c'est la dette : sa création, sa gestion, sa circulation. Or si la finance prétend atteindre l'éthique, elle ne doit pas oublier que la dette est un mécanisme extrêmement violent. Pour illustrer cette violence de la dette, prenons l'exemple d'une personne ayant acheté une maison en 2006, pour 100 000 euros, dont 70 000 euros de dette. Cette personne détient au départ 30 000 euros dans la valeur de sa maison. Supposons, comme cela a été le cas aux Etats-Unis pendant la crise, que les prix chutent de 30%. Cette personne perd toute sa richesse. Et sa situation est pire encore si son apport initial est moindre. C'est toute la puissance de l'effet de levier qui se retourne contre l'acheteur de la maison. La banque qui a octroyé le prêt possède toute la richesse restante et les pertes sont portées par l'emprunteur. Si cette personne ne paye pas son crédit, la banque peut saisir la maison.

Entre 2007 et fin 2011, la crise a provoqué la saisie d'environ quatre millions de logements aux Etats-Unis.[7] Pour les personnes expulsées, les difficultés s'enchaînent alors : il faut retrouver un logement, la stabilité de la famille est mise à l'épreuve, les frais s'additionnent.

L'ampleur des saisies immobilières implique, comme le montre une étude[8] de Mian, Rao et Sufi (2013), que notre système financier fait porter les risques sur les plus vulnérables. Au lieu de participer à une distribution plus efficace du risque, la finance le déplace des personnes les plus riches vers les personnes les plus pauvres. En effet, à l'échelle de la société, ce sont les plus riches qui épargnent, et les plus pauvres qui empruntent. Si l'on fait abstraction de la banque, qui n'est qu'un intermédiaire financier, ce sont donc les personnes les plus riches qui saisissent les biens immobiliers afin de préserver la valeur de leurs actifs. Par ailleurs, Mian *et al.* (2013) démontrent que les victimes de la crise immobilière sont aussi ceux qui consomment le plus en proportion de leur revenu : c'est cette caractéristique qui expliquerait la baisse de la consommation et l'ampleur de la crise économique à laquelle nous sommes confrontés depuis 2008.

Mais même en faisant abstraction de cet argument macroéconomique, il faut insister sur l'injustice que représente la saisie d'une maison, la fragilisation d'une famille, en raison d'une baisse temporaire des prix de l'immobilier. En partant de ce constat, il faut s'interroger sur les moyens de rendre plus éthique l'octroi de crédit aux personnes les plus vulnérables.

[7] Forbes www.forbes.com/sites/morganbrennan/2012/12/01/the-foreclosure-crisis-isnt-over-just-yet/

[8] Mian, A., Rao, K. & Sufi, A. (2013). Household Balance Sheets, Consumption, and the Economic Slump. Disponible sur : papers.ssrn.com/sol3/papers.cfm?abstract_id=1961211.

This paper suggests a different approach where banks modify their lending policies to avoid concentrating the impact of recession on those most vulnerable.

Les deux solutions traditionnelles et leurs limites

Avant de présenter une solution, des mécanismes alternatifs doivent être présentés. Le premier mécanisme est la prévention du surendettement, par exemple en mettant en place des mesures interdisant aux banques de prêter à des ménages déjà fortement endettés, ou d'utiliser des taux variables ou évolutifs qui masquent le coût réel du prêt vis-à-vis de particuliers qui ne maîtrisent pas le langage financier. Sans remettre en question ces mesures, il faut insister sur un défaut majeur : elles reviennent à interdire ou à limiter l'accès au crédit pour les plus pauvres. Faire de l'adage « on ne prête qu'aux riches » un programme de finance éthique est tout de même discutable.

Le second mécanisme est l'aide aux personnes surendettées, par des mécanismes de faillite personnelle, ou la renégociation forcée des prêts immobiliers. En 1933, dans le cadre du *New Deal*, l'Amérique de Roosevelt avait ainsi mis en place la *Home Owners' Loan Corporation* (HOLC), pour refinancer les ménages et éviter la saisie de leurs maisons. Si la volonté de venir en aide aux personnes en difficulté financière semble louable, ce type de mesures soulève un problème d'aléa moral : les ménages sont alors incités à s'endetter déraisonnablement, puisque l'Etat, et donc le contribuable volera à leur secours en tout état de cause. Et les ménages raisonnables sont donc indirectement sanctionnés pour leur prudence. Ethiquement, cela pose un problème évident. En 1936, alors que la France du Front Populaire mettait en place les premières mesures d'aide aux débiteurs en difficulté, le très réactionnaire juriste Georges Ripert écrivait une chronique célèbre intitulée ironiquement « *Du droit de ne pas payer ses dettes* ». L'objection morale à l'aide aux personnes surendettées ne date pas d'hier… Elle repose toujours sur le même argument : une personne s'engage lorsqu'elle signe un contrat, il lui appartient d'en comprendre l'intégralité, et de faire face à ses responsabilités. Que l'on soit convaincu ou non par cet argument, il faut admettre qu'il constitue un obstacle politique majeur, et qu'il est très difficile de former un consensus sur des programmes d'effacement de dettes. Aux Etats-Unis depuis 2008, le parti républicain a pu consentir à des réductions de taux d'intérêt, mais il s'est opposé à toute mesure qui aurait pour effet de réduire le montant du principal de la dette des particuliers.

L'approche suivie dans cet article est différente. Imaginons une banque qui souhaiterait adopter une démarche éthique et éviter d'entrainer une partie de ses clients dans l'enfer de la dette et des saisies immobilières à chaque fois que l'économie connait des difficultés. Comment une telle banque peut-elle modifier son approche du crédit aux particuliers, pour éviter de concentrer les effets des récessions sur les personnes les plus vulnérables, tout en préservant sa rentabilité ?

Thus the terms of credit should include clauses that automatically vary or adjust the amount of repayment in a given period in the light of the current economic situation.

In order to be effective and have the required psychological impact, the variable amount should be at least 10 per cent of the rate of the loan. The remainder of the paper explains the feasibility of implementing this proposal.

La solution proposée: l'introduction d'une composante conjoncturelle dans le crédit aux particuliers

Pour aller vers l'avant, et éviter que de profondes récessions économiques ne résultent de l'endettement excessif des ménages, nous devons mettre en place des mécanismes qui réduisent automatiquement la valeur de la dette restant à payer, lorsque l'environnement économique global est suffisamment négatif. Il reste encore beaucoup de points à éclaircir avant de mettre en œuvre une politique spécifique. Mais en pratique, il est tout à fait faisable de repenser les clauses des contrats de dette en introduisant des paramètres pour les récessions économiques. (Atif Mian, Université de Princeton, devant le Sénat américain).[9]

Une banque qui souhaite développer une approche éthique du crédit doit veiller à ne pas faire peser un poids déraisonnable sur ses clients lorsque la croissance ralentit. Bien sûr, cela ne suffira pas à «sauver» les ménages durablement insolvables. Mais cela permettra d'éviter un effet de cliquet qui condamne au surendettement ceux qui auraient pu redresser leur situation à moyen terme. Comme pour les Etats, il faut distinguer les déficits structurels et les déficits conjoncturels.

La proposition avancée par Mian est donc simple : le coût du crédit doit varier inversement par rapport à la conjoncture économique. Quand l'économie va mal, la charge de la dette des ménages est automatiquement diminuée, ce qui leur permet de faire face aux difficultés. De plus, ce mécanisme permet d'éviter une chute de la consommation, qui aurait pour effet d'aggraver la situation économique. La suite de cet article vise à élaborer et à démontrer la faisabilité de cette idée ; tandis que l'encadré 1 (en fin de texte) démontre les différents avantages que présente cette idée sur le plan éthique, en faisant référence à différentes théories de l'éthique économique.

Tout d'abord, il ne suffit pas d'une correction marginale de la charge de la dette en phase difficile, il faut que la réduction soit significative dans le budget d'un ménage moyen. En 2010, selon les chiffres de l'INSEE, les ménages français propriétaires dépensent en moyenne 8100 euros par an pour leur logement, hors charges et hors énergie, soit 675 euros par mois. Considérons, de façon un peu arbitraire, que la variation du prix du crédit doit être d'au moins 10% pour être perçue comme substantielle. En effet, la composante psychologique joue aussi, il faut que les ménages ressentent l'allégement du poids de leur dette et adaptent leur comportement. Ce seuil de 10% implique qu'en phase économique

[9] Mian, A. (2011). *Testimony On 'Consumer Protection and Middle Class Wealth Building in an Age of Growing Household Debt', Before The Financial Institutions and Consumer Protection Subcommittee*, United States Senate. Disponible sur : www.gpo.gov/fdsys/pkg/CHRG-112shrg74143/pdf/CHRG-112shrg74143.pdf

Finance enterprises have at least two ways to cover external economic risk. The first is to invest in counter-cyclical actions, such as gold, which tends to augment in value in periods of economic crisis. The second consists of diversification. Banks can spread their exposure both in time and space and hedge their risks, preserving their revenue. These techniques enable banks to maintain their returns on investments even in poor economic times.

When a finance enterprise re-possesses property, this has an extremely negative effect not only on individuals concerned but also on the external economy and on property prices in the region. Introducing a counter-cyclical component would have the effect of contributing to the prevention of such negative consequences and ameliorating the general economic situation in a period of crisis.

difficile, un ménage qui payerait 675 euros par mois pour son emprunt ne payerait plus que 607 euros, soit un gain significatif mais raisonnable de pouvoir d'achat.

Exemple

Techniquement, il existe différentes façons de mettre cela en place. La plus simple repose sur le mécanisme du crédit à taux variable, dont le taux serait indexé sur la croissance.

Tableau 1 : Exemple pour une maison à 100 000 euros

Croissance	*Coût total du crédit*	*Mensualité*
-2%	21 494 €	1 012 €
+3%	52 011 €	1 267 €

Exemple pour une maison à 100 000 euros, payée sur 10 ans, avec un taux i = g + 6%, où g représente la croissance, supposée constante sur toute la période.

L'exemple ci-dessus est sommaire, mais il est possible d'affiner considérablement. Le capital remboursable, la maturité du crédit, le taux d'intérêt sont autant de variables sur lesquelles jouer. Il est aussi envisageable de faire varier ces paramètres à l'intérieur d'une fourchette, par exemple en posant que le taux d'intérêt ne peut pas descendre en-dessous d'un seuil donné. Une fois acquis ce principe, les modalités du calcul pourraient être aisément affinées.

Dans l'exemple présenté dans le tableau ci-contre, les mensualités d'un emprunt immobilier varient selon le taux de croissance de l'économie (voir encadré, en fin de texte).

L'introduction d'une composante anticylique est donc techniquement faisable, et éthiquement souhaitable. Mais pour que cette proposition soit réaliste et acceptable, encore faut-il qu'elle soit financièrement supportable par les banques et organismes de crédit.

Un modèle économique rentable

Contrairement à un particulier ou à une petite entreprise, une institution financière dispose de moyens pour se couvrir contre le risque économique, ou risque externe. Là encore, la présentation est simplifiée car le but n'est pas d'entrer dans les détails techniques.

Quand une banque vend un produit financier A sur les marchés, elle prend un risque. Pour se couvrir contre ce risque et conserver une certaine neutralité, elle achète en principe un produit B dont la valeur varie exactement comme celle du produit vendu. On dit que le produit B acheté réplique le produit A vendu. C'est ce que désigne le mot anglais de «*hedging*». L'idée est simplement d'appliquer ce mécanisme au crédit au particulier.

Dans leur portefeuille, les banques détiennent toute une gamme d'actifs contra-cycliques, comme l'or. En ef-

It is not possible in such a short paper to go into all the details of such a counter-cyclical mechanism. Each party is free to determine the degree of risk against which it may seek to protect itself, so flexibility is important.

For example, in the property market, it is possible to index the costs of credit to the prevailing property prices. Another example in more rural areas would be to compose a more local model to counteract the more immediate shocks such as the closure of a factory and resultant unemployment hike.

An almost indefinite variety of schemes are imaginable, assuming that these would not permit borrowers themselves deliberately to provoke conditions in which their borrowing costs would be reduced.

Anti-cyclical credit instruments constitute

fet, la valeur de l'or augmente quand le cours des actions baisse, donc quand l'économie va mal. Il existe donc différents moyens de gagner de l'argent en phase difficile, ce qui permet d'ailleurs aux spéculateurs dits *bear* de parier sur les récessions et autres mauvaises nouvelles économiques.

En plus de ces techniques de marché, l'autre moyen de couvrir le risque contracyclique est la diversification interne à la banque. Il est possible d'ajuster symétriquement le coût du crédit à la hausse en période de croissance, comme dans l'exemple du tableau 1. Ce «surplus» peut ensuite aider à passer les périodes difficiles. A cette diversification temporelle peut s'ajouter une protection géographique : si la banque prête à des emprunteurs situés dans différents pays dont les situations économiques ne sont pas corrélées, elle réduit son risque.

Un effet positif sur l'économie dans son ensemble

Jusque-là, il s'agit essentiellement d'un jeu à somme nulle. En période de récession, les emprunteurs payent moins, mais la banque se couvre sur les marchés, et grâce à sa stratégie de gestion des risques. En réalité, l'effet économique global est positif si l'on prend en compte les externalités associées au défaut d'un emprunteur. Quand une banque saisit un bien immobilier, elle ne récupère en général que 50% de la valeur de ce bien, car le futur expulsé n'entretient plus son bien et sous-investit, et parce que la vente se fait dans des conditions spécifiques, la banque devant payer des frais de garde et d'assurance… De plus, toutes les études[10] montrent que les saisies ont tendance à amplifier les chocs immobiliers en faisant baisser le prix des maisons proches des maisons saisies. Finalement, les phénomènes de crise immobilière sont amplifiés par les comportements des prêteurs. Chacun essaye de récupérer son argent en saisissant les maisons, ce qui provoque une nouvelle chute des prix et de la solvabilité des ménages, et entraîne de nouvelles saisies… Ce sont les externalités négatives associées aux faillites et aux saisies.

Introduire une composante anticyclique limiterait les effets de ces cercles vicieux auto-entretenus, et améliorerait donc globalement la situation économique.

Généralisation à d'autres types de crédits

Tout au long de cet article, la composante anticyclique n'a pas été précisément définie. Cette omission est volontaire : libre à chacun de déterminer le risque contre lequel il souhaite se protéger ou offrir une protection. Voici toutefois quelques propositions.

Sur le marché de l'immobilier déjà évoqué, une possibilité consiste à indexer le coût du crédit sur les indices de prix tels que les *Dow Jones Real*

[10] Par ex. : Campbell, J., Giglio, S. & Pathak, P. (2011). Forced sales and house prices. American Economic Review 101(5): 2108–2131

a limited innovation, which couple an assurance mechanism with a loan or credit.

They would permit a more fair economy which would lessen the impact of risks from economic recessions on those with the least negotiating power. In order for finance to fulfil its social function and share risk equitably, financial engineering should be placed at the disposal of those most vulnerable.

The main point is that the length of loans should be variable in times of recession. This permits a more ethical approach than is offered by simple egalitarianism, the libertarianism of Nozick, the liberal egalitarianism of Rawls, or the welfare model of Sen.

There are many diverse ideas about economic ethics. This paper is based on the idea that the inclusion of an anti-cyclical component in credit agreements would constitute a contribution to ethics in finance.

Estate Indices. Quand le prix des maisons diminue, les emprunteurs ne perdraient plus leur richesse aussi violemment, malgré l'effet de levier qui fait porter toute la réduction de la valeur de leur bien sur leur capacité à récupérer les sommes qu'ils ont apportées ou déjà remboursées. Mian lui-même propose d'utiliser des indices de prix locaux, par exemple à l'échelle du *county* pour les Etats-Unis.

En zone rurale, l'économie d'un village et de ses alentours dépend bien souvent d'un gros employeur, l'usine locale. Il est alors possible de prendre en compte une composante « économie locale ». Par exemple, si une usine ferme dans un rayon de 30km, le coût de mon emprunt diminue pendant 3 ans, durée qui permet la reconversion de l'usine et la reprise de l'économie locale. Cela permettrait d'éviter le schéma bien connu du déclin local et de la désertification en zone rurale : une usine ferme, le repreneur met du temps à créer de nouveaux emplois ; entre temps la meilleure partie de la main d'œuvre retrouve un emploi et déménage, les services publics se dégradent, et finalement le site industriel n'est plus viable.

Il existe tout de même une limite majeure à l'inventivité que l'on pourrait déployer pour créer ce type de crédit : pour lutter contre l'aléa moral, il faut éviter que les emprunteurs aient un moyen de provoquer eux-mêmes la baisse du coût de l'emprunt. Ainsi, une mise au chômage ne doit pas déclencher cette baisse, car le risque est trop fort de créer des incitations à quitter son emploi et à rester au chômage.

Conclusion

La philosophie antique, Aristote en particulier, définissait une société juste comme une société dans laquelle chacun remplit sa fonction. La fonction de la finance n'est-elle pas de répartir le risque de façon optimale ?

En un sens, le crédit anticyclique est une innovation limitée, qui consiste uniquement à coupler un produit assurantiel à un crédit. Mais ce couplage devrait être offert systématiquement, car l'immense majorité des particuliers ne dispose ni du capital, ni de la compétence financière nécessaire, pour mettre en place ce montage soi-même.

L'économie serait alors plus solide, et surtout plus juste, car elle ferait peser le risque sur ceux qui l'ont volontairement souscrit, au lieu de le déplacer vers les personnes les plus vulnérables.

Le système financier doit cesser de concentrer les risques liés aux cycles économiques, que personne ne semble pouvoir parfaitement prédire, et encore moins prévenir, sur ceux dont le pouvoir de négociation est le plus faible. Il est temps d'utiliser le degré de sophistication qu'a atteint la finance grâce aux mathématiques, et de mettre ces innovations aux services des populations les plus vulnérables. Un mot d'ordre s'impose : inventons le *hedging* du pauvre ! •

Encadré : En quoi l'introduction d'une composante conjoncturelle dans le crédit au particulier est-elle plus éthique ? La réponse selon quatre théories[11] de l'éthique économique

L'égalitarisme absolu

Dans cette vision, parfois inspirée d'un marxisme simplifié, est juste tout ce qui tend à réduire les inégalités. Le crédit anticyclique est alors éthique car il permet d'améliorer la situation financière de ceux qui sont appauvris par un choc économique.

Le libertarisme de Robert Nozick

Pour Nozick (1974)[12], l'intervention étatique est injuste, car elle tend à réduire la liberté individuelle. Si le crédit anticyclique est éthique, c'est parce qu'il permet au marché d'ajuster au mieux les chocs économiques, ce qui rend superflue l'intervention de l'Etat sur le marché du crédit, par exemple pour forcer les prêteurs à renégocier les crédits immobiliers. De surcroit, les particuliers restent libres de choisir d'autres modèles de crédit.

L'égalitarisme libéral de John Rawls

J. Rawls (1971) pose deux principes éthiques[13]. Premièrement, le principe de liberté impose le respect des droits fondamentaux. Là encore, le crédit anticyclique ne porte pas atteinte aux libertés. Deuxièmement, selon le principe de différence, les inégalités ne se justifient que si elles permettent d'augmenter le bien-être des plus défavorisés. Le crédit anticyclique met l'innovation financière au service de la réduction de la pauvreté. Rawls insiste aussi sur la nécessité que chacun bénéficie de chances égales. En évitant que la prévention du surendettement ne passe par le refus de l'accès au crédit, le crédit anticyclique favorise l'égalité des chances.

L'économie du bien-être d'Amartya Sen

Pour Amartya Sen[14], l'économie ne doit pas seulement se focaliser sur une utilité abstraitement définie, mais sur le bien-être et les conditions d'existence des individus. C'est exactement le but du crédit anticyclique : fournir une assurance qui évite l'effondrement du niveau de vie en phase difficile, par exemple en permettant à certains ménages de conserver leur logement, ou de maintenir leur consommation.

[11] Ces catégories sont inspirées de : Arnsperger, C. & Van Parijs, P. (2003). *Éthique économique et sociale*, Paris : Collection Repères (La Découverte)

[12] Nozick, R. (1974). *Anarchy, State, and Utopia*. Basic Books.

[13] Rawls, J. (1971). *A Theory of Justice*. Harvard : HUP.

[14] Sen A. (1987). *On ethics and economics*. Blackwell Publishers.

The need to make ethics part of finance: a new dimension in corporate governance in Latin America

Ethics in Finance, Robin Cosgrove Prize Iberoamerican edition 2012-2013

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Today's world is governed by modern capitalism, which has led us to seek the innovation, ambition and stimuli that the system has generated. Technology and globalization have caused profound, dynamic changes, and the rules of morality have been pushed aside. Meeting financial targets has become the main concern of major businesses and financial institutions, at the expense of social conscience and market integrity. The financial scandals and levels of corruption seen in various parts of the world have revealed a crisis of ethics, which in turn has led to a loss of trust in capital markets. Capitalism has cannibalized countries' real economies, leading to a concentration of wealth among a global economic elite and exaggerated growth in speculation in securities on financial markets. Politics has become the financial markets' closest ally, for it has proved incapable of controlling such phenomena as tax evasion and economic crises. An ethical frame of reference that will encourage honest conduct towards society is therefore urgently needed.

Although ethical finance has a long history, it is only in the present circumstances that its potential as a strategy for change and transformation in the business world has started to be appreciated. The declared aim of ethical finance is to raise awareness not only of economic issues but also of social and environmental ones, and to consider the interests of shareholders and the other agents or interest groups associated with businesses. Hence the proliferation of voluntary codes of conduct and good governance designed to reinforce ethical and social principles. At the

Atteindre les objectifs financiers est devenu la principale préoccupation des entreprises et institutions financières. Les scandales financiers et de corruption ont révélé une crise de l'éthique, ce qui a entraîné une perte de confiance dans les marchés financiers. Un cadre de référence éthique pour encourager un comportement honnête envers la société est donc urgent.

L'objectif de la finance éthique est de susciter l'intérêt aux questions économiques, sociales et environnementales. Malgré l'intervention d'institutions internationales comme l'OCDE et les gouvernements, avec l'élaboration de lois et codes de bonne gouvernance, l'éthique financière ne fait encore partie de la gouvernance d'entreprise.
Ce constat s'applique aussi à l'Amérique latine, où l'importance accordée à la finance éthique reste faible.

same time, international institutions such as the Organization for Economic Cooperation and Development (OECD) and the World Bank, as well as national governments, have been active in drawing up laws and codes of good governance. Yet financial ethics is still not clearly part of corporate governance.

Despite the progress and growing importance of corporate governance in Latin America, there is an awareness gap regarding the role and importance of ethical finance as part of good governance in business. In general, the major debates on corporate governance by international institutions such as the Latin American Institute of Corporate Governance or the Round Table on Corporate Governance have focused on such matters as the structure of ownership, the missions and responsibilities of boards of management, and market situations. Little attention has been paid to ethical finance.

This paper will discuss the importance of making ethics part of finance, as a strategic dimension of corporate governance in the emerging countries of Latin America. In this connection it will propose a set of good ethical practices in finance that can be applied to every sector of the economy, and will attempt to answer the following questions. How do we ensure ethical conduct in finance in the emerging countries of Latin America? And how is compliance with financial ethics to be measured in the Latin American region? The paper is also an appeal to the institutions responsible for drawing up regulations and codes of corporate governance, so that ethical finance will become a topic of debate at regional and local level.

Ethics in finance and corporate governance

When we hear the word 'ethics', we think of a set of moral principles and values designed to promote justice and respect among the members of society. We can also distinguish between acceptable conduct and unacceptable conduct which, in certain situations where ambition is involved, can lead us to make wrong decisions. Ethics is also centred on the old positivist argument about 'being' versus 'having to be'. Business ethics has a multidisciplinary focus, with roots in philosophy, law, economics, psychology and political science. The aim of ethical finance is to curb the unbridled pursuit of selfish interests, setting limits to the gains that businesses may seek to achieve or increase (Ghosh, Ghosh and Zaher, 2011). Even though business ethics has been extensively debated over the past 35 years, we are now facing a global crisis of ethical awareness. Priority must therefore be given to promoting an ethical economic environment based on healthy markets, a fair negotiating environment and efforts to increase trust and integrity.

Corporate governance has become a competitive tool in present-day organizations. Its purpose is to restore trust in markets, which has been undermined by financial

Ce texte se concentre sur l'importance d'intégrer l'éthique dans la finance, comme dimension stratégique de la gouvernance d'entreprise dans les pays émergents d'Amérique latine. C'est aussi un appel aux institutions en charge des règlements et codes pour que le sujet fasse partie du débat au niveau local et régional.

Le terme «éthique» implique un ensemble de principes et valeurs morales visant à promouvoir la justice et le respect entre les membres de la société. Au niveau des affaires, il s'agit d'une approche multidisciplinaire, avec des racines dans la philosophie, le droit, l'économie, la psychologie et les sciences politiques.
La gouvernance d'entreprise vise à restaurer la confiance sur les marchés, affectés par une conduite des financiers contraire à l'éthique.

agents' unethical conduct. Money laundering, manipulation of accounting data, the housing bubble, high salaries for senior executives and exponential growth in the derivatives market have been contributing factors in the recent financial scandals that have damaged the reputations and integrity of such major banking institutions as HSBC, Barclays, JP-Morgan, Citigroup, Deutsche Bank and Bankia. At the same time, the current financial crisis in Europe has been largely attributed to the misbehaviour of the banking sector. That is why various international institutions have been actively involved in drawing up regulations and codes of good governance, in order to bring this critical situation, and what has been termed the 'casino economy', under control.

The proliferation of codes of good governance in the world

In recent years there has been a substantial increase in codes of good governance. By mid-2008, for example, 196 codes of better corporate practice had been drawn up in a total of 64 countries, including in the Latin American region (Aguilera and Cuervo-Cazurra, 2009). Codes of corporate governance are strategic guides to business management and an effective substitute for weak legal regimes, especially where there is inadequate protection for minority shareholders.

'Corporate governance' refers to the ways in which businesses are run and supervised. Its main goal is the voluntary adoption of better corporate practices that enhance the efficiency of the organizational structure and improve the decision-making process. It focuses on effective supervision, business efficiency and the responsibility of management towards interest groups. The most common aspects of corporate governance are (1) membership and performance of boards of management, (2) shareholders' rights, (3) conflicts of interest, (4) hostile takeovers and (5) transparency of information. Yet financial ethics is not yet a standard part of codes of corporate governance, but has been confined to the occasional, voluntary adoption of a code of ethics or conduct and the exercise of due diligence and loyalty by board members. Due diligence means acting in good faith and in the best interests of society, while loyalty concerns the confidentiality of corporate information.

Corporate governance is essentially based on three disciplines: law, administration and finance (Ryan, Buchholtz and Kolb, 2010). The legal aspect concerns the implementation of contracts between the shareholders in a business. The administrative aspect has recently focused on matters relating to directors' membership of different boards, management of institutional investors, the consultancy role of CEOs, remuneration of executives and its relationship to the business's environmental performance. Finally, the financial aspect has focused on em-

Les codes de gouvernance d'entreprise sont des guides stratégiques de la gestion de l'entreprise et un substitut efficace pour les régimes juridiques faibles.
Les aspects les plus courants de la gouvernance d'entreprise sont la performance du management, les droits des actionnaires, les conflits d'intérêts, les OPA hostiles et la transparence de l'information. L'éthique financière, elle, n'est pas encore un élément standard des codes de gouvernance d'entreprise.

Alors que la gouvernance d'entreprise repose essentiellement sur trois disciplines, le droit, l'administration et la finance, elle doit inclure un cadre financier éthique pouvant rendre les entreprises plus conscientes des enjeux sociaux.
Très peu de règles de gouvernance concernent la performance éthique des organisations en Amérique latine.

Pour promouvoir la finance éthique, il faudrait adopter un code qui lui serait intégralement dédié.

pirical studies that have attempted to link up the dimensions of corporate governance on company results and topics related to ethics and trust in markets, conflicts of interest and independence when making decisions. Today's corporate governance needs to include an ethical financial framework that can make businesses more aware of social issues.

The ethics of corporate governance

According to Rossouw (2009), ethics in corporate governance means the ethical values that shape and guide good governance in both legislation and business – in other words, it reflects the values that direct and guide the system of corporate governance. Although most codes of good governance emphasize the importance of supervisory mechanisms (boards of management and support committees, accounting practices, risk management and corporate transparency), very few include instruments that can measure and monitor the organizations' ethical performance. Although codes of corporate governance recommend that businesses adopt a code of business ethics, ethical finance is not yet part of corporate governance, at least in the Latin American region.

Ethics can be manifested at two levels. The first is the basic approach to ethics in the various corporate governance regimes. The other is the governance of corporate ethics, whereby businesses are required or advised to manage their own ethics. Ethics in finance could initially be boosted by make it an integral part of laws and codes of corporate governance, and it would be useful if businesses were to issue an annual report on their financial ethical performance towards society. Internally, businesses could focus on institutionalizing ethical values among their staff. This could be reflected in ethical management and programmes or strategies to promote ethical finance. One way to do this is to adopt a code of ethical finance.

The current state of ethics in finance and corporate governance in Latin America

Minority shareholders in Latin America are poorly protected, and squeeze-outs are a major problem (Chong and López-de-Silanes, 2007). Legal and good governance mechanisms are often inefficient or non-existent, and this has led these countries to strengthen their institutions and adopt voluntary codes of good governance. Despite the corporate governance mechanisms adopted in the region, we still find concentration of ownership and partial government ownership of businesses, powerful elites or influential families that have significant control over businesses' capital, and scant protection for minority shareholders. Over the past decade, corporate governance has become a much more prominent issue in emerging Latin American countries such as

Depuis 10 ans, la gouvernance d'entreprise est devenue un enjeu très important dans les pays émergents d'Amérique latine.
J'ai analysé les codes de bonne gouvernance des quatre pays émergents les plus importants d'Amérique latine, pour d'identifier leurs caractéristiques de l'éthique des affaires.

En Argentine, le code de bonnes pratiques de gouvernance prévoit notamment de nombreux points relatifs à l'éthique dans le chapitre consacré à la lutte contre la corruption.

Au Brésil, le même code concerne surtout une dimension de gouvernance d'entreprise portant sur la conduite des affaires et les conflits d'intérêt.

Argentina, Brazil, Chile and Mexico. It was after the OECD published its principles in 1999 that these countries drew up their own regulations and codes of good governance. The stated aim of these is to promote transparency and efficiency in markets, protect and facilitate the exercise of shareholders' rights, guarantee fair treatment of shareholders, acknowledge the rights of stakeholders, ensure the dissemination of corporate information and guarantee businesses' strategic orientation and effective supervision of management and shareholders by boards of management. Ethics in finance is not included in the principles published by the OECD as an essential part of good governance. I have therefore analysed the codes of good governance in Latin America's four most important emerging economies, identifying the following features of business ethics.

Argentina's Code of Best Governance Practices for Organizations prescribes that the supervisory committee, together with legal advisors, must assess the effectiveness of the company's programme for detecting and preventing infringements of the law and its own code of ethics. As regards social responsibility, it recommends the adoption of environment policies, protection of intellectual property, policies to combat bribery and social investment policies. The policies to combat bribery contain the most important ethical features, such as promoting ethical standards and declaring an unswerving determination to comply with them in the regular course of business, to train company staff in civic ethics and social responsibility, as part of a major educational effort at all levels of the community, and to set up ethics committees within the company, in order to identify and settle conflicts that arise between employees and officials. The document does not mention the adoption of a code of conduct.

Brazil's Code of Best Corporate Governance Practices includes a corporate governance dimension dealing with conduct and conflicts of interest. It refers to a series of topics related to ethics, with a recommendation to adopt a code of conduct applicable to directors and employees, suppliers, shareholders and interest groups. The code of conduct should also specify the company's environmental and social responsibilities. The ethical features of the code mainly concern compliance with laws and payment of taxes, transactions with related parties, appropriate use of company assets, conflicts of interest, use of insider information, policy on trade in company shares, legal and arbitration processes, prevention and handling of fraud, questionable payments made or received, receipt of gifts or favours, donations, political activities, right to privacy, nepotism, the environment, discrimination in the workplace, sexual or moral harassment, safety at work, exploita-

Le Chili ne dispose pas d'un code de bonne gouvernance, mais s'appuie sur des lois plus strictes. Mai il n'y existe pas de dispositions claires concernant l'éthique des affaires.

Au Mexique, le code de pratiques exemplaire encourage les entreprise financières à élaborer leur propre code de déontologie et les principes de responsabilité sociale des entreprises.
Les codes et règlements actuels des quatre pays doivent donc être renforcés s'agissant de l'éthique des affaires et surtout de l'éthique de la finance.

L'objectif de ce texte est d'encourager l'intégration de la finance éthique dans le cadre de la gouvernance d'entreprise, via la législation et les codes de bonne gouvernance, et en même temps de proposer un indice de performance éthique relatif à l'engagement éthique et la prise de conscience du marché.

tion of adults and child labour, relations with the community, and use of alcohol and drugs.

Chile does not have a code of good governance, but relies on stricter laws such as the New Corporate Governance Act (Act No. 20382) or the Share Acquisition (Public Offers) Act. The former act does not require businesses to adopt a code of ethics or conduct. Section 61 stipulates a major prison term for anyone spreading false or tendentious information in order to mislead the stock market, with an increased penalty for those whose function, position, activity or relationships may give them access to insider information. However, there are no clear provisions on business ethics.

Finally, Mexico's Code of Best Corporate Practices states that the duties of the board of management include encouraging the company to draw up its own code of ethics and principles of corporate social responsibility. For its part, the supervisory committee is responsible for verifying compliance with the code of ethics and the mechanisms for disclosing unlawful conduct and protecting whistleblowers. The code recommends that every business should have a document laying down rules of conduct for board members. However, it does not state general guidelines for such codes of conduct.

We may conclude that the present codes and regulations in all four countries need to be reinforced when it comes to business ethics, and especially ethical finance. Although the Brazilian code is the most detailed in this regard, Brazil has no mechanisms to ensure compliance.

Proposal for a new ethical finance dimension in Latin America's codes of corporate governance

The purpose of this paper is to encourage the inclusion of ethical finance as part of corporate governance in legislation and codes of good governance, and at the same time to propose a financial ethical performance index that displays businesses' ethical commitment and awareness to the market. The proposal is based on the work of Choi and Jung (2008), which identifies the following basic features of corporate ethical performance: (1) commitment by senior management to emphasize the importance of ethics in business, (2) ethical conduct based on a formal, normative philosophy within businesses, (3) a disciplinary system that severely penalizes unethical conduct; (4) a code of ethics, (5) allowing employees to report unethical conduct anonymously, (6) developing a programme of ethical education, training and workshops in the workplace to improve employees' ethical standards, (7) devoting a substantial proportion of the business's profits to philanthropic causes, (8) the existence of an independent, official department of ethics, (9) giving employees help on matters relating to

Je propose que la dimension de la finance éthique soit incluse dans les codes latino-américains de la bonne gouvernance et de la législation, avec un indice visant à améliorer et mesurer la performance des entreprises en matière de finance éthique.

Il est également essentiel que les entreprises et institutions bancaires établissent un rapport annuel sur la conformité.

Il est devenu nécessaire de promouvoir et mesurer le comportement éthique des décideurs financiers, et d'encourager les entreprises et institutions à s'engager pleinement dans un processus de finance éthique.

La transparence des entreprises est un outil stratégique pouvant encourager la pratique de la finance éthique, car une plus grande transparence contribue à lutter notamment contre la corruption. L'intégrité et la confiance sont des principes devant faire partie des mécanismes actuels de gouvernance d'entreprise.

business ethics via an open communication line or channel, (10) setting up an ethics committee, and (11) developing and implementing a system of ethical assessment by an independent body that is external to the business.

Rossouw (2009) acknowledges that social standards may informally influence corporate conduct. In particular, ethics in corporate governance is determined by the ethical values and practices adopted by the society in which the business is operating. The internal and external dimensions of corporate governance therefore need to be in line with prevailing social and cultural standards. Fernández (2004, p. 13) identifies the importance of and need for an ethical framework in financial activity and in businesses' corporate governance, and states that 'financial activity has an undeniable and irreplaceable ethical dimension' – failing which its very existence would be jeopardized.

In view of all this, and in the absence of ethical awareness in markets, this paper proposes that an ethical finance dimension be included in Latin American codes of good governance and legislation. The index comprises nineteen items designed to enhance and measure businesses' performance in matters of ethical finance. This is then divided into five sub-indexes: institutional commitment; establishment and operation of a financial ethics committee; transparency and measures to combat corruption; environmental issues; and a system for assessing financial ethics. The index is based on previous literature and the Argentinian, Brazilian, Chilean and Mexican codes of good governance. It is recommended that the index be applied to those responsible for financial management in both industrial and banking/financial businesses in Latin America. Besides making ethical finance an integral part of corporate governance, it is also vital that businesses and banking institutions quoted on the stock market report annually on compliance. Each item on the index is assigned a value of 1 if it is adopted and published by the business, and 0 if it is not. The index is based on the comply-or-explain principle, like the corporate governance practices set out in the codes. Details of this proposed ethical finance dimension in codes of good governance and codes of conduct for businesses are set out in Figure 1.

Conclusions

This paper has mentioned the absence of an ethical finance dimension in codes of corporate governance, as reflected in the increase in corruption indexes and financial scandals in major businesses. This has affected integrity and trust in markets around the world, triggering an ethical crisis in the financial sector. Hence the concern to promote and measure the ethical behaviour of financial decision-makers. The purpose of the proposal to include an ethical finance dimension in codes of good governance and legislation on Latin American stock markets is to encourage businesses and institutions to commit

Les organismes et institutions doivent devenir plus conscients, socialement et éthiquement, afin d'atténuer la crise actuelle de l'éthique financière.

themselves to ethical finance.

Annual publication of the ethical finance index on markets and among interest groups will also compel businesses to improve and increase their commitment to society. This paper has suggested a first step towards an ethical finance rating for the Latin American region, and it is hoped that this will be further developed and adapted in various contexts.

We may conclude that corporate transparency as a dimension of corporate governance is a strategic tool that could encourage the practice of ethical finance. Greater transparency helps to curb corruption, promote accountability by business managers and disclose the most tangible unethical activities to the outside world. The main contribution of the paper should not just be to propose an ethical finance index and its inclusion in codes of good governance and legislation, but that the index should become a frame of reference when making decisions on whether to invest in ethical or unethical businesses, assessing the social value of businesses and deciding what incentives business should receive from governments. In other words, it should become a valuable, informative element for owners and managers of businesses and institutions, giving all companies an incentive to improve their ratings. Corporate governance is a major defence against unethical conduct. Integrity and trust are principles that could become part of the current mechanisms of corporate governance. There is a need for businesses to become more ethically and socially aware, in order to alleviate today's crisis of financial ethics. •

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<table>
<tr><th colspan="6">Figure 1. Ethical finance index as a new dimension of corporate governance</th></tr>
<tr><th colspan="2">A) Institutional commitment</th><th colspan="2">B) Ethics committee</th><th colspan="2">C) Transparency and measures to combat corruption</th></tr>
<tr><td colspan="2">1. Promoting ethical standards and compliance with them
2. A formal and normative philosophy based on financial ethics
3. The business's financial and fiscal responsibilities
4. A disciplinary system to deal with unethical conduct
5. A code of financial ethics/conduct</td><td colspan="2">6. Establishment of a financial ethics committee
7. Clear details of the committee's functions and role
8. Appointment of an external inspector or rating agency</td><td colspan="2">9. An anonymous, open communication channel for reporting unethical financial conduct
10. A training programme on financial ethics and social responsibility
11. Policies to combat bribery
12. Policies on use of assets
13. Conflicts of interest
14. Legal and arbitration processes
15. Prevention and handling of fraud</td></tr>
<tr><th colspan="3">D) Environmental issues</th><th colspan="3">E) System for assessing financial ethics</th></tr>
<tr><td colspan="3">16. Environmental policies
17. Policies and procedures for protecting intellectual property
18. Social investment policies
19. Profits devoted to philanthropic causes</td><td colspan="3">20. Internal system for periodic review of the effectiveness of the programme
21. Development and implementation of a system of ethical assessment by independent third parties</td></tr>
</table>

Source: My own index, based on Choi and Jung (2008) and the four countries' codes of good governance

Primum non nocere (first do no harm): can the principles of medical ethics be applied to finance?

Ethics in Finance, Robin Cosgrove Prize Global edition 2012-2013

Finalist

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Ethics can be defined as the principles that govern a person's or a group's behaviour. Normative ethics is the branch of ethics concerned with what makes an action right or wrong.

Finance professionals frequently face ethical decisions and questions of right and wrong, and must constantly balance risk versus reward and outcomes for clients, the firm and themselves. Recent events suggest that the finance industry has not been getting these ethical decisions right. We are currently experiencing a financial crisis on an unprecedented scale, worldwide growth has stalled, governments are printing an extraordinary amount of money, and confidence in finance professionals is at an all-time low. Record fines have been paid by banking institutions for offences ranging from mis-selling of derivatives and fixing of interest rates to manipulation of commodity markets. The proliferation of peer-to-peer lending sites, cooperatives and credit unions demonstrates consumers' wish to move away from the financial companies they no longer trust.

If the finance industry is getting it wrong, who has been getting it right? With politicians cheating on their expenses, journalists tapping private phone lines and even our sports heroes turning out not to be who we thought they were, who is setting the right example?

An Ipsos Mori poll conducted in the UK in 2013 found that physicians were the most trusted profession, with 89% of respondents saying that they would trust physicians to tell the truth. The figure for bankers was just 21%; more worryingly, it had fallen

Les professionnels de la finance doivent constamment trouver un équilibre entre le risque et la récompense, les revenus pour les clients et ceux pour l'entreprise et pour eux meme. La côte de confiance des financiers est à un niveau historiquement bas.

Dans le milieu medical, qui inspire plus confiance, la question de l'éthique est beaucoup plus développée et le secteur financier pourrait s'en inspirer. Les quatre principes presents sont l'autonomie, la bienfaisance, la non-malfaisance et la justice. Chacun de ces principes sera évalué pour voir comment les financiers peuvent les appliquer au quotidien.

L'autonomie implique que les patients/clients peuvent contrôler ce qui leur arrive grâce à une communication adaptée des médecins qui respectent avant tout leurs choix. Appliqué au monde de la finance, l'autonomie implique que les banquiers s'assurent toujours de la comprehension de toute la transaction par les clients et évitent la vente abusive.

from 29% in 2011. Trust in financial professionals is being eroded.[1]

If we take this public perception of truthfulness as a yardstick for ethical behaviour, perhaps the finance industry could learn from the medical profession. In the medical sector, the study of ethics is significantly more developed than in the financial sector. A widely accepted framework for biomedical ethics is the four principles plus attention to their scope of application introduced by Beauchamp and Childress in *Principles of biomedical ethics* (1978).

The four principles are autonomy (respect for the rights of the individual), beneficence (do the most good), non-maleficence (do no harm) and justice. These four principles are deemed *prima facie*: each of them is mandatory unless it conflicts with another one, in which case we must choose which one to abide by. This framework provides a simple and understandable means of assessing moral dilemmas faced by medical practitioners. I would argue that all ethical questions can be answered with reference to these four pillars, and that this framework can be applied to other sectors[2] – a theory that will be tested in this paper. I will evaluate each of the four principles in turn, discussing how finance professionals can apply them to the judgments they make every day, and whether this framework is sufficient to help them make better choices. Currently, it is investment banks that bear the brunt of the criticism and are taking much of the blame for the financial crisis. This paper will therefore focus on that area of the financial world.

Autonomy

The first principle, sometimes considered *primus inter pares*, is autonomy. This is the notion that patients have the right to control what happens to them, free of coercion or coaxing. In practice, this places an obligation on medical practitioners to fully explain to patients the benefits and potential risks of any proposed treatment, so that they can give informed consent. Physicians must be able to communicate in language that patients understand, as well as listen to patients and their concerns. The other aspect of autonomy is respect for patients. The classic case study used in medical ethics is a Jehovah's Witness who refuses a blood transfusion. The physician may believe that a blood transfusion is the most effective course of treatment, but so long as the Jehovah's Witness has understood the available options and the risks involved, the physician must respect his or her wish not to have the transfusion.

So how does this relate to the finance world? In medicine, physicians must explain the risks and rewards of medical treatment; in finance, we are dealing with the risks and rewards of complex financial

[1] Ipsos Mori, *Trust in Professions*, 2013 and 2011.
[2] Gillon, R. (1994). *Medical ethics: four principles plus attention to scope*, *BMJ*, 309:184.

Les réglementations mises en place depuis la crise ont renforcé la surveillance de l'information devant être transmise aux clients, afin que ce dernier puisse prendre une decision éclairée. Les banquiers n'ont apparemment pas appliqué cette règle, motivés par le gain de commissions lors d'opérations parfois inutiles. Le corps medical n'est généralement pas confronté à ce genre de conflits d'intérêts. La structure d'incitation serait donc responsable des actions contre l'éthique prises par les financiers.

La notion de bienfaisance consiste à produire une action bénéfique pour les patients, en minimisant les dommages. Une information préalable basée sur une evaluation des risques est indispensable. Avec leur rôle crucial dans l'économie mondiale, les banques ne doivent apporter que des avantages favorisant le développement global et la croissance.

products. Both scenarios involve a potentially vulnerable party relying on the advice of a person with significant influence. If we apply the autonomy principle to a financial transaction, bankers have an obligation to make sure their clients understand the transaction they will be entering into; there should not be any hidden costs or risks that the client does not comprehend.

It is also the banks' duty not to coerce their clients into buying products or entering into transactions that they do not wish to. The recent mis-selling claims demonstrate that bankers have been guilty of selling products that were not properly understood. Clients may have given their consent to these products, but it is questionable whether that consent was informed.

Regulations introduced since the crisis have tightened up supervision of the information that must be supplied to clients. One of the aims of the 2010 Dodd-Frank Act is to enhance consumer protection. Title VII of the Act provides a framework for regulating over-the-counter derivative markets. Its purpose is to increase transparency in the market and reduce systemic risks. It is the responsibility of the Commodity Futures Trading Commission (CFTC) to implement part of this framework, and in this connection it has drawn up what are known as the External Business Conduct Standards (EBCS). These place pre- and post-trade obligations on swap dealers: material economic terms and a pre-trade mid-market price must be provided to clients, and scenarios must also be supplied on request. This is to ensure that clients are aware of all of the relevant facts so that they can make an informed decision. Bankers appear not to have abided by the autonomy principle, which this rule is designed to enforce.

Why have bankers failed to respect their clients and allow them to make informed choices? One key difference between finance professionals and physicians is the incentives involved. If bankers earn a commission on each product sold, they may be tempted to persuade their clients to enter into unnecessary transactions. Such conflicts of interest are not usually found in the medical profession, for physicians do not normally stand to benefit from their patients being treated.

In certain circumstances, however, they do; for example, private plastic surgeons are paid for each operation they perform. Indeed, the plastic surgery industry has recently been criticized for aggressive marketing techniques, insufficient advice and lack of protection for consumers. In the UK an in-depth review of some of these practices is now being conducted, and may lead to increased regulation and consumer protection.

It would thus appear that the incentive structure may be what causes professionals to act unethically. Lawmakers, too, have recognised this; a proposal to cap bankers' bonuses at 100% (or, with explicit shareholder

Les résultats potentiels dans le domaine chirurgical peuevent être comparés aux variations potentielles qui existent dans le cas d'opérations financières avec des taux variables. La probabilité des différents scénarios dans ce secteur peut varier de manière spectaculaire et s'avérer être très défavorable au client.

La FSA a trouvé de nombreuses lacunes dans les opérations de vente de swaps aux PME. Les clients n'ont pas reçu d'informations assez éclairées pour prendre les bonnes decisions, ce qui rammène à la notion d'autonomie.

La règle Volcker prévoit, pour les banques d'investissement, l'interdiction d'avoir des pupitres de négociation pour compte propre, qui presentent des risques trop importants pour la clientele et le système financier global.

approval, 200%) of their salaries is currently making its way through the European Parliament. We have also seen an increase in the level of deferred compensation bankers receive, designed to align bankers' incentives with those of the bank as a whole.

Beneficence and non-maleficence

Beneficence is the notion that physicians' actions must benefit their patients. It is difficult to discuss beneficence without also considering non-maleficence. In accordance with these principles, physicians aim to produce a net benefit for their patients while minimizing any harm. In order for physicians' actions to be beneficial, they must have sufficient education and training and they must have empirical evidence that they can use to determine the benefits and risks of a course of action. Armed with this information, they can then make an educated assessment of whether the intervention is the best course of action. The autonomy principle must then be applied, so that patients can make their own assessment of the risks and rewards.

Banks play a critical role in the worldwide economy. They provide essential services to clients, ranging from simple loans and deposits to complex transactions – all of which should promote global growth and development when banks are operating correctly. I think everyone would agree that bankers therefore have an obligation to create benefits and minimize harm. With this in mind, do the beneficence and non-maleficence principles help us determine the appropriate course of action in various scenarios? To analyse these principles, I will consider two hypothetical situations.

First, a client approaches a bank to hedge interest-rate risk on a floating-rate loan. If interest rates rise, liability increases; if they fall, it decreases. In order to hedge this risk an interest-rate swap may be entered into, with the client paying a fixed rate to the bank and in return receiving a floating rate to cover the loan interest. This would appear to benefit the client, who is locked into a fixed rate and no longer has to worry about moves in interest rates. However, if interest rates decrease after the transaction is entered into, the fixed rate the client is locked into will be higher than if the transaction had not been entered into at all.

When the transaction is first considered, neither the banker nor the client can know which way interest rates will move. In order to assess whether the transaction will yield a net benefit they must consider the potential moves in interest rates and the resulting outcome if they do, or do not, enter into the transaction. We can compare this to a physician advising a patient on the potential outcomes of surgery.

Where this differs from the medical scenario is that the likelihood of different interest rates can vary dramatically over time. If medical research has determined that the

Une preuve supplémentaire de réglement appliquant l'implémentation des principes de bienfaisance se trouve dans les directives propres à Bâle III. Parmi les causes de la crise financière figurent les prêts hypothécaires subprime originaires des Etats-Unis et la méthode de répartition des risques.

La justice peut être divisée en trois catégories appliquées à la medicine: la distribution équitable des resources limitées, le respect des droits des individus et celui des lois moralement applicables.

Pour voir si les principes de la justice peuvent s'appliquer à la finance, il faut se demander si les financiers ont des revendications concurrentes auxquelles ils doivent allouer des resources. La question essentielle est de savoir quand et où s'appliquent les obligations morales.

survival rate for a particular type of surgery is X%, that figure is unlikely to change between the surgery being discussed and being carried out. If the patient is comfortable with that level of risk, the surgery can take place.

However, when a client is hedging interest-rate risk, the likelihood of the various scenarios may change dramatically after the transaction has been entered into. For example, a client that entered into a ten-year GBP interest-rate swap in July 2007 would have paid a fixed rate of 5.96% in exchange for the 3-M LIBOR. Five years later, on 31 July 2012, following the financial crisis and the subsequent decrease in interest rates, the 3-M LIBOR stood at just 0.74375%; the client would be paying 5.96%, but would have paid significantly less had no swap been entered into at all. In July 2012 the five-year swap rate was 0.96%; this would mean the client would have to pay 5% in order to terminate the transaction and go back to paying the 3-M LIBOR. From this we can conclude that, although in 2007 it might have made sense to assume the transaction would yield a net benefit, in the long term the client would have been better off not hedging his or her interest rate risk at all.

In 2012, Britain's Financial Services Authority (FSA) announced that it had found significant failings in the selling of swaps to small and medium-sized enterprises (SMEs).[3] Barclays, HSBC, Lloyds and RBS are now going through a review process and providing redress to clients to whom these products were mis-sold. The FSA found the following examples of 'poor sales practice':

- Poor disclosure of exit costs;
- Failure to ascertain customers' understanding of risk;
- Non-advised sales straying into advice.

Although in a different economic climate the interest-rate hedging might have yielded a net benefit, the FSA found that clients were not given sufficient information to make an educated decision. This brings us back to the need to abide by the autonomy principle; bankers can advise their clients on the potential outcomes and how likely those outcomes are, but must also draw attention to the fact that these likelihoods may change. Clients can then make an informed decision.

As a second example, let us consider proprietary trading desks within investment banks. Their purpose is to generate profits and create shareholder value by investing and taking risks. However, in doing so they put the bank's capital at risk, and may erode shareholder value. The Volcker Rule introduced under the Dodd-Frank Act stipulates that investment banks are no longer allowed to have proprietary trading desks. This type of speculation has been judged to pose such a risk to the financial system that it must be prohibited. The risk to customer de-

[3] *FSA agrees settlement with four banks over interest rate hedging products*, FSA press release, 29 June 2012

En examinant la portée du principe de l'économie, les questions philosophiques semblent moins complexes dans la finance que dans le milieu medical.

Partant du principe que les hedge funds et banques d'investissement sont experts dans leur domaine, les banques n'ont pas à considerer les principes de bienfaisance en faisant des affaires avec eux.

Les banques ont-elles l'obligation de fournir un bénéfice pour la société et l'économie globale ou doivent-elles uniquement servir les intérêts de leurs clients et investisseurs? Elles doivent en tous les cas ne nuire à aucun parti.

posits, and the potential shockwaves in the financial system, outweigh the possible benefits from proprietary trading. In the past, the banks themselves decided how much of such trading to undertake. Limits and controls were in place to monitor the level of risk being taken and conclude whether it was appropriate.

Again it would seem that regulations have been introduced to enforce banks' adherence to ethical principles. Not trusting banks to weigh up the risks and benefits properly, regulators have taken that decision away from them.

We see further evidence of regulations implementing the beneficence and non-maleficence principles in Capital Requirements Directive IV (CRD IV), part of the European Commission's implementation of Basel III. Article 122a states that investors in securitization will face punitive capital charges if the originator does not retain a 5% economic interest in the structure.

Among the causes of the financial crisis were the model whereby subprime mortgages were originated in the US and the method of risk distribution. The 'originate-to-securitize' model meant that the originator of the loan no longer cared whether or not the borrower defaulted, for once the loan was securitized the originator was not at risk. Taking this a step further, there were even situations in which the originator could stand to profit from defaults on loans through shorting of the securities the loans were packaged into. The purpose of article 122a is to ensure that the interests of the original lender and the investors in securitization are aligned. Lenders must always have what is known as 'skin in the game'. This gives them an incentive to ensure that the products they originate and sell yield a net benefit and minimize harm, as they also risk being harmed if the products fail.

Justice

The fourth principle, justice, can be subdivided three categories when applied to medicine: fair distribution of scarce resources, respect for people's rights and respect for morally applicable laws (Gillon, 1994).

This principle raises ethical questions about the allocation of resources. Consider an expensive new drug. Should everyone have the same access to it? How are such drugs to be allocated between competing claims? Should they be given to those that can pay the most for them, or to those with the greatest need, or should they be distributed equally?

In considering whether the justice principle applies to finance, we can ask whether financiers have competing claims to which they must allocate resources. In the context of corporate finance or investment banking, this principle does not seem relevant. Whereas in medical ethics the debate continues on whether need trumps ability to pay, in finance it appears to have been settled. Those who can pay get access to the resources. If cor-

Des règlements ont également été introduits pour minimiser les éventuels dommages en renforçant la situation des fonds propres des banques. Bâle III traite aussi de la liquidité des banques en introduisant un ratio de couverture de liquidités.
Les différentes mesures visent à s'assurer que les banques peuvent resister aux chocs et maintenir la stabilité du système financier.

porations need to raise funding in the capital markets, it is simply a question of supply and demand; if they are willing to pay what the investors demand, they can raise the funding. Conversely, if there are many investors wishing to buy the same bond, the investor willing to pay the highest price will be the purchaser.

Scope

As well as the four principles, we must also consider their scope. When and where exactly do the moral obligations apply? This may seem a fairly obvious question for healthcare professionals, who have an obligation to provide benefits and minimize harm to the patients in their care. But things can get more complicated. For example, patients' autonomy must be respected – but what if the patient is a minor, or mentally impaired? At what point does a child fall within the scope of respect for autonomy?

In considering the scope of the autonomy principle, the philosophical questions that arise appear less complex in finance than in the medical world. Once provided with sufficient information, clients in the financial world should be able to make an autonomous decision. It may seem obvious that the beneficence and non-maleficence principles apply when a client approaches a bank for financial advice – but if hedge funds or other banking institutions wish to enter into a transaction, are they entitled to the same protection?

We may believe that, as market participants, investment banks and hedge funds are experts in their fields, so that banks do not have to abide by the beneficence and non-maleficence principles when doing business with them. It is not banks' responsibility to provide them with the information that would usually be given to other counterparties, as they can determine for themselves whether they need this information – and, if so, they can calculate it themselves.

Once again we find that regulators have attempted to answer these questions for us. The aforementioned External Business Conduct Standards, drawn up to supervise the information supplied to clients, are very clear about their scope. Transactions between swap dealers and major swap participants do not fall within it.

A second question we can ask about the scope of the beneficence and non-maleficence principles is whether banks have an obligation to provide a net benefit to society and the economy as a whole – or are only required to provide a net benefit to their clients and shareholders. Throughout the financial crisis we have seen that banks are systemically important and that their actions can have dire consequences for the world economy. The phrase 'too big to fail' has entered everyday speech, and it is now widely accepted that banks have a duty to provide benefits to their clients and shareholders but, at the same time, to 'do no harm' to the economy and society as a whole.

Regulators are in agreement on this, and the aforementioned Volcker Rule is designed to prevent banks from taking risks disproportionate to the potential benefits.

Regulations have also been introduced to 'minimize harm' by strengthening banks' capital position. Basel III, which was drawn up in 2010 and will be phased in over the next six years, increases from 2% to 7% the amount of Tier 1 capital that banks must hold; and 'systemically important financial institutions' are required to hold an additional amount on top of this. The definitions of which assets can form part of Tier 1 capital are also stricter. In addition, Basel III addresses the liquidity of banks by introducing the liquidity coverage ratio. Banks must be able to withstand a 30-day stress scenario by holding enough liquid assets to cover potential cash outflow during the stress period. The net stable funding ratio has also been established; this focuses on longer-term liquidity, measuring long-term stable funding against the liquidity profiles of the assets being funded. Capital requirements are also increased for counterparty credit risk arising from derivatives and repos. All these measures are designed to ensure that banks can withstand shocks, and to maintain stability in the financial system.

Chacun des quatre principes étudiés est très pertinent pour le monde de la finance, mais la question est de savoir s'ils peuvent être appliqués aux questions éthiques qui se posent dans ce domaine. Bon nombre des problèmes du secteur auraient pu être évités avec une telle application, selon les régulateurs financiers.

Conclusion

Having considered each of the four principles, can these be applied to the ethical questions that face the finance world? Do they provide a framework on which we can base our decisions? I would argue that the principles are very relevant to the finance world, and that many of the issues currently facing the sector could have been avoided if these principles had been adhered to.

Financial regulators also seem to believe that these four principles are relevant and should be complied with. In the wake of the financial crisis, a great deal of effort has gone into establishing its causes – and identifying the practices that need to be stopped if we are to make our way out of it.

In assessing the four principles I have found that many of the regulations introduced, or soon to be introduced, can be directly linked to them.

De nombreux règlements ont donc été mis en place, en particulier aux Etats-Unis, afin de garantir l'autonomie et la protection des clients.
Les discussions sur l'éthique progressant, on peut espérer que les débats à venir améliorent encore la situation actuelle, Abordés sous l'angle de la banque de financement et d'investissement, les quatre principes évoqués pourraient également s'appliquer au domaine de la banque de détail.

In adopting the Dodd-Frank Act, US regulators have recognised that clients' autonomy is important and was not being properly respected. To address this, they have introduced regulations to protect clients and their rights more effectively. Regulations have also been introduced to make sure that in future banks do more good than harm. I will not discuss whether the regulators' actions are sufficient to achieve these objectives, but I highlight them as evidence that the four principles can provide a framework for the finance industry.

As the discussion on ethics in finance progresses, we may hope that as much thought and debate goes into it as in the field of medical ethics. Although this paper has approached the topic from a corporate and investment banking angle, I believe that the four principles could also be extended to the field of retail and consumer banking. •

Can *Design Thinking* Help Enhancing Empathy in Finance ?

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

Third Prize *ex-aequo*

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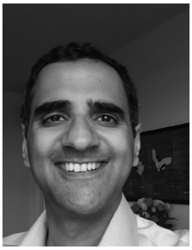


* The views expressed herein are those of the author and do not necessarily reflect those of the Organization he is affiliated to.

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 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.

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.

So What Is Design Thinking?

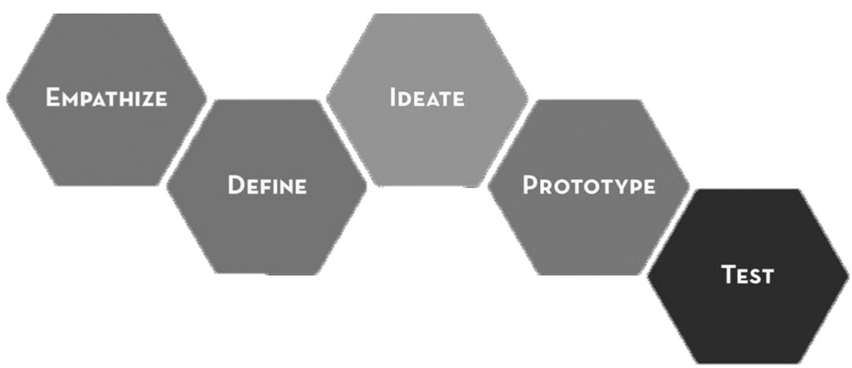
Design Thinking is a human-centred approach to innovation (Brown, n.d.). It draws upon the needs of users, the possibilities of technology and the requirements for business success in order to create new products and services that solve for the future. It has been deployed with great success in fields 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.

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

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

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

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.

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.

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.

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.

• 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.

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

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.

• 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. •

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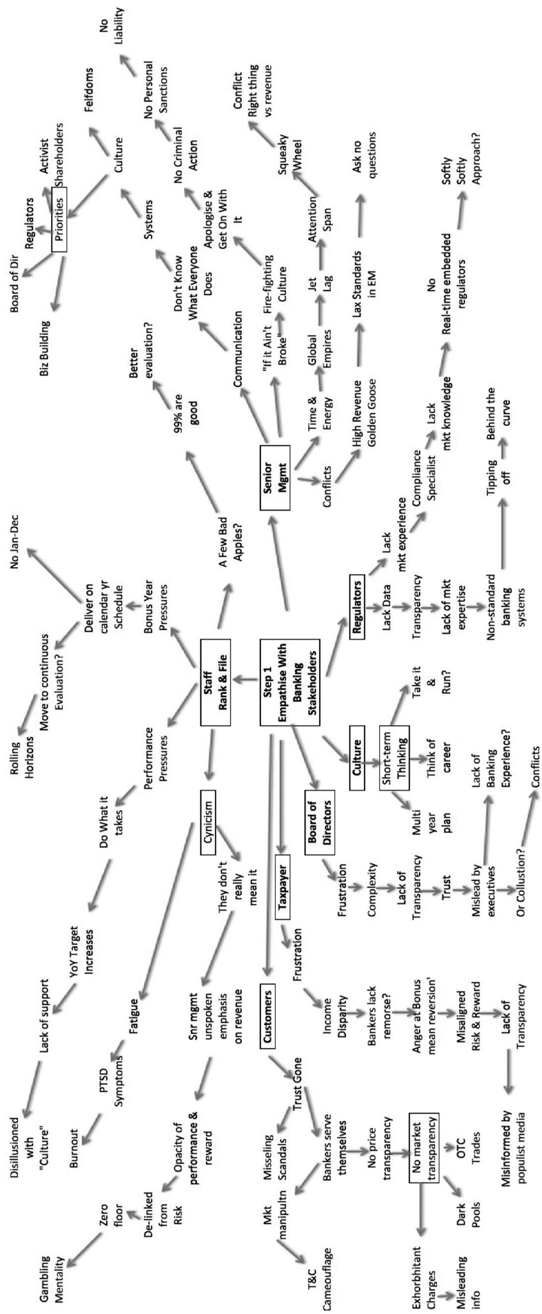
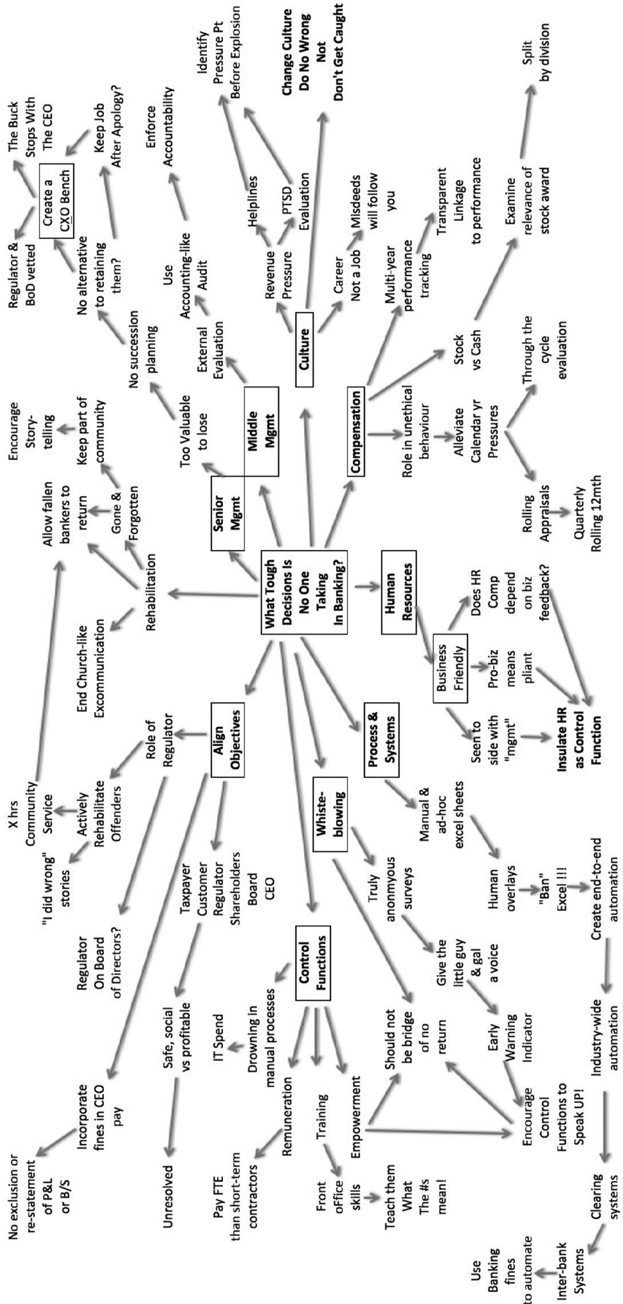
Appendix A - Mind map



Appendix B - Mind map



Finance Ethics with a Massive Open Online Course

Ethics & Trust in Finance Global edition 2016-2017

Finalist

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

This paper satisfies the objectives of the Ethics in Finance Prize in terms of: *a)* creating awareness of the fundamental role of ethics in the world of finance through education, specifically online education; and *b)* implementing an academic project that teaches ethics in finance in universities and via independent online education providers.

This proposal is a product of the authors' years of teaching (required) Business Ethics classes in the master and doctoral programs and (elective) undergraduate classes in Finance Ethics. The proposed course can supplement the traditional delivery of the more established Business Ethics courses, because this online-based Finance Ethics class builds upon the theories and concepts discussed in Ethics courses. This project is also a good supplement, because it provides solid and rich discussions of case studies related to finance.

Higher Education Challenges

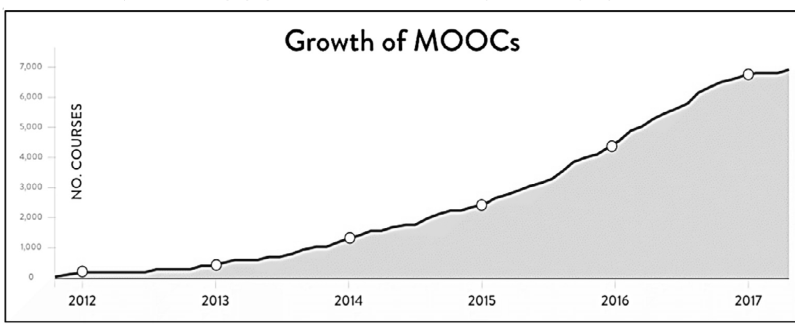
The delivery of, and access to, higher education has faced a number of challenges in the last two decades because of changing learner demographics. The dramatic increase in the number of adult learners, as well as the usual increase in the number of students (both privileged and not) who wanted access to higher education, created a need for open and accessible education. According to an article on the University World News website, the number of students enrolled in higher education is estimated to reach 262 million in 2025, which is almost twice the number in 2012. This number refers only to learners who can gain access to higher education, and not to those with more limited capability. Furthermore, according to a UNESCO report in 2016, 122 million young people around the world are illiterate, while 775 million adults lack minimum literacy. Open access education plays an important role in solving the challenges of course availability, and the bigger challenge of illiteracy. This dynamic and ever-changing knowledge environment was triggered by the need for an affordable and accessible higher education model that will educate a growing number of learners. The increased access to personal technology and social media is an ultimate solution to these challenges.

Open Online Education Tendering: Necessity

The advent of massive open online courses (MOOCs) in 2008 was considered a disruptive innovation in the delivery of higher education, and a specific solution to the limits placed on the traditional education system by cost and accessibility. According to Kaplan and Heinlin (2016), a MOOC can be formally defined as an open access online course aimed at unlimited learner participation over the web. The online class offers interactive user forums to facilitate improved learning experience among students, professors, and even teaching assistants.

The emergence of MOOCs generated an overwhelming, positive response from online learners and more recently has been receiving attention from researchers in distance learning education. Based on the December 2016 report of the Class Central website, nearly 100 established MOOC providers around the world have partnered with more than 700 universities. These MOOC providers offer more than 6,850 courses to date. Figure 1 shows the growth in the number of courses launched from the beginning of 2012 to the end of 2016. Listed courses in Class Central are growing at a rate

Figure 1: Number of MOOCs launched from 2012 to 2016



Source: Class Central website, https://www.class-central.com/report/mooc-stats-2016/

Le nombre d'étudiants inscrits dans l'enseignement supérieur devrait atteindre 262 millions en 2025 ; tandis que 122 millions de jeunes sont illettrés, 775 millions d'adultes n'ont pas une alphabétisation minimale. L'accès ouvert de l'éducation en ligne aidera à résoudre les défis posés par la pénurie de cours disponibles, et le problème plus grand d'analphabétisme.

L'introduction des MOOC en 2008 a été considérée comme une innovation significative dans l'enseignement supérieur susceptible de repousser les limites du système d'éducation traditionnel en termes de coûts et d'accessibilité. D'après un rapport de 2016, les fournisseurs de MOOC offrent plus de 6850 cours à ce jour ; et le nombre estimé de candidats aux MOOC est de 58 millions.
Morrison (2012) considère la plate-forme comme une innovation de rupture qui entraînera des changements fondamentaux et des transformations notables dans l'enseignement supérieur.

Par ailleurs, Carré (2013) explique que les MOOC résoudront le problème de contraintes budgétaires parmi les élèves en réduisant le coût des études.

La loi Sarbanes–Oxley de 2002 et la loi Dodd–Frank pour la réforme de Wall Street de 2010 ont été adoptées en réponse à la vague de scandales financiers et à la crise économique. Il en a résulté une industrie financière qui est étroitement régulée. Cependant, en ajoutant plus de régulation on gaspille de grandes quantités de ressources qui sont improductives - à cause de la nécessité de respecter strictement ces règles - au lieu de les utiliser pour créer plus d'activités à valeur ajoutée. À court terme, la solution est d'exiger des législateurs de conduire une analyse coûts- bénéfices où les bénéfices devraient dépasser le coût. La solution à long terme et de demander à l'industrie financière de pratiquer l'autorégulation et l'autodiscipline et de la forcer à prendre l'initiative de faire ce qui est correct.

of 15 courses a day. The report also estimated the number of MOOC enrollees at 58 million. The report also indicated that Coursera remains the largest provider of MOOC with 23 million registered users, whereas edX has 10 million registered users. Other providers, such as FutureLearn, are quickly catching up with its 275% growth in the number of registered users in 2015. FutureLearn became the fourth largest provider with 5.3 million online students in 2016, after XuetangX, a Chinese MOOC provider with 6 million online learners.

The open nature and bigger scale of MOOC-based education offers great opportunities for expanding and improving access to higher education. The emergence of MOOC-based education creates a number of possibilities for experimentation in its delivery. Perspectives, such as that of Morrison (2012), view the platform as a disruptive innovation that will make fundamental changes and create a significant transformation in higher education. These modifications and new approaches generated significant interest from governments (e.g., the US and the UK governments), commercial organizations (e.g., Pearson PLC and Google, Inc.), and academic institutions (e.g., University of South Australia and Chinese Tsinghua University). These players in the evolution of MOOCs are seeking to take advantage of the innovations in massive open online learning. According to Carey (2013), MOOCs will solve the problem of budget constraints among learners by decreasing the cost of degree courses. These developments fulfill the ideal of openness in higher education and achieve the aspiration that learning should available regardless of economic, demographic, and geographical constraints.

Complexities of Financial and Accounting Fraud

The complications arising from financial and accounting fraud are the main reasons why authorities are still learning, and possibly recovering, from the wave of financial and accounting scandals that took place in the early 2000s. Some regulators are still in the midst of uncovering the lapses that happened during the subprime mortgage crisis of 2008. The Sarbanes–Oxley Act of 2002 and the Dodd–Frank Wall Street Reform of 2010 were ratified to respond to corporate scandals and economic crises, respectively, and to keep the financial services industry constantly in check. The financial services industry is one of the most tightly regulated industries because of the great magnitude of its scope. When it fails, it has knock-on effects on other industries. However, it can be argued that adding more regulations wastes significant productive resources, because firms put those resources into strictly complying with the rules instead of creating more value-added activities for the business. The government punishes not only the

Les problèmes éthiques liés à la finance sont répandus et ont tendance à devenir écrasants. Les pratiques financières contraires à l'éthique peuvent continuer pendant des années et des années sans qu'il en soit fait état parce que les gens du haut en bas de l'échelle ont été rendus aveugles par l'attrait du gain personnel.

Les enquêteurs échouent parfois à identifier la cause réelle et l'origine du scandale en raison de l'énorme quantité d'écritures non comptabilisées. Ainsi, la discipline auto imposée semble être une solution plus durable face à la complexité croissante de la fraude financière et comptable.

L'autorégulation dans l'industrie financière peut sembler idéale mais pas impossible, elle est en réalité accessible grâce aux individus éthiquement formés par l'éducation. L'éthique en finance est une discipline académique émergente qui fait partie de l'éthique des affaires (une forme d'éthique

bad apples but also most of the good ones by providing a tightly controlled and anticompetitive environment.

Thus, it can be clearly stated that the supposed solutions (i.e., regulations) are not really solving the problem. Instead, they are producing further problems by creating a restrictive business environment. A short-term solution is to demand that lawmakers be judicious in enacting regulations. They should conduct cost–benefit analyses, to determine where the benefits of regulation outweigh the cost. The long-term solution is to require the finance industry to practice self-regulation and self-discipline and compel it to take the initiative to do what is right. The financial industry is a good starting point for such self-imposed discipline because it holds huge amounts of money. Based on the latest survey of McKinsey and Company of 2013, the total global assets of the financial industry has reached $225 trillion. Because this amount is so staggering, even a small fraction of fraudulent activity can still have huge implications.

Finance Ethics as an Academic Discipline

In academe, most faculties often argue that Finance Ethics (also called Ethics in Finance or Financial Ethics in some universities) as an academic discipline is already included in the Business Ethics course. However, in my years of teaching required Business Ethics classes in both the Master and the Doctoral programs in our college, I noticed that business case study issues are often divided into environment (e.g., BP oil spill), labor (e.g., Nike's sweat shops), social (e.g., Mattel's lead paint scandal), technology (e.g., Apple's intellectual property battles), and financial (e.g., Enron's accounting scandal and Worldcom's financial manipulation). I also noticed that ethical issues related to finance cut across any divisions and tend to become highly significant. This comes down to the fact that it can happen every day from the very simple and fleeting situation of a clerk stealing from a petty cash box to the more complicated and longer-term transactions of a Chief Financial Officer hiding billions in debts through special purpose entities.

These unethical financial practices can continue for years and even decades without being noticed because people across the business, from the lower ranks right to the top, have been blinded by the promise of personal gain. Moreover, involved parties treat the unethical situation as normal, as part of daily business operations, and view such practices as greatly beneficial until a scandal breaks. This practice is the reason Madoff-like financial scandals went on for decades without being detected. (Madoff allegedly began his scheme in the early 1990s.) Issues in Finance Ethics are special because, when compared with, for example, environment or labor issues, one has to dig deeper into the minutiae of what went wrong.

appliquée ou d'éthique professionnelle), qui étudie les valeurs morales, les jugements, les comportements, et les problèmes éthiques qui surgissent dans le domaine de la finance.

Le domaine se concentre sur les arguments philosophiques qui proposent un ensemble de principes éthiques pour régir le comportement individuel et collectif en finance, enquête sur les motivations à l'origine du comportement, et guide la conduite des joueurs dans l'industrie financière.

Il y a un besoin d'avoir un cours MOOC d'éthique en finance dans chaque programme d'études d'un département de la finance et les fournisseurs indépendants en ligne peuvent jouer un rôle important en éduquant les actuels et futurs professionnels des affaires à la gestion correcte des informations et ressources financières et comptables.

Un accès ouvert à l'éducation en éthique et finance peut aider à résoudre la pénurie

Investigators sometimes fail to identify the real cause and beginning of the scandal because of the massive paper trails leave important details unrecorded and because of the lack of cooperation among internal stakeholders. Thus, a stand-alone discipline that focuses on financial ethics is a more sustainable solution to untangling the growing intricacies of financial and accounting fraud.

"Education is the most powerful weapon you can use to change the world."

– Nelson Mandela

This classic quotation from the late Nelson Mandela captures the essence and purpose of having a stronger Finance Ethics education. Self-regulation in the financial industry may seem like a difficult to attain ideal but it is actually attainable – by using education to produce ethically-trained individuals. Unfortunately, Finance Ethics as a formal academic course in colleges and universities has yet to be recognized globally. Based on my research, out of the 163 higher education institutions in Taiwan (where I am currently teaching), less than 5% are actually offering courses related to Finance Ethics. This situation also applies to other academic institutions around the world.

The formal definition of this emerging academic field is also not yet well established in academic papers, as far as I am aware. For that reason, an exact definition online is hard to find. Given that, I want to define Finance Ethics as an emerging academic discipline that is part of Business Ethics (a form of applied ethics or professional ethics), which studies moral values, conduct judgment and ethical problems that arise in the field of finance. The field focuses on the philosophical arguments that seek to propose a set of ethical principles to govern individual and collective behavior in the field of finance; it enquires into the motivations behind behavior, and guides the conduct of players in the financial industry. This is the set of definitions that I am using in my Finance Ethics class, which is a traditional undergraduate elective course being offered by our Department of Finance.

Limited (or non-existent) Finance Ethics Curriculum

Like the traditional Finance Ethics class, there are few, or no, MOOC-based Finance Ethics course at universities and independent MOOC providers. There is a need for a MOOC-based Finance Ethics course in every Finance Department curriculum, and independent online providers may also play an important role in educating current and future business professionals about the proper handling of financial and accounting information and resources. An open-access ethics in finance education could also make good the shortage of this course in the curricula of business colleges and aid in propagating an ethical approach de ce type de cours dans le programme d'études des écoles de commerce et aider à propager une approche éthique dans l'éducation financière. Un cours MOOC peut être un instrument puissant d'éducation en rendant conscient du rôle fondamental de l'éthique dans la discipline financière.

Le cours en éthique en finance proposé en forme MOOC offre une introduction aux problèmes éthiques dans la finance moderne et aide les étudiants en finance et les praticiens à approcher cette discipline académique relativement nouvelle. L'ntroduction traite de la définition, de l'importance, de la promotion et des concepts essentiels en éthique en finance.

La première section définit formellement l'objet de la discipline académique émergente, l'éthique en finance. Elle examine aussi l'importance de la promotion de cette discipline.

La deuxième section

to financial literacy. The primary goals of this MOOC-based course are to promote ethics in finance as an academic discipline, and to encourage colleges and universities and independent providers to create a MOOC-based course related to Finance Ethics.[1]

Course Design: A Case Study Approach

This MOOC-based course could be a powerful educational tool in creating awareness of the fundamental role of ethics in financial disciplines. It could provide learners with the ethical principles to govern the financial services industry, and also help online students to easily identify ethical issues encountered by financial institutions and individuals in both public and private sectors. An online Finance Ethics course could serve as a moral compass in the business curriculum, particularly finance-related topics, that could help prevent fraudulent activities and eliminate the need for excessive regulation. This course, through education, would relieve individuals and business organizations of the economic burdens that arise from fraudulent activities and from the compliance costs that come with excessive regulations.

The proposed MOOC-based Finance Ethics course offers an introduction to ethics in modern finance and helps finance students and practitioners approach this relatively new academic discipline. This online course aims to achieve its learning objectives through the use of case studies and debate topics related to financial companies, individuals, and related financial and accounting issues. The opening topic discusses the definition, importance, promotion, and discussion of essential concepts in Finance Ethics. This MOOC-based course will feature video summaries of the following:

- 17 financial- and accounting-related case studies;
- 4 debate topics on the ethical questions around government bailouts, white-collar criminality, credit card lending malpractices, and auditor independence; and
- a bonus case on the interesting issue of bribery in global business.

The 17 case studies and 4 debate topics are divided into 4 main different sections. The first section talks about cases related to ethical risks in the financial services industry. The second section discusses conflicts of interest and individual misconduct. The third section deals with the misuse and manipulation of financial instruments. The fourth section explores unethical accounting practices. At the end of each main section, a review will be provided to cover the central issues of each case

1 This paper indirectly encourages academic institutions to create traditional Finance Ethics course (i.e., a required or an elective course) to be part of the Business College, specifically the Finance Department's curriculum.

parle des plus grands scandales récents de l'industrie financière et s'interroge sur l'irresponsabilité des corporations financières. Cette section met en lumière la culture de l'arrogance et de la cupidité en accord avec la mentalité "too big to fail". Cette partie soulève aussi la question du rôle du gouvernement dans le fait de discipliner ces grandes institutions financières avec leurs comportements à risque. Ainsi, le thème du débat porte sur la remise en question des sauvetages gouvernementaux pour aider ou tolérer ces faillites. Cette section explorera les sujets suivants en détail :
- La faible surveillance financière d'AIG
- Contribution financière du pays entier à la solution de la crise des subprimes
- La chute de Lehman Brothers
- Les questions éthiques en rapport avec la Taiwan Asset Management Corporation
- L'éthique des plans de sauvetage – l'argent du contribuable contre la négligence de l'entreprise.

study and debate. The final topic synthesizes the case studies and debate topics discussed, mentions some limitations of the course, and provides future directions in the study of Finance Ethics.

The proposed MOOC-based Finance Ethics courses' syllabus can be found in the Appendix. Below are the brief descriptions of each topic.

Finance Ethics Definition, Importance, and Promotion

Section 1 formally defines the focus of this emerging academic discipline based on its relation to Business Ethics. This discussion also argues the discipline's relevance to today's financial environment in the context of fraudulent activities and the cost of excessive regulation. The opening topic suggests how Finance Ethics can be promoted in academic institutions and recommends that every business organization should be clear in its definitions of what is legal, ethical, and profitable.

Finance Industry Blunders

Section 2 talks about the biggest finance industry scandals of the recent times and questions whether financial corporations acted responsibly. This section highlights the culture of arrogance and greed consistent with the "too big to fail" mentality. This part also questions the role of the government in disciplining big financial institutions engaged in risky behavior. Thus, the debate topic questions the extent to which government bailouts furthered or tolerated these collapses. This section will explore the following topics in details:

- *AIG's Weak Financial Oversight*

Synopsis: The AIG case uncovers how a long-standing and venerable institution can be led to eventual demise by a single department, here the Financial Products Unit. The case examines the reckless financial decisions of the unit and explains how the system, though inadequate regulation, allowed AIG's corruption to develop.

- *Countrywide Financial's Contribution to the Subprime Mortgage Crisis*

Synopsis: The Countrywide Financial case identifies the root cause of the subprime mortgage crisis as it points to banks' unethical lending practices, which were designed to generate loans. The abuse of subprime loans created high rates of payment delinquency and mortgage foreclosures because high-risk consumers could not afford to pay.

- *The Collapse of Lehman Brothers*

Synopsis: The Lehman Brothers case examines the largest bankruptcy in the world and the fall of one of the world's biggest investment banks. This case highlights the company's involvement in subprime lending and subsequent allegations of

La troisième section présente des personnalités hautes en couleurs impliquées dans des scandales d'investissement. Cette section porte sur le conflit d'intérêts où les individus concernés utilisent leur influence et leur réseau pour prendre au piège des investisseurs. Cette partie soulève aussi la question de la capacité des investisseurs à identifier les investissements vrais des faux. Cependant, étant donné la participation d'individus hautement crédibles, l'identification de ces investissements frauduleux a été difficile, aboutissant ainsi à des scandales financiers massifs. La section explore si les criminels en col blanc sont intrinsèquement mauvais s'ils sont purement influencés par la culture de l'organisation. Cette section présentera les sujets suivants :
- Le système pyramidal frauduleux de Tom Petters
- Les investissements magiques d'Allen Stanford
- Le système de Ponzi de Bernie Madoff
- Nick Leeson et la chute de la Barings Bank

negligence. This led to a massive exodus of clients, drastic falls in the bank's stock, and the devaluation of assets, all of which contributed to shut-down in access to short-term funding that was needed to keep the company afloat.

Taiwan's Asset Management Corporation's Ethical Issues

Synopsis: This case discusses the ethical concerns thrown up by the processes that Taiwan's Asset Management Corporation (AMC) applied in helping distressed Taiwanese banks recover. The case also examines the advantages and disadvantages of AMC's role in providing financial assistance to local banks.

- *Debate: Ethics of Government Bailouts – Taxpayers' fund vs. Corporate negligence*

Synopsis: This debate examines the benefits and drawbacks of government bailouts for troubled, big corporations. This topic weighs the thousands of jobs that are saved by bailouts against the argument that tax payers' monies are wasted thanks to the reckless behavior of huge firms.

Individual Financial Misconduct

Section 3 features colorful personalities involved in investment scandals. This section focuses on conflict of interest, where the individuals concerned used their influence and network to trap investors into their investment schemes. This part also questions the ability of investors to identify fraudulent investments. Given the involvement of credible individuals, identifying such investments proved difficult, which resulted in massive financial scandals. The debate topic explores whether white-collar criminals are intrinsically bad as individuals or are merely influenced by the business organization culture. This section will feature the following topics:

- *Tom Petters' Fraudulent Scheme*

Synopsis: Tom Petters' case examines a US$3.65 billion fraud carried out by a prominent businessman through the sale of promissory notes to investors. This case explains how Petters fabricated purchase orders from retailers and used them as collateral to borrow money from hedge funds and how this misconduct remained undetected for years.

- *Allen Stanford's Magic Investments*

Synopsis: The Allen Stanford case discusses a Ponzi scheme totalling US$7 to US$8 billion. This case highlights the red flags that should be brought to the attention of managers and other employees, feeder fund managers, and others who typically interact with investment organizations.

- *Bernie Madoff's Ponzi Scheme*

Synopsis: The Bernie Madoff case shows how massive a US$65 billion

- L'implication de Martha Stewart dans un scandale de délit d'initié
- Les mauvaises conduites organisationnelles – Criminels en cols blancs vs. Faiblesse de la culture d'entreprise

La quatrième section parle de l'abus des instruments financiers à travers la sur-spéculation et le gain personnel. Cette section se concentre sur la mauvaise utilisation des produits financiers et sur l'information d'initiés au détriment de l'investissement public. Cette partie enquête aussi sur la capacité des régulations à détecter ces manipulations à cause de la nature secrète et interne des transactions. Le sujet du débat porte sur les questions éthiques entourant le prêt par carte de crédit. Cette section présentera les sujets suivants :
- Questions éthiques dans les transactions sur produits dérivés
- Le scandale de délit d'initié du groupe Galleon
- La crise des cartes de crédit: le cas de Taïwan
- Questions éthiques dans les prêts sur

scheme victimized thousands of investors for a long time. This case illustrates how a successful and a reputable individual, with legitimate success and stature, can be consumed by greed and use their status to start an illegitimate money management business.

- *Nick Leeson and Barings Bank's Demise*

Synopsis: The Nick Leeson case evaluates how one individual can cause the collapse of one of the world's oldest merchant banks. This case explains how a concealed US$1.4 billion loss in unauthorized trading and inadequacy in the bank's internal controls led to the demise of Barings Bank.

- *Martha Stewart's Involvement in an Insider Trading Scandal*

Synopsis: The Martha Stewart scandal is a celebrated insider trading case because of the involvement of a very popular TV personality. This case highlights the abuse of nonpublic information and the use of a private informant, which favored Stewart in an investment position over other investors.

- *Debate: Organizational Misconduct – White-collar criminals vs. Weak Corporate Culture*

Synopsis: This debate presents the argument that serious organizational misconduct can occur in a firm because corporate psychopaths occupy high executive positions and/or because the overall organizational culture is unethical.

Misuse of Financial Instruments

Section 4 talks about the abuse of financial instruments through over-speculation and personal gain. This section concentrates on the misuse of financial products and insider information to the detriment of the investing public. It also inquires into the ability of regulations to detect these manipulations, given the secretive and internal nature of the dealings. The debate topic focuses on the ethical issues surrounding credit card lending, examining the faults in the bank's lending practices and the irresponsibility of the borrowers. This section will feature the following topics:

- *Ethical Issues in Derivatives Trading*

Synopsis: This case explains the history of the risky, yet pervasive, financial instruments called derivatives. It also examines the use of investment instruments, the ethical implications involved, and the reasons why they can sometimes spiral out of control and create financial disasters.

- *Galleon Group's Insider Trading Scandal*

Synopsis: The Galleon Group case examines rampant criminal and unethical activity in the shape of insider trading. The scandal is considered one of the largest insider trading cases in U.S. history. This story of security fraud and conspiracy includes providing false information, withholding key information, and cartes de crédits (prêteurs vs. emprunteurs)

La cinquième section s'occupe de quelques cas classiques de scandales comptables qui ont choqué l'industrie financière. Cette section porte sur des manœuvres financières qui ont pour but de cacher les dettes et d'enregistrer des dépenses fictives. Cette partie soulève la question de la capacité des gardiens du système, particulièrement les auditeurs et les cabinets d'avocats à dénoncer les fraudes comptables. Le sujet du débat se concentre sur les avantages et les inconvénients d'avoir des liens personnels et/ou professionnels avec des auditeurs externes. Cette section présentera les sujets suivants :
- Fraude financière et comptable chez Enron
- Conflit d'intérêts chez Arthur Andersen
- Le scandale comptable de Worldcom
- Les pratiques comptables douteuses de Diamond Foods
- La fraude comptable chez Satyam Computers
- L'indépendance de l'auditeur: relation personnelle vs. profe-

offering bad advice to clients.

- *Credit Card Crisis: The Taiwan Case*

Synopsis: This case discusses the conduct of Taiwanese banks in dealing with bad credit card debts. The case takes a close look at indiscriminate lending practices and the ethics of targeting students and young professionals in marketing and approvals.

- *Debate: Ethical Issues in Credit Card Lending (Lenders vs. Borrowers)*

Synopsis: This debate presents the ethical issues in credit card lending. This topic highlights the indiscriminate and predatory lending of banks to non-creditworthy customers. This debate also argues the case that consumers did not carefully study the terms and conditions and are irresponsible borrowers.

Financial and Accounting Scandals

Section 5 deals with some of the classic accounting scandals that shocked the financial industry. This section focuses on financial maneuvers undertaken to hide debts and pad revenues. This part also questions the ability of gatekeepers, particularly auditors and law firms, to expose accounting frauds. The debate topic concentrates on the advantages and disadvantages of having a personal and/or professional relationship with external auditors. This section will feature the following topics:

- *Financial and Accounting Fraud at Enron*

Synopsis: The Enron case examines how a well-known and lauded company became plagued by unethical, and illegal, business and accounting practices, which resulted in its collapse. This case also explains how stakeholders and gatekeepers failed to stop Enron's business malpractices.

- *Conflict of Interests at Arthur Andersen*

Synopsis: The Arthur Andersen case highlights how conflict of interests at auditors can lead to the sacrifice of accounting standards. The case also illustrates the importance of maintaining corporate culture, values, and integrity in implementing effective reputation management.

- *Worldcom's Accounting Scandal*

Synopsis: The Worldcom case shows that manipulating accounts to flatter the company's financial results can lead to bankruptcy. The case shows that financial fraud can start out small but may snowball over time.

- *Diamond Foods' Questionable Accounting Practices*

Synopsis: The Diamond Food case illustrates how a company that embraces an aggressive corporate culture can allow ethical lapses in its financial accounting practices. The case examines the reputation of the company in making bold and

sionnelle
L'étude de cas du bonus explore les problèmes éthiques liés à la corruption dans des opérations d'affaires au niveau mondial. Cet environnement de haute technologie qui évolue rapidement, associé avec des différences culturelles régionales, incite les sociétés multinationales à recourir à la corruption pour accélérer les processus d'affaires. Ce cas illustre les difficultés de distinguer entre des cadeaux et des pots-de-vin dans les affaires.
La dernière section offre une synthèse des études de cas présentées ici. Elle cite les points principaux analysés dans les sections précédentes et explique comment différents problèmes contraires à l'éthique ont lieu en même temps qu'une activité frauduleuse spécifique.
Chaque sujet MOOC en éthique en finance sera traité en combinant l'explication de l'instructeur et des diapositives PowerPoint. Chaque vidéo comprendra deux épisodes d'environ six à huit minutes pour expliquer la vue d'ensemble de l'éthique en finance,

expensive acquisitions, a practice that eventually forced it to cut corners in the preparation of its books.

- *Accounting Fraud at Satyam Computers*

Synopsis: The Satyam case examines how Ramalinga Raju misrepresented the accounts of the company to the board, stock exchange, regulators, and investors. This case exposes another scheme of fraudulent auditing practice, this time in the Indian corporate setting. This one allegedly had the involvement of auditors and accountants.

- *Debate: Auditor Independence: Personal vs. Professional Relationship*

Synopsis: This debate presents the advantages and disadvantages when a business hires someone from their external auditing firm to be a consultant to the company and still continue the same level of auditing relationship. This topic weighs conflicts of interest against the big contribution such a consultant can make to the management of the finances of the firm.

Bonus Case: Ethical Issues Around Bribery in Global Business

This bonus case study explores the ethical issues surrounding bribery in global business operations. Today's business landscape is more dynamic than ever because of the increased role of social media and technology. This rapidly changing environment, coupled with regional cultural differences, has prompted some multinational corporations to resort to bribery to oil the wheels. This case study illustrates the difficulties of differentiating between gifts and bribes when business is done on a global scale. However, the bribery trend is leading to heightened government enforcement of anticorruption regulation and to more comprehensive anticorruption compliance programmes. This case study offers a significant understanding of the issues that affect the short- and long-term growth plans of firms operating abroad and of the use of bribes to achieve them.

Review of Finance Ethics Case Study

The final section provides a synthesis of the case studies covered. This part brings together the major points covered in the previous sections and explains how a specific fraudulent activity can trigger a variety of ethical problems simultaneously. The review will also talk about potential issues that may arise in the field of Finance Ethics, in particular how cryptocurrencies and financial technology (fintech) are quickly emerging as possible alternatives to traditional ways of carrying out financial transactions.

MOOC-based Finance Ethics Delivery

Similar to the delivery of MOOCs, each topic will be delivered through a combination of instructor explanation and PowerPoint slides.

les principaux problèmes et les études de cas, ainsi qu'un résumé final du sujet abordé. Une discussion de cinq à sept minutes sera consacrée à la présentation de deux aspects des sujets du débat. Étant donné le nombre de sujets à choix dans ce cours en ligne, les instructeurs pourront proposer ces MOOC en éthique en finance en deux parties et diviser les sujets selon la préférence des conférenciers. Les instructeurs pourront aussi inclure des scandales financiers plus récents afin de maintenir ce cours en ligne à jour.

Certaines méthodes pédagogiques et des processus organisationnels spécifiques peuvent aussi être utilisés pour produire une expérience d'apprentissage en ligne de haute qualité en plus de la méthode habituelle d'évaluation par les pairs.

Pour les examens, trois questions peuvent être posées pour chaque présentation vidéo et une question de réflexion peut être formulée pour chaque sujet de débat et le résumé final des sujets

The script and discussion for each case study, and for the debate topics, will be based on independent research carried out by the main instructor, with support from teaching or research assistants. Each video will have two installments, of about 6 to 8 minutes each, to explain the overview of Finance Ethics, the main issues of the case studies, and the final summary of the topics discussed. Discussion of 5 to 7 minutes will be devoted to the presentation of two sides of the debate topics. This video duration follows the study of Guo (2013), which suggests that student engagement time maxes out at 6 minutes and that optimal video length should be 6 to 9 minutes.

Given the number of suggested topics in this proposed online course, instructors could deliver this Finance Ethics MOOC in two parts and divide the topics depending on lecturer preferences. For example, instructors could consider grouping topics under Sections 2 and 3 as Finance Ethics I, and have Sections 4 and 5 as Finance Ethics II. Although topics were arranged in a certain way as outlined above, online students can also create their own individualized learning experience by taking alternative routes through the cases and debate topics. Instructors can also include more recent financial scandals (e.g., the Wells Fargo Fake Accounts Scandal, and Toshiba Accounting Scandal) to make this online course more up-to-date. Some of the case studies covered in this proposed online class might be covered in other online classes of respective students. That is, university students might use this MOOC-based Finance Ethics course as a supplemental resource in their traditional Business Ethics classes, or any related course.

Online Assessment and Completion

Certain pedagogies and specific organizational processes can also be put in place to ensure the delivery of a high-quality online learning experience. This is aside from the usual peer-assessment method that is common for MOOC-based courses. For example, an online Teaching Assistant (TA) can help in facilitating discussions and in realigning the answers of students by providing the key points of the every topic explained. Academic institutions can also require faculty members to allot 4 to 6 hours of their time a week to monitor and assess the learning of their online students. This method will also be more efficiently done with the help of the TA, and can overcome the criticism that there is too little formal quality assurance in MOOCs as mentioned by Daniel (2012). This solution can also offer opportunities for nontraditional teaching approaches and learner-centered pedagogy to become more dynamic where faculty members, TAs, and students can learn from each other's views.

With regard to examinations, three questions can be asked for each video presentation on topics related

peut être discuté.
La forme la plus significative d'assurance de qualité et d'amélioration de ces cours MOOC en éthique en finance viendra des réflexions et des évaluations informelles des étudiants en ligne. Ces communautés d'élèves en ligne peuvent aussi faire du « crowdsourcing » de leurs avis et réponses aux problèmes. On peut délivrer des certificats de formation à certains participants qui pourront même obtenir des crédits académiques officiels s'ils ont achevé avec succès ce cours en ligne d'éthique en finance.

Les cours en ligne ouverts à tous ont inauguré une nouvelle ère dans l'enseignement supérieur et ont permis aux établissements académiques et aux fournisseurs indépendants d'explorer de nouvelles voies pour l'apprentissage. Le MOOC en éthique en finance fournit une manière d'apprendre les problèmes éthiques en lien avec l'industrie financière de façon accessible, flexible et gratuite ou bon marché (selon le fournisseur).

to the overview of Finance Ethics and case studies to measure the degree of understanding of online students. One reflection question can be asked for each debate topic and the final summary of the topics discussed, to determine the opinions and degree of understanding of the learners. The most significant form of quality assurance and enhancement in this MOOC-based Finance Ethics course will come from the reflections and informal evaluations of online students who put answers on the comments of participants using the MOOC platform of the university or independent providers.

These online communities of learners can also crowdsource their opinions and answers to problems. Such an approach can form networks or groups that create additional learning channels, which seldom occur in the traditional classroom setting in universities. Depending on the MOOC platform of the university or an independent provider, online participants can be given Certificates of Accomplishment and may even be able to gain official academic credits upon the successful completion of this online Finance Ethics course.

Conclusions

Open online courses ushered in a new age of innovation in higher education. They allowed academic institutions and independent providers to explore new ways of providing online learning and creative practices in teaching a wide range of learners. This innovation also solves the problem of inaccessible and expensive education and the bigger problem of illiteracy. In the aftermath of the subprime mortgage crisis of 2008, there was a new wave of concern about how best to rethink the way in which the financial services industry operates. The economic crisis also raised questions about the learning we gained from the notorious set of financial and accounting scandals in the early 2000s. A MOOC-based Finance Ethics course has a huge potential to combine these two strands by introducing a stronger ethics in finance course to the higher education curriculum. This online Finance Ethics course can provide accessible, flexible, and free or low-cost (depending on the provider) way of learning about the ethical issues surrounding the financial services industry. Online learners can simulate, and practice dealing with, ethical heterogeneity based on real-life case studies of companies and individuals. This course can also serve as an avenue to discuss the role of ethics in finance based on individual and corporate practices, and how such activities can be understood in a more comprehensive way through ethics.

All stakeholders concerned should ponder the causes of the recent crisis and of past and present financial scandals. They should also rethink the ethical role that finance and accounting practice plays in the sustainable future of the industry. Given the third installment

Les élèves en ligne peuvent simuler et pratiquer l'hétérogénéité éthique basée sur des études de cas réelles. Ce cours peut aussi servir à discuter le rôle de l'éthique en finance basée sur des pratiques individuelles et d'entreprises, et comment de telles activités peuvent être comprises d'une façon plus complète à travers l'éthique.

of the Basel Accords (a.k.a. the Basel III regulations), banking has been under scrutiny again for questionable activities, as well as some related auditing practices. However, financial regulations do not totally solve the complications that arise from unethical practices. In fact these regulations even created unexpected problems as they can lead to a restrictive and anticompetitive business environment. Criticisms should be analyzed and alternatives should be presented to incorporate ethics in support of profitability and efficiency, and to educate and empower professionals in the world of finance to align financial prosperity with personal integrity. The long-term solution is to produce skilled and ethical financial practitioners through Finance Ethics education. That would create massive and sustainable positive transformation in the financial services industry. Through this online Finance Ethics course, students would be expected to gain a holistic understanding of how sound ethics and strong professionalism can contribute to the financial viability of an individual, company, and society. •

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Appendix

Course Objectives:

The Finance Ethics online course offers an introduction to the ethical issues in modern finance, and helps finance students and practitioners approach the relatively new discipline of Finance Ethics. This online course achieves its learning objectives through the use of case studies related to financial companies and related financial and accounting issues.

The opening topic discusses the definition, importance, promotion and essential concepts about Finance Ethics. The course will feature video summaries of seventeen case studies including *a)* four debates on ethical questions in relation to government bailouts, white-collar criminals, credit card lending malpractices, and auditor independence; and *b)* a bonus case on the interesting issue of bribery in global business will be also featured.

Case study topics were divided in four different sections: first is on cases related to ethical risks in the financial industry; second is conflict of interests and individual misconducts; third is about the misuse and manipulation of financial instruments; and lastly, there are cases about unethical accounting practices. Each main section will provide a review to cover the main contents of each case study and debate. The final topic summarizes the case studies discussed, and talks about the future and potential issues in the field of Finance Ethics.

At the end of the course, students are expected to:

- identify moral struggles of individuals and ethical problems of business organizations related to finance
- propose solutions and design new strategies in solving and preventing future ethical misdeeds;
- be empowered to properly face unethical practices in the workplace, and be a catalyst for sustainable changes in the financial industry

Finance Ethics MOOCs Content:

1. **Finance Ethics definition, importance and promotion**

2. Financial Industry Blunders

- AIG's weak financial oversight
- Countrywide Financial's contribution to the subprime mortgage crisis
- Taiwan's asset management corporation's ethical issues
- The collapse of Lehman Brothers
- *Debate:* Ethics of government bailouts – taxpayers' fund vs. corporate negligence
- *Section Review*

3. **Individual Financial Misconduct**

- Tom Petters' fraudulent scheme
- Allen Stanford magic investments

- Bernie Madoff ponzi scheme
- Nick Leeson and the demise of Barings Bank
- Martha Stewart's involvement in insider trading
- *Debate:* Organizational misconduct:white-collar criminals vs. weak corporate culture
- *Section Review*

4. Misuse of Financial Instruments

- Credit card crisis: the Taiwan case
- Ethical issues in derivatives trading
- Galleon Group's insider trading scandal
- *Debate:* ethical issues in credit card lending (lenders vs. borrowers)
- *Section review*

5. Financial and Accounting Scandals

- Financial and accounting fraud at Enron
- Conflicts of interest at Arthur Andersen
- Worldcom's accounting scandal
- Diamond Foods' questionable accounting practices
- Accounting fraud at Satyam Computers
- *Debate:* auditor independence – personal vs. professional relationship
- *Section Review*

6. Bonus Case: Ethical issues in global bribery in business

7. Finance Ethics Case Study

Review

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].

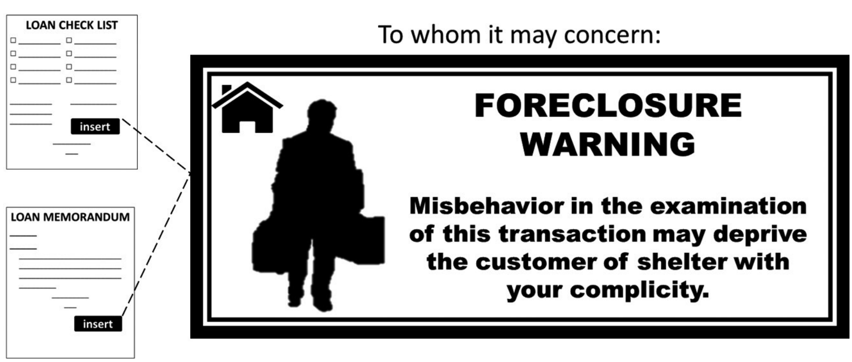
Finally, the image of a person *expelled from his home* and the choice of the words "misbehavior", "examination" (*i.e.* your action), "may deprive" and "your complicity" serves the goal of appealing to emotional intelligence as well as directing the reason to consider foreseen consequences which otherwise 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

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.

In an e-mail

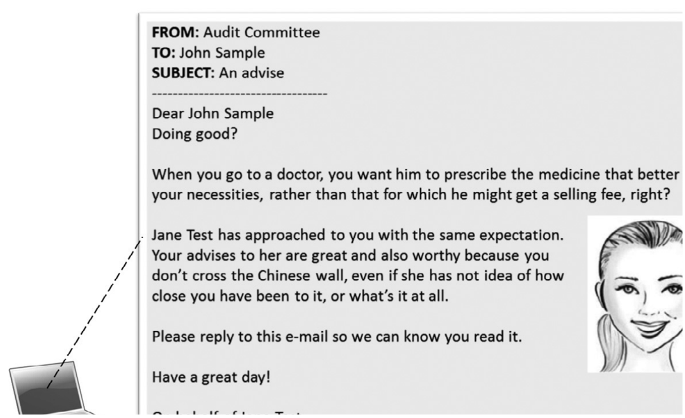
Another technique that could be tried is to send the message via e-mail. In addition, we could replace the "punitive" tone of the previous examples with a more sympathetic and empowering wording. In Figure 3, the decision maker is a financial advisor in an investment bank. He receives a dedicated electronic 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,

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.

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?

Figure 3 . Kind e-mail



"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". •

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Suppose we change the (meta) rules of the game?

Ethics in Finance, Robin Cosgrove Prize Global edition 2012-2013

Finalist

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When faced with serious difficulties, or a full-blown crisis, we tend to assume that the solution should be commensurate with the problems. The more difficult the situation, the more radical – even revolutionary – the solutions we look for. We prefer general, abstract approaches to concrete, down-to-earth ones. I would like to propose a different approach, and seek reasons for the erosion of public trust in financial institutions, as well as ways to rebuild it, by making some specific observations. In this paper I will make use of 'hot' knowledge (Kozielecki, 2000), i.e. knowledge based on my own experience. This will not be an abstract or cold analysis. There will be no graphs or rows of figures. No well-known businesspeople or young, promising financial experts will be quoted. In a sense this paper is a manifesto – an attempt to speak on behalf of the nameless, faceless, voiceless many. What I have to say may sink without trace in the waters of silence; and yet I hope it will be heard in broader circles. As I write these words I cannot know if it will – but I very much hope so, and it is this hope that encourages me to write.

Whose voice are you reading? Whose voices are you not hearing?

I do not work in a financial institution. My right to take part in the debate and present my views comes from my professional and private contacts with people employed in such institutions. I am a psychologist, and I have observed a dramatic increase in the number of bank staff among my patients. Regardless of which institution employs them, or

Cet essai n'est pas celui d'un professionnel de la finance. L'auteur est une psychologue qui opte pour une analyse de l'éthique en finance depuis la perspective du thérapeute, en analysant le cas d'employés, victimes de la « guerre sous couvert » qui sévit dans le milieu bancaire.

L'activité professionnelle va au-delà d'une simple source de revenus. Parfois, elle nous aide à définir notre personnalité et nous fait sentir que nous pouvons influencer le monde qui nous entoure.

Les cas de deux patients nous aideront à développer nos propos.

which position they hold within it, the symptoms that have made them seek help turn out to be very similar, ranging in severity from minor (discouragement, loss of motivation) to moderate (constant stress, psychosomatic symptoms, burn-out) and major (suicidal tendencies, symptoms of personality disintegration or behaviour similar to the post-traumatic stress disorder (PTSD) first diagnosed in Vietnam war veterans). Although the patients I am writing about are not involved in an armed conflict, they feel as if they have lost a war – the war for themselves, their dignity and their professional self-respect. They are the victims of a silent war being waged within financial institutions, a war without bloodshed, a war fought with white gloves, often within the limits of the law – but not the law that determines people's rights to respect and dignity, a law so vague and hard to define that it is all too easy to overlook it, and abuse it.

Work that shapes personality

What is work? It is more than just a source of income. Sometimes it is a fundamental element of our personality that helps us determine who we are, or who we are not – perhaps that we are nobody. Work takes up most of our daytime hours, creating a vital structure that satisfies our need for order and security. It gives our lives a rhythm without which we would find it very hard to function. Work makes us feel we can influence the world around us, and our own lives. In many ways it fulfils our fundamental needs and give us a sense of purpose – not always the final and only purpose, sometimes just one of several alternatives, but always an important one (Palusiński, 2002).

Until some years ago I had no professional background. I had a university degree, but I was uncomfortable with the role it conferred on me. That changed with time, and with newly acquired skills and experience. Now I can call myself a psychologist. Yet I do not feel that my current profession is my final one. I am also a trainer and a lecturer, and one day I may become someone else. I am open to change. Probably this is a question of age, in two senses – postmodernist multi-personality, typical of the age of fluid modernity and early adulthood (Bauman, 2007). But what about people who have grown up in different times, their consciousness and personalities determined by the work ethic, for a longer period, and on a larger scale – people who, having worked for the same institution for twenty or thirty years, discover (often in an inhuman manner) that they are no longer needed? This generation is gradually leaving the workforce, and perhaps there is no point in paying attention to them – perhaps we should simply wait for the problem to fade away of its own accord. Maybe this is what will happen. Purely in terms of profit and loss, it may also make sense to lay off employees aged over fifty. Perhaps this is a logical strategy. Yet, Le premier cas est celui de P.L., une employée de banque de 51 ans licenciée sans indemnités, alors qu'elle avait été élue par le journal de sa communauté comme la « meilleure employée de banque » et qu'elle était dans la moyenne des objectifs à atteindre de sa succursale. Son renvoi et celui de toute son équipe a provoqué chez P.L. une crise nerveuse et elle a dû suivre un traitement depuis lors. La justice a par la suite conclu que le licenciement était abusif et qu'il était la conséquence de son refus d'appliquer une politique bancaire peu éthique.

Le cas de T.U., un jeune conseiller financier enthousiaste à ses débuts, nous permettra de comprendre en quoi les attentes employé/employeur divergent. Après quelques mois de travail T.U. était profondément démotivé et souffrait de burn-out. L'origine du problème était éthique : Il se sentait comme le héros d'une tragédie grecque dans laquelle quoiqu'il fasse, certains gagneraient et d'autres perdraient.

even if ethics makes use of logic, is it nothing more than that? I may be wrong, and banking ethics may be something essentially different, consisting only of rows of figures that do or do not add up to expected sales targets. But what makes me persist is my belief that this is not so, or at least not entirely so – and that it should not be so.

Too old to count

I would like to present an example that illustrates the above phenomenon (with all identifying details omitted) – a case study rather than a statistical sample that can be generalized and applied to the whole population. Just for a moment, let us think in quantitative rather than qualitative terms.

A 51-year-old woman, P. L., was employed as an individual client advisor for 21 years. She was dismissed from her job for 'insufficient business activity to warrant a personal bonus'. It should be mentioned here that she was voted the 'best bank worker' in a survey among bank clients held by a local newspaper, was highly trained and met her sales targets at the average level for her branch. P. L. received no severance pay or outplacement offers. The shock of her unexpected dismissal, and the way in which it took place, caused her to suffer a nervous breakdown and become reliant on medicines. Worse still, her dismissal was the culmination of a prolonged harassment campaign whose victims were not only P. L. but the whole team: two sought psychiatric treatment, one resigned and one spent some time in a mental hospital. The 'ethos' prevailing at P. L.'s bank is well illustrated by an excerpt from one of the e-mails the branch manager sent employees on a daily basis: 'Just remember, it's all or nothing. I don't want to have to go to the regional office and try to explain why our branch generates no sales and others do. So no excuses – the weather, holidays, or whatever...'. Of course, face-to-face communication with staff was no different – if anything, since the spoken word is so fleeting, it was even harsher.

The trial court deemed P. L.'s dismissal unlawful, stating that she was fired because she refused to carry out the bank's unethical policies. The judge said he had not appreciated how badly bank employees were treated in terms of working conditions, atmosphere, mental pressure and disrespect.

Too young to matter

On the right-hand side of the employment bell curve, people over 50 are being lopped off as if they were extreme cases. On the left-hand side of the curve a similar fate awaits younger staff, employed on never-ending temporary contracts that are nevertheless eventually terminated, and treated like so much cannon fodder, to be replaced whenever Poland's calamitous labour market demands it. Of course, some may say a bank is not a charity but a business whose staff must generate profits in order to justify their employment. In

Devenu vendeur plus que conseiller, il ne croyait pas que les produits financiers qu'on l'obligeait à vendre afin d'atteindre les objectifs étaient bons pour ses clients. Le fait de vivre dans une petite communauté aggravait son dilemme, car il connaissait personnellement chacun de ses clients.

Pour remplir ses obligations professionnelles, il opta pour la stratégie de « l'amputation » et agissait sans sentiments, de manière mécanique, sans penser aux conséquences éthiques. Une sorte d'aliénation marxiste. Mais finalement, le code d'éthique personnel de T.U. l'empêcha de manipuler ses clients pour atteindre les objectifs de la banque et se manifesta d'abord par un maque d'engagement professionnel puis par un état de détresse émotionnelle, y compris dans sa vie personnelle.

that case, let us consider why they do not generate profits, or why the level of profits they generate does not satisfy their employers.

Take the case of a young VIP advisor, T. U., who came to me for coaching. He sought help because, after just a few months in his new post, his initially very high motivation had evaporated and he had all the symptoms of burn-out. He was torn between his clients' and his bank's conflicting interests. He felt he was in a 'win-lose' situation, and saw himself as a tragic hero in an ancient drama: damned if he did, damned if he didn't. Aside from purely pragmatic issues, the problem was mainly an ethical one. T. U. did not believe the products he was compelled to offer his clients (in order to meet sales targets) were really useful or valuable to them. Nor was he alone in this. Here is a statement by a bank employee published in the newspaper Gazeta Prawna: 'It's quite simple – you have to meet your quotas. You have to sell a certain number of products: mortgages, life insurance policies, credit cards, loans, investments ... Perhaps this month you were lucky in, say, mortgages, but that's not enough. If you haven't sold enough cards or policies,[1] the manager will be on your tail. Good salespeople have to be goal-oriented, but they mustn't think too much or feel any empathy' (Suchodolska, 2012).

Perhaps if T. U. had been working in a large city, his wish to be fair to his customers would not have been so acute. In cities, clients are just an anonymous mass of faces, and, as we know, depersonalization encourages dehumanization of relationships. But T. U. was meeting his clients in private life, and wanted to be able to look them in the eye without feeling ashamed. His dilemma may be summed up as follows: was he a client advisor or a bank salesman – and, if he was both, how was he to reconcile the two? One of the faulty strategies he adopted was 'amputation': at work he tried to forget that he was a human being and become a mechanical, unthinking 'robot', doing his managers' bidding without any thought for its ethical or practical consequences. In 1844 Marx described a similar phenomenon, which he termed 'alienation': the factory worker's inability to identify with all or part of the product he was making.

In this case alienation was due to the work itself, which the worker was unable to understand – and above all accept on ethical grounds. The effects soon became visible: loss of commitment, and growing emotional distress, even in private life.

T. U. felt increasingly reluctant to carry out his professional duties. If people do not understand or accept what they are doing but are forced to keep on doing it, their work becomes more mechanical and uncommitted. As a result, they accept it even less and feel even more alienated – until something finally snaps.

[1] It is worth stressing that these words, in their rhetorical dimension, are a clear reflection what the bank manager quoted above was saying to his staff.

Face aux dilemmes éthique rencontrés par T.U. et P.L., on pourrait penser qu'une démission mettrait fin au problème. Toutefois, plutôt que mettre fin au problème, nous souhaiterions le résoudre.

Le personnel bancaire affronte un triple conflit d'intérêts (1) concilier les intérêts de la banque et de ses clients (2) être conseiller et à la fois vendeur (3) rester soi-même dans sa vie professionnelle.

Les employés souhaiteraient pouvoir appliquer le même code éthique dans leur vie professionnelle que dans leur vie personnelle. Ils souhaitent être justes avec leur clients et les respecter. L'attitude des employés est très importante quant à l'image que la banque projette auprès des clients. S'ils sont abattus, en conflit interne, ils transmettront une image défavorable, celle d'une institution peu fiable.

Another way to cope with the situation was the 'ruthless bastard' strategy. The idea was to achieve sales targets by any means, using manipulative psychological tricks (a. k. a. 'sales techniques') to talk clients into purchasing products that had top priority for the bank but were not really appropriate to the clients' needs. T. U. rejected this strategy out of hand, for it was incompatible with his personal code of ethics. From a pragmatic point of view, we can compare this strategy to sprinting during a marathon: profits are swift but short-lived, and the runner[2] 'blows up' at the first bend.

Of course, there is always a radical solution to this dilemma – quitting your job. Let us assume, however, that we want to solve problems rather than just erase them. The dilemmas facing bank staff can be summed up as follows: (1) how to reconcile the bank's and the client's interests, (2) how to be an advisor and a salesperson at the same time, and (3) how to remain oneself in professional life. Hence we have a conflict of interests on three levels: a conflict of institutional interests (between the client and the bank), a conflict of professional interests (between the perfect advisor and the perfect salesperson) and a conflict of personality interests (between the bank employee and the human being). Looking at these three dilemmas, we can see that in fact they involve very similar issues, are interlocking and have a hierarchical structure – from abstract and complex to more personal and concrete.

[2] The runner in this analogy may be either the advisor or the bank itself.

How to remain oneself while working at a bank

Let us start – perhaps illogically – with the third and final dilemma. Staff want to remain themselves when they are at work; specifically, they want to be able to apply the same code of ethics as in their private lives. They want to treat clients fairly, respect them and offer them the most appropriate solutions based on the best available professional knowledge. Clients expect the same, for they are talking to advisors, not salespeople. In practice, however, things are quite different: clients do not receive the products most suited to them, but the ones that are high on the bank's sales agenda in the current quarter. More and more clients are aware of this, and it influences their trust in the counselling they receive from banks' client advisors. The internal conflicts advisors find themselves facing changes the way they serve clients. Here even the best sales training will not help much, for what matters is not know-how but internal conviction (ethos, attitude), culminating in the question: am I really offering my clients what is best for them? Let us note here that not only because of spectacular financial scandals (such as the collapse of the Polish company Amber Gold in 2012) but also because of numerous more minor instances of unfair practice, banks are no longer trus-

L'homme éprouve un besoin d'influencer son entourage et de maintenir un comportement cohérent. Mais si pour conserver son emploi, il doit perdre cette cohérence interne, le jeu en vaut-il la chandelle ?

Remplacer un employé parti pour cause de conflit d'intérêts par un employé plus jeune, inexpérimenté et inconscient des conflits auxquels il sera bientôt confronté, n'offre pas une image positive (sécurité et confiance) de la banque.

Les deux cas étudiés ci-dessus ont en commun un licenciement dû au refus d'appliquer la politique de la banque que les protagonistes considéraient peu éthique.

ted by the general public (Pieńkosz, 2012). We should bear in mind here that a 'bank' is too general and elusive a concept for clients; instead, they identify the institution with the employees they talk to. If employees are troubled by internal conflicts and feel discouraged and burned-out, the institution they work for will be seen as untrustworthy.

Needs and dilemmas

Research by psychologists has shown that we all need to influence the world around us and be internally consistent in our behaviour and attitudes (Frankl, 2009; Obuchowski, 2002). These needs are inherent and general, and do not go away once we are at work – unless, of course, our professional survival seems to depend on it. Yet eventually we must ask ourselves the following question: if I am losing myself in order to gain something, what is the point of gaining it in the first place?

Moral dilemmas and awareness of conflicts of interest are not confined to specific employees or the more informed and observant clients. A wider circle of friends, relatives and colleagues share the same feelings – which become a matter of public record as they are mentioned more and more frequently in legal proceedings instituted by dismissed bank employees. The circle of potential and existing clients that are aware of the true facts is growing. Is it really in banks' interests to allow such negative views about financial institutions to become more widespread? Is it wise to create situations in which employees do not perform their duties properly because of internal conflicts, or else do perform them but end up despising themselves and the banks they work for, culminating in burnout and despair? They are then replaced by inexperienced newcomers who are unaware of the conflicts they will soon be trapped in – and will end up functioning, and suffering, just like their predecessors. The huge turnover in front-office staff, including the VIP section, is not conducive to building up long-term relationships with clients. All these factors point to short-term thinking, and do not create in clients' minds a sense of security and trust towards the institutions they have entrusted their money to.

Ethics in banking: myth or reality?

The common factor in the aforementioned cases of both young and more experienced employees is their concern for client relationships. P. L. received awards for high-quality service, and T. U. received thanks from satisfied clients. Both of them adhered to the principle that the client is the most important person in the bank, and that good relationships are more important than short-term sales targets. Both were dismissed for 'failure to implement bank policy'. The question we must then ask ourselves is this: what is 'bank policy'? Is it just about short-term profits, with no thought for long-term benefits or client relationships? Or

Employés et clients ont de plus en plus l'impression de n'être que des moyens pour atteindre des objectifs, plutôt qu'une fin en soi. L'idée que tout le monde y gagne semble avoir disparu or, finalement, l'objectif (les bénéfices) est bel et bien le même pour tout le monde. Le succès individuel n'est assuré que si tous les sujets jouent selon les mêmes règles (dilemme du prisonnier).

Il est de plus en plus nécessaire d'instaurer un système de confiance tridimensionnel où (1)la banque part du principe que le client veut rembourser son prêt et que son personnel veut être aussi efficace que possible. (2) Le client assume que les offres faites par la banque correspondent à ses besoins. (3) L'employé sait qu'il couvre les besoins de sa clientèle et que ses conditions de travail se basent sur le respect mutuel. Toute hypothèse de départ contraire créerait une situation paranoïaque menant fatalement à une «prophétie auto-réalisatrice».

has it been distorted at some level of management?[3] Whether we are dealing with the first option (the disappearance of the 'good work' ethos at banks – see Kotarbiński, 1982) or the second one (distortion of initially correct assumptions), the chances of remedying the situation are slim if only lip service is paid to the relevant principles. The use of such camouflage techniques as campaigns designed to increase consumer confidence (e.g. advertisements creating an illusion of trust) comes closer to 'corpse painting' than revival of the basic idea. If the bank has adopted a 'win-lose' rather than 'win-win' approach to its relationships with clients and staff, any improvement will require a radical change in its basic assumptions.

A self-fulfilling (meta)assumption

Both bank employees and more observant clients feel that they only matter to financial institutions if they generate profits. They are only a means to an end, rather than the end itself (contrary to Kantian principles). Of course, financial institutions cannot suddenly start pursuing their employees' and clients' goals rather than their own; but they should respect the various parties' needs by creating win-win situations. To achieve this, a relationship of cooperation and co-dependence must be created, based on a sense of 'playing on the same side'. It should be noted here that the client's, the employee's and the bank's goals do not conflict: both the client and the employee want to make a profit, and so does the bank. Furthermore, strange though this may sound, the bank needs respect and security (in the sense of its clients' and employees' loyalty and the stability of the franchise) quite as much as the client or employee does. So, if everyone's goals are the same, why all the problems? The answer to this question may lie in Dresher and Flood's famous 'prisoner's dilemma'. Individual success can only be achieved if the relationships between all the subjects are well understood and everyone abides by the rules of fair play. Clearly, if one party breaks the rules in order to make a short-term profit, everyone else will suffer.

What would a system of three-way trust look like in practice? The institutions affiliated to the European Federation of Ethical and Alternative Banks (FEBEA) are good examples. According to a report by Poland's Credit Information Bureau (BIK), '87% of [FEBEA] companies repay their loans on time, or with only a slight delay. Only 5% of companies are seriously (more than a year) in arrears. Moreover, these data concern only part of the corpo-

[3] The Good Principles of Banking Practice quoted here seem to point to the second option: 'Chapter II: Principles of banking activities in relations with customers: 1. In relations with their customers, banks should act with the special trust conferred on them by customers and high standards of dependability, thus treating all their clients with due diligence; 2. A bank must not use its professionalism in a way that damages clients' interests.'

C'est aux institutions bancaires, en tant que maîtres du jeu, de changer le climat dominant. Si elles mettaient en œuvre un changement réel et visible, la confiance auprès de la clientèle et des employés serait restaurée au fil du temps.

Un état de confiance mutuelle repose sur la foi en la nature humaine.

rate loans market. Of the companies affiliated to Poland's Society for Socio-Economic Investments (TISE), none is in arrears' (Zachariasz, 2011). The rules of fair play are quite simple. Banks assume that clients intend to repay their loans and that staff want to be as efficient as possible; clients assume that offers made by banks are well suited to their needs, even if they are temporarily not in line with the banks' sales policies; and staff act ethically and honestly. Staff in turn assume that banks offer clients the best possible solutions, that their employment contracts will be permanent and that their working conditions will be based on mutual respect. The opposite assumption – that customers will not repay loans, that staff will make as little effort as possible and that banks will exploit both clients and staff and then get rid of them – creates a paranoid, self-fulfilling situation in which no-one trusts anyone else, thereby confirming the initial assumptions about complete lack of trust. The self-fulfilling prophecy principle reveals, through numerous experiments, the mechanism that turns our assumptions into reality. The same principle is the basis for the whole mechanism of cognitive-behavioural therapy, which can be summed up as follows: 'Watch your thoughts; they become words. Watch your words; they become actions. Watch your actions, they become habits. Watch your habits, they become character. Watch your character; it becomes your destiny' (Frank Outlaw).

This is not to say that in reality we will not encounter situations in which the mutual trust 'pact' is broken. Some customers, employees and banks will always break the rules of fair play; but the point is that we should not assume this in advance, and that toxic situations – considered as the exception rather than the rule – should be recognised and corrected in good time.

Suppose we change the rules of the game?

The bank, as the institution that basically dictates the rules of the game, can and must change the prevailing climate (from 'win-lose' to 'win-win') and the basic principles (from 'unfair' to 'fair' play). If this is reflected in actions and attitudes, it can – with time – change the behaviour of both staff and clients. This will entail believing in human nature (harmony and confidence), the universality of human needs (respect, security, trust), psychological discoveries (self-fulfilling prophecies, the prisoner's dilemma), practical examples (FEBEA) and the need to make innovative proposals – for is there anything more radically innovative than proposing to implement the principle of mutual trust in times of crisis?

'I'm OK, you're OK'

The root of the changes I propose here lies in altering the basic working principles of financial institutions – from a policy of mutual distrust towards the 'I'm OK, you're OK'

Parmi les mesures susceptibles de favoriser un climat de confiance, cet article propose de se focaliser sur des actions permettant l'échange d'opinions et d'idées entre employés et supérieurs.

Une attention particulière doit être prêtée aux employés qui sont en contact direct avec la clientèle pour les aider à trouver des solutions éthiques à d'éventuels conflits d'intérêts.

Par ailleurs, le fait de traiter les employés de manière individuelle favorise le développement d'un sentiment de satisfaction personnelle tout en augmentant leurs compétences.

L'implantation d'un système de motivation qui permette à l'employé de se sentir plus qu'un simple maillon, comme s'il était part intégrante d'une équipe, est plus que nécessaire.

principle.[4] Only then can the mutual trust necessary for further action be created. Failing this, any changes will be temporary and unrealistic, and hence will simply make things worse. The types of action I am proposing here are not new – most of them are well known and widely used in practice. What matters is that they should become firmly established and deeply rooted, in a Kierkegaardian 'leap of faith' based on good intentions and willingness by all those involved in the 'financial game' to play by the rules. Is it logical to make this assumption – especially in times of crisis that encourage mutual distrust and a wish to remain afloat at any cost? I will answer this question in a perverse manner: probably not. The proposed solution does not refer to logic but to ethics, and the two are not always compatible (though sometimes ethics makes use of what is known as 'existential logic'). Yet are we now not in need of ethics more than anything else?

From words to reality

The action that can be taken to implement the 'I'm OK, you're OK' principle is in keeping with the initial premise of this paper. It means improving the quality of employees' relationships with their superiors and clients. The proposed changes are as follows:

1. Creating conditions that allow a safe and honest exchange of ideas and comments between employees and their superiors. For example, one could consider asking employees for their opinions, rather than – as is currently the case – instantly firing whistleblowers, who often identify problems sooner than the rest and/or have the courage to draw attention to them. This would enable the institutions concerned to respond swiftly and make any necessary changes that would help them function better at both staff and product level.

2. Listening to all employees, especially those in direct contact with clients. These front-line troops can inform us about key aspects or effects of assumptions made higher up in the hierarchy. They can show us how abstract ideas are converted into facts, and how our institutions operate and are manifested at the point 'where the rubber meets the road'. To help employees understand the need to raise thorny issues and make sure they are not afraid to do so, the 'I'm OK, you're OK' principle must be widely adopted. Employees will only be willing to raise such issues if the bank they work for is interested in finding ethical solutions (the need for coherence), their voices are heard and have some influence on reality (the need for agency), they need not fear repercussions (the need for security) and they matter to the bank (the need for respect).

3. An individualized approach to employees. When sales targets are not met, the reason is not necessarily inadequate sales ability. Could it be an ethical dilemma, or incom-

[4] The term comes from the title of Dr Thomas Harris's book I'm OK, you're OK, but is not based on his assumptions.

Finalement, ajoutons le besoin de réajuster le profil des cadres, en confiant la responsabilité du management à des personnes plus orientées sur les relations positives et de longue durée que sur le résultat immédiat.

Cet essai prétend aider à rompre le cercle vicieux de manque de confiance mutuelle qui semble régner actuellement au sein des institutions bancaires. Peu importe si l'origine des changements se situe au niveau de la clientèle, des employés, du modèle de direction ou de la communication au sein de l'équipe.

petence, or something else again? Discovering the real reason for an employee's failure to meet targets requires trust and mutual openness, individualized ways of overcoming obstacles and guidance in helping employees perform their duties diligently (the need for competence), rather than ruthless exploitation of employees simply to meet sales targets at any cost. Employees who are convinced that their institution seriously cares about realizing their personal potential will not feel they are simply a means to an end. On the contrary, this makes it easier for them to develop a joint sense of personal satisfaction and accomplishment as their competence increases.

4. Adjustment of management profiles to comply with the bank's ethical policies. What matters here is to choose people oriented towards positive, long-term relationships with both customers and employees, rather than short-term sales targets and managerial objectives. This will help ensure that the new banking ethos is not distorted on subsequent steps of the management ladder.

5. Changing the staff motivation system, above all by creating a work model that makes employees feel they are important, structural parts of a team rather than anonymous, dispensable cogs in a machine. It turns out that motivation based on a sense of meaning and agency is equal to – and sometimes greater than – purely pecuniary motivation.

These are just a few examples of how the general 'I'm OK, you're OK' idea can be turned into specific action, and some potential benefits of such a strategy. They do not rely on financial knowledge, but on familiarity with universal principles of human functioning and deliberations based on analysis of my patients' professional situation. As a trainer who coordinates creative sessions I am well aware that my position is that of an amateur whose thoughts and proposals are still rather rough-and-ready, like those of a think tank that require subsequent analysis by experts. My purpose is not to propose a full set of solutions, but to launch the process and trigger the necessary changes. The main thing is to focus on something we have tended to forget in these turbulent times – the idea that people matter more than numbers.

The vicious circle versus the wheel of fortune

The original question was this: what mechanisms lie behind the erosion of ethical attitudes in financial institutions, and what can we do to stop it and restore consumer confidence?

I believe we are now confronted with a vicious circle of growing distrust, whose increasing costs are borne by financial institutions, their employees and their clients. This paper has adopted the viewpoint of bank staff to present some of the more pernicious phenomena in financial institutions. However, I do not believe it matters where we start out from, for the conclusions would be no different: the need for a radical change in the meta-principles of the 'financial game'. The same applies to the proposed remedies: it does not matter where we start to make changes, whether it be with clients, employees, managerial models or inter-team communication, as long as the basic premise is altered, for the result will be the same: the vicious circle of mutual distrust will be broken.

To repeat the key message of this paper, the solution does not depend on specific actions, but on attitudes at both the starting point (the 'I'm OK, you're OK' principle) and the end point (an ethos of mutual trust created by changing the underlying assumptions). Another self-fulfilling prophecy – or, if you prefer, another vicious circle, only this time in a very different direction… •

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Appendices

The Global Prize Jury
4^{th}, 5^{th} and 6^{th} edition

Stéphane Bernard, Managing Director, has been recently appointed CEO of the Euroclear Bank Poland Branch. He is also a member of the Board of Directors of the ESES (Euroclear Settlement of Euronext-zone Securities) central securities depositories (Euroclear Belgium, Euroclear France and Euroclear Nederland) and a member of the ESES Audit Committee. Prior to taking his current position, Mr Bernard was COO for the ESES CSDs as well as being part of its management committee. Mr Bernard was General Manager of Belgian central securities depository, from 2001 until 2006, when CIK joined the Euroclear group. Mr Bernard started his carreer as a broker dealer in 1989. He holds degrees in Commercial and Consular Sciences from the Saint Louis Institute of Commerce in Belgium, a degree in Marketing from Institut Supérieur Economique Ixelles and a Master in Treasury Management from the University Antwerp Management School.

Jury member: 6th to 7th edition of the global Prize

Mrs **Marie Casimiro-Crepin** is Compliance Officer Professional Ethics and Privacy BGL BNP Paribas (Luxembourg). She is a former winner of the Robin Cosgrove Prize, 2008-2009 edition. Lawyer by training (Master II at the Assas-Paris II University), Marie Casimiro-Crepin focused her final thesis on history of law, particularly of the budgetary law at the time of the “Ancien Régime”. 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.

Jury member: 4th to 6th edition of the global Prize

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 quantitative finance and on financial crime mechanisms. In particular, he is interested in 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 journal. Marc Chesney holds a Ph.D. in Finance from the University of Geneva and obtained his Habilitation from the Sorbonne University.

Jury member: 1st to 7th edition of the global Prize
3rd edition of the Ibero-American Prize

Dr **Carol Cosgrove-Sacks,** Robin's mother, lives and works in Geneva. She is co-founder of the "Ethics in Finance, Robin Cosgrove Prize" which she co-chaired from 2005 to 2015. Dr Carol Cosgrove-Sacks 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.

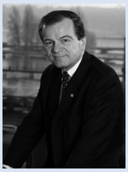
Co-Chair: 1st to 5th edition of the global Prize

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.

Jury member: 5th edition of the global Prize

Prof. **Henri-Claude de Bettignies,** the Aviva Chair Emeritus Professor of Leadership and Responsibility and Emeritus Professor of Asian Business and Comparative Management at INSEAD is also the Distinguished Emeritus Professor of Globally Responsible Leadership at the China Europe International Business School (CEIBS) and former Director of the Euro-China Centre for Leadership and Responsibility (ECCLAR) that he created in Shanghai, at CEIBS, in 2006. Between 1988 and 2005, with a joint appointment at Stanford University (Graduate School of Business), he shared his time equally between Europe, California and the Asia Pacific region (particularly with the INSEAD campus in Asia). He was educated at the Sorbonne (Licence ès Lettres), at the Catholic University of Paris (EPP), then at the Harvard Business School (ITP). He worked in Africa (MIFERMA, Mauritania), at the University of California (IIR, Berkeley), in New York (for IBM), and then in Tokyo for 5 years.

Jury member: 1st to 4th and 7th edition of the global Prize



After graduating from the HEC, Mr **François Debiesse** joined the Bank of Paris and the Netherlands in 1971, holding succesively various management positions. In 1999 he became Director of the Private Bank BNP Paribas, and in 2008 he was appointed Director of BNP Paribas Wealth Management. From 1995 to 2008 he also serves as Chairman of BNP Paribas. François Debiesse is now President of the Fondation de l'Orangerie for individual philanthropy since 2009 and Advisor for Philanthropy and Microfinance for BNP Paribas Wealth Management since 2011.

Jury member: 3rd to 4th edition of the global Prize

Mr **Christopher de Mattos** is a director of London-based investment manager RAB Capital Ltd. 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. He is an INSEAD Certified Director and chairs the INSEAD Directors' Network.

Jury member: 3rd to 7th edition of the global Prize

Prof. **Paul H. Dembinski** 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 bilingual journal 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". His latest published book is Ethics and Responsibility in Finance, Routledge, 2017.

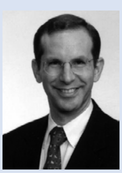
Co-chair: 1st to 7th edition of the global Prize
Co-chair: 1st to 3rd edition of the Ibero-American Prize
Vice Chairman: 1st to 7th edition of the Polish Prize

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); and was a member of the Scientific Committee of the Swiss Network of International Studies (www.snis.ch). He is a founding member of "Actares, Shareholders for a sustainable economy" (www.actares.ch). He was also a founder 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 has written and edited several books on economic ethics.

Jury member: 4th and 7th edition of the global Prize
1st to 3rd edition of the Ibero-American Prize

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.

Jury member: 5th edition of the global Prize



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.

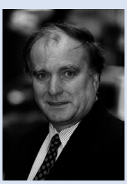
Jury member: 1st to 5th edition of the global Prize

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.

Jury member: 1st to 7th edition of the global Prize

Mr **Peter Gakunu** was Executive Director at the International Monetary Fund in charge of Africa Group One Constituency. Before joining the Fund, he served as Permanent Secretary and Senior Advisor to the Kenya Government from 2003 to 2004. In 2000 he joined the "Dream Team", a team of high level personalities put together by the World Bank and the UNDP to advise the Kenya Government on economic reforms, including the development of an economic growth and poverty reduction strategy. Prior to that, he worked with the African Caribbean and Pacific Group in Brussels, first as the Trade Expert (1977 to 1986) and later as the Director Trade and Customs Division (1986 to 2000) at the ACP Secretariat.

Jury member: 1st to 6th edition of the global Prize



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, he 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 has a PhD from the University of Pennsylvania, an MBA from Wharton and MBA from New College, Oxford.

Jury member: 1st to 7th edition of the global Prize

Mrs. **Jo Iwasaki** is Head of Corporate Governance within Professional Insights, ACCA. Jo writes regularly on a wide range of corporate governance topics, including governance principles, board responsibilities, and corporate culture. She gives lectures to various audiences, including directors, professional accountants, academics, and students. A qualified accountant, she is trained in tax and audit. In addition to corporate governance, she also has extensive experience in business assurance.

Jury member: 6th edition of the global Prize

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.

Jury member: 3rd to 7th edition of the global Prize

Prof. **Robin Jarvis** is Special Adviser to the European Federation of Accountants and Auditors (EFAA) 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).

Jury member: 4th to 7th edition of the global Prize

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 in a variety of functions and locations, most notably as a senior banker in the global clients division of 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.

Jury member: 5th edition of the global Prize
Co-chair: 6th to 7th edition of the global Prize

Dr **Hakan Lucius** is Head of Stakeholder Engagement, Transparency and Civil Society at the European Investment Bank, the European Union's bank and largest supranational lender, where he covers the transparency and stakeholder engagement of the institution. Prior to that he was responsible for the financing of operations, ranging from large-scale infrastructure projects, structured operations, environmental investments to SME finance, both through loans and equity. Dr Lucius also serves as the President of the European Investment Bank's Pension Board. He is a member of the European Investment Bank Institute's Social Committee and of the Royal Institute of International Affairs, Chatham House. Dr Lucius received a Ph.D with distinctions in industrial economics, a MBA from INSEAD, France, and an MSc in Engineering from Vienna Technical University. He is also a Professor lecturing on Sustainability issues in Finance and on Cross-Cultural Management.

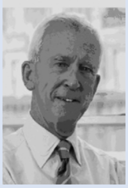
Jury member: 6th to 7th edition of the global Prize

Dr hab. **Róża Milic-Czerniak** is vice President of the Banking Ethics Commission at the Polish Banking Association and is an associate professor at the private economic university in Warsaw. Previously, she has held a number of managing positions in one of the largest banks in Poland, where she was responsible for developing capital management, product management and client profitability. Prior to joining the bank, she worked at the Institute of Philosophy and Sociology of the Polish Academy of Science in Warsaw, where she researched economic behavior of households, including in periods of transition. She is the author of several books and research papers and spent one and a half year in Germany at the Hohenheim University in Stuttgart and University of Kiel.

Jury member: 4th to 7th edition of the global Prize
1st to 7th edition of the Polish Prize

Mr **Ross Murdoch** is a lawyer at the Financial Conduct Authority (FCA) in London, within its Enforcement and Market Oversight Division. Ross specialises in regulatory enforcement proceedings, particularly within wholesale financial markets, including market abuse, benchmark manipulation (e.g. LIBOR), and other market misconduct. Prior to working at the FCA, he worked as a lawyer at a commercial law firm within its Commercial Dispute Resolution & Regulatory practice in London. He is dual qualified as a solicitor in England & Wales (2011) and Scotland (2010). In September 2015, Ross was awarded first prize in the Global Edition of the Ethics in Finance Prize (2014/2015).

Jury member: 5th to 7th edition of the global Prize



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.

Jury member: 1st to 5th edition of the global Prize

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.

Jury member: 4th to 6th edition of the global Prize

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 recognised 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.

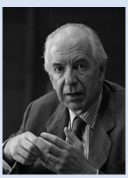
Jury member: 1st to 6th edition of the global Prize

Mr **Charles Pictet** 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 economiesuisse. 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.

Jury member: 4th to 7th edition of the global Prize

After taking his degree at Oxford University, Mr **John Plender** joined Deloitte, Plender, Griffiths & Co in the City of London in 1967, qualifying as a chartered accountant in 1970. He then moved into journalism and became financial editor of *The Economist* in 1974, where he remained until joining the UK Foreign Office policy planning staff in 1980. On leaving the Foreign Office, he became a senior editorial writer and columnist at the *Financial Times*, an assignment he combined until recently with current affairs broadcasting for the BBC and Channel 4. A past chairman of Pensions and Investment Research Consultants (PIRC), John Plender has served on the London Stock Exchange's quality of markets advisory committee and the UK government's Company Law Review steering group. He is a non-executive director of Quintain PLC, a FTSE 250 company. His book, *All You Need To Know About Ethics And Finance*, is published by Longtail Publishing.

Jury member: 1st to 4th edition of the global Prize



Mr **Domingo Sugranyes** graduated from the University of Fribourg (Switzerland) in 1969. He was Secretary General of the International Christian Union of Business Executives (UNIAPAC) based in Brussels from 1973 to 1981. He moved to Madrid in 1981 and joined the MAPFRE insurance group, a Spanish agricultural mutual which was at the time starting to grow internationally and has developed into a multinational insurance and reinsurance group now present in 44 countries. As one of the vice-chairmen of the group and Executive Committee member, he participated in the internationalisation and the demutualisation process and was in charge of Finance and Economic affairs. After retiring from executive office in 2008, he remained on the Board of the MAPFRE Foundation until reaching the statutory age limit of 70 in 2015. Since 2009 he is Chairman of the Centesimus Annus pro Pontifice Foundation, a Vatican body dedicated to spreading and debating Catholic social teachings in economic and business circles.

Co-chair: 1st to 3rd edition of the Ibero-American Prize
Jury member: 1st to 7th edition of the global Prize

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 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.

Jury member: 1st to 5th edition of the global Prize

The Ibero-American Prize Jury 3rd edition

Clara Bazán es abogada, licenciada en derecho por la Universidad Complutense de Madrid, con un master en Dirección estrategíca de RR.HH por la Universidad Carlos III, y un Master en Responsabilidad Social por la Universidad de Alcalá. Experta en Responsabilidad Social Corporativa y con conocimientos en gestión de asuntos públicos, trabaja en MAPFRE desde el año 2000 y desde 2005 desempeña el cargo de Directora de Responsabilidad Social del Grupol.

Jury member: 3rd edition of the Ibero-American Prize

Marc Chesney

See appendix 1, The Global Prize Jury.

Jury member: 3rd edition of the Ibero-American Prize
1st to 7th edition of the global Prize

For the last 26 years **Roberto Delgado Gallart** has carried out dedicated social work with some of the most vulnerable social groups in Mexico and has trained many generations of new social workers on Mexico. This work won him the National Altruism Prize in 2004, bestowed by the Mexican Association of Private Welfare Institutions (l'Asociación Mexicana de Instituciones de Asistencia Privada). He also developed the first postgraduate programme in Social Responsibility in Latin America. He is the founder of Latin American Centre for Social Responsibility of the University of Anáhuac where he created the Diploma in Administration of Institutions and Social Welfare (Diplomado de Administración de Instituciones de Asistencia Social). This diploma course is also available in the groups in Cancún, Cozumel, León, Oaxaca, Puebla, Xalapa, Quintana Roo, and Torreón. This course has now been run for Twenty-three successive years. Roberto Delgado Gallart has also received recognition such as the Latin American Prize for Educational Excellence (Premio Iberoamericano a la Excelencia Educativa) in Peru in 2004 as well as many other awards and over 200 different diplomas and degrees.

Jury member: 1st to 3rd edition of the Ibero-American Prize

Paul H. Dembinski

See appendix 1, The Global Prize Jury.

Co-chair: 1st to 3rd edition of the Ibero-American Prize
Co-chair: 1st to 7th edition of the global Prize
Vice Chairman: 1st to 7th edition of the Polish Prize

Eduard Dommen

See appendix 1, The Global Prize Jury.

Jury member: 1st to 3rd edition of the Ibero-American Prize
4th to 7th edition of the global Prize

Fernando Flores Maio, sociologist and journalist, contributor and columnist for several Argentine newspapers, was since 1990 director of the "Business Challenge" symposia, in Argentina, in France at the Institut des Hautes Etudes de l'Amérique latine and in Coface. Since 2001, he is the founder and director of the Ecumenical Social Forum, which disseminates the concept of social responsibility, relizes ethical campaigns, and rescues core values with symposia in Latin America. Fernando Flores Maio is the director of the Open Chair of Social Responsibility and Citizenship, which began in 2002 in Argentina with the help of Georgetown University, and later from other universities including the University of Salamanca and the Rey Juan Carlos de Madrid. He organized presentations at the Instituto Italo Latinoamericano in Rome and at the Gregorian University and he is the author of several essays, including "Los hippies-Introducción", "Rebelión Juvenil y Cambio Social" y "Comunismo o Reino de Dios".

Jury member: 2nd and 3rd edition of the Ibero-American Prize

After a brief career in Civil Engineering, **Filomeno Mira Candel** joined MAPFRE Insurance Group in late 1970 as risk prevention engineer and has since held various senior positions in the Group. He is currently Vice President of the Board of the Fundación MAPFRE, the main shareholder in the new MAPFRE, SA. After retiring from management positions, he remains a member of the Board of Directors of MAPFRE SA and other Group companies of MAPFRE. Until May 2009, he was a member of the Board of the Geneva Association and he is currently a Member of Honor of the same. He serves on the Board of the Universidad Pontificia de Salamanca. He was President of the Insurance Commission of the Chamber of Commerce of Paris from 1994 to 1997, and Chairman of the AISAM (International Association of Mutual Insurance Companies) for the period 2002-2004.

Jury member: 1st to 3rd edition of the Ibero-American Prize

Paul-André Sanglard, after working as Assistant in the Department of political economy of the University of Geneva, was an economist in the Federal Department of foreign economic affairs. From 1978-1979 he was a research fellow at Stanford University and MIT. In 1979 he was nominated as head of Public Finance of the Canton of Jura, and since 1982 he has been a lecturer in public finance in Geneva University. From 1984-1989 he was a member of the executive committee of the World Economic Forum. Since 1989, Paul-André Sanglard has been an independent economist. He is currently President of the Board of the Banque Cantonale du Jura in Porrentruy as well as member of several other Boards. Paul-André Sanglard is also a member of the Board of the Foundation of the Observatoire de la Finance.

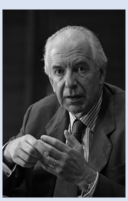
Jury member: 1st to 3rd edition of the Ibero-American Prize

Leire San Jose is a professor of finance at the University of the Basque Country [UPV / EHU] Bilbao (www.ehu.es) and visiting scholar at the University of Huddersfield (UK) (www.hud.ac.uk) where she is a member of the Financial Ethics and Governance Research Group (FEGReG). His doctoral thesis which examines the development of new technologies in the cash management has gained the distinction of Summa Cum Laude unanimously and received a special prize. Leire San Jose is also specialized in social economy. She was president of the Scientific Committee of the XVII Congress of the European Business Ethics Network Spain in 2010. Currently, she combines her academic interests and research in the field of corporate finance, cash flow management in the short term, with themes of ethics and corporate social responsibility. Leire San Jose has also received the first Robin Cosgrove Prize for Ethics in Finance at the first ibero-american edition sponsored by MAPFRE.

Jury member: 2nd and 3rd edition of the Ibero-American Prize

Simão Davi Silber has a doctorate in Economy and is professor at the Faculty of Economy, Business and Accounting of the University of Sao Paulo. For the last 18 years Simão Davi Silber has successively held the post of Research Coordinator (1991-1994), then Head of Research (1995-1999), followed by that of President Director of FIPE, the Foundation for Economic Research (Fundação Instituto de Pesquisas Econômicas) from1999-2003. He is currently member of the Board of FIPE. Since 2007 he has also been a member of the Conseil Supérieur d'Etudes Avancées – FIESP. He most recent publication (together with Marcos S. Jank) is on the subject of Comparative Trade Practice: Performance and Organisational Models (Políticas Comerciais Comparadas: Desempenho e Modelos Organizacionais, Editora Saraiva, 2007).

Jury member: 1st to 3rd edition of the Ibero-American Prize



Domingo Sugranyes

See appendix 1, The Global Prize Jury.

Co-chair: 1st to 3rd edition of the Ibero-American Prize
Jury member: 1st to 7th edition of the global Prize

The Polish Prize Jury
1st, 2nd, 3rd, 4th and 5th edition

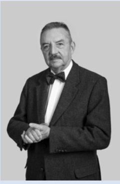
Dr **Jacek Bartkiewicz** – the member of the management board of the National Bank of Poland. From 2002 to March 2013 he was he president of the management board of BGZ Bank. From 2001 to 2002 he was the deputy of the Minister of Finance. Up till 1990 he was professionally related to Bank Slaski (Bank of Silesia). From 2004 to 2006 Jacek Bartkiewicz was the president of the Council of Warsaw Stock Exchange, from 2001 to 2002 the vice president of Financial Services Authority and the president of the Committee KUKE. Since 2004 he has been the member of the council of Good Practice of PTE.

Jury member: 2nd edition of the Polish Prize

Paul H. Dembinski

See appendix 1, The Global Prize Jury.

Vice Chairman: 1st to 5th edition of the Polish Prize
Co-chair: 1st to 7th edition of the global Prize
Co-chair: 1st to 3rd edition of the Ibero-American Prize



Prof. dr hab. **Wojciech Władysław Gasparski**– the head of the Institution of Ethics of Business and the founder of the Centre of Ethics in Business and Social Innovations at Kozminski University where he worked as vice rector for scientific research. The Congress of Ethics in Business of International Society of Business was his initiative in 2005. The author and co-author of the numerous works and articles on praxeology, ethics in business, methodology of practical disciplines, among them the manual for students "Business, ethics, responsibility" (PWN 2012) and the series "Praxiology: The International Annual of Practical Philosophy and Methodology" (Transaction Publishers). Prof. Gasparski was awarded the Order of Polonia Restituta.

Jury member: 1st to 5th edition of the Polish Prize

Maciej Głogowski – the journalist (the scope of work- economics), Has been working for TOK FM since 2004, since 2007- economy editor. Maciej Głogowski conducts the auditions about the most important events from the finance, economy and business. Maciej Głogowski is the host of the everyday audition "EKG - ekonomia kapitał gospodarka" (on economy and capital). The laureate of some awards, among others the Journalist on Economy in 2014- the title awarded in competition of Władysław Grabski of the National Bank of Poland.

Jury member: 3rd to 4th edition of the Polish Prize

Władysław Gołębiewski, vice president of the National Bank of Poland, the Polish vice governor of the World Bank in Washington, vice president of the group negotiating the restructurising of the Polish debt in the Paris Club and the commercial banks. The president of the management board of Raiffeisen-Leasing Inc. The president of the Commission of Ethics in Banking. The member of the management board of Raiffeisen Bank Poland Inc.

Chairman: 1st to 5th edition of the Polish Prize

Włodzimierz Grudziński – the Polish matemathician and the computer scientist. Włodzimierz Grudzinski participated in actions of the democratic opposition during the times of PRL (The Polish People's Republic), for many years (1990-2007) the president of the management board of BISE Inc. From 1997 to 2009 Włodzimierz Grudzinski was the vice president of the Polish Bank Association. Currently he is the advisor of the president of the Polish Bank Association. The member of three management boards: TISE SA, Blikle Inc. and Rada Fundacji Zdrowie (The Council of the Foundation Health), Vice president of the European Federation of Ethical and Alternative Banks. Włodzimierz Grudzinski is the member of the jury of the prize of Irena Sendlerowa „For making the world better".

Jury member: 1st to 5th edition of the Polish Prize

Prof. **Krzysztof Jasiecki** - a political scientist and a sociologist of economy, a long-standing researcher of the Institute of Philosophy and Sociology of the Polish Academy of Sciences (1987-2017), a lecturer, among others, at the University of Warsaw, Warsaw School of Economics, the Academy of Leon Koźmiński, the National School of Public Administration, Collegium Civitas and the Post-graduate Studies of Public Relations in the Institute of Philosophy and Sociology of the Polish Academy of Sciences. Prof. K. Jasiecki does the research concerning the formation, the role and the activity of the elite of economy and politics, the activity of the pressure groups and economy lobbing (in particular - the associations of employers), material and social aspects of wealth, a social and civic dialogue, the membership of Poland in the EU and globalisation.

Jury member: 5th edition of the Polish Prize

Dobrochna Kędzierska-Truszczyńska– the Polish journalist, the independent publicist, the member of the Polish Parliament- Sejm- of the 10th tenure (X kadencja). She participated in the Committee on Culture and Media and the Committee on Administration and Internal Affairs. In the 90s she worked as the chief in the newspaper "Wprost" in Warsaw. Later, she started to be the editor-in-chief of the portal Wirtalna Polska. The advisor of the media affairs in the tenure of Marek Pol as the Ministry of Infrastructure. The vice president of the management board of the Association of Art and Fashion "Artmode" that dealt with the promoting of the Polish goods of culture and the care of the artists.

Jury member: 2nd to 5th edition of the Polish Prize

Aleksander Kompf - all his life professionally connected with the banking sector; the career launched in 1976 (National Bank of Poland). Since 1989 connected with Wielkopolski Bank Kredytowy Inc. and later with Bank Zachodni WBK Inc. - in both banks - a member of the management board; from 2004 to 2015 - the head of the Department of Compliance. In the scope of his activities was the work-out and implementation of ethical standards in banks. A long-standing member of the Commission of Ethics in Banking by the Polish Bank Association. The head of the group which worked out "Recommendations of the Commission of Ethics in Banking by the Polish Bank Association for the banking sector in the scope of senior customers" ain 2015 and "Recommendation of the Commission of Ethics in Banking concerning the formation of the ethical culture in banks" in 2019.

Jury member: 4th to 5th edition of the Polish Prize

Teresa Grażyna Kudlicka – the president of the Board of the Cooperative Bank in Płonsk (Bank Spółdzielczy w Płonsku). The economist, working in the banking area since 1991 when she started to work for the Cooperative Bank in Płonsk. She participates in the work of the Polish Bank Association. From 2009 to 2010 she was he member of the Revisory Commission of the Polish Bank Association. Since 25th January, 2011 she is the chair of the Section of the cooperative banks in the Polish Bank Association and the member of the Council of the Polish Bank Association.

Jury member:1st to 3rd edition of the Polish Prize

Jakub Kuriata – the laureate of the 1st prize in the global edition of the competition Ethics in finance – Robin Cosgrove Prize (2011). Jakub Kuriata graduated from Sciences Po Paris (Finance) and Warsaw School of Economics (Finance and Banking). The PhD applicant in economics. Jakub Kuriata works in the department of risk management in the group of BNP Paribas in London and is the specialist on credit risk in financial transactions.

Jury member: 1st to 5th edition of the Polish Prize

Anna Lewicka - Strzałecka - a philosopher, a professor in the Institute of Philosophy and Sociology of the Polish Academy of Sciences. The author of many scientific works in the scope of praxeology, methodology of political science, ethics in business. The head of many scientific international and domestic projects, among others: "Understanding and Responding to Societal Demands on Corporate Responsibilty", "Citizens and Governance in a Knowledge Based Society", "Ethics in Human Resource Management", "Praxeology and Practical Philosophy, "Ethics in the Polish Economy: perception, preferences and norms". The editor-in-chief of the journal "Praxeology" who co-organises and hosts the all-Poland seminar of Ethics in Business, Organisation and Management.

Jury member: 5th edition of the Polish Prize

Dr hab. **Róża Milic-Czerniak**

See appendix 1, The Global Prize Jury.

Jury member: 1st to 5th edition of the Polish Prize
4th to 7th edition of the global Prize

Andrzej S. Nartowski – the lawyer, the publicist, the editor, the specialist in corporate governance. From 2003 to 2005 the editor-in-chief and the publisher of "Gazeta Bankowa". The editor-in-chief of "Przeglad Corporate Governance". Andrzej S. Nartowski is experienced in the management of limited companies and popularisation of the knowledge on services of financial institutions. The author of the blog on corporate governance.

Jury member: 1st edition of the Polish Prize

Marcin Prell – the member of the management board of Bank Zachodni WBK Inc. He has been connected with the Group of Bank Zachodni WBK Inc. since 1993. From 2001 to 2006 he was the chief of the legal area of Bank Zachodni WBK Inc. In 2001 he was the member of the management board of Wielkopolska Credit Bank and the member of the Committee Controlling the fusion of Bank Zachodni and Wielkopolska Credit Bank (Wielkopolski Bank Kredytowy). Marcin Prell is the member of the Council of the Banking Law of the Polish Bank Association.

Jury member: 2nd edition of the Polish Prize

Jerzy Pruski – the president od the Bank Guarantee Fund, PhD in economics. From 1983 to 2009 he worked in the Institution of Economy of the University in Łódz. Jerzy Pruski participated in many Polish and foreign scientific programmes in the scope of monetary fund and the banking system. From 1991 to 1997 he worked for LG Perto Bank Inc., from 1998 to 2004 he was a member of Monetary Policy Council in the Republic of Poland, from March 2004 to February 2008 he was the first deputy of the president of the National Bank of Poland. On 28th of October he was elected the member of the Executive Board of IADI.

Jury member: 1st edition of the Polish Prize

Grażyna Rokicka - President of the Association of Polish Consumers, the expert group set up in 1995 aiming to develop consumers' awareness of their rights to safety and health, information, education and representation, as well as the protection of their economic and legal interests. Education and professional profile: economics, management sciences, qualitative market research. Expert in consumer policy with 28 years experience in Poland and at the international level.

Jury member: 3rd to 5th edition of the Polish Prize

Prof. dr hab. **Michał Romanowski** – the solicitor, the equity partner in the lawyer's Office Romanowski i wspólnicy, sp. k. (Romanowski and equity partners, shareholding company) in Warsaw. From 1996 to 1998- the equity partner and the co-founder of MC Concordia and from 1998 to 2000- the equity partner and the co-founder of BNP Paribas Corporate Finance Poland. The member of the Commission of Codification of civil law and commercial law. Prof. Michał Romanowski was the member of the group that recommended the changes for the Code of Good Practices of the public companies quoted on Warsaw Stock Exchange.

Jury member: 1st edition of the Polish Prize

Małgorzata Rothert – City Spokesman of Customers in Warsaw; the function of the spokesperson of Customers was established in 1999, after the initiation of the institution after the creation of such the institution after the municipality reform. The spokesperson in Warsaw recognises as many as 40 thousand of customer matters each year. She gives pieces of advice for customers in their arguments with entrepreneurs and in legal actions, too. The vice president of the Council of the Spokespeople of Customers. She was the first spokesperson who represented a group in the group legal action.

Jury member: 2nd and 5th edition of the Polish Prize

Konrad Sadurski – since 2014 the secretary of the editorial board of „Gazeta Wyborcza". Konrad Sadurski was awarded in the 1st edition of the competition of Citibank Excellence of Journalism Award in 1996. Since 2005 the editior-in-chief of economy in "Gazeta Wyborcza". The subordinates of Konrad Sadurski were awarded many prizes in the competitions of Grand Press for professionalism. Some of the subordinates of Konrad Sadurski continue their careers in domestic public administration and the administration of European Union. Konrad Sadurski was awarded the scholarship of German Marshal Fund for USA.

Jury member: 3rd to 5th edition of the Polish Prize

Małgorzata Terpiłowska - connected with the banking sector since 1992; professional experience in the department of the first commercial bank as a specialist for customer service, next: an internal inspector in the Department of Internal Control in Powszechny Bank Kredytowy Inc. in Warsaw. M. Terpiłowska dealt with the formulation of the internal regulations in the scope of deposits, later: with the process of intenral legislation in the Legal Department. M. Terpiłowska has been responsible for the process of compliance and risk management of lack of compliance since 2014. A professional aconomist. A graduate from the Academy of Finance in Warsaw and a graduate from a post-graduate studies at the University of Warsaw (banking) and the Academy of Leon Koźmiński (compliance in an organisation)

Jury member: 5th edition of the Polish Prize

Katarzyna Zajdel-Kurowska – the member of the management board of the National Bank of Poland. In 2005 she started to work as the key economist and the chief of the board for analyses for Central and Eastern Europe in Citibank Handlowy. In 2007-2009 the deputy Minister of Finance responsible for the management of the national debt, warranties and guarantees, the politics for finance and the analyses and the development of the financial markets and cooperation with the foreign states. Simultaneously, she worked as the vice president of the Financial Services Authority. Katarzyna Zajdel-Kurowska represented the Republic of Poland in the Economic and Financial Committee in Brussels. From 2009 to 2012 she worked as the deputy of the executive chief and represented the Republic of Poland in the International Monetary Fund.

Jury member: 3rd to 5th edition of the Polish Prize

Małgorzata Zdzienicka-Grabarz – works in BGZ BNP Paribas Bank (earlier: Bank BGZ). Since 2006 Małgorzata Zdzienicka-Grabarz was the chief of the Social Responsibility of Business and since 2008- the president of the Foundation of BGZ BNP Paribas. In the bank she created and implemented the strategies: of internal communication, sponsorship, Foundation of BGZ and CSR. In these institutions the Forum of the Responsible Business and the Forum of Donators. She is the member of the Commission of Ethics in Banking and one of the initiators of the Coalition of the Spokespeople of Ethics in Poland while cooperating with Global Compact Polska. She used to work as a diplomat.

Jury member: 3rd to 5th edition of the Polish Prize

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 social and economic "licence to operate" of financial markets? The corresponding report entitled *Financial markets: mission impossible?* was published in 1993 (http://www.obsfin.ch/founding-texts/financial-markets-mission-impossible/).

On this basis, three years later the Foundation "Observatoire de la Finance" was established in Switzerland as an independent, apolitical and non-confessional body.

Today, the Observatoire de la Finance is a *think tank* which work focuses on the complex interplay between financial techniques and practices on one side, and the requirements of the common good on the other. In doing so, it endeavours to clarify what is happening, and then investigates why..

The Observatoire's activities are aimed at:

• *Developing and formulating ideas.* The Observatoire engages in inquiry and multi-disciplinary 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
- Jean-Michel Bonvin - Geneva
- Andrew Hilton - London
- Josina Kamerling - Brussels
- Anthony Travis - Geneva

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 plans to develop further its activities and make them available to its academic and private partners as well as to the general public.

www.obsfin.ch

Observatoire de la Finance
Observatoire de la Finance

Staff Team

Mr **Chris Cosgrove** is now working on intergovernmental conference management at the United Nations Conference on Trade and Development (UNCTAD) in Geneva and following more than 25 years international business consulting, Chris has an extensive network of high-level contacts within governments, the private banking, wealth management and financial services industry worldwide. He previously managed the Ethics in Finance Robin Cosgrove Prize at the Observatoire de la Finance, during which time the global competition was supported by ACCA Global, Accenture, the CFA Institute and the IMF promoting awareness of ethics in finance among young people worldwide.

Project Manager: 4th edition of the Global Prize

Mrs **Nati Garcia** studied in Geneva where she graduated in History and European Studies. Her professional career has centred around communications and event management for both public sector organisations and private sector firms. These have included the Observatoire de la Finance, Logistica de Actos SL and the School for Arabic Studies. She currently works in Accenture. She has coordinated the administration of the Prize since 2012.

Administrator of the Prize: 3rd edition of the Ibero-American Prize
4th - 6th edition of the Global Prize

Dr **Virgile Perret** holds a Ph.D in Political Science from the University of Lausanne, for which he was awarded the Prize of the Faculty in 2013. He's specialized in the study of digital currencies and technological innovation from an interdisciplinary perspective. He collaborated with the European Commission, the International Labour Organization (ILO) and the State of Vaud. He contributes to the organization of the Prize since 2018.

Project Manager: 6th edition of the Global Prize

Mrs **Hannah Soissons** studied in France for a Master's degree in Economics and Finance, specializing Statistical and Economics Studies. She works at the Observatoire de la Finance on diffents projects, including managing the administration of the Prize since 2011.

Administrator of the Prize: 4th - 6th edition of the Global Prize

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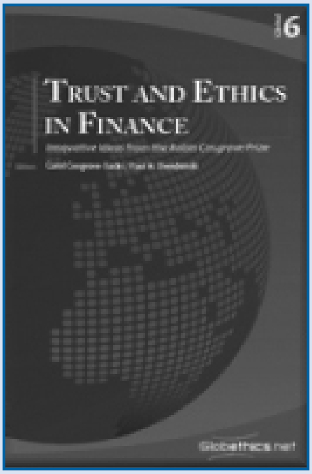

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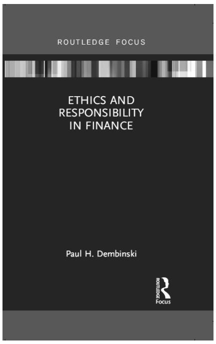

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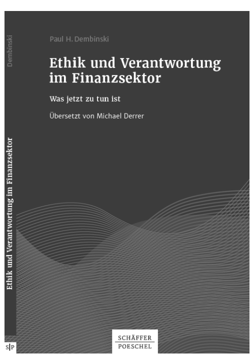

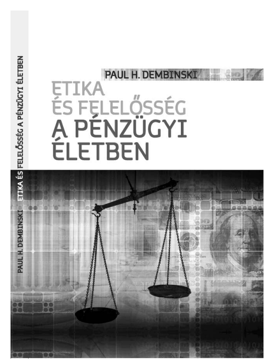

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