Lessons from LIBOR: moving beyond compliance to explore the dynamics of ethics in banks

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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.

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 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

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.

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 manipulation 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

[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.

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]

[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

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 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 reci-

[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.

procity 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.

The role of community

One of the reasons why traders let the culture of reciprocity override their ethical values was that it was

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.

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 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

[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.

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.

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.

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, 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.

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.

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 (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 pre-

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.

vious 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

This paper has already highlighted the fact that the team culture among traders and submit-

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.

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.

ters (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.

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 borrow 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.

[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.

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.

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.

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. 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 con-

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.

duct 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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