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A Critical View of the Financial Sector and the Behaviour of People. What to Do?

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EN In recent years the behavior of individuals in the financial sector has been very questioned. In particular, it has questioned the behavior of the people from this sector that have acted improperly from an ethical point of view and motivated by personal interest against the institutions for which they work for and the common good. The author addresses some issues related to the dynamics of the financial sector and discusses how some behaviors of institutions and the financial sector itself, may affect behavior and lead to the occurrence of unethical behavior of people. At the end, when the findings and what to do, once again highlights the importance of the person and his values as an essential element to deal with temptations and unethical attitudes that the financial sector allows and even sometimes seems to encourage and invites the institutions to take care the problem.

FR Ces dernières années, beaucoup d'observateurs ont remis en question le comportement des acteurs individuels dans le secteur financier. En particulier, le comportement de certains de ses membres ayant agi de manière inappropriée a été critiqué. Ils auraient été motivés par le seul intérêt personnel au détriment des institutions pour lesquelles ils ont travaillé et au détriment du bien commun.
L'auteur aborde certaines questions liées à la dynamique du secteur financier et analyse comment certains comportements des institutions et du secteur financier lui-même peuvent affecter le comportement personnel et entraîner l'émergence d'une conduite contraire à l'éthique des personnes.
Au moment de conclure et de faire des propositions d'actions, l'auteur souligne une nouvelle fois l'importance de l'individu et de ses valeurs comme un élément essentiel pour faire face aux tentations et aux comportements contraires à l'éthique que le secteur financier permet et même semble parfois encourager. Enfin, l'auteur invite les institutions à s'attaquer au problème.

In recent years there has been much questioning of the conduct of individual actors from the financial sector. In particular, the question has arisen of the behaviour of people who are part of this sector and who have acted wrongly from an ethical point of view, motivated by personal interest detrimental to the institutions for which they worked and to the common good.

Cette réflexion essaie de répondre à quelques questions liées à la dynamique du secteur financier et analyse comment certains comportements des institutions et du secteur financier lui-même peuvent affecter le comportement et entraîner l'émergence d'une conduite contraire à l'éthique des personnes.

This reflection is intended to address some issues related to the financial sector dynamics and to analyze how some behaviour patterns of the institutions and the financial sector itself may affect people's own behaviour and lead to the occurrence of unethical behaviours of people.

Before starting the analysis of the issues mentioned in the previous paragraph and in order to contextualize this paper, I include a comment regarding the ethical behaviour in itself and what it can mean to people, concluding that there is no consensus and that what can be unethical behavior for a given person, can pass as ethical for another. That is the first problem we have to deal with.

In the end, when talking about findings and what to do I, once again stress the importance of people and their values as an essential element to deal with temptations and unethical attitudes that the financial sector tolerates and even seems sometimes to encourage, as well as I invite the institutions to face up to the problem.

It should be noted that throughout this paper, I will make reference to some aspects related to the financial sector in the Republic of Uruguay that provide a basis for reflection and can be extrapolated to the financial sector in general.

Do ethical principles depend on each individual?

Se comporter de manière éthique au travail signifie qu'une personne, en s'acquittant de ses responsabilités, est consciente qu'agir d'une certaine manière n'est pas correct même si elle y est officiellement autorisée. À ce moment-là, la personne se comporte dans un souci de bien commun.

Before taking on the financial sector and some of the issues concerning the behaviour of people who are associated with this sector, and since this paper focuses on ethical behaviour, I have to make an attempt to define what I mean by behaving ethically. Of course, there will be endless definitions of ethics (starting from the etymology of this word) that are irrelevant and are not intended to be included in this reflection. However, what is relevant is to try to understand what can be considered ethics in the financial sector, which won't be different for other activity sectors. In my opinion, to behave in an ethical manner in the workplace means that people in fulfilling their responsibilities will behave in a way that not only does not disobey any formal standard, but also in the absence of standards, but being aware that acting in a certain way is not correct even though it is formally allowed, the person may behave similarly in pursuit of the common good. Will it be considered that a person behaved unethically if she did not contravene any formal standard? In my opinion yes, because although nothing formally prohibits the person to behave that way, in fact, the rules should be reviewed for certain types of conduct that fall outside the rules themselves and such behaviour is not desired to happen again or if it happens, it must be penalized. In the same way, people should be also able to discern the consequences of their behaviour and if their behaviour harms the common good, refrain from it.

Toutefois, tant qu'il y aura place à l'interprétation personnelle, il y aura certaines nuances et une marge de manœuvre pour agir, étant donné que tout ne peut pas être réglementé. De là vient le problème de l'absence de consensus en ce qu'une personne peut considérer un comportement éthique et une autre non, ce qui ne fait par ailleurs que souligner la complexité de la question.

Without any doubt, the fact that ethical behavioujr is caused mainly by the inherent resources of each individual and his/her values rather than by formal rules, leaves space for different positions in terms of what can be regarded as ethical behaviour. This diversity of criteria allows for people to behave according to their own understanding of ethical behaviour based on their own values and hence there will be problems to reach consensus. As a result institutions will in the end dictate them on the basis of a value framework and specify the behaviour from an ethical and moral point of view that they expect from their employees. These messages may be deduced from the very mission of the institution and even translated into codes of ethics that seek to regulate the individual behaviour of people. However, whenever there is place for people's interpretation, as there will be a margin of interpretation to move within, because not everything can be regulated. Hence the lack of consensus on what a person can consider as ethical behavior, and showing the complexity of the matter.

The incentive system vs. Ethics in the financial sector

It is not surprising that the system of incentives for the people working in the financial sector (especially private banking functions, representations, and brokers) is a matter well studied and reviewed by the institutions with the desire of achieving the best results by encouraging people to pursue certain goals (it may be return on a portfolio for example) so as to pat the objectives of the individual in line with those of the institution.

I do not intend to analyze the incentive systems used by the institutions, or assess the suitability of one or another system. The approach that I will follow will be from the perspective of how the incentives systems can affect the ethical behaviour of people.

There is no doubt that the rewards in the financial sector in general are very important, either being monetary rewards, or promotion opportunities and careers.

These rewards guide the behaviour of certain people who move toward achieving their goals, often without any regard for their behaviour from the ethical point of view as long as they do not contravene any formal legal, regulatory or internal standard to the institution.

This search -sometimes desperate- to achieve some predetermined goals which are often set a priori very high, means that people - deliberately or not- behave in an unethical way. There is no doubt that depending on the person, she will be more or less willing to behave unethically, and it would seem very naïve to consider that there is not a single person who would also behave in an unethical way with incentives or without them. However, most of the people assume that everyone wishes to behave within an ethical framework.

Quoi qu'il en soit, les personnes peuvent être soumises à un système tellement exigeant qu'elles se comportent contrairement à l'éthique et sont uniquement motivées pour atteindre leurs objectifs, car si elles ne les atteignent pas, – ce qui est très grave – elles risquent même de perdre leur emploi. C'est la raison pour laquelle les valeurs des institutions et des gens revêtent une grande importance.

In any case, people can be subject to a system so demanding, that either being conscious or rationalizing their behaviour in the situation they are in, they behave in an unethical way motivated by the desire to reach a given goal, or in a way even more critical when in threatened with case of not achieving the goal, it can lead to loss of employment. At this point, the values of the institutions and people take precedence.

The values of the institutions matter, because there will be some people who from their HQ will promote unethical behavior, certainly not illegal or contrary to any formal rule, but clearly pointing to the expected behaviour by people within the institution. Such behaviour can be in competition with other companies from the sector, internal competition between employees or many other issues that are inherent to the institution and that the organizational culture has already determined as a behavior to

adopt in a certain way in order to be promoted or even to remain in the institution. It will reside in the values of the person to accept the rules of the game or not, and certainly in this case the option is to get out or not even enter.

Il n'est pas exclu que l'institution favorise un comportement éthique et que les valeurs soient réellement promues. Néanmoins, le système d'incitation, ou plutôt de récompense et de punition, détermine qu'une personne – en cherchant sa récompense ou voulant éviter une punition – se voit acculée et se comporte contrairement à l'éthique, non pas parce qu'elle pense que c'est correct, mais car elle considère qu'il n'y a pas d'autre choix.

Can incentive systems and ethical behaviour coexist ?

En définitive, peuvent-ils les systèmes d'incitation et de comportement éthique coexister dans le secteur financier? Sans doute oui. Or, certaines précautions doivent être prises dans leur conception afin que les individus partageant les valeurs de l'institution ne soient pas encouragés à adopter un comportement peu éthique à cause de leur obligation d'atteindre des objectifs prédéterminés.

However, it can happen that the institution promotes ethical behaviour and really adheres to the values, but the incentive system, or rather we could say, rewards and punishments, determines that a person, in order to get a reward or at least to avoid a punishment, is cornered and encouraged to behave in an unethical way, not because he/she believes that it is the right thing to do (although he/she can rationalize it given the situation) but because he/she considers that there is no other alternative. Some examples of unethical behaviours that may occur in these situations are abuse of available information, abuse of client funds, and inappropriate attitudes towards colleagues to mention some of the most common cases. In cases like those, the values of a person must be clear and strong to be able to act accordingly despite the situation where he/she is.

Without any doubt, it will not be easy to do it if this is unavoidable. What is desirable is that before being in an objectionable situation, the person seeks to prevent it and eventually finds an alternative route that does not involve bad behaviour.

In short, can incentive systems and ethical behaviour in the financial sector coexist? Undoubtedly yes. However, precautions must be taken when designing incentive systems in order that individuals who share the values of the institution won't be compelled to misbehave for not being able to achieve predetermined goals. Of course, I have left aside those who do not reach the goals for poor work or incompetence. I refer to those cases when the goal is so high and the penalty for not achieving it is so great as to push the person to behave unethically to avoid punishment (by punishment we can include not to move up on the career, stay out of it or having to leave the institution). It will be people's own responsibility to make sure they are not becoming involved in extreme situations that bring into play their ethical principles. That care should begin with the institution they choose to join, and then negotiating the goals. If a person joins an institution that from the beginning, she/he is aware encourages and rewards behaviors not being shared by him/her because he considers them to be unethical, that person should immediately refrain to become a member of that institution since sooner or later his/her values will collapse or, much worse, she/he will change to adapt to the rules of the game.

Labour market dynamics in the financial sector and possible unethical conducts

A situation that has caught my attention and even surprised me from the beginning of my career is the income level of some employees of financial institutions, particularly in my country. Without getting into a historical analysis of the financial sector and the economy it is clear that due to the fact that being a very sensitive sector in the economy as a whole as well as for individuals because they manage their funds and savings, and everything related to the trust between investor – Institution, the people working in the financial sector earn reasonably high incomes compared to other sectors in general, whatever their position, particularly those who work in private banking as investment brokers.

Il est de la responsabilité de chaque personne de s'assurer de ne pas être impliquée dans des situations extrêmes qui mettent en jeu ses principes éthiques. Cette vigilance devrait commencer à partir du choix de l'établissement que l'on souhaite rejoindre, puis de la négociation des objectifs à atteindre.

I do not try to argue if that is right that those persons should have high incomes nor from a standpoint of merit or anything else, but rather try to understand how the dynamics of the labour market promotes some behaviours that from my point of view are unethical.

The political and economic conditions in Uruguay as well as an increasing globalization have helped in recent years the establishment of several financial institutions that previously weren't present, and also to increase the activities of other institutions that were already present, resulting in a labour market, especially in regards to investment banking, with important dynamics.

Afin d'élargir leurs activités, les banques d'investissement recrutent en général de courtiers qui ont déjà leurs propres clients.

That movement of people working in investment banking is one of the issues in the financial sector that although totally justified from the point of view of supply and demand of labour, may induce, unethical behaviours.

Dans ces va-et-vient incessants de courtiers ayant leurs propres clients certains comportements peu éthiques peuvent se produire de la part des institutions, comme la « débauche » d'agents qui prennent souvent de formes peu éthique.

In order to expand, investment banks typically recruit investment brokers with their own portfolios of customers. The first dilemma that is widely discussed but that we won't address in depth here is whether clients in this sector of activity belong to financial institutions or to the persons. I can conclude that they are a little of both. There will be clients who are loyal to a particular institution, regardless of the agent who provides service. They must feel some kind of connection with the agent on duty, but once that relationship is established they would rather not change it. Other customers are loyal to the person who advises them regardless of the institution for which he/she works as long as the institution provides enough support.

Les valeurs des institutions et des individus devront mettre un cadre aux comportements et aux nuances du comportement encouragés par les institutions ainsi qu'à la façon d'agir à l'intérieur de ce cadre.

That coming and going of investment brokers with their own portfolio can generate unethical behaviour in institutions such as the theft of investment agents by another institution. Although it

is the law of the labour market and the parties are free to compete, the methods used to come by people on demand are often unethical. In addition, once the investment agent has moved from a financial institution to another, the latter engages in an effort to attract the customers together with the broker, inducing them to leave the former financial institution for the new one. At this stage, the values of the person to communicate a clear message in an ethical manner take relevance because there are many cases where in an effort to move his/her clients, the broker reveals business secrets from the previous institution or mentions problems that had never surfaced previously.

These financial sector labour market dynamics, in which each change of institution produces a substantial increase in the income of the investment broker is a major cause of unethical behaviours of people who either rationalize their actions with the premise that the end justifies the mean and that everyone in the sector make it, or induces them to unethical behaviors that generate an internal conflict in the person who knows he is acting wrongly. It depends again on the values of the institutions and individuals to put a framework for behaviours, and the nuances of behaviours encouraged by the institutions emerge again as well as how a person must act within such a framework

Afin de contrôler le comportement des institutions financières, différents mécanismes de nature formelle ont été mis en place pour permettre une plus grande maîtrise formelle des institutions financières et pouvoir les sanctionner en cas de transgression des règles. Néanmoins, cela ne suffit pas à prévenir les comportements contraires à l'éthique des institutions ou des individus qui se trouvent au-delà ou au-deçà de la règle.

Controls have been implemented, but it is not enough; what else can be done?

En outre, les institutions financières ont travaillé sur l'engagement de leurs collaborateurs à travers des messages venant du sommet et qui véhiculent les valeurs promues par celles-ci. Des codes d'éthique ont été élaborés, mais ils ne suffissent pas pour lutter contre les comportements non-désirés.

We have pointed out the issue of unethical behaviours of people working in the financial sector and how certain actions of institutions and markets act as a stimulus for the occurrence of these behaviours. There is no doubt that the behaviour of people in financial institutions has been and will be subject of widespread communications especially when cases of public notoriety come to light as in the Madoff case, the downfall of Bear Stearns or, in Uruguay, the cases of Banco Comercial or Banco de Montevideo.

Various controls of a formal nature have been implemented with the purpose of controlling the behaviour of financial institutions (such as the Sarbanes Oxley Act regulating financial functions in the United States of America, or the increased control from the Central Bank of Uruguay) that allow to have greater control of the financial institutions and to penalize them in the event of contravening any norm. However, they are not enough to prevent unethical behaviours of institutions or individuals when these are not in formal breach of the rules.

Les institutions financières sont celles qui doivent prendre le leadership et mener la lutte contre les comportements contraires à l'éthique car ce sont elles qui, d'une façon ou d'une autre, déterminent les conditions dans lesquelles les personnes peuvent être motivées à se comporter contrairement à l'éthique.

In the same way, the financial institutions have worked for the commitment of their individuals providing messages from the

centre that are translated into values, and have developed codes of ethics. However, it is not enough to eliminate the non-desired behaviours. One element that I consider very important is the fact that the institution itself had an ethical code as well as the people who run it. This is essential so the message won't be contradictory and the institution will be running within a really ethical framework and all must ensure its care. Of course, it will be convenient to have the desired behaviour explicitly stated, but it is not enough unless it is communicated properly and then enacted accordingly, punishing harshly those who deviate from the desired ethical behaviour so it shows evidence that it is an important matter and that the institution's life can depend on it.

Enfin, il importe de mettre en évidence le rôle indispensable que joue la personne et ses valeurs, lorsque la personne serait tentée de se comporter d'une manière contraire à l'éthique, car ce sont finalement ces dernières qui poseront une limite.

Financial institutions are the ones who must take charge of this issue, leading the fight against unethical behaviour because as we saw, the financial institutions themselves are those which in one way or another define the conditions under which people can be incentivized to behave unethically.

Regulating entities will be in charge of monitoring the compliance of institutions with formal standards but they cannot get into managing the behaviour of the people within the institutions, which will be provided by the institutions themselves.

En définitive, les institutions financières devraient prendre en charge le problème - cela ne leur est pas inconnu- car leurs comportements peuvent induire les individus à un comportement indésirable au-delà de leurs codes d'éthique. Elles devraient travailler dans la sélection des collaborateurs à incorporer et les surveiller constamment. Bien sûr, ce n'est pas facile et il serait plus simple de trouver une formule magique ou un indicateur de surveillance, mais cela n'existe pas. Nous devons cependant être conscients du problème pour lui faire face car il se trouve au sein même des institutions financières.

The indispensable role of people and their values

Finally, we emphasize once again the indispensable role of people and their values which will ultimately be the limit that each person will have in front of the temptation to behaving unethically. Of course this can have a more profitable short-term outcome even with the assurance that sometimes they won't see any negative consequences from their actions. Therefore, institutions when selecting people who will join them, or train those already within, should pay special attention to the ethical aspects and analyze the resources that the person has to deal with difficult situations and under pressure. Without being an expert in the matter, I know that the psychological tests that are used in many places before incorporating an employee, strongly test the resources that a person has to tolerate pressure and that is at least a starting point.

In short, financial institutions must take care of this issue. This is not something unknown to them and their policies can lead people to undesirable behaviours beyond the codes of ethics they have. They must work in the selection of personnel to be hired and monitor them permanently. Of course it is not easy and it would be ideal to find a magic formula or an indicator to be monitored but since there is not one, then at least we must be aware of the problem addressing it at the outset which is the institution itself.