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€35 – N°6 – July/December 2014

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President of UN General Assembly

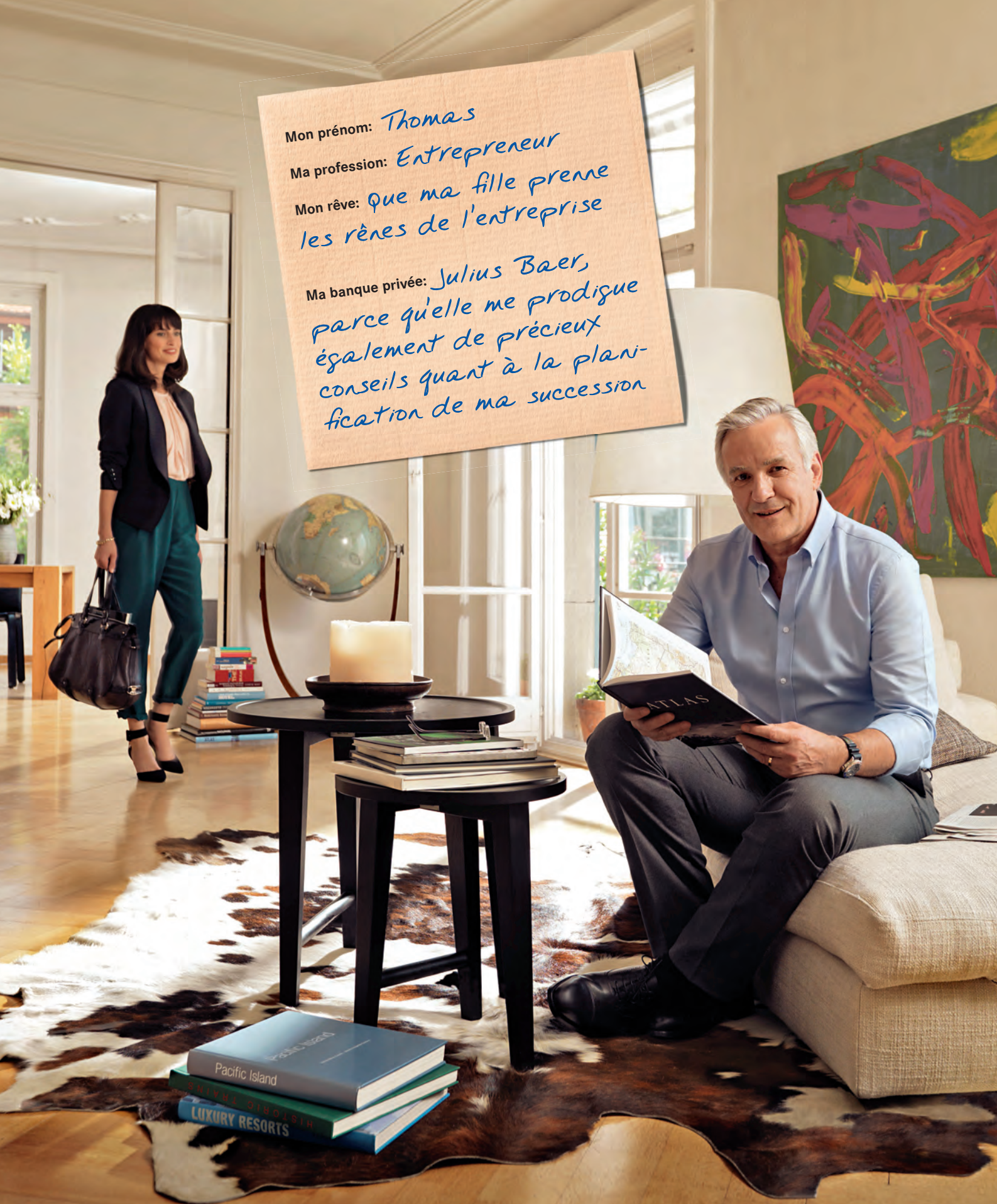
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by Ruth Engo Bamela

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CIFA's XIIIth International Forum in Monaco on April 22-24, 2015

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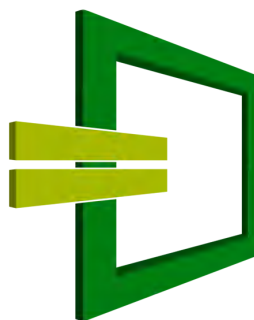
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Moral Capitalism at Work



**Private
BANKING**

FROM FOUNDATION TO PRESENT

CIFA, a non-profit Swiss foundation, was setup in Geneva, Switzerland, in December 2001, aiming to become the ideal contact point for financial advisors and wealth managers, as well as legislators and regulators.

With individual investors' needs in mind, CIFA chose to focus on enhancing the basic status (*the very foundations of their independent businesses*) of IFAs around the globe, by promoting the highest professional standards, best-practice rules and ethical rules.

These specific goals have been pursued relentlessly by CIFA, which has the highly impressive ability to approach them from several interesting angles through the intelligent selection of renowned international speakers. Each year, the appropriateness of topics discussed, the excellence of presentations and relative roundtable discussions have been remarkable.

By 2007, CIFA had already become an **NGO** (*non-governmental-organization*) in special consultative status with **UN's ECOSOC**, the United Nations' Economic and Social Council. CIFA attends and speaks at several UN gatherings organized at the initiative of the General Assembly, ECOSOC, UNCTAD, UNITAR, FOSS, etc.

A year later, in 2008, "**THE CHARTER OF INVESTORS' RIGHTS**" (www.cifango.org), developed under the supervision of UN's ECOSOC, was introduced during the CIFA's VIth Forum held in Prague, The Czech Republic. Finally, the basic rights of investors were taken into account in finance!

Through the years, CIFA Forums were held in Geneva (2003 through 2007), Prague (2008), Paris (2009), Madrid (2010) and Monaco since 2011 to present.



CIFA'S FORUMS IN PAST YEARS

2003 — WHAT CHALLENGES FOR INDEPENDENT FINANCIAL ADVISERS?

2004 — REINVENTING TRUST

2005 — LET'S PROVOKE A DIALOGUE WITH THE REGULATORS

2006 — LEGISLATION AND REGULATION: REAL PROBLEMS, POOR SOLUTIONS!

2007 — LET'S FACE THE FUTURE!

2008 — INVESTOR'S FREEDOM OR CONSUMER'S PROTECTION?

2009 — RECURRING FINANCING JOLTS & CRISES - Advance warning signs of a New Economic World Order

2010 — FINANCIAL BUBBLES AND REGULATORY BUBBLES

2011 — ETHICS AND GOVERNANCE IN FINANCIAL MARKETS FINANCIAL SERVICES - Reform or Die?

2012 — 2012, ELECTION YEAR: WHAT CHALLENGES FOR THE INTERNATIONAL FINANCIAL SYSTEM? Ethics, Politics and Finance

2013 — CAN THE WORLD FINANCIAL SYSTEM BE REFORMED?

2014 — THE NEW PARADIGM FOR WEALTH MANAGERS Freedom, Regulation, Transparency, Taxes, Rule of Law, Expropriation, Privacy and much more!

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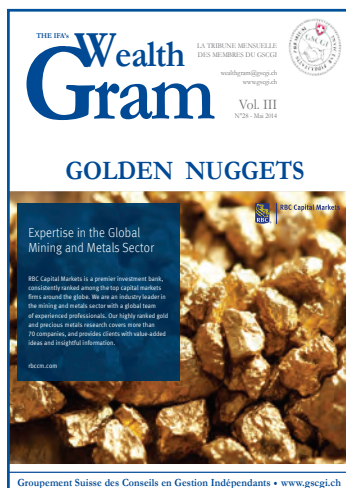
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Valeurs Éthiques sur une base constante

Des politiques, des juges, des régulateurs, des superviseurs de tout poil, des organismes informels supra-étatiques, des associations de consommateurs observent, scrutent, étudient comment le secteur des services financiers exécute son métier.

Le seul désavantage est qu'ils mettent tout le monde dans le même panier sous la bannière du slogan des banques bien connu désormais «**level playing field**», en français «**égalité de traitement**».

Ils ne prennent pas en compte le fait que des organismes associatifs faitiers se sont créés en se basant sur des règles professionnelles strictes. Et à quoi servent de telles règles?

«Adopter une **Charte** permet d'instiller dans la culture des organisations qui s'y soumettent une reconnaissance de combien il est important de définir une échelle de **valeurs éthiques sur une base constante**».

Dans ces codes normatifs, si nos instances de supervision voulaient bien s'y référer, elles y trouveraient un engagement clair sur de très nombreux points. Ils nous rendent responsables envers le public à savoir, l'intégrité professionnelle, la gouvernance, la conduite responsable des affaires, la transparence de toute action entreprise, la défense des intérêts du client, la loyauté et la lutte contre les conflits d'intérêt.

Mais, il semble que toutes ces dispositions passent inaperçues, sans valeur, sans poids, sans pertinence, en un mot «inutiles».

Nos autorités ont créé en Suisse des organismes surdimensionnés qui alignent à longueur d'année des règles, normes, dispositions et autres exigences souvent non-corrélées, parfois incohérentes (*statut de QI de GFI*), qu'ils déversent sur la tête des entités financières de toute taille et de manière indiscriminée. Et qu'est devenu ce système de supervision qui n'était pas là pour éviter les scandales bancaires et les comportements condamnables de certains grands opérateurs? Une vaste machine à punir.

Et comme nos organismes associatifs en Suisse ont été ignorés, dévalorisés, marginalisés, pire volontairement affaiblis par la création d'une kyrielle d'organes peu impliqués dans la réalité de notre métier et plus intéressés par le maintien de leur «franchise» et du revenu qui en résulte. En outre, ces organes obtempèrent et acceptent des programmes de supervision d'une complexité et d'une absurdité difficilement concevables.

Et quel est le bilan de tout cela?

La mise en incapacité du plus grand nombre des petits et moyens opérateurs dans l'impossibilité d'exercer leur

métier convenablement. Le formalisme de certaines dispositions (*justifié peut-être dans de très grandes administrations*) devient contreproductif, voire destructif, n'apportant que des résultats d'une médiocrité époustouflante.

Nous avons expliqué à nos interlocuteurs à Berne que le terme «**level playing field**» ne correspondait pas nécessairement à la notion de «**one size fits all**», car il est absurde de vouloir appliquer au boutiquier du coin les mêmes normes qu'aux géants du commerce de détail. Nous avons ainsi insisté sur la nécessité d'une FINMA (*le SEC en Suisse*) pour les grandes institutions et d'un organisme simplifié destiné à la supervision des GFI (*la FINRA en Suisse*). Espérons qu'ils nous ont entendus.

Toujours est-il que nous avons dû répondre à diverses consultations du Conseil Fédéral Suisse ces dernières années, malgré les modestes moyens dont nous disposons, sans parler des déplacements à Berne et nombreuses lettres de commentaires transmises à divers offices fédéraux. Le combat en vaut la peine! Notre voix est essentielle à l'existence de notre profession car elle souligne des exagérations administratives et des dérives réglementaires dont l'utilité et l'efficacité sont loin d'avoir fait leurs preuves.

Enfin, je rappelle ici la phrase de Sébastien-Roch Nicolas De Chamfort que j'ai soulignée à de multiples occasions: «**Il est plus facile de légaliser certaines choses que de les légitimer**».

Pierre Christodoulidis
CIFA's Président

**“Il est plus facile de
légaliser certaines choses
que de les légitimer”**

Sébastien-Roch Nicolas de Chamfort

XIIIth INTERNATIONAL CIFA FORUM

MONACO, 22-24 APRIL, 2015

* * *



The New Paradigm for Wealth Managers

Freedom, Regulation, Transparency, Taxes, Rule of Law, Expropriation, Privacy and much more!

Monaco, April 23-25, 2014

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CIFA FORUM 2014

This year again, CIFA's gathering in beautiful Monaco for its annual international Forum attracted a distinguished audience from across the planet. The title of the conference **"The New Paradigm for Wealth Managers"** and its sub-titles **"Freedom, Regulation, Transparency, Taxes, Rule of Law, Expropriation, Privacy and much more!"** highlight the creative angle from which speakers undertook this year's topics aiming

at suggesting effective solutions to the current troubles of global finance and economy.

CIFA has been consistent throughout the years, since its foundation over a decade ago in Geneva, in identifying problems and suggesting solutions — more information on CIFA's milestones can be found on page 4 of the current TRUSTING issue.

In his opening speech of the 2014 three-day conference, **CIFA's President Mr. Pierre Christodoulidis** pointed to

the latest crisis, which went down in history as the Great Recession caused by excesses in the financial system and the housing bubble. He contended that the large liquidity injection into the system by the U.S. Federal Reserve, and other central banks across the planet, failed in its ultimate goal to relaunch the economic activity.

He referred to Larry Summers work to highlight how destructive could be to have a stagnant productive machine coupled with a declining productivity and,

more importantly, a declining domestic demand over the last three decades. As a consequence, the future remains murky, to say the least, especially as capital is not only withdrawing the earned income, but it is also refraining from engaging in new productive investments.

Unintended consequences are feared to severely impact the social tissue of our economies in a way that imperils the very democracy and peace across the planet. As unemployment keeps expanding, someone has to bear the cost of that expansion at a time when governments cannot increase their public spending. The causal effect of unemployment on public expenditures is fast pushing the global economy into a sort of "vicious spiral" of "secular stagnation" threatening growth.

Opposed to governments' inability to manage debt, **"...U.S. non-financial corporations..."** have accumulated large amounts of capital **"...about \$2,800 billion, of which Apple alone accounts for \$150 billion..."** ...added Mr. Pierre Christodoulidis. In other words, the private sector is successful while governments are "bad" finance managers and remain unable to create jobs. Therefore, the illusion that governments can re-engineer economic growth must be banned from our minds for good.

Inequality is spreading like wildfire across the planet and **"... the present situation is showing similarities with the wealth's accumulation of the 1920s, which led to the Great Depression..."** should alert all to what's ahead.

Growth could be achieved by extending credit to SMEs (*small and medium enterprises*) which, through innovative creativity, have undeniably demonstrated their ability to create new jobs and engineer economic growth. Banks are, however, stockpiling their excess liquidity with their central bank. How

Pierre Christodoulidis

CIFA's
Executive Committee
President



equal is a world where only large industrial corporations have access to credit either in the capital market (*at absurdly low interest rates*) or by knocking at their banks' door?

Mr. Pierre Christodoulidis concluded his speech by asking **"Who will have the courage to denounce this Gordian knot and to stop the vicious spiral of economic contraction? Who will be courageous enough to point out the responsibilities for such suicidal behaviors?"**

An interesting note by **H.E. Mr. John W. Ashe, President of the 68th Session of UN's General Assembly**, was delivered to the audience by Ms. Hanifa Mezoui. The message focused in particular on progress made in implementing UN's Millennium Development Goals (MDGs) in the post 2015 era through global partnerships. Especially

noticeable the call for public/private efforts aimed at eradicating poverty while enhancing livelihoods for all. Readers can find the full text of His Excellency's message on pages 44 & 45.

Afterwards, the round tables dance began, all revolving around the central topics of the year.

The call for peace, justice, equality and accountability by **Ms. Hanifa MEZOU** (Ph.D., Senior Advisor, Humanitarian Affairs and Civil Society, Office of the United Nations High Representative for the Alliance of Civilizations, New York) was highly emulatively important for other speakers.

Andrei ABRAMOV (Head of UN's DESA NGO Branch) followed up on these topics, along with the MDGs and the post-2015 development agenda, which includes as well a thorough analysis of how to finance sustainable development in future years. He appeared especially confident about world growth as the UN 3% annual forecast for 2014 could be achieved with the contribution of a more vibrant Euro area. Furthermore, he highlighted the great danger coming from high unemployment and rising inequality, but he affirmed as well that the poverty reduction goal has been actually reached five years



ahead of schedule. Progress is being made on many fronts (*ability to access water resources, reduction of mortality, sanitation, housing, etc.*). It is striking, however, that *"...inequalities have increased in both developed and developing countries. Tackling inequalities will be critical for accelerating progress toward achieving the MDGs and the post-2015 goals..."*

UN's efforts will lead to a forthcoming third conference on "Financing for Development" to take place in 2015. Sustainable development and growth could only be achieved across the globe if the necessary financial means are there to make it happen. Mr. Andrei Abramov insisted that, with global savings estimated at USD18 trillion annually, the next step would be to have public and private money around the same table. Regrettably, however, only public financing and policies are the basis for the financing framework at the present time.

My personal view is that it would take a little effort from governments to encourage private capital to finance major infrastructure projects and effectively re-energize the global economy. What private money needs is security. With this in mind, governments should entrust the financing of these projects by private capital with a "government

guarantee" tied to some sort of conditional behavior and commitment to complete the works involved on time. Such an initiative would create jobs and enhance the people dignity across the planet. A richer middle class would spring in many countries, domestic demand would increase so that countries would not need to exist only based on exports. There could be a reduced need for governments and central banks to act by weakening national currencies in order to support exporters, thus pushing away at the same time the specter of currency wars that in the end hurt badly the economy and citizens.

A highly interesting insight at CIFA's 2014 Forum was given by **Ruth Engo BAMELA**, President of African Action on AIDS (AAA), an NGO member of UN-ECOSOC since 2003. I strongly recommend readers to read her detailed



article on pages 94 through 97. It was a true pleasure to listen to her and observe her deep commitment to creating stronger and healthier communities across Africa. It was visible throughout her complete speech where she intro-



duced actual situations and how her association effectively helped people to empower themselves of their future (what she calls the "I Factor").

Among all the topics that she presented a standout, in my opinion, was the "Women's Economic Autonomy" by which she explained how important "education" is for the population of emerging countries.

AAA is very actively enforcing UN's MDGs and devotes great effort to build community mobilization across African countries for ...

- a) *people to be aware of their collective problems;*
- b) *to get practical knowledge of different options to solve the problem at stake;*
- c) *the importance for each member to take personal responsibility and to get involved;*
- d) *the need to understand that seeking external partnership does not eliminate local efforts or contribution but also that the community should envisage living without total external help; and...*
- e) *the importance of team work and endurance.*

Mobilization also means knowing and doing ... she added, without ignoring the wonders provided by networking and partnerships, which are "**vital ingredients to progress and community building**" across Africa.

During the first day of CIFA's Forum, MDGs were in everybody's minds, as all speakers referred to them when explaining how their action was effectively aiming at the same goals introduced a few years ago by the United Nations. Awareness was uncovered later on!

Pamela BERNABEI's (Secretary General, International Ontopsychology Association - AIO) work too is effectively axed on MDGs. Education (2nd MDG), environmental sustainability (7th MDG) and

global partnership for development (8th MDG), have been core goals of AIO since its foundation, even though not called this way at the time.

The AIO's CSR strategy is based on meritocracy and reciprocity and, through these two pillars, it is able to deliver attractive results. But for that, CSR must lie at the core of the business strategy, meaning that instead of being a complement to something else, it becomes "the" strategy.

Michèle VIANÈS (President of *Regards de Femmes*) complained that so much has still to be accomplished to help children exist, as



most of them have not even been registered at birth! Without registration and a birth certificate, they simply do not exist, cannot go to school, have no access

to health aid, have no nationality!

So much needs to be done! However, all these goals need money in order to be effectively pursued and achieved, said



Stephen B. YOUNG, Global Executive Director of the Caux Round Table — I suggest reading his extremely insightful article on "CSR and public goods" on page 58 through 64.

MDGs and SDGs are definitely very attractive, but **...the Emperor has no clothes...** A sustainable environment can be easily achieved **...but, with money!**

Stephen B. Young highlighted that the NGOs talk about partnerships with the private sector is in reality a "**request for charity**" by civil society and international organizations. NGOs normally access wealth through charity and taxes. One cannot ignore that neither governments, nor civil society are able to generate wealth. Only the private sector economy is able to invest for the future, to increase the capital stock of humanity and to engineer growth.

"Capitalism (i.e. business and wealth creation) has to be put at the center of the process!" The property system is "the" cornerstone of human dignity and freedom as opposed to continuously claiming to be entitled to this and that.

Finally, he drew the audience attention to the work of the Financial Standards Board which created a set of standards

for nations to be able to manage their financial and economic structures in a way that generates growth. ***"MDGs and SDGs should be integrated with a set of parameters about how to grow countries and economies responsibly in a way to generate money and give everyone a better life"***.

MDGs, which began with the Millennium Declaration, were adopted in 2000 by 190 'states and governments' officials in New York. ***"It was the first time in history that there was a consensus among nations to establish a charter of new humanitarian rights. Unfortunately, the only missing piece was money and how to acquire this vital financial resource"*** ...added **François LORIOT** (President, Bar Association for Inter-Governmental Organizations and Vice-President of AIFOMD).

Mr. Lorient recognized the need to go beyond philanthropy in order for MDGs to be properly addressed. He suggested that 3 additional MDGs, i.e., wealth creation,

education and access to justice, be put at the core of MDGs as a vital complement to the 8-MDGs adopted in 2000 by 190 States and governments.

Mr. Lorient added that this initiative marked the first time in history that there has been such a large consensus around this new charter of humanitarian rights. Not much can, however, be accomplished without money! To acquire money, vital would be to attract the private sector, academia and



civil society organizations (CSO) around the MDGs' effort.

The action of CIFA, when attending meetings with UN's member states, is extremely focused on how to recognize the interests of civil society (*including the private sector*) in order to improve the MDGs' implementation and define tools leading to effective results.

What still needs to be done is to encourage States' leaders, returning to their own countries, to speak about the important agreement they had just signed up to. They instead remained silent and there was no further action, no education, no training, no promotion with regard to what could be done. MDGs ended up being left only to a few experts at the UN and in other organizations to implement them.

The privacy and security topics were extensively discussed in several round tables during the Forum. **Raegan McDONALD** (Senior Policy Analyst, Access, Brussels, Belgium) said that ***...those seeking to infringe on our privacy argue that it is necessary for security, but this supposed balance is a false one – when privacy is pitted against security, it is a lose-lose situation for citizens and for***



business, leaving us with neither... and added ... Governments are increasingly failing to uphold human rights and the rule of law.

In the end, surveillance in the name of national security leaves citizens with deliberate national insecurity!

In her speech, Raegan McDonald highlighted how important it is to rebuild the lost "trust" in order to restore predictability over the rule of law, and the protection of our rights and freedoms. All sectors, business, civil society and government, have important roles in securing the right to privacy.

Dr. Hans GEIGER (Professor Emeritus, University of Zürich, Switzerland), although deeply concerned about NSA and other governments' surveillance activities, he rather focused on the **FATF-GAFI 2012 40-rules** officially developed



to promote policies aimed at protecting the global financial system against money laundering.

He is extremely worried about how widely (*all possible predicated offences are included*) these rules interfere with people basic freedom and private sphere.

FATF-GAFI 2012 40-rules have transformed banks in secret services' agents acting for governments, therefore serving "God" (governments) but not "clients" (wealth). A more extensive discussion can be found in his article, published on pages 56 & 57 of this issue.



Daniel COOPER (Partner, Covington & Burling, London, UK), privacy lawyer advising on European Data Protection laws, suggests that, since privacy and security are both fundamental values, the "right balance" must be found between regulation and protection of the private sphere. There is, however, a worrying trend difficult to address: private enterprises are effectively becoming intermediaries for the government, because they can amass tons of information the government wants. What can ensure that governments act reasonably and proportionally? **"It would not be a good idea to enshrine privacy so that governments could not act on a proportionate and reasonable suspicion. It is about getting the balance right"** ...he concluded.

The second day, moderated with great talent by **Myret ZAKI** (Deputy Editor-in-Chief, Bilan magazine, Geneva, Switzerland) of CIFA's 2014 International Forum was intensely focused on economic growth, SMEs' financing, taxes, QE-experiments across the globe, liquidity so widely splurged by central banks, etc.

The day began with a great dose of positive expectations for the world economy, as to intentionally instill



some necessary optimism in the audience minds, by Prof. **Michel GIRARDIN** (Founder of MacroGuide, Lecturer at the University of Lausanne and Geneva, Switzerland). That is to say that he immediately set the tone: there will be continued global economic growth, although currently more evident within developed nations than in emerging countries.

In 2050, however, the BRIC economies will probably represent a third of the world economy, thus doubling current levels. Moreover, considering that their currencies are currently undervalued, BRICs could deliver total growth reaching the 50% plus territory by 2050.



Currently, there is a paradigm shift in emerging markets, especially in China where the People's Bank of China is slowing credit supply, thus spelling a major change for the Middle-Kingdom economy.

If the U.S. unemployment rate is falling mostly due to the decreasing participation rate of people out of a job and dropping out of the nation's labor force, is the drop in the unemployment rate truly heralding a resurging U.S. economy? ...he asked.

Although discussing in quite some detail the economic peculiarities of the U.S. and Japan and their central banks' monetary policies, Michel Girardin highlighted the worrying trend of deflation, that Europe is experiencing especially at its periphery, and the lack of lending that banks resist extending to SMEs. Prof. Girardin concluded by highlighting that, based on his analysis, there is sufficient growth for the corporate sector to generate earnings but not enough growth to cause inflation. In other words, the macroeconomic scenario is positive for financial markets.

His positive views were instantly challenged by **Roger NIGHTINGALE** with particularly worrisome comments. The U.S. economic growth is unsatisfactory and Europe's situation is absolutely



frightful: *"One of the best pieces of data from my point of view is the popularity of incumbent governments within any reasonable democracy; where the electorate are opposing the incumbents, it is almost certainly because of the inadequate behavior of the economy, and incumbents nearly everywhere in the world are very unpopular".*

Patrick LECOY (Managing Director, Export Assistance and Development, Monaco) remained rather unimpressed by the U.S. economy. *"Growth is fictional"* ...and added that other countries, normally following up on U.S. steps will find it difficult to engineer growth on their own.



"China is nothing more than a sub-contractor of the Western World!"

The emerging nations are bound to re-emerge with their economies growing anew despite



the current slowdown observed in the BRIC countries. Commodity-rich South Africa, Mozambique, Uganda and South Sudan have attracted China's interest. The positive consequence of increased trade is the emergence of a solid "local" financial sector in Africa, which did not exist ten years ago.

Microfinance, according to Patrick Lecoy, can only generate subsistence farming (*help people feed themselves*), but it cannot generate economic farming. Therefore, it is merely a myth that microfinance can generate growth for Western companies. In fact, microfinance can be instrumental in generating only economic projects rather small in nature.

Quite a different view is presented by **Olivier FERRARI** (Founder and CEO of CONINCO, Vevey, Switzerland) who firmly noted that *"finance needs to serve people, not finance itself"* ...suggesting, therefore, that trust and interest should be put in the "real" economy across the globe. CONINCO's activities focus on sustainable development and microfinance (in Africa, Asia and South America) inferring, therefore, that is how economic growth could be achieved in the future.

Another area inspiring opportunities of potential future growth is the ageing world population phenomenon; global ageing people is estimated to reach close to a billion people in the next 25 years; developing interesting activities for them on top of the related real estate development are examples of new sustainable areas of future economic development across the globe.

A question from the floor, however, raised the following issue: the collapse of organized Western economies is leading everyone, East and West, to the battle over Africa, but *"...they are coming not for growth but to grab – wood, oil, mines, etc..."* Moreover, microfinance loans are very expensive and local

people can hardly afford them. Most often, they run away with the money. The fraudulent side of "microcredit" was also mentioned by **Prof. William K. BLACK** (white-collar criminologist; he teaches Economics and Law at the University of Missouri-Kansas City, UMKC). Prof. Black did not hesitate to qualify microcredit as *"means of removing enormous wealth from very poor people"* through various models across the globe. In fact, the attempt to simply replicate the Grameen model has been a failure.

SMEs (*Small and Medium Enterprises*) tended to dominate the discussion during the Forum on several occasions. Devastating effects are expected for SMEs in many European countries currently standing over a cliff — *should France fail, it would represent a systemic risk far too big to be helped by anyone, including Germany.*

Jean ROGNETTA (Journalist, President of PME Finance,



Paris, France) focused on how challenging SMEs' entrepreneurship remains across Europe. Highly risky is as well that, in these countries, approximately 75%-80% of deposits are entrusted with a small number of banks, four to six at the most in countries such as the U.K. and Spain, respectively. As a consequence, very few loans are being granted to SMEs in general, while only very innovative projects have a chance of getting the necessary financing from local banks.

Stephen B. YOUNG (Global Executive Director of CAUX Round Table, Washington D.C., USA), concerned about the future in terms of jobs and unemployment, made a reference to Italy where 93% of GDP is produced by firms of 200 employees or less, which provides a clear evidence that SMEs generate most of the world's GDP and employ most of the world's people.

"Capitalism, as opposed to finance, will assist small companies" ...noted Stephen B. Young, while refreshing our memories about what is the purpose of a company according to Adam Smith (18th century). *"The purpose of a company — and his famous example was a pin-maker company — was to be in the business of making pins with a*

growth curve in the capital value of the company. Therefore, the profit and loss statements were interim reporting documents on the way towards amassing capital wealth". Since IFAs have had to protect capital for their clients in recent years instead of investing for future gains, then something must have gone wrong with capitalism! Capitalism is not successful if it destroys wealth (*USD14 trillion of equity had been lost worldwide by January 2009*).

Stephen B. Young pointed fingers especially at the lack of good accounting conventions, which would more adequately measure the true value of companies. As a consequence, investors do not invest in SMEs thus ignoring at the same time that they represent the substance of good human life and, potentially, social justice. *"If you do not have the intangibles, it would be very hard to get the tangibles"* ...as social capital plus reputational capital and human capital give you finance capital, which in the end gives SMEs access to physical capital.

"CSR, where your reputation concerns your customers, your human capital is about your employees, your social and cultural capital relates to your investors," ...becomes the indispensable

process to achieve growth within social equilibrium. A balance sheet should account not only for financial capital, assets, liabilities and net, but it should also quantify reputational capital and human capital in Dollar terms. Only then, SMEs will establish themselves as worthy of investment and attract more money.

Two round tables focused on the liberal economy, the real economy, taxes, and the role of financial markets. Particularly intolerable is how tax authorities in some countries prosecute tax evaders based on data acquired illegally. Even though the Constitutional Council has banned it by law in France, on this side of the Atlantic we have heard quite often French Ministers of Finance claiming the great progress they have made in coercing "subversive" people and collecting taxes from evaders. Therefore, between law and practice there is a huge difference!

Nevertheless, **Vincent BÉNARD** (Senior Analyst, Turgot Institute, Paris, France), insisted that fiscal investigations, as other law infringements cases, should be operated exclusively under the control of a judge and should never be arbitrary.



Yet, governments not only do collect "arbitrarily" data about their citizens, but they exchange them freely with other countries (*automatic international exchange of data*).

Then, "privacy", the essential part of the "liberal pact", goes straight down the drain. Is it for lack of a clear definition? For sure, privacy is not palpable, therefore, easily discarded in our "democracies".



Prof. William K. BLACK (*white-collar criminologist; he teaches Economics and Law at the University of Missouri-Kansas City, UMKC*) embarked on a long and detailed discussion about the 1980s-1990s S&L crisis in the U.S., which eventually unveiled the need for the FBI, the Justice Department and the US attorneys to become expert in banks' fraudulent behavior (*i.e., pursuing short-term profit on which modern executive compensation is based*). The situation is even worse nowadays!

Concerning the hot topic of high-tax nations and the OECD forcing information sharing, **Dan MITCHELL** (*Senior Fellow, CATO Institute, Washington D.C., USA*) mentioned the vibrant trade expansion especially in financial services (*rather than goods*) directly linked to "globalization".

Tax competition, which began in the Reagan-Thatcher era, was able to bring substantially down the overall tax charge from the 67%-68% observed in 1980.

Tax competition is good not only for the global economy, but also because it forces politicians to do the right thing *...which they only do when there is no*



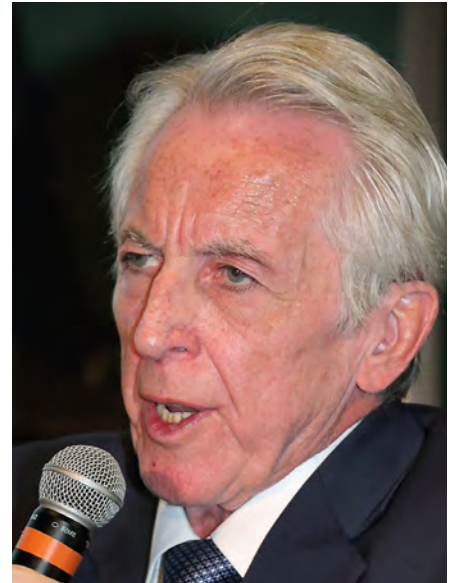
money left in the state coffers!

Dan Mitchell said that no "information sharing" can truly occur out of the U.S. merely because, although foreign investors can buy assets in the US without much danger that their home country will know about it (*FATCA might change this*), the U.S. Treasury has no authority to accumulate data and, therefore, has nothing to share with foreign countries. Hence, the House of Representatives will not pass legislation to allow it, and it will not happen in the Senate either. In other words, *"...globalization has tied the hands of the political class..."*

Since capital can flow easily from one country to the other, the EU and OECD want to set up global information sharing in order to control it. Of great concern, however, remains the fact that as "Multilateral Conventions" such as the FATF-GAFI expand, the rest of the world could follow suit toward worldwide taxation of all forms of income (*the US model*), and that would be bad for the global economy!

In plain English, tax competition is being destroyed by governments' heavy debt and spending requiring always higher tax charge on citizens. *"Governments are trying to destroy privacy and confidentiality so they can move back to the economically destructive tax rates of the 1960s and 1970s."* Without tax competition, economic liberty is deeply undermined. In the absence of tax competition, the so-called well-managed countries of the world will end up experiencing capital outflows just as emerging countries do, unless governments are able to control spending. The Western world is in deep trouble!

Complaining about the unintended costs and consequences of globalization (*when, for instance, Indian big money goes to Switzerland or Mauritius and is recycled back into India without paying tax is now being attacked by the Indian*



Government), but rejecting vigorously the notions of tax conspiracy or imperialism, **Lord Daniel BRENNAN** (*Co-Chairman, Advisory Board, Global Financial Integrity*) called for a country-by-country reporting to simply ensure that multinationals declare what they make, where, and what taxes they pay.

The world will chase tax globally as well as domestically, through all possible means, as the public will not accept which they now know (*and did not previously know or understand*) about how tax operates both domestically and internationally. Taxpayers are behind this fight, but the prospect of a fiscal state is very slight, according to Lord Brennan.

Closing the tax topic, **Leong SZE HIAN** (*Past President, Society of Financial Service Professionals, Singapore*)



described Singapore widely considered to be open, free, secure, among the top three countries for foreign trade and investment, the second

most competitive in the world etc., having received the largest number of top rankings in the world. It is no economic miracle! And, it can hardly be emulated. As many as 25% of the working population are poor. Singapore is the only country in the world that spends nothing on health care, pensions or public housing. All media is owned by the Government. There has not been a strike for the last 30 years or more. There is only one labor union, and its head is a cabinet minister.

Singapore is the most friendly country for business. Its private sector is dominated by government-linked companies. There are no problems with bank lending, because the biggest bank is government-owned.

"...the story of this country's success is that, if you tax your citizens a lot and give back very few benefits, you have lots of excess and can do wonders with it – you can have the largest casinos in the world, you can have Formula One, you can volunteer to host the first Youth Olympic Games, etc...." ...concluded Leong Sze Hian by adding that the Singaporean policy has been continuous for 40 years only because it has always had one ruling party.

Furthermore, there is neither transparency, nor accountability! The nominal tax rate appears low, but when including all indirect taxes (*social security and out-of-pocket expenses for health care, education and so on*), Singapore is probably the country with the highest taxes and lowest benefits in the world.

The discussion about financial crises in general and those experienced over the last few decades, their destructive effects on the global economy and the regulatory response to them, brought some interesting thoughts. What causes that they happen so frequently? Why is the depth of each crisis surpassing even the most pessimistic expectations?



Gretchen MORGENSON (Assistant business and financial editor, *The New York Times*, USA) linked the surging number of crises of ever higher size directly to the rising contribution of finance to GDP (going from 3.5% in the 1980s to over 8% in the U.S.).

Moreover, looking at the financial economy related to GDP, i.e., market capitalization as a percentage of GDP, explains as well the imbalance between finance and the real economy, according to **Lenore Elle Hawkins** (Partner, Meritas Advisors, San Diego, USA).



That figure went from 57% in 1990 to 162% in 1999, at the peak of the Internet boom. Although it oscillated widely, in 2009 it reached 284% and it is currently around 245%, it remains a cause for concern because when the financial economy grows too much, the real economy starts to get sick.

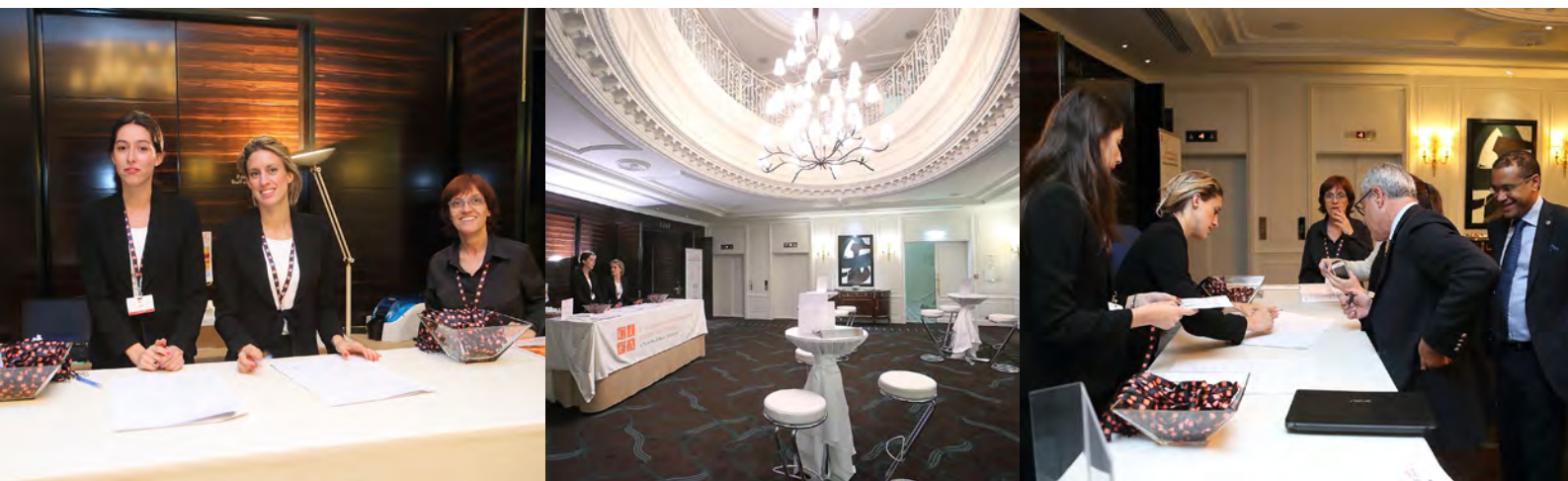


About the regulatory aspect, **Louise C. BENNETTS** (Associate Director of Financial Regulation Studies, Cato Institute, Washington, D.C., USA) expressed concern about the ongoing concentration of risk, due mainly to the regulatory structure of financial markets (*even Basel III*), and likely to bring another crisis in a few years. Even worse *"...the world economy is heading towards depression..."*, according to **Roger NIGHTINGALE!**

The overall Forum was, again this year, a fascinating stream of analysis, increasingly insightful awareness and many constructive ideas for the world's future.

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CIFA CONVENTION OF INDEPENDENT FINANCIAL ADVISORS
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A Non-Governmental Organization in special consultative status with the Economic and Social Council of the United Nations

**Message from
H.E. Mr. John W. Ashe,
President of the 68th Session of the
United Nations General Assembly**


























THINKING DIFFERENTLY IN TODAY'S FAST-PACED WORLD

WHERE ECONOMICS, POLITICS AND GEOPOLITICS CONSTANTLY INTERACT


The **INFERENTIAL FOCUS** offers a vision
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Euro's History and Crisis...

*"Speech by the author at BCU's annual economic
 conference in Montevideo, Uruguay - August 2011"*

INFERENTIAL FOCUS
 Cosima F. Barone Vol. X - Issue #200 August 29, 2011

The idea is there, locked inside.
 All you have to do is remove the excess stone.
 Michelangelo




INSIDE THIS ISSUE:
August Wildemess
 The world appears locked into the misguided belief that economic prosperity can be achieved by encouraging speculation and by distorting the set of investment opportunities through government interventionism. Enormous fiscal and monetary concessions, extended to financial markets and the banking system over the last three years, have failed to deliver the expected results. Policy makers are postponing indefinitely the "day of reckoning" and continue to "rescue" bondholders through mechanisms that are increasingly distasteful to the broader population.
The World At A Crossroad
 In this special #200 issue, I shall offer you below the full text of a speech I gave, in Montevideo (August 18, 2011), at the "XXVI Jornadas Anuales de Economía" of Banco Central del Uruguay (www.bcu.gub.uy). The roundtable focused on "Debt and Fiscal Problems in the North".

Italian Politics...

INFERENTIAL FOCUS
 Cosima F. Barone Vol. XIII - Issue #231 February 24, 2014

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 Michelangelo




INSIDE THIS ISSUE:
New Month, New World...
 By merely looking at numbers an entirely new world emerged in February. Global investors chose to focus on growth prospects rather than actual economic data, such as the plunging January housing starts in the U.S. blamed mostly on the freezing cold weather.
In the Rear-View Mirror: INFERENTIAL FOCUS - February 2004
 "...Our strategy of addressing the bubble's consequences, rather than the bubble itself, has been successful... Fed Chairman Alan Greenspan affirmed..."
Italy's "Giochi di Palazzo"
 Italy again has been shaken by a new political crisis and "giochi di palazzo" (political fighting and maneuvering). Once again, the country's leaders are making decisions without involving voters. Without the people's vote, there is no democracy! The political parties do not want to be confronted to the people's vote in fear of being voted out of power.

Europe's Strategic Future...

INFERENTIAL FOCUS
 Cosima F. Barone Vol. XIII - Issue #233 May 5, 2014

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 Michelangelo




INSIDE THIS ISSUE:
Equities Keep Climbing, But...
 The U.S. Federal Reserve has already reached Taper 4 (withdrawing liquidity from the market place), but yields keep falling especially at the long end of the maturity spectrum. Major central banks, however, have been issuing a steady stream of dovish statements which are generally keeping a lid on interest rates.
In the Rear-View Mirror: INFERENTIAL FOCUS - April 2004
 "...crises, as they occur throughout time, are unique, with the exception that they are always prompted by excesses..."
U.S.-EU Confrontation with Russia
 So-called "experts" on this side of the Atlantic deliver surprising analysis. Even though it could be a quite perilous exercise, as the situation in Ukraine unravels and claims dozens of victims apparently in the pro-Russian side of the population, I must admit that I am surprised about how erroneous seems to be the experts' conclusion. My point of view, as a distant observer, is more objective. It is important to take some distance from recent events and consider as well the long term geopolitical strategy of both the United States and the Russian Federation.

Turkey's Energy Dealings...

INFERENTIAL FOCUS
 Cosima F. Barone Vol. XIII - Issue #235 July 21, 2014

The idea is there, locked inside.
 All you have to do is remove the excess stone.
 Michelangelo



INSIDE THIS ISSUE:
Yellen's Rally
 As a consequence of the pervasive uncertainty, Janet Yellen reiterated her views on the future path of interest rates ...down! A persistent sense of complacency among investors was, therefore, reinforced. The investment community will evidently continue to regard the Fed as convinced of its forecast and committed to its policy course.
In the Rear-View Mirror: INFERENTIAL FOCUS - July 2004
 "...since implied volatility is at a multi-year low level, it implies that "greed" and the market are at an interim top..."
Turkey's Vital and Complex Energy Dealings
 In the central bank's radar screen there will be inflation expectations in particular, as well as the "Lira" and bond prices. The priority order could vary, however, as the government might select to give the currency priority status in order to avoid discouraging foreign capital inflows at this critical juncture for the country's economy.

...and much more...

Associations' Day at CIFA's 2014 Forum

Monaco, April 23-25, 2014



CHAired BY ZOLTAN LUTTENBERGER, PhD (LEFT) AND VINCENT J. DERUDDER (RIGHT)

Transcript from The IFA's WEALTH GRAM

Vol III — #29 — June, 2014 edition

Author: Cosima F. BARONE — www.finarc.ch

Introduction

CIFA donne chaque année la parole aux associations partenaires durant la troisième journée du Forum, une initiative qui permet aux praticiens, les gestionnaires indépendants et conseillers financiers de communiquer leurs expériences. C'est un exercice terriblement enrichissant tant d'un point de vue géographique que spécifique (a) à des techniques de gestion et (b) à la régulation des marchés financiers de par le monde.

VINCENT J. DERUDDER

(FECIF, *Fédérations Européenne des Conseils et Intermédiaires Financiers*) relève l'importance de la CIFA (et ses fondateurs: Jean-Pierre Diserens, Pierre Chirstodoulidis et Richard Smouha) qui a su porter le message de notre profession jusqu'à l'ONU (en ouverture du Forum, le 23 avril 2014, a été diffusé le mes-

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United Nations General Assembly



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sage du Président de la 68ème Session de l'Assemblée Générale de l'ONU, Son Excellence John W. Ashe) et à l'ECOSOC, tout en soulignant le travail constant de FECIF au niveau européen.

ZOLTAN LUTTENBERGER (PhD, Hungarian Financial Planning Association) souligne qu'il est important de continuer à promouvoir les modèles d'affaires qui existent dans le domaine du "conseil fiduciaire" de par le monde.

Les six formes historiques du libéralisme

L'histoire nous apprend que le modèle libéral se décline de multiples façons (*économique, politique, culturelle, etc.*), parfois subjectives si c'est le monde politique ou le secteur privé (y compris les NGOs) qui le façonne. **PHILIPPE POIRIER** (PhD, Professeur en Sciences Politiques, Université du Luxembourg) se lance dans une longue explication autour du sujet tout en citant les "Grands Hommes" (John Locke, Montesquieu, Constant, John Locke sans oublier Adam Smith et David Ricardo).

"The Wealth of Nations" d'Adam Smith relève l'importance du capital d'investissement, de l'activité économique, du mécanisme des prix, et aussi de la distribution de la richesse. L'offre, la demande, les prix, la concurrence, n'étant plus soumis au contrôle du pouvoir politique, aurait contribué à l'accumulation de richesse. Le libre-échange au niveau international devenait la pierre angulaire de ce système libéral. Les gouvernements par contre auraient le devoir d'assurer la justice, la sécurité et toute œuvre publique, dont le financement aurait été assuré par la taxation du revenu.

Edmund Burke et Alexis de Tocqueville, par leurs travaux, donnent vie au libéralisme conservateur où l'État est appelé aussi à assurer un contexte

économique favorable et stable. Tocqueville va plus loin en mettant l'État au centre du développement de la société. Au travers de l'histoire, nombreux ont été les travaux autour du libéralisme sous ses divers aspects. On se souvient du libéralisme social initié par le "libéral" John-Maynard Keynes (1920s et 1930s) qui implorait l'intervention du gouvernement seulement en temps de crise!

Philippe Poirier termine sa passionnante présentation en citant le libéralisme culturel, plus répandu en Amérique du Nord qu'en Europe, qui célèbre l'individualisme et soustrait à l'État et à la société tout rôle (*économique, social ou moral*). Ce système est purement et simplement l'anarchie! Les démocraties occidentales sont confrontées à une grave crise de légitimité (*démocratie représentative*) ...dit-il, qu'elles ne pourront plus ignorer.

Les nouvelles tendances du Conseil Financier

Sous le prisme expert de **SHAWN BRAYMAN** (Président de Planplus Inc., Canada), qui dissèque la profession au niveau global, on apprend sans surprise qu'il y a quelques décennies on ne pouvait vraiment pas parler de "pur conseil financier" qui était plutôt dédié à la vente de produits financiers. Mais, cela change sous la pression régulatrice croissante et ce qu'il appelle le "robo-advising".

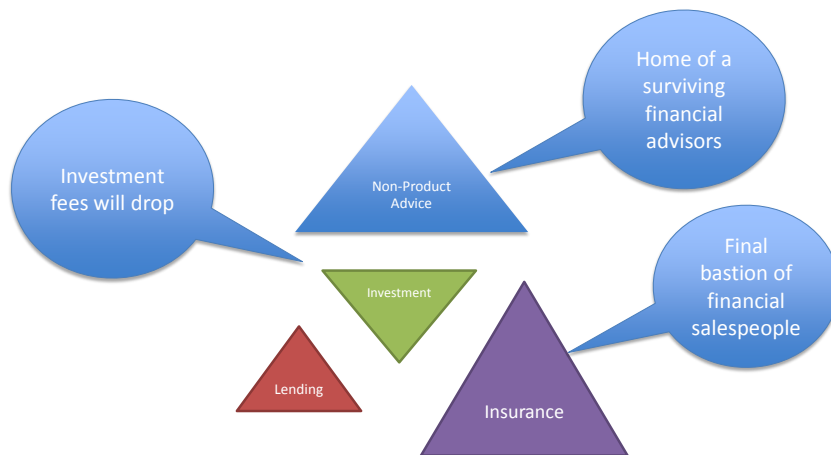
La vague régulatrice n'épargne aucun pays! Le Royaume-Uni, l'Australie, les Pays-Bas et la Finlande ayant choisi d'interdire les "commissions", beaucoup de sociétés ne se focalisent plus sur le service financier car il est difficile d'y attribuer une valeur en lieu et place du système des commissions qui étaient au contraire intégrées (*sans transparence*) dans le coût global des produits

financiers. Par conséquent, la régulation fleurit partout. Le Royaume-Uni adopte plusieurs modèles, l'Europe se dote de MiFID II, dans une grande vague de "transparence et pertinence par rapport au profil de risque du client" qui inonde même l'Inde où il est désormais obligatoire d'annoncer si le conseiller financier est payé sur base de commissions (*distribution*) ou directement par le client. Le Canada adopte CRM II qui change fondamentalement les règles de la transparence et de la communication en exigeant que le détail de tous les frais appliqués au client doive être communiqué. Singapour introduit un système autorisant la récupération d'environ 30% des commissions, modèle qui a inspiré également la Malaisie. Des changements importants touchent tout autant Hong Kong (*ILAS commission disclosure*) et les USA (*fiduciary, conflict of interest*). Shawn Brayman est convaincu que, grâce à cette pression régulatrice, les intérêts des clients seront mieux pris en compte par les conseillers financiers.

Les USA sont des précurseurs dans le domaine du "robo-advising", qui consiste dans l'automatisation par la technologie des services aux clients. Tout service (*portfolio rebalancing, tax harvesting, etc.*) peut désormais être obtenu en ligne à des prix infimes. Dans une société totalement automatisée, le conseiller financier n'aurait de place que s'il est à même de donner un service total de "financial planner". La conséquence pour la profession de "Conseil Financier" est de taille. Alors qu'aux USA et au Canada un conseiller pouvait encore vivre décemment en appliquant des frais de gestion de 1.5%-3.0% sur la masse de capital sous gestion, ces pourcentages vont baisser sensiblement grâce à la transparence accrue et à la concurrence qui en résultera.

Le seul secteur où ces changements arrivent plus lentement est celui de

Changing Landscape



Changing how the world does planning

New Trends in Financial Advice

l'assurance, qui continue à attirer des conseillers financiers. L'autre bastion, ou source d'espoir, pour le conseiller financier est de se focaliser sur le "pur conseil à valeur ajoutée" non-lié à des produits financiers (*exemples: cross-border, divorce planning, estate advice, etc.*). Sous la pression de la régulation et de la technologie, le conseiller financier va devoir prouver sa valeur, un défi important auquel il est désormais confronté.

Le thème du service financier en ligne est d'actualité en Allemagne, quoique timidement si on se réfère aux USA où Vanguard et d'autres compagnies l'ont déjà adopté avec enthousiasme, affirme **THOMAS ABEL** de NFPB Network Financial Planners, Allemagne.

A son avis, les conseillers financiers devraient s'intéresser au FLP (*Financial Life Planning*), une nouvelle tendance qui semble s'imposer. Plus à se soucier des changements de régulation, ne plus donner de conseil sur des produits

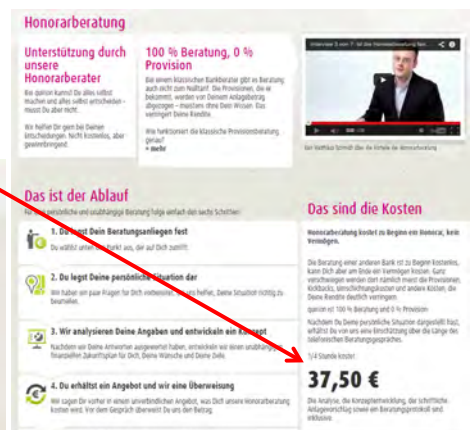
financiers, ne plus faire l'erreur de vouloir résoudre les problèmes des clients, mais plutôt être capable de les identifier pour que le client les résolve lui-même. La transparence sur la rémunération de ce type de service (*commission ou rétrocession*) ne devrait pas être faite parce que dictée par le régulateur. Au contraire, le prix d'un tel service devrait s'inspirer directement de la valeur ajoutée apportée aux clients.

Dès Août prochain, l'Allemagne invitera les conseillers financiers à s'enregistrer en conséquence, une façon déguisée d'attirer l'attention sur le débat des rétrocessions (*leur interdiction n'est pas envisagée en Allemagne, à moins que tous les pays de l'UE l'applique*). Ceci est déjà le cas pour les conseillers en assurance, dont seulement 177 se sont enregistrés en tant que tels.

Thomas Abel est sceptique aussi quant à la rapidité avec laquelle l'Allemagne appliquera MiFID II (*il s'attend à environ deux ans de retard*!). Plus de régulation et l'exigence de plus de compétence frappent également l'Allemagne, bien

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que l'industrie financière se soit attribué les services de lobbies expérimentés et solides financièrement. En d'autres termes, le conseil financier basé sur les rétrocessions a encore "de-facto" de beaux jours devant lui.

Le glissement du modèle de "vente" vers celui de "conseil financier" n'est pas vraiment nouveau, dit **MARTA GELLOVA** (FECIF Board Member, Czech Republic) bien que plus apparent à présent. Le conseiller financier doit s'impliquer plus activement à éduquer ses clients à prendre leur destin en mains, mais d'une façon "informée".

Le conseiller financier doit être également compétent en matière de nouveaux produits financiers qui envahissent les marchés, de la technologie, méthodes d'investissement et de la régulation en vigueur. La migration de la simple "distribution de produits financiers" vers un univers dominé par la compétence et l'expérience est en cours. En outre, les clients, désormais plus éduqués et plus informés, l'exigent. Marta Gellova termine son intervention avec un commentaire touchant au débat sur les rétrocessions/commissions. L'approche des régulateurs en République Tchèque a été d'imposer un plafond sur les commissions appliquées par le conseiller financier. Ce modèle a probablement empêché la réforme du système des pensions de 2013 d'aboutir, car tout simplement les produits financiers correspondants n'ont pas été vendus.

Le monde après les commissions - De la vente au conseil

En ouvrant le débat, **VINCENT J. DER-UDDER** (FECIF, Fédérations Européenne des Conseils et Intermédiaires Financiers) indique la volonté affichée par l'Union Européenne d'interdire la rémunéra-

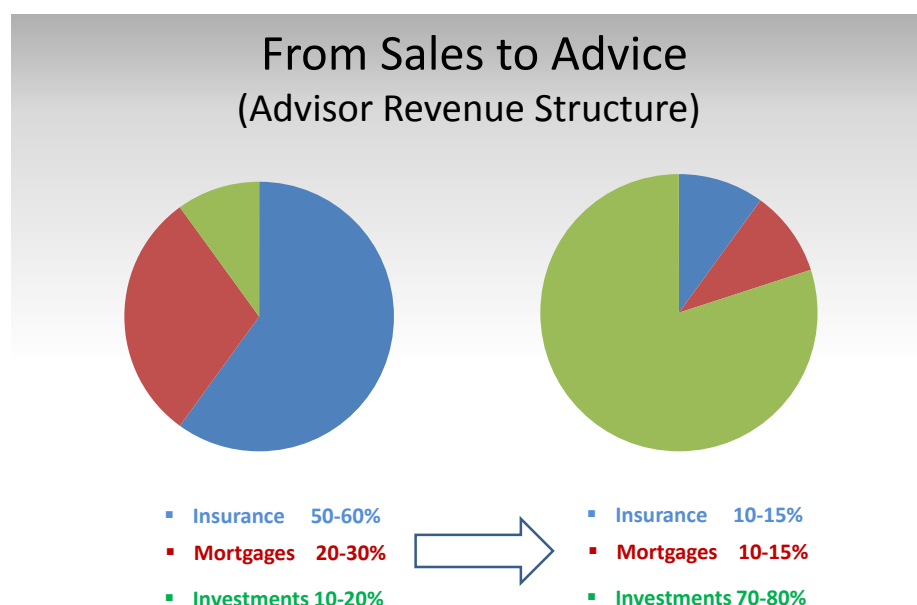
tion par commissions des conseillers financiers, dans le cadre d'une ample révision de la régulation en vigueur à présent dans les divers pays membres. L'idée de cette interdiction avait germé en Finlande et au Royaume-Uni, mais il faut se demander s'il est tellement fondamental de réguler cet aspect de la finance. En effet, selon une enquête récente de PwC (PricewaterhouseCoopers) seulement 5% des clients/investisseurs se préoccuperaient du mode de rémunération des conseillers financiers. De plus, un modeste 8% des 500'000 intermédiaires financiers serait prêt à orienter son modèle d'affaires vers la compensation basée exclusivement sur des frais de conseil et gestion.

Les points essentiels qui ressortent de cette table ronde internationale sont les suivants:

- au Royaume-Uni et dans le cadre de la révision "RDR", les IFAs ont eu une réaction positive en restructurant leur modèle d'affaire; les résultats sont encourageants;
- en Belgique, l'environnement réglementaire a été profondément changé;

désormais, la banque centrale est chargée de la supervision prudentielle, tant micro que macro, des banques, mais la supervision des intermédiaires financiers est confiée à la "FSMA" (Financial Services Regulatory Authority of Belgium) qui collabore étroitement avec la Banque Nationale de Belgique; MiFID II révolutionnera en quelque sorte le "modus operandi" des intermédiaires financiers, notamment dans le secteur de l'assurance, car il devront tenir compte à l'avenir de la pertinence de chaque proposition d'investissement; à présent, environ 80% à 90% des IFAs se sont déjà adaptés à ces nouvelles règles; le nombre de "tied-agents" en Belgique est tombé à environ 3'800 contre les 11'000-12'000 d'il y a dix ans; on observe une importante concentration forcée par une régulation accrue;

- en France, les IFAs indépendants ne reçoivent pas des commissions, mais sont rémunérés pour le "conseil financier"; ils représentent environ 10% du marché financier en gé-



néral et juste un peu plus que 10% dans le secteur de l'assurance; des études ont démontré que seulement un client sur 300 est concerné par le mode de rémunération du conseiller financier;

- en Italie, où les conseillers financiers indépendants sont rares (*en très grande majorité ils sont des "tied-agents", dont la rémunération est basée sur les volumes atteints*), MiFID II aidera à la croissance du secteur; à présent, il y a environ 400 IFAs indépendants contre quelques 30'000 tied-agents; les clients/investisseurs en Italie non seulement ne comprennent pas le débat sur le mode de rémunération, mais ne voudraient probablement pas payer directement pour le conseil financier; le sondage présenté par ANASF à la conférence Consulentia a révélé que le coût du conseil financier est à la dernière place des priorités indiquées par les clients/investisseurs (*la confiance, des bonnes relations, la bonne surveillance du portefeuille et ensuite la performance sont en haut de la liste*); la surveillance prudentielle est exercée par la Banca d'Italia et CONSOB.

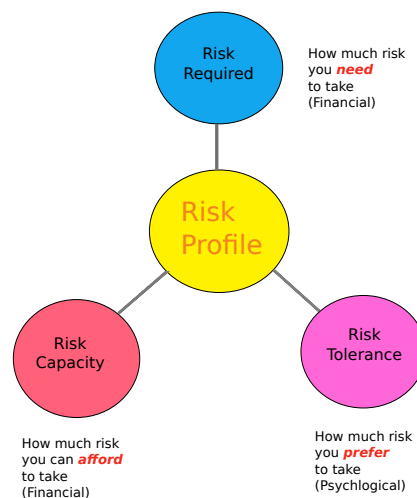
En conclusion, le modérateur Vincent J. Derudder mentionne que, en Belgique, les associations de consommateurs n'ont jamais demandé autant de régulation. Elle a été l'œuvre des politiciens et des régulateurs dans le but de contrôler le secteur!

Les standards d'aptitude et fiduciaires

Sur le thème de cette table ronde, qui est modérée par **ZOLTAN LUTTENBERGER** (PhD, Hungarian Financial Planning Association), la relation fiduciaire du "conseil financier" a été réglementée en

particulier dans les pays anglo-saxons. Zoltan Luttenberger rappelle les principes majeurs suivants (*ici, à droite*):

PAUL RESNIK (Co-Founder, FinaMetrica, Australia) rappelle combien le dernier point est important, c'est-à-dire avoir l'accord de son client après l'avoir dûment informé avec une totale transparence. Le balancier oscillait par le passé entre deux possibilités: (1) un marché ouvert basé sur des standards connus, ou (2) une gouvernance paternaliste. A présent, la troisième option est d'obtenir le consentement éclairé de la part du client. C'est cela établir un processus "fiduciaire" dans la relation avec le client. Et, c'est ainsi que le comportement du fiduciaire et le processus d'adéquation se trouvent parfaitement alignés. Il est fondamental de bien évaluer le profil de risque du client, afin de lui proposer des investissements adaptés à sa situation et sa capacité à absorber certains risques. Vérifier régulièrement que cette évaluation n'a pas changé dans le temps et l'adapter si nécessaire.



Fiduciary vs. Suitability

Serve the client's best interest	Know Your Client
Act in utmost good faith	Know Your Product
Act prudently	Know Your Platform
Avoid conflicts of interest	Follow a Process? (or)
Disclose all material facts	Have a Plan!
Control investment expenses	Reach informed consent
(The Institute for the Fiduciary Standard)	

CIFA Forum 2014 / Luttenberger

TONY MAHABIR (Chairman du Canadian Institute of financial Planner et CEO de Canfin Financial Group of Companies, Canada) souligne que le conseil financier en se dotant d'une bonne pratique (*best practice*) ne sera guère surpris par une régulation accrue. Au Canada, le secteur consiste en plus de 700'000 professionnels dans le domaine des services financiers, soit 7% du PIB annuel. On observe de la résistance à une régulation accrue par des groupes qui voudraient au contraire préserver le "status quo".

Mais, le point essentiel est ailleurs: c'est l'unicité et l'excellence qui vide la notion de concurrence de toute sa force. "Canada's regulatory system is thorough, progressive, if not superior, to those of these other jurisdictions (US, UK and Australia)" ...affirme Tony Mahabir. Il prône, comme les précédents intervenants, à quel point l'aspect de totale transparence envers les clients des rémunérations perçues sous toutes formes est fondamental.

SUSAN JORDAN (Directrice de PBP/Phil Billingham Partnership, UK) livre des informations importantes du secteur recueillies dans des enquêtes spécifiques. En réalité, certains mythes tombent ...dit-elle, tels que:

- oui, les clients ne sont pas opposés à rémunérer le "conseil financier";

- baser son modèle d'affaire sur l'indépendance n'est pas si difficile;
- seulement 20% des IFAs ont quitté l'industrie contre le 60% annoncé et seulement parce qu'ils refusaient d'en acquérir les qualifications requises;
- même les plus petites structures arrivent à s'accommoder de la régulation accrue imposée par le RDR en Royaume-Uni, même si le secteur a subi une certaine consolidation.

La conclusion est bien positive!

ROBERT VAN BEEK (Membre du Conseil de FPSP aux Pays-Bas et de FPA en Belgique) souligne la grande diversité des besoins des clients, de l'expertise des conseillers financiers, qui se conjuguent aussi géographiquement. Est-ce si indispensable d'appliquer un processus sophistiqué de "risk profiling" et de "suitability" quand les conclusions peuvent varier assez sensiblement d'un meeting à l'autre avec le client? Ce dernier, fort souvent, ne s'en préoccupe guère. En conclusion, le plus important est de prendre les bonnes décisions en tous temps et circonstances.

TOBIAS MAAG (FPSB, Brazil) indique que, bien que la profession de FPA/financial

planner existe depuis peu, le gouvernement s'est empressé d'imposer une régulation stricte érigeant le fameux "Chinese Wall" entre les segments de conseil, de vente et de gestion. Or, la demande des clients est d'avoir ces trois services exercés simultanément par le même professionnel, ce qui est interdit par la loi en vigueur à présent au Brésil.

Tobias Maag déplore que (a) la certification pour les professions de distribution et conseil ne requiert pas une connaissance de haut niveau, et (b) la législation est devenue bien tolérante envers la diversification internationale. Certes, on observe des contrôles plus pointus, les mesures prises pour diminuer le risque sont insuffisantes. La charge de la supervision prudentielle au Brésil est détenue par la Banque Centrale qui, à son tour, la délègue à CWM (*le SEC local*) et aux OARs des banques et agents de change.

Le Brésil, déjà bien avancé dans la régulation autour des standards d'aptitude, doit encore se pencher sérieusement sur les standards "fiduciaires". Dans le cadre des premiers, un document informatif doit être rédigé tous les deux ans,

comportant implicitement une révision totale de l'évaluation, du profil de risque et de la stratégie adoptée en accord avec les clients. Ces prescriptions sont assorties des critères de contrôle appliqués.

En conclusion, Tobias Maag partage avec les participants une question: quelle est la réelle motivation des régulateurs et des grandes institutions? Est-ce simplement de se protéger au cas où la machine financière venait à se gripper?

* * *

La journée des associations du Forum International de la CIFA a été très riche en contenu, bien au-delà des attentes.

Il est fondamental dans un monde de plus en plus globalisé de s'informer et éventuellement de s'inspirer de ce qu'il y a de meilleur.

Au final, il pourrait y avoir une esquisse d'harmonisation des règles imposées au monde financier.

On espère vivement que les législateurs et les régulateurs garderont présent dans leur esprit:

- (1) de préserver la sphère privée et le bien-être de chacun,
- (2) de prévenir les conflits d'intérêt, et
- (3) de trouver le bon équilibre entre régulation et liberté.

The XIIth International CIFA Forum took place last April in Monaco.

Below, you will find videos that summarize the themes and the high-level debates that were developed during this Forum.

You can also find these videos on the homepage of:

www.cifango.org

Day one: A glance at the forum's upcoming activities, with special attention paid to CIFA's relationship to the UN, and helping promote greater private sector involvement in global development work.

http://youtu.be/G-zvXU9Oj_U

Day two: An overview of the day's main debates, outlining how opinions vary among experts on the complex issues of importance within the world of finance. However, CIFA's role in bringing stakeholders together to discuss them help make finance more transparent and accountable.

<http://youtu.be/8KgmIgVb5Qo>

Day three: A look at how CIFA is an important organization helping promote dialogue on ethical finance and corporate social responsibility, with interviews with CIFA's leadership.

http://youtu.be/_YW5V55KoKY

Contact: Aurore Laugier

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CONVENTION OF INDEPENDENT
FINANCIAL ADVISORS
A Non-Profit Foundation

A Non-Governmental Organization in special consultative status
with the Economic and Social Council of the United Nations

White paper

XIIth International CIFA Forum

April 23-25 2014, Monaco

The New Paradigm For Wealth Managers

Report of round tables and debates

Message from H.E. Mr. John W. ASHE President of the 68th Session of the United Nations' General Assembly

TO CIFA's XIIth FORUM, MONACO 23-25 APRIL 2014

CIFA CONVENTION OF INDEPENDENT
FINANCIAL ADVISORS
A Non-Profit Foundation

A Non-Governmental Organization in special consultative status
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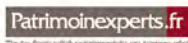
**Message from
H.E. Mr. John W. Ashe,**
President of the 68th Session of the
United Nations General Assembly



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Ladies and Gentlemen,
Greetings one and all.

Although I cannot be with you today in person, I appreciate the opportunity to share some thoughts with you through this message.

I was pleased to learn that your Convention launched a Global Partnership for Development with the World

Jewelry Organization on the occasion of the Partnerships event I co-hosted earlier this month with the **Economic and Social Council (ECOSOC)** at UN Headquarters in New York.

The Partnerships event was part of a series of events that I am hosting to help "set the stage" for the development agenda that will succeed the universally known **Millennium Development Goals (MDGs)** in the post 2015 era.

The processes to define this new agenda were launched at the Rio+20 Conference in 2012, when Heads of State and Government agreed that the post-2015 development agenda should integrate the economic, social and environmental dimensions of sustainable development in a balanced manner. They also underscored the need to strengthen our global partnership for development. Indeed it is through the pooling

of our efforts, ideas and resources that we can achieve the future that we all want.

As supporters of Goal #8 of the MDGs, which calls for a global partnership for development, you know and understand the importance of partnerships and you have expressed your commitment to join us in successfully eradicating poverty. However, successfully implementing the new agenda that will succeed the MDGs will mean expanding our sense of partnership and taking it further.

In the ongoing discussions in New York, there is a common understanding that financing the new agenda comes with enormous costs. The fulfilment of Official Development Assistance (ODA) commitments will be critical, as will domestic resource mobilization primarily through tax revenue; however, public funds will need to be complemented by innovative sources of financing and multi-stakeholder partnerships. Further, our sense of partnership must include public and private, local, regional and national, domestic and international resources that come in the form of innovation, technology, research, human capacity, and cross-sectoral partnerships. Partnerships at the national and regional levels will also be important.

So too will be the engagement of the private sector, who can play a key role in ending poverty, creating decent jobs, expanding infrastructure, sustaining livelihoods, and bringing societies useful products and services. A supportive international enabling environment, which includes stable macroeconomic policies, supportive and reliable infrastructure, a well-educated and capable population, markets conducive to fair trade, and access to credit are key to success.

Yet responsible engagement is necessary and the business sector must look



at how it can become more people-centered and embrace sustainable consumption and production patterns. In this regard, I would like to remind you of another platform where the business community can engage in the post-2015 process: the UN Global Compact. To date, ten-thousand (10,000) companies – including numerous small and medium enterprises (SME's) – have joined the UN Global Compact and committed to universal principles and corporate sustainability.

Today, more and more businesses understand that beyond financial risks, they must also give due consideration to economic, social and environmental risks to ensure their resilience in a world in constant flux. Similarly, investors are increasingly looking beyond financial results to also examine the economic, social and environmental performance of companies. There is a growing sense that sustainability in business is critical and I am pleased to see that CIFA, along with many companies and business groups, is actively contributing to the post-2015 process.

In your discussions over the next two days, I encourage you to examine all of the many ways the private sector can contribute to creating greater well-being for all people on a thriving and prosperous planet.

Thank you.

BY HANIFA MEZOU
SENIOR ADVISOR

ON HUMANITARIAN AFFAIRS AND CIVIL SOCIETY
AT UN'S ALLIANCE OF CIVILIZATIONS

CIBJO & CIFA Global Partnership for Development

BY JEAN-PIERRE DISERENS
CIFA's SECRETARY-GENERAL

BY GAETANO CAVALIERI
CIBJO's PRESIDENT



UNITED NATIONS
NEW YORK
APRIL 10, 2014



WHEREAS the Council of Independent Financial Advisors (CIFA) and the World Jewelry Organization (CIBJO) are both accredited with ECOSOC special consultative status;

WHEREAS, in past years, both CIFA and CIBJO have been actively supporting the UN Development Agenda, as well as the UN Millennium Declaration of 2000 and its 2001 Millennium Development Goals (MDG), and CIFA and CIBJO are supporting the UN main objective to eradicate extreme poverty within the next decade;

WHEREAS both CIFA and CIBJO are mindful in particular of MDG 8 which aims to marshal the support of civil society organizations and the private sector in order to help achieve the MDGs and the UN Agenda for Development;

WHEREAS both CIFA and CIBJO are now actively involved and contributing to the design and formulation of the new Post-2015 UN Development Agenda and to its Sustainable Development Goals, and that they intend to pursue such contribution and involvement at their membership levels;

THE PARTIES HAVE AGREED:

1. To official launch a CIBJO-CIFA global partnership on 9 April 2014, at the occasion of the joint Thematic Debate of the General Assembly and the Economic and Social Council on: "The role of partnership in the implementation of the Post 2015 Development Agenda";
2. CIBJO and CIFA will maintain close consultation in order to contribute more efficiently to the definition of, and achievement of the UN Post-2015 Development Agenda, in particular in supporting the mission of Peace through economic growth, sustainability and culture diversity worldwide, and by supporting financial stability and prosperity shared with the community;
3. CIBJO and CIFA will encourage economic policy harmonization, promotion of international cooperation and issues facilitating worldwide trade, with a special emphasis on consumer protection and investors' confidence;
4. CIBJO and CIFA will defend their membership's right to privacy and the financial advisors' independence

on national and international levels, while promoting strong ethical values together with sensible and sane regulation, which excludes harmful high frequency fraudulent schemes in financial markets and consumer marketing practices;

5. The main platform of this partnership between CIBJO and CIFA will rest on training and developing the groundwork for educating and developing the minds of the new generation of peace-makers and negotiators of the world, and by involving more closely the CIFA

and CIBJO members in the realization of the new UN Post-2015 Development Agenda through relevant education and skills training;

6. To proactively aid and promote peace, CIBJO and CIFA will pride themselves in mobilizing numerous partnering organizations in an effort to involve them in this MDG-inspired Global Partnership, and to provide them with further knowledge and expertise as it pertains to global advocacy, cultural diversity and the UN Post-2015 Development Agenda;

7. This CIBJO-CIFA agreement on a Global Partnership for development will be submitted to their members for approval, in accordance with their respective internal rules, and submitted to the ECOSOC bureau for information.

8. This Memorandum is signed in New York on 9 April 2014, at UN Headquarters



CIBJO's President Gaetano Cavalieri (*centre*) and Jean-Pierre Diserens (*right*), CIFA's Secretary-General, signing the cooperation agreement, as Dr. Hanifa Mezoui looks on.

CIFA'S LUNCHEON IN HONOR OF **H.E. MR. MARTIN SADIJK** NEW PRESIDENT OF UN-ECOSOC

BY JEAN-PIERRE DISERENS
CIFA'S SECRETARY-GENERAL



His Excellency Martin Sadjik was elected seventieth President of the Economic and Social Council on 14 January 2014. Ambassador Sadjik is currently the Ambassador and Permanent Representative of Austria to the United Nations in New York.

UNITED NATIONS
NEW YORK
MARCH 9, 2014



DISTINGUISHED GUESTS:

H. E. MARTIN SAJDIK, ECOSOC PRESIDENT
H. E. Ms. ISABELLE PICO, AMBASSADOR, PRINCIPALITY OF MONACO
Ms. VALÉRIE S. BRUELL-MELCHIOR, DEPUTY REPRESENTATIVE, PRINCIPALITY OF MONACO
H. E. AMBASSADOR VLADIMIR DROBNJAK (CROATIA), ECOSOC VICE-PRESIDENT
H. E. AMB. CARLOS ENRIQUE GARCÍA GONZÁLEZ (EL SALVADOR), ECOSOC VICE-PRESIDENT
H. E. AMBASSADOR IBRAHIM O.A. DABBASHI (LIBYA), ECOSOC VICE-PRESIDENT
Ms. JENNIFER DE LAURENTIS, CHIEF OF BRANCH, ECOSOC AFFAIRS, NEW YORK
Mr. FRANCIS LORENZO, PRESIDENT, SOUTH SOUTH NEWS
Ms. AFAF KONJA, SPOKEPERSON PGA OFFICE
Ms. HALLEY HENNING, PRESIDENT, TANZANITE FOUNDATION
Ms. MICHÈLE VIANNES, PRESIDENT, REGARDS DE FEMMES
Ms. MARAIM AZARM, SENIOR CONFERENCE OFFICER
Ms. ALICE HECHT, CONSULTANT, FORMER CHIEF OF PROTOCOL
Ms. MAHROO MOSHARI, NGO DPI INTERNATIONAL ASSOCIATION OF APPLIED PSYCHOLOGY
Mr. DAVID SADROFF, BUSINESS ENTREPRENEUR
Ms. HANIFA MEZOUI, SENIOR ADVISOR, HUMANITARIAN AND CIVIL SOCIETY, UNAOC
Mr. JEAN-PIERRE DISERENS, CIFA'S SECRETARY-GENERAL

CIFA (*Council for Independent Financial Advisors*) was presented as the only global investment organization with special consultative status at the ECOSOC, representing 20% of worldwide investments, with a network of over 750,000 financial advisors. The voice of CIFA is meant to offer an alternative view on the resolution and solutions to the current world financial crisis, with emphasis on ethical financial markets and investments.

It was observed that financial crisis of the last twenty years have mostly started in the large developed economies. First the savings and loans debacle in the 90's, the 1998 emerging market crisis provoked by LTCM, the 2000 dotcom bubble, the 2003 ENRON collapse and the 2008 meltdown 2008 stemming from excessive speculation by the large banking institutions.

CIFA's role is to raise awareness against such disasters plunging again economies into depression and throwing

millions of people into unemployment. It also vies to spot future major socioeconomic conflicts which constitute a systemic threat to the world economy. Of major concern is the looming clash between generations and financial markets imbalances in world trade defeating the UN Development Agenda and the MDGs.

It was noted that after 14-year of MDGs, 842M people were still suffering from hunger; child labor and slavery numbers remain high. The GINI coefficient improved by a mere 1.4 points from 2002 to 2010. The MDG#8 promoting partnerships with civil society and the private sector yielded only modest results.

CIFA panelists explained how excessive regulations and taxation have become dispiriting factors for investors, as well as a job-killer. CIFA's Charter of Investors Rights adopted in 2005 encourages new ethical investments in developing countries in an investor-friendly context.

It was observed that the Post-2015 Agenda should encourage basic values for the young generations of investors, such as Honesty, Entrepreneurial, Risk-oriented and Work-Oriented spirit. The UN Post-2015 Agenda requires grass-root consultations with civil society organizations, with young generations, with private sector, failing which partnerships promoted by MDG#8 will remain meaningless. The Post-2015 keyword "SMART" must truly reflect "specific, measurable, attainable, realistic and time-bound quantitative targets" agreed with all stakeholders.

The CIFA presentation concluded with a consensus for a 2014 forum at the UN convening civil society organizations and the private sector, where participation in the design of Post-2015 Agenda and SDG will make them more relevant and operational.



The Sixth Global Forum of the United Nations Alliance of Civilizations

Bali, Indonesia 2014

**“Unity in Diversity: Celebrating Diversity for Common
and Shared Values”**

Convention of Independent Financial Advisors (CIFA)
cordially invites you to a panel discussion side-event:

**“The financial sector’s contribution
to sustainable
development in a context of cultural diversity”**

August 30th, 2014 | 09:00 to 11:00

Venue: Legian #3

Panelists:

Steve Young, Executive Director, Caux Round Tables

Selim Chanderli, Advisor Asia, CIFA

Mahroo Moshari, Director, Manhattan Multicultural Counseling

François Lorient, CIFA, CSR-MDG-SDG & Human Rights Advisor

Pamela Bernabei, Secretary General, Scientific and Humanistic
Research Foundation Antonio Meneghetti

Giulia Guardini, Secretary

Hana Jungova, Interpreter

Janka Palkova, Executive Committee Member, CIFA

Moderator:

Jean-Pierre Diserens, Secretary General, CIFA

Join us for the Cocktail Reception

17:30 to 18:30



THE UNITED NATIONS' CORNER

- March 8, 2014:** CIFA celebrating International Womens day in New York City (*above picture*). CIFA was a sponsor of the event organized by UN Women for Peace.
- August 28, 2014:** VIth Global Forum, UN Alliance of Civilizations , in Bali, Indonesia
- September 9, 2014:** CIFA will attend in New York City the United Nations' High Level Forum on The Culture of Peace.

Fed Officials Suggest Limiting Banks' Repo Exposure

Federal Reserve Bank of Boston President Eric Rosengren and New York Fed President William Dudley said large and opaque markets for repurchase agreements—widely used short-term loans that seized up during the 2008 crisis—could cause instability again absent changes.

The Securities and Exchange Commission should also consider imposing higher capital requirements on broker-dealers that aren't owned by banks, and therefore aren't regulated by the Fed, Mr. Rosengren said.

WSJ, Aug. 13, 2014

S.E.C. Finds Bond Fraud in Kansas

Federal regulators said Kansas defrauded investors by bringing \$273 million of bonds to market in 2009 and 2010 without disclosing that its pension system was deeply underfinanced.

NYTimes, Aug. 11, 2014

The Cost of New Banking Regulation: \$70.2 Billion

New regulation stemming from the financial crisis has cost the six largest U.S. banks \$70.2 billion as of the end of last year, according to a new study.

Between the end of last year and the end of 2007, regulatory costs rose by more than 100%—or \$35.5 billion—for Bank of America Corp., Citigroup Inc., Goldman Sachs Group Inc., J.P. Morgan Chase & Co., Morgan Stanley and Wells Fargo & Co., according to data from policy-analysis firm Federal Financial Analytics Inc.

WSJ, July 30, 2014

Asset Managers Notch an 'Important' Win

After months of lobbying, large asset managers such as BlackRock Inc. and Fidelity Investments won a battle in their fight against tighter regulation. A panel of top financial regulators agreed to re-vamp their review of asset-management firms to focus on potentially risky products and activities rather than individual firms.

The shift by the Financial Stability Oversight Council lessens the likelihood individual asset managers will be labeled

High-speed traders flee investment banks

High-frequency traders in London are increasingly defecting from investment banks to join specialised trading firms as they seek to escape tighter restrictions on pay and looming rules banning proprietary trading.

Electronic trading firms have stepped up hiring in the City, poaching staff from large investment banks in the process, according to Astbury Marsden, a recruitment firm.

In the US, banks will have to comply with the Volcker rule aimed at banning proprietary trading by July 2015, while proposed European Commission legislation prohibiting banks from trading on their own account could come into force in two years' time.

Financial Times, Aug. 10, 2014

U.K. to Examine Virtual Currency Regulation

Speaking Wednesday at the launch event of Innovate Finance in Level39, Canary Wharf's Group accelerator for fintech startups, George

Osborne said "These alternative payment systems are popular because they are quick, cheap, and convenient – and I want to see whether we can make more use of them for the benefit of the UK economy and British consumers. I also want to be alert to the risks that accompany any new technology."

"We stand at the dawn of a new era in banking. Mobile banking apps, peer to peer lending, virtual currencies – technologies such as these are going to transform our lives, and create huge economic opportunities," he added.

WSJ, Aug. 6, 2014

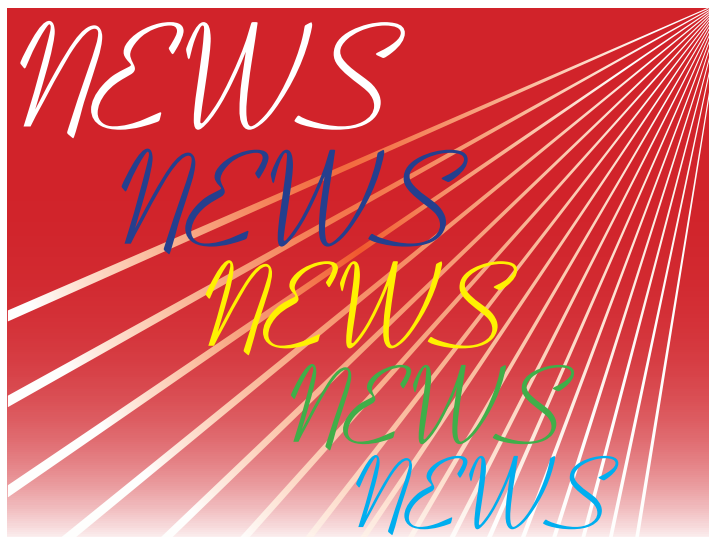
"systemically important"—a designation that would draw them in for greater oversight by the Federal Reserve.

WSJ, July 31, 2014

Consumer Financial Protection Bureau Warns on Bitcoins

The agency issued its first consumer advisory on virtual currencies, including Bitcoin, and said it would begin accepting complaints about such issues or companies.

NYTimes, Aug. 11, 2014



CFOs Cite Regulations and Cost of Compliance Among Top Concerns

A number of concerns over internal and external risks are weighing on the minds of finance chiefs across North America, according to Deloitte's latest CFO Signals™ survey.

The survey, which tracks the thinking and actions of more than 110 CFOs from large North American companies, found CFOs still concerned about economic and government policy worries.

"Concerns about additional regulations, lack of clarity, costs of compliance and unintended consequences made regulatory concerns the most consistently voiced worry during the second quarter, notes Henry Ristuccia, partner, Deloitte & Touche LLP, and global leader, Governance, Risk and Compliance Services Deloitte Touche Tohmatsu Limited.

WSJ, CFO Journal,
Aug. 6, 2014

Once Powerful, Mary Jo White's S.E.C. Is Seen as Sluggish and Ineffective

Mary Jo White took the helm of the Securities and Exchange Commission facing high hopes that she could turn around the once-proud agency.

More than a year into her tenure, she has disappointed a wide swath of would-be allies.

The chairwoman has made some unnecessary foes while her agency has bungled several significant rules.

The deep problem with the capital markets is that the public has lost faith. People believe the system is rigged.

The New York Times, Aug. 13, 2014

Finance: The FICC and the dead

Banks' once-mighty trading businesses are humbled. Citi is not alone in asking if the good times will ever return to the division that bankers refer to as "FICC", for "fixed income, currencies and commodities".

In the years leading up to the financial crisis, these traders helped push the industry's profits to record levels. Will a return of volatility to the markets revive them?

Financial Times, Aug. 11, 2014

U.S. Finds Fresh Use for Seldom-Used Statute in Subprime Cases

Like a child with a new toy, the Justice Department is using a powerful civil fraud provision to investigate potential fraud in the marketing of securities backed by risky auto loans, Peter J. Henning writes in the White Collar Watch column.

This opens up a new front for the government to pursue large monetary penalties against companies that package loans made without paying too much attention to whether the borrowers are credit worthy.

The New York Times, Aug. 11, 2014



Five Ways Dodd-Frank Is Reshaping Wall Street

Four years after the Dodd-Frank law on financial regulation was signed, Wall Street's big banks have reshaped themselves in fundamental ways. Banks are cutting some businesses, while bulk-ing up defenses to help weather future crises. Here's what five big Wall Street banks have done.

— Bank of America sold off more than \$70 billion in noncore assets since 2010.

— Citigroup has shed nearly \$700 billion in noncore assets

— Goldman Sachs trimmed \$56 billion, or 6%, from its balance sheet in the second quarter to proactively comply with regulatory developments, including Fed stress test.

— J.P. Morgan Chase cut ties with more than 2,000 customers that could attract additional regulatory scrutiny.

— Morgan Stanley cut balance sheet by one-third since 2008 crisis

WSJ, July 21, 2014

U.S. regulators reject resolution plans of 11 big banks

Eleven of the biggest U.S. banks have no viable plan for unwinding their businesses without rattling the economy, federal regulators said Tuesday, ordering the firms to address their shortcomings by July 2015 or face tougher rules.

The sweeping rejection shows that regulators are intent on avoiding a repeat of the 2008 financial crisis, when the government stepped in to prop up ailing institutions at taxpayers' expense.

The Washington Post, Aug. 5, 2014

Coherence of EU Financial Services legislation

The European Parliament has published its draft report on enhancing the coherence of EU Financial Services legislation.

Two CIFA partners, FECIF and ANASF, participated to this very important consultation.

The results are frightening and demonstrate the level of lack of realism of the European Union.

Below, some extracts of this report:

1. Are there specific areas of EU financial services legislation which contain overlapping requirements? If so, please provide references to the relevant legislation and explain the nature of the overlap, who is affected and the impact.

A number of respondents gave examples of specific areas of overlapping requirements in EU legislation already adopted. For example, Insurance Europe argued that there is duplication in, among other areas, the requirements for conglomerates in the Financial Conglomerates Directive (FICOD) and Solvency II, and between EMIR

and Solvency II. The Financial Conduct Authority gave examples of conflicting requirements in relation to the definition and responsibilities of home/host regulators across directives including the Prospectus Directive, Transparency Directive, UCITS (Directive 2009/65/EC), AIFMD (MiFID, IMD, PSD and 2EMD) which could all apply to the same firm.

However, most gave example of concerns related to legislation currently under negotiation. Frequently mentioned examples include:

- the relationship between the PRIIPS regulation and the Prospectus Directive, MiFID 2, IMD2
- duplication of reporting requirements, in particular transaction reporting requirements under MiFID2 and EMIR
- rules on remuneration in AIFMD, UCITS V proposal, CRDIV, MiFID 2 which could differ but all apply simultaneously to the management of some investment firms

Some respondents were concerned that the problem would go beyond overlap into actually conflicting requirements which would make it impossible for firms to comply with all

their obligations. The Association of British Insurers and European Payment Institutions Federation gave the example of potential contradictions between new proposals on anti-money laundering and on data protection.

Some respondents also emphasized the need to consider not only overlap within EU legislation, but overlap between the requirements imposed under EU law and those imposed by other jurisdictions. Examples given included on any structural reforms of banks and rules applicable to derivatives...

2. Are there specific areas of EU financial services legislation in which activities/products/services which have an equivalent use or effect but a different form are regulated differently or not regulated at all? If so, please provide references to the relevant legislation and explain the nature of the difference, who is affected and the impact.

Some respondents identified specific situations where like activities, products or services were regulated differently for reasons which were unclear. For example, the Autorité des Marchés Finan-



ciers noted that while UCITS funds are required to use a depositary in order to protect client assets there is no such requirement for either EU Social Enterprise Funds or Venture Capital Funds even though these are available to retail investors. The AMF identified cases – as in the differences between regulation of insurance-related investments and non-insurance investments which created opportunities for regulatory arbitrage which distorted competition and were not good for investors. These concerns were echoed by, among others, both the German Insurance Association (GDV) and the German Investment Funds Association (BVI)...

Others gave examples of difficulties which arose when horizontal issues were regulated in multiple pieces of legislation. For example, HM Treasury argued that dealing with the sanctions and powers of competent authorities horizontally would both save time in negotiations and also avoids discrepancies arising which made the provisions inconsistent and unnecessarily complex to apply...

3. Do you consider that the way EU financial services legislation has been transposed or implemented has given rise to overlaps or incoherence? If so, please explain the issue and where it has arisen, giving specific examples of EU financial services legislation where applicable.

Some respondents gave specific examples of inconsistencies in implementation which gave rise to difficulties, whether in the specific information to be reported under the Short Selling Regulation (*Alternative Investment Management Association*), the application of market abuse legislation in re-

lation to the definition of “inside information” or in relation to market rumors (*Assonime*), or the removal of flexibility in relation to tied agents through the transposition of MiFID in one Member State (*Fédération Européenne des Conseils et Intermédiaires Financiers, FECIF - and Associazione nazionale promotori finanziari, ANASF*). Some, such as State Street and the Association Française de la Gestion Financière (AFG) saw the problem arising in part from differences between language versions of the legislation which gave Member States some scope to choose the interpretation they liked best.

Numerous respondents had concerns about the interaction between level 1

“... The results are frightening and demonstrate the level of lack of realism of the European Union...”

legislation and level 2 measures and guidelines developed by the ESAs and in some cases by national authorities. Allianz, among others, raised concerns about new concepts being introduced in Level 2 or even Level 3 measures and was concerned at the lack of a mechanism to appeal against ESA opinions and guidelines which constrained competent authorities. The National Association of German Cooperative Banks (BVR) argued that in EMIR there had been conflicts between the interpretative FAQs issued by the Commission and those issued by ESMA.

However, some saw positive aspects from the involvement of the ESAs.

Amundi saw benefits arising from peer review by ESMA and the possibility to ask for a common interpretation of concepts, such as the UCITS free investment ratio. The AFG thought it would be a good idea to give ESMA additional powers to carry out direct enforcement.

A number of respondents had concerns not necessarily about the role of Level 2 as such but about the fact that the necessary measures had been prepared so late that it was extremely difficult to implement on time. The Swedish Bankers' Association and Swedish Securities Dealers Association and British Bankers' Association, among many others, gave the example of the late delivery of Level

2 measures on the Short Selling Regulation, a case the Association of Danish Mortgage Banks referred to as “horrific”, while the Federation of Finnish Financial Services gave examples in relation to AIFMD. The Financial Conduct Authority underlined that regulators as well as firms face challenges in implementing the many new pieces of legislation. They were concerned that if insufficient time was given to implementation it

could be wrongly assumed if problems persisted that the rules needed to be changed again when in fact what was needed was effective application of them.

Some respondents highlighted the difficulties caused by Member States failing to implement on time. Payments Council Limited gave the example of cross-border credit transfers taking place between a bank in a Member State which had transposed, and thus required the sending bank to ensure the full amount was received at the other end, and a receiving bank in a Member State which had not, allowing the bank to deduct charges...

GAFI: Serving the State, not the Client

The world was shocked when, in June 2013, Edward Snowden began publishing secret documents belonging to the NSA (*the US-American National Security Agency*) in many newspapers and magazines around the world. The scope of the database Snowden collected from the NSA amounts to an estimated 1.7 million documents. Snowden's leaked information revealed the existence of numerous, enormous global surveillance programmes on individuals, companies, and countries, run by the NSA and other secret service organizations. One of the most important programmes is PRISM, a clandestine mass electronic surveillance data-mining program, launched in 2007. The secret service organizations collaborated with telecommunication companies and internet providers: Google and Yahoo, as well as many others. A document, published in December 2013 by The Washington Post, illustrates the extent of the agency's mass collection of mobile phone location records, which amounts to about five billion records per day.

Privacy at Risk

These revelations raised an important question: Are such NSA activities a major problem for the privacy of individuals? My answer is "probably not". Why? The NSA's problem is that they are looking for a needle in a haystack, or more precisely, a blade of hay in a haystack. This is a task that requires thousands of very well informed and trained people. It is no coincidence that the secret service did not detect important indications of planned assaults, or military

and political crises – despite having had the information in their databases. They could not spot the relevant blade of hay.

A bigger problems for privacy of individuals are banks and financial advisers. Bankers represent the solution to the problems of the NSA and of Big Brother in general. Clients think that bankers and financial advisors are their trustees, whose primary task is to act in their interest. And clients know that **"No one can serve two masters; for either he will hate the one and love the other, or he will be devoted to one and despise the other. You cannot serve God and wealth"** (Matthew 6:24).

GAFI: Banks as Secret Service Agents

According to the GAFI (*or FATF*) Recommendations "International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation" (February 2012), the primary task of banks and financial intermediaries is to serve the state, and thus the government ("**God**"), not the client ("**wealth**").

The original GAFI Recommendations were drawn up in 1990, as an initiative to combat the misuse of financial systems by individuals laundering drug money. In 1996, the Recommendations were revised and their scope broadened beyond drug-money laundering. In October 2001, GAFI expanded its mandate to deal with issues relating to the funding of terrorism.



Dr. Hans Geiger

Prof. Emeritus University
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Hans Geiger holds a doctoral degree in Economic Science.

From 1997 until 2008 he was Ordinarius at the University of Zurich and he held a chair in banking.

From 1970 till 1996 he worked for Credit Suisse, 1987 – 1996 he was a member of the executive board.

His areas of research were payment systems, credit business, banking regulation.

He was a member of the European Shadow Financial Regulatory Committee, and still is a member of SUERF (*Société Universitaire Européenne de Recherches Financières*).

2002 – 2005 he was member of the governmental commission on integrated financial supervision.

According to **GAFI-rule number ten**, banks and financial advisors have to “conduct ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution’s knowledge of the customer, their business and risk profile, including, where necessary, the source of funds”.

GAFI-rule number three states that “Countries should apply the crime of money laundering to all serious offences, with a view to including the widest range of predicate offences”. And the glossary to the Recommendations lists all predicate offences which should be subject to the scrutiny of bankers: Participation in an organized criminal group and racketeering; terrorism, including terrorist financing; trafficking in human beings and migrant smuggling; sexual exploitation, including sexual exploitation of children; illicit trafficking in narcotic drugs and psychotropic substances; illicit arms trafficking; illicit trafficking in stolen and other goods; corruption and bribery; fraud; counterfeiting currency; counterfeiting and piracy of products; environmental crime; murder, grievous bodily injury; kidnapping, illegal restraint and hostage-taking; robbery or theft; smuggling (*including in relation to customs and excise duties and taxes*); tax crimes (*related to direct taxes and indirect taxes*); extortion; forgery; piracy; insider trading and market manipulation.

It seems difficult, if not impossible, to find a serious crime or offence (*outside traffic offences*) which is not included in this list and thus is the responsibility of the banker to detect and report.

GAFI-rule number nine makes it clear that the bankers have to serve the government (**God**), not the client (**wealth**).

It states “Countries should ensure that financial institution secrecy laws do not inhibit implementation of the FATF Recommendations”.

GAFI-rule number twenty says that “if a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity (*and remember that there should be the widest possible interpretation of a crime*), or are related to terrorist financing, it should be required, by law, to report promptly its suspicions to the financial intelligence unit (**FIU**)”.

“ GAFI- rule number nine makes it clear that the bankers have to serve the government (God), not the client (wealth) ”

Rule number twenty-one again makes it very clear, that the bank has to serve the state, not the client: “Financial institutions, their directors, officers and employees should be prohibited by law from disclosing (*“tipping-off”*) the fact that a suspicious transaction report (**STR**) or related information is being filed with the FIU”. This provision excludes the client from the jurisdiction of a court, which is a fundamental human right.

The 21st rule contains an extreme provision which makes bankers agents of the state rather than trustees and service providers for their clients. It states that bankers “should be protected by law from criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the FIU, even

if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred”.

STASI, the Role Model for GAFI

These rules of GAFI-article 21 not only make bankers and financial advisors agents of the State but, as a matter of fact, secret agents of the State that act outside the legal order.

While the NSA and other secret services suffer from missing skilled and knowledgeable human resources to look for the needle or the blade of hay in a haystack, GAFI is providing this invaluable skill to Big Brother. GAFI has developed into something similar to the STASI, the official state security service of the communist German Democratic Republic. The STASI had the reputation as one of the most effective intelligence and secret police agencies to ever have existed. Its strength was based on a network of more than 200'000 citizens turned informants (*“Inoffizielle Mitarbeiter”*), whose main task was spying on the population. This task is now assigned to the bankers and the financial advisors.

Dr. Hans Geiger
Prof. Emeritus University of Zürich
Switzerland

Sources:

- Financial Action Task Force (FATF/GAFI): *International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation. The FATF Recommendations*, February 2012
- Wikipedia: Stasi; NSA; Edward_Snowden; Global surveillance disclosures; PRISM_ (surveillance_program).

CSR and Public Goods

A very helpful way to understand corporate social responsibility (CSR) within capitalism is to think of it in structural/functional terms as a mediating process for the private business enterprise with its environment.

The financial services sector is very pregnant with mediating functions. We often speak these days not of “banking” but of “financial intermediation”. May I suggest that if we seek to optimize the sustainable economic success of financial systems and institutions, we must first be very clear as to what we expect from them: what are their roles and missions? How should we think about the various forms of intermediation that they are expected to perform, and perform well?

Private enterprise does not have modern society all to itself. There is government and there is, increasingly, civil society. Private enterprise seeks profit within the rules and regulations set down by government and ingests the social capital provided by civil society. The interactions among business, government, and civil society need constant mediation as a function of successful business enterprise. Such mediation, I suggested, is the function of CSR and CSR managers.

A CSR prospective on financial intermediation will bring clarity on how to improve financial services at both the public and the private level.

But what, exactly, does CSR mediate? CSR is not a production function delivering the goods and services of private enterprise, though it influences

the substance of such outputs. It is not corporate governance precisely, though it shapes governance policies and procedures. It is not any of the traditional fields of study in business schools: human relations, operations, finance, marketing and sales, strategy and organization; though it intrudes into each of these practical disciplines.

Mediation is a process only. What does CSR have to say about the direction of mediation in any given decisional situation? How domineering should the company be towards government and civil society? How submissive? Be nice to its stakeholders? Care about the environment? Be a good citizen? Where are guidelines for such policies and decisions? Should the company be more forthcoming or less? Raise prices or lower them? Add costs or turn its back on external concerns and keep the cost of its goods and services as low as possible?

Mediation as a function is not a rule of conduct; it is not a set of ten commandments or a noble eightfold way that would apply under all circumstances as the definition of the right thing to do. It is rather a form of discourse ethics where issues have to be spotted, analyzed, and addressed.

So, then, what actually is the subject matter specific to CSR mediation?

I would like to suggest that there is a special character to CSR concerns within its task to mediate for the private enterprise with other social sectors.

Organizational outputs can be, and often are, considered as private goods or public goods.

Stephen B. Young
Global Executive Director
CAUX ROUND TABLE
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Stephen B. Young became the Global Executive Director of the Caux Round Table (www.cauxroundtable.org) in 2000.

He wrote the book *Moral Capitalism* to explicate the economic and moral approach of the Caux Round Table to free market capitalism. *Moral Capitalism* integrated the moral sense theory of Adam Smith with other theories of moral philosophy and economics. It has been translated into Japanese, Spanish, Croat and Polish.

In 2008, Young was named one of the 23 persons who developed the corporate social responsibility movement by Professor Sandra Waddock in her book, *The Difference Makers*.

For the Caux Round Table, Young drafted a set of ethical Principles for Government, edited a set of ethical Principles for NGOs, and wrote a set of ethical Principles for the Ownership of Wealth. To support training in the Principles for Government, Young wrote the monograph *Moral Government* which was translated into Spanish.

Under Young's stewardship, the Caux Round Table developed country chapters, developed a unique management tool for corporate social responsibility, the Arcturus assessment instrument, and an assessment instrument to help individuals act more ethically, the Ethical Leadership Profile.

Private goods are:

Private goods can be transferred in a market. They can be priced and exchanged. A loaf of bread is a private good; its owner can exclude others from using it, and once it has been consumed, it cannot be used again. Private goods are conveniently the subject of personal ownership; they admit to designation as “mine” or “yours” and come within the reach of having a title that permits an owner to exclude all others from possession, use and enjoyment. With ownership, we can exclude others. Also, with ownership people are in rivalry with one another to get their hands on the good or enjoy the service. For example, if one individual visits a doctor there is one less doctor’s visit for everyone else, and it is possible to exclude others from visiting the doctor. This makes doctor visits a rival and excludable private good.

Public goods are:

Any outcome that is open to all. Such an outcome is sharable; it is said to be non-rivalrous and non-excludable. It is hard to personally own and exchange public goods even though they can be enjoyed. A traffic light is a public good. One person can benefit in safely crossing a street and so can everyone else who passes by. But none of them owns the pole and light. Usually the government does. Non-rivalry means that consumption of the good by one individual does not reduce availability of the good for consumption by others. Non-excludability means that no one can be effectively excluded from using the good.

Breathing air does not significantly reduce the amount of air available to

others, and people cannot be effectively excluded from using the air. This makes air a public good, albeit one that is economically trivial, since air is a free good.

A standard list of public goods would include: peace, rule of law, a system of property rights and enforcement of contracts, communications and transportation systems, including the internet, the Linux community of software, beauty, knowledge, lighthouses.

Paul A. Samuelson is usually credited as the first economist to develop the theory of public goods. In his classic 1954 paper *The Pure Theory of Public Expenditure*, he defined a public good,

“The financial system is full of instances where private transactions also create positive externalities – public goods – for society such as more jobs, better quality products, a middle class which supports democracy, stability of families from access to wealth, etc.”

or as he called it in the paper a “collective consumption good”, as follows: *...[goods] which all enjoy in common in the sense that each individual’s consumption of such a good leads to no subtractions from any other individual’s consumption of that good...*

In the real world, there may be no such thing as an absolutely non-rival and non-excludable good; but economists think that some goods approximate the concept closely enough for the analysis to be economically useful.

One of the most basic of public goods is a state where individuals can enjoy their liberties, including use of property and the pursuit of happiness. This pub-

lic good is protected by the rule that one person’s freedom stops where it impinges on the equal freedom of others. (*Declaration of Rights of Man and Citizen*) Drawing the appropriate line between private right (*which authorizes private initiatives*) and limitations on that right to protect the rights of others is a messy process.

Where does my freedom to smoke end so that your liberty not to inhale second-hand smoke can be vindicated? Adam Smith in his lectures on jurisprudence called this intersection of private and public goods the problem of “police”.

The production of public goods can also result in positive externalities which are not remunerated. If private organizations don’t reap all the benefits of a public good which they have produced, their incentives to produce it voluntarily might be insufficient. Consumers can take advantage of such positive externalities or public goods without contributing sufficiently to their creation. This is called the

free rider problem, or occasionally, the “easy rider problem”

(See *Global Public Goods*, Inge Kaul, Isabelle Grunberg, Marc A. Stern, editors; Wikipedia at “public goods”)

The financial system is full of instances where private transactions also create positive externalities – public goods – for society such as more jobs, better quality products, a middle class which supports democracy, stability of families from access to wealth, etc.

In the classic theory of the private firm, the business enterprise need not concern itself with public goods. It is to define its success or failure only with respect to the private goods or services it sells. Under this theory, as advocated

with skill and passion by Milton Friedman and the Chicago School of economic thinking, if there are negative externalities spawned by the private sector creating a public concern, then it is up to government to step in and provide new, additional public goods in the form of regulation of private activity for the common good.

Thus, even in a theoretical world of purely private goods, there remains a problem along the border where something “public” arises to change the character of the private good into something of greater communal concern. The border must not only be defined, it must be defended on both sides. The private goods side seeks to push the border farther away from its core autonomy and the public goods side seeks to prevent harm from crossing the border and to encourage positive externalities to be produced and shipped out “abroad” for public consumption. Watching over the border and adjusting disputes between the two sides is the function of CSR.

We might note that both the collapse of credit markets in 2008 and the current oil leak in the bed of the Gulf of Mexico are instances of private goods becoming more than that, becoming of great concern to many publics.

But outputs cannot so easily be allocated to just two categories of private and public. Some services that produce a public good, education for example, can be well delivered by private enterprise without government direction or supervision. Consider Oxford University or Harvard College. But say, are financial services similarly suitable for private enterprise production or do they require supervision of their externalities? What are we to do with goods of a mixed character?

It may make more sense to think of a continuum of goods with completely

private goods at one extreme and purely public goods at the other extreme. Next to fully private goods would come quasi-private goods and then a set of quasi-public goods before we get to purely public goods.

Quasi-private goods

Quasi-private goods arise when private goods or services throw off positive and negative externalities. The idea is a crossing of the border between a purely private good and something with a more public character. A positive externality occurs when some benefit can be enjoyed beyond the ties of privacy attaching one owner to a subsequent



owner. Thus, a work of art, though it can be owned and rival others may be excluded from seeing or appreciating it, casts positive benefits of beauty and understanding. Its beauty or social meaning can be more than just a personal possession. Education provided privately is a benefit to more than those who pay tuition to learn new knowledge and skills. It contributes to social capital and to the capacity of a family or a society to advance in politics and economics.

A way of thinking of the difference between absolutely pure private goods and quasi-public goods is that others

take an interest in the creation or the effect of quasi-private goods. The concept applicable here is analogous to that of negligence in the common law. Under the tent of negligence, when one's actions implicate the well-being of others, a duty may arise to use caution in so acting so that others are not harmed. Brett, Master of Rolls and later Lord Esher, put the concept this way in the case of *Heaven v. Pender* (1883, 11 Q.B.D. 503): “Whenever one person is by circumstances placed in such a position with regard to another that every one of ordinary sense who did think would at once recognize that if he did not use ordinary care and skill in his own conduct with regard to those circumstances he would cause danger of injury to the person or property of the other, a duty arises to use ordinary care and skill to avoid such danger.”

Much later, Lord Atkin offered a different version of this principle of responsibility for use of private property in *Donoghue v. Stevenson* (1932, A.C. 562): The rule that you are to love your neighbor becomes in law, you must not injure your neighbor; and the lawyer's question Who is my neighbor? receives a restricted reply. You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbor. Who, then in law is my neighbor? The answer seems to be – persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called into question.”

A rather similar point was also made in the 1789 Declaration of Rights of Man and Citizen as follows in paragraph 4: Liberty consists in the power to do anything the does not injure others; accordingly, the exercise of the rights of each man has no limits except those

that secure the enjoyment of these same rights to the other members of society.

Private goods lose some of their privileged autonomy when they assume a character that can or will impact a wider circle of circumstances.

Quasi-private goods and services retain the core features of private goods. They are the subject of rivalry and potential owners and users can be excluded from ownership and use. They can be priced and sold with title changing hands or beneficial enjoyment placed in another's possession. But unlike pure public goods, they are encumbered with impacts on others outside the connection of buyer and seller. They create externalities. Thus, those others who are impacted by the use of the good or service take an interest in how the good or service is financed, made, sold, delivered, and used.

CSR paradigms thus arise to mediate between the core privacy of the good or service and the legal autonomy of the company that provides it and the interests, claims and expectations of those who fall within the circumference of its externalities. CSR mediation can be analogized to avoiding negligence through prudent foresight.

A negative externality occurs when production and sale of a private good impinges on the enjoyment or well-being of others. Pollution of air and water from manufacturing is perhaps the classic case of a negative externality. As pollutants are discharged from private property into a public stream or river or penetrate into groundwater from which others draw their drinking water they create negative externalities for those who might suffer from such pollution. Littering, or not picking up after your dog on a sidewalk or a public

park, are other examples of a negative externality.

The concept of negative externality slides into the distinction of being a "public bad". If enough people are negatively effected by behavior that undermines public health, the rule of law, public morals and decency, safety and security of persons and property, then it loses its entirely private character and becomes at least a quasi-private good, or perhaps even a quasi public good liable to regulation and control. Bad factory working conditions, for example, become quasi private goods and generate advocacy for remediation on the part of unions and socially concerned NGOs.

“Banking and financial services are businesses that produce both positive and negative externalities.”

Banking and financial services are businesses that produce both positive and negative externalities. And so banking and the selling of securities are highly regulated. As are public health, drug manufacture and sale, insurance and agriculture.

Quasi-private goods also include those public goods which can be and are rendered private – ownership rights are created to exclude others and make them compete for use. This occurs in intellectual property when creativity, knowledge and technique which are conceptually accessible to all freely without dilution of their potential are placed under patent or copyright to prevent free use and to force pricing of access through a market.

A poem for example can be read by many people without reducing the consumption of that good by others; it is non-rivalrous. However, the individual who wrote the poem may decline to share it with others by not publishing it and keeping it as exclusively "his" or "hers". Similarly, the information in most patents can be used by any party without reducing consumption of that good by others. Copyrights and patents provide temporary monopolies, or, in the terminology of public goods, providing a legal mechanism to enforce excludability for a limited period of time.

Some quasi-private goods are called "club goods" for their use is restricted to members of a club, like a union or a country club or a cooperative. In this category are attendance at sporting events – football matches – and theaters. These goods are public for some for a price of admission but excludable to others. Sports teams are usually owned privately but emotionally are considered not as private property but as part of a community's emotional identity. In moments of team crisis, fans think they should have a say in the decisions of owners to, say, fire or hire a coach or to move the team to a different community.

Thus, we might say education or health care is a quasi-private good. Each brings non-excludable and non-rival benefits to a public but can be provided through private contract in a market place where a price is placed on access to the service. Communities are better off with higher educational achievements and higher standards of public health.

A good which is rivalrous but non-excludable is sometimes called a common

pool resource. Such goods raise similar issues to public goods: the mirror to the public goods problem for this case is sometimes called the tragedy of the commons. For example, it is so difficult to enforce restrictions on deep sea fishing that the world's fish stocks can be seen as a non-excludable resource, but one which is finite and diminishing.

Quasi-public goods

Some outcomes are open to competition but no claims of ownership can prevent entry of competitors. Natural resources are such quasi-public goods. Their exploitation gives rise to the tragedy of the commons: each acquirer of the good over-consumes and destroys the underlying asset, which is finite and diminishing. Fish in the oceans and potable water are such diminishing assets that will inflict harm once they are depleted. With such quasi-public goods, pricing for current market consumption does not charge enough to encourage slow use for preservation of stocks and supplies.

With quasi public goods, the priority claim of privacy and autonomy in decision-making around the making and use of the good or service attenuates even more than with quasi private goods. The scope or intensity of the externalities associated with the good or service is wider and deeper. So wide and so deep that something of a public interest can be said to have arisen. More than a few people external to the core production and exchange of the good or service care about its existential application in society, politics, the economy, and the environment.

Another version of quasi-public goods is goods and services produced by businesses "affected with a public interest." At the Common Law in traditional England, such business as hotels, ferries,



common carriers, wharfs were held to higher standards of liability and responsibility because their customers had to rely to their detriment on the probity and caution of the owners. There was a general shared interest in personal safety to be enjoyed by numerous and unknowable future customers.

So, today for similar reasons, utilities, railways and airplanes are regulated by government to insure that the public interest in safety is vindicated by private parties.

Where a business has a monopoly or several businesses establish a cartel, government regulation steps in to prevent abuse of private power. When private capital is knowingly invested in such businesses, the private owners assume a responsibility to be good stewards of a public interest. Where private enterprise assumes the risk of market competition, it does not trespass into this zone of quasi-public goods.

Where private goods are created by intermingling private profit seeking with government powers to exclude rivals, rent seeking replaces market competition as the means of making money. Rent seeking, or crony capitalism, creates less new wealth and more social injustice and markets for private goods only. These private goods therefore ac-

tually become "public bads" because of the damage their production and sale does to the rule of law and the abuse of power so engendered. Such rent seeking transcends all justifications that tolerate private ordering through markets and so cannot benefit from the legitimacy of free market values. Such rent seeking merits restriction and elimination on the grounds it has a quasi public character (really a quasi public "bad") that is harmful to the community at large.

Protected national parks and wilderness areas are quasi-public goods. They are open to full exploitation as public property but are placed in government ownership as a trust so that their use can be moderated and regulation through exclusion of some potential uses and users. One hiker on a trail does not prevent others from coming along to enjoy the same views and experiences. But at some point too many hikers, or drivers of ATV's, will indeed destroy the enjoyment value of the pristine physical setting.

Airways for radio and television which, if unregulated would be public goods, are placed under government control for allocation to private businesses for exploitation.

With quasi-public goods, we may infer that the mediating function of CSR is more intense than in the case of quasi private goods. Any company confronting production and marketing decisions with respect to quasi public goods needs more than cost accounting and normal accounting controls to guide its decisions, especially at the level of the board of directors. Engagement with government, political actors, and NGOs is quite necessary in this realm where entrepreneurial activity intersects with the public interest.

Thus, the mediating role of CSR is strongest in the middle range of goods –

where quasi-private and quasi-public goods are being offered. Here is where strategic CSR thinking and tactical CSR decision-making is of greatest value to a company. The need for CSR mediation is weakest at the extremes.

With fully private goods, we can expect market mechanisms of consumer and producer choice following price signals to rather adequately determine the quantity and quality of goods to be produced and sold. Here classical micro-economics holds intellectual sway.

At the other extreme, where government produced purely public goods, public authority legislates and regulates what will be provided, how it will be provided and at what cost. The function of private enterprise here is compliance with laws and regulations.

CSR enters in first on boundary issues: is this good purely private? Is it purely public so that private enterprise should be precluded from providing it? How large should the sphere of public goods publicly provided become? Should there be limits on what government should do? Is there a public good (usually a public bad) so intensely associated with the good that public concerns should be taken into account by private providers?

But most importantly, CSR comes to fore around issues raised by the production of quasi-private and quasi-public goods.

Production and sale of each kind of good or service – private, quasi-private, quasi-public, public – needs its own business model.

Private goods and services can be produced with the traditional micro-economic, price-setting model where supply



and demand curves meet in free market exchanges and no attention need be paid to the costs or benefits of externalities. Here the principal driver of enterprise profits is cost control.

But, standards of internal governance, which do not reflect micro-economic considerations, and consideration for employees are none-the-less mandatory for sustained enterprise success even with respect to the production of only private goods and services. Here the American National Association of Corporate Directors and the OECD have provided guidelines for high standards of corporate governance in publicly traded enterprises.

And, of course, any business that loses sight of customer satisfaction will face increasing difficulties in earning satisfactory returns. So, even in the heart of autonomous ordering of enterprise decisions, concern for non-financial

“The business model most appropriate here is a hybrid one of market performance and regulatory compliance with cost requirements and imposed quality considerations.”

factors associated with certain stakeholder needs is still a necessary condition of business success.

These intangible CSR variables that live in a private firm's culture arise, in large part, from a concern for human dignity. Human dignity is both a positive and a negative externality of private ordering. How does our behavior affect the dignity of others?

This is a standard of ethical consideration and moral right that applies to private persons, even when they engage in commercial and capitalist activities. It is a trump card overriding more self-centered and brutish behaviors and values. CSR considerations, therefore, have a role to play even in the heart of the most private of private enterprises. The autonomy of owners themselves is limited by claims arising from the need to validate human dignity.

For quasi-private goods a more nuanced and complex business model is required. Driving down costs will not optimize firm profits as, in future periods, the costs of remediating negative externalities will more than offset short-term profits and will compromise the firm's intangible assets supporting its brand equity and goodwill. Seeking quality is the preferred strategy for success in this range of goods and services. Assuming that a company's goods or services have a quasi-private character will induce the company to enhance customer loyalty and so avoid unexpected market shocks in its cost base or the demand curve for its outputs.

With respect to quasi-public goods, adherence to standards, seeking quality, and sensitivity to externalities are necessary but not sufficient. In this environment, dialogue and negotiations with impor-

tant constituencies and stakeholders may become necessary. Thus, a company needs to track the perceptions and needs of those quasi-publics, and real publics that voice concern or opposition to its business methods. As a matter of course the company too, most likely, will find it wise to maintain dialogue with government agencies and politicians to influence the introduction of laws, rules and regulations design to meet public interests and to moderate the impact on the firm of such regulatory requirements.

Here the CSR function expands to embrace very rigorous compliance and internal audit procedures and the role of legal counsel. The CSR function here is a very active one of express and overt mediation between the firm, government and civil society.

The business model most appropriate here is a hybrid one of market performance and regulatory compliance with cost requirements and imposed quality considerations. The model would be firms engaged in government contract work, say as a supplier of equipment to the military or to a space agency, or as administrator of government welfare programs in health and education. Profit comes from a negotiated margin provided for in a long term contract. A business in this environment takes on some of the characteristics of a regulated utility serving the public interest. It has lost a large degree of control over its costs, its production methods and its pricing to customers.

Governments also may easily contract for and subsidize quasi-public goods and services, such as education and loans for education.

Finally with pure public goods, I question whether a traditional free market business model is at all relevant. Such goods and services – justice, infrastructure, trustworthy currencies, vibrant

social capital – are the responsibility first and foremost of public authorities. They are simply to be provided, not bought and sold.

The Constitution of the United States in its preamble provides a noted list of such public goods: justice, domestic tranquility, the common defense, the general welfare, and the blessings of liberty. These are the goods that people seek by entering into allegiance with one another and through submission to a common public authority, a “res publica” of Roman heritage.

However, since some production function is inherent in the delivery of these



goods and services, issues of quality and efficiency do arise. CSR plays a role with pure public goods in seeking ways for private firms to produce and deliver them as quasi-public goods under contract with public authority at lower cost or more efficiently than would be the case with publicly owned administrative bureaucracies.

Financial services are difficult to categorize and therefore difficult to manage and measure success. Financial services comprise all 4 kinds of goods: purely private goods, quasi-private goods, quasi-public goods and public goods. The pure public good provided

by financial services perhaps is banking and insurance – these businesses have characteristics of utilities that society needs just as we need air to breathe and food to eat. But these public goods are provided by private firms under public regulation.

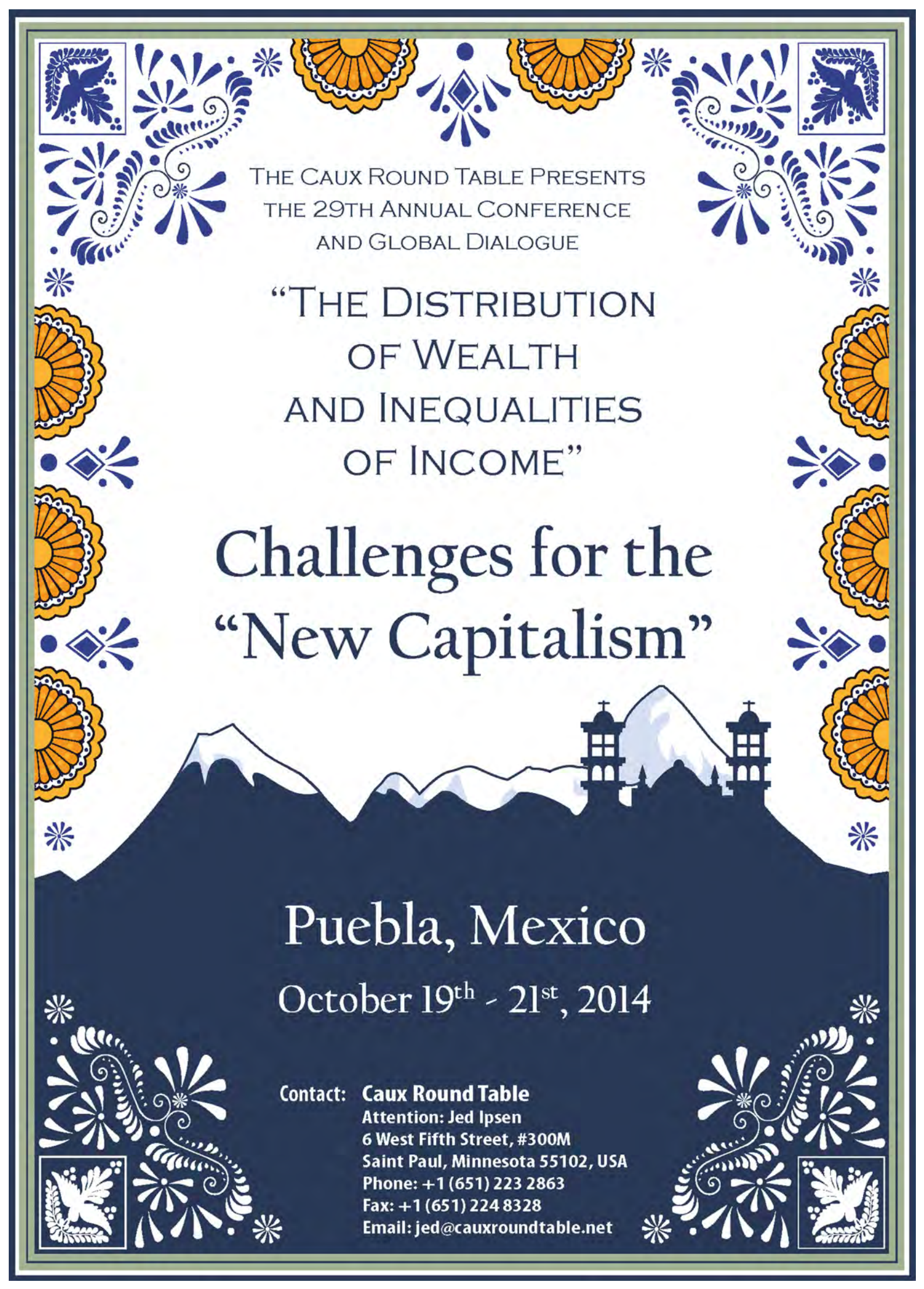
Other public goods are money and liquidity which fall to the responsibility these days of governments to assure in quality and quantity.

Where investors rely on financial instruments for their security and growth of assets, the private function of creating and selling such instruments assumes a quasi-public character. The need of the economy to rely on the quality of such investments means that these goods are more than baubles to be made and traded completely free of liability for harm.

The Caux Round Table Principles for Business provide a framework for CSR management in every environment – private goods, quasi-private goods, quasi-public goods and even with public goods. The CRT Principles set forth seven primary considerations for the impact of business decisions and the guidelines provide a structure for evaluating the interests of key stakeholders. Under the stakeholder constituency of community, intersection of the firm with pure public goods is considered.



Stephen B. Young



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Spotting Accounting Control Fraud

The independent financial advisors need to gain expertise in spotting the warning signs of likely “accounting control fraud.”

Accounting control fraud is a white-collar criminology concept that refers to schemes in which the persons who controls a seemingly legitimate entity uses it as a “weapon” to defraud. For the sake of brevity I will call these persons the “CEO” but the key is actual power to control rather than title. In finance, accounting is the “weapon of choice.”

Why should independent financial advisors worry about accounting control fraud? First, accounting control frauds cause greater financial losses than all other forms of property crime – combined. Second, epidemics of accounting control fraud drive our recurrent, intensifying financial crises. In the U.S., no one doubts the role of accounting control fraud in driving the Enron era frauds. COSO (*known as the Treadway Commission*), has confirmed that securities fraud is typically accounting fraud and is lead overwhelmingly (*and increasingly*) by CEOs and CFOs. “The SEC named the CEO and/or CFO for involvement in 89 percent of the fraud cases” (COSO news release, May 20, 2010).

The National Commission on Financial Institution Reform, Recovery and Enforcement (NCFIRRE) investigated the causes of the savings and loan (S&L) debacle and reported:

The typical large failure [grew] at an extremely rapid rate, achieving high concentrations of assets in risky ven-

tures.... [E]very accounting trick available was used.... Evidence of fraud was invariably present as was the ability of the operators to “milk” the organization (NCFIRRE 1993).

My next column will present the evidence demonstrating that the most recent U.S. crisis was driven by the three most destructive epidemics of financial fraud in history.

The Accounting Control Fraud “Recipe’s” Three “Sure Things”

Here is the single most important thing to understand about the epidemics of “accounting control fraud” that drive these crises – accounting fraud by banks produces three “sure things” (Akerlof & Romer 1993: 4-5): the lender will promptly report high (*fictional*) profits, modern executive compensation will promptly make the CEO wealthy, and the bank will (*much later*) recognize catastrophic losses. The fraud “recipe” for a lender (*or loan purchaser*) has four ingredients.

1. Grow like crazy
2. By making (*purchasing*) bad loans at a premium yield while
3. Employing extreme leverage, and
4. Providing only grossly inadequate allowances for loan and lease losses (ALLL)

Jamie Dimon, JPMorgan’s CEO, almost stated the fraud recipe correctly in his March 30, 2012 letter to shareholders: “Low-quality revenue is easy to pro-



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duce, particularly in financial services. Poorly underwritten loans represent income today and losses tomorrow.”

<http://www.scribd.com/doc/88143909/Annual-Report-Letter>

The correct statement is that “poorly underwritten loans represent fictional income today because lenders engage in accounting fraud to avoid establishing the necessary ALLL provision that would demonstrate that the loan was actually made at a loss. Loss recognition can be (*improperly*) delayed for years. To complete the logic loop, the unlawful recognition of “income today” leads to a “sure thing” that will promptly make the controlling officers far wealthier.

When epidemics of accounting control fraud are not checked by regulators there are three likely results of the recipe. The recipe is the best means possible to hyper-inflate a bubble. When a bubble hyper-inflates fraudulent lenders can greatly extend the life of their frauds and the bubble by refinancing their bad loans. The saying in the trade is that “a rolling loan gathers no loss.”

But there is an even more seditious finding that arises from control fraud theory. The fraud recipe for a purchaser of bad loans is identical to the recipe for the issuer/seller of bad loans, except that the second “ingredient” changes from “making” to “buying.” When the “secondary market” purchaser of the bad loans is itself engaged in accounting control fraud its controlling officers find it essential that the fraudulent purchaser not exercise effective market discipline against the fraudulent seller, for doing so would kill the fraud scheme. The result is the financial version of “don’t ask; don’t tell” in which everyone involved pretends that the terrible loans are wonderful.

Third, the three “sure things” that arise from large scale control fraud create a “Gresham’s” dynamic that tends to drive good ethics out of the markets by pressuring other controlling officers such as CFOs and encouraging other CEOs to mimic the frauds. Large scale control frauds also deliberately generate Gresham’s dynamics to suborn putative “controls” and pervert them into their most valuable fraud allies. This should be an important warning for independent financial advisors for the professionals that are successfully suborned bill themselves as “independent professionals” yet the ability of the CEO to hire, fire, (*directly or indirectly*) promote, and compensate them makes

“Fortunately, independent financial advisors are typically hired by private investors who generally are not seeking to suborn the advisor.”

their “independence” a lie. Fortunately, independent financial advisors are typically hired by private investors who generally are not seeking to suborn the advisor.

George Akerlof (*Nobel Laureate in Economics, 2001*) used the metaphor to Gresham’s law in his article on markets for “lemons” – another control fraud variant in which the seller uses his asymmetrical information advantage as to the quality of the goods or services being sold to deceive the buyer.

[D]ishonest dealings tend to drive honest dealings out of the market. The cost of dishonesty, therefore, lies not only in the amount by which the purchaser is cheated; the cost also must include the loss incurred from driving legitimate business out of existence (Akerlof 1970).

The Financial Crisis Inquiry Commission (FCIC) described an example of the deliberate creation of an “echo” epidemic of fraud in the ongoing crisis.

From 2000 to 2007, a coalition of appraisal organizations ...delivered to Washington officials a public petition; signed by 11,000 appraisers... [I]t charged that lenders were pressuring appraisers to place artificially high prices on properties [and] “blacklisting honest appraisers” and instead assigning business only to appraisers who would hit the desired price targets (FCIC 2011:18).

Non-economists observed and understood the Gresham’s dynamic long before Akerlof’s article.

The Lilliputians look upon fraud as a greater crime than theft. For, they allege, care and vigilance, with a very common understanding, can protect a man’s goods from thieves, but honesty hath no fence against superior cunning. . . where fraud is permitted or connived at, or hath no law to punish it, the honest dealer is always undone, and the knave gets the advantage (Swift, J., Gulliver’s Travels).

A fraud epidemic in a profession or industry does not require anything close to a majority of the members of the profession or industry commit fraud. A relatively small percentage of the profession, for example, is ample because they can be used selectively to provide the opinions that will aid the accounting fraud.

Over the last several years, the subprime market has created a race to the bottom in which unethical actors have been handsomely rewarded for their misdeeds and ethical actors have lost market share.... The market incentives rewarded irresponsible lending and

made it more difficult for responsible lenders to compete.” Miller, T. J. (August 14, 2007). Iowa AG.

Why the Recipe allows Early Detection of Bank Control Frauds

The fraud recipe tells us three key characteristics that allow us to detect accounting control frauds in banking at an early point (*and one confirming characteristic that becomes available in the mid-term*). We used these characteristics to identify and prioritize our closure of S&L frauds and in prosecuting their controlling officers.

First, to make (*or purchase*) vast numbers of remarkably lousy loans the bank must render ineffective its underwriting and related internal and external controls. An honest bank has many layers of protection against making poor quality loans because that is how banks remain profitable. Note that an honest banker under the grips of “moral hazard” might make high loans, but he would attempt to do stellar underwriting on such loans precisely because they were such high risk and underwriting is the only reliable means of understanding reducing that credit risk. We can distinguish, therefore, between CEOs who (*honestly*) “gamble for resurrection” or engage in the “sure thing” of fraud a point made “forcefully” by George Akerlof and Paul Romer in their famous 1993 article entitled “*Looting: The Economic Underworld of Bankruptcy for Profit*” that cited my work.”

The typical economic analysis is based on moral hazard, excessive risk-taking, and the absence of risk sensitivity in the premiums charged for deposit insurance. This strategy has many colorful descriptions: “heads I win, tails I break

even”; “gambling on resurrection”; and “fourth-quarter football”; to name just a few. Using an analogy with options pricing, economists developed a nice theoretical analysis of such excessive risk-taking strategies.⁴ The problem with this explanation for events of the 1980s is that someone who is gambling that his thrift might actually make a profit would never operate the way many thrifts did, with total disregard for even the most basic principles of lending: maintaining reasonable documentation about loans, protecting against external fraud and abuse, verifying information on loan applications, even bothering to have borrowers fill out loan applications.⁵ Examinations of

“...the bank will report record earnings and minimal loss reserves, while making exceptionally risky loans...”

the operation of many such thrifts show that the owners acted as if future losses were somebody else’s problem. They were right (Akerlof & Romer 1993: 5).

4. See Merton (1978).

5. Black (1993b) forcefully makes this point.

We can also predict the circumstances that will lead far more bankers to choose the “sure thing” of fraud. In criminology, we refer to this as a “criminogenic environment.”

[M]any economists still seem not to understand that a combination of circumstances in the 1980s made it very easy to loot a financial institution with little risk of prosecution. Once this is clear, it becomes obvious that high-risk strategies that would pay off only in some states of the world were only for the timid. Why abuse the system to pursue

a gamble that might pay off when you can exploit a sure thing with little risk of prosecution? (Akerlof & Romer 1993: 4-5).

As I will explain in a future article, the three “de’s” (*deregulation, desupervision, and de facto decriminalization*) are key factors in producing a criminogenic environment and the “regulatory race to the bottom” that the banks spurred (“won” by the City of London) produced an intensely criminogenic environment in the U.S. and much of Europe. The elite bankers who led the resultant epidemics of accounting control fraud correctly viewed the probability of prosecution was trivial and the probability of becoming wealthy was a “sure thing.”

When we see a persistent breakdown of underwriting and normal controls, the making of vast amounts of poor credit quality mortgage loans, and financial incentives to loan officers and brokers to make poor quality loans we know that we are observing a lender engaged in accounting control fraud. Such a lender produces severe “adverse selection,” which creates a “negative expected value” for the lender. In plain English: the bank will lose money. The key, of course, is that the “sure thing” that matters the most to the fraudulent CEOs is that they will be made rich by making the terrible loans. (*Note also that the bank will suffer unintended losses as customers and officers take advantage of the eviscerated controls to engage in opportunistic fraud schemes that the CEO never desired.*)

Second, the bank will report record earnings and minimal loss reserves, while making exceptionally risky loans in which the inherent credit risk of the loans is compounded dramatically by the failure to underwrite and eviscerating controls. This is “too good to be true.” Everyone with children warns

them to avoid “too good to be true” deals, but financial experts are notoriously blind to this risk.

Third, the ALLL provisions for losses will be preposterously low – and then it will get far worse. As the loans are made to every less creditworthy borrowers through loan structures that compound the risk to the lender (*“layered risk” was the euphemism in the U.S.*), the bubble hyper-inflates due to the fraud recipe’s demands of rapid growth, and fraud warnings abound, the percentage ALLL will remain trivial or even decline. Crédit Suisse reported (*with a mixture of horror and bemusement*) that the U.S. average ALLL provision had fallen by 2006 to a record low not seen since (*drumroll please*) the S&L debacle. Banks also become far more willing to refinance loans to poor credit quality borrowers, even those in default.

The characteristic that identifies banking control frauds but takes longer to show up is spreads. Honest lenders face the reality that as new competitors enter lending lines of business the honest lender’s yields will fall. It is typically unambiguously bad news as a lender that your competitors are emulating your lending strategy. It is, net, excellent news for the CEO leading an accounting control fraud that rivals are emulating his fraud recipe. The news is not unambiguously good because as more lenders compete to lend to poor credit quality borrowers the yield they can charge those borrowers will fall. Lower yield means lower reported (*albeit fictional*) profits and could mean a reduced bonus to the CEO leading the control fraud. The greater effect, however, is that if many home mortgage lenders follow the fraud recipe the primary result will be an increase in home prices as millions of additional more people will now be

able to purchase homes. As I explained above, this makes it simple to dramatically delay loss recognition by refinancing the bad loans. It also increases loan fees and provides a pretext for the preposterously low ALLL provisions. But it does mean that like the ALLL provision, the “spread” between high and low risk mortgage loans is likely to move in a nonsensical manner. The spread will decline (*as the rates that can be charged to high risk lenders decline*) when it should be surging because the high risk borrowers will soon be ultra-high risk borrowers as the growth imperatives cause the fraudulent lenders to lend to ever riskier borrowers.

“...if many home mortgage lenders follow the fraud recipe the primary result will be an increase in home prices as millions of additional more people will now be able to purchase homes.”

A more subtle characteristic may also arise as fraud epidemics grow. Many CEOs will try to minimize early payment defaults because they are such obvious indicators of fraud. The optimal fraud strategy is to lend to individuals who pose less of an additional risk at an even higher premium yield. This can only be done to people who can be conned in large numbers, so in the U.S. context fraudulent lenders will tend to target disproportionately blacks (*who have fewer banking ties than other ethnic groups*) and Latinos (*the loan broker pitches the deal in Spanish but the deal documents are all in English*).

In the commercial real estate context another “tell” that a lender is engaged in accounting control fraud is if the loans are ultra-concentrated and made disproportionately to developers who

lack a valuable reputation. Such loans are also likely to be made without meaningful recourse – so the borrower can simply walk away from the failed project without personal liability.

We used these characteristics to target for closure fraudulent S&Ls while they were reporting record profits, minimal losses, and praise from prominent economists such as Alan Greenspan. We also used these characteristics to prosecute successfully the S&Ls’ controlling officers and co-conspirators. Independent financial advisors have a massive advantage that we did not have in avoiding investing in control frauds. We could only close an S&L reporting

high profits only if we could prove through a process consistent with “due process” that the statutory grounds were present. You have no such restraints. If you are not comfortable with a company because it has characteristics similar to those I have described, you can recommend that your clients not invest in it and withdraw their investments.

Prof. William K. Black

Open Letter to EU Commissioner Barnier

Let me firstly thank you for the implementation of the Insurance Mediation Directive and the original MiFID. May I take this opportunity, somewhat belatedly I confess, to contact you before you rush off and add even more legislation to the piles that have encompassed the provision of financial services within the EU over the past 10 years and possibly illustrate to you the consequences of your legislation.

I work in Cyprus. A very pleasant island you may have heard of in the Mediterranean. It is the one that the EU, together with the IMF and ECB, deemed to be so insignificant that they authorised depositors' money to be confiscated to prop up banks that central EU regulatory authorities had failed to notice were over extended. That is for another story. Cyprus has a pleasant climate and very pleasant people. This has led to a lot of other nationalities coming to the island to live, whether working or in retirement.

For many years these people were able to be advised by firms based in Cyprus which had to be regulated and overseen by the Central Bank. They could also be provided advice by firms from outside of Cyprus using the simple caveat of free trade as extolled by the EU and the WTO. They were able to therefore access all EU registered collective investment vehicles offered to

the public. They were able to use any life assurance company of their choice. They could provide for their families protection (*and hence reduce potential liabilities to state welfare services*) through any company and, by and large, as advisers we would be able to facilitate that transaction. They could save through life assurance policies or by using unit trusts or bank accounts. All of these could be established virtually anywhere provided evidence of identity and residential address was available.

As advisers we were able to offer advice that was free at the point of use to the customer as we were compensated for our time by a commission fee built into the charges of the policy. Ethical and honest advisers, of which there were many, took it upon themselves to explain the charges and disclose the remuneration basis to their clients. Some advisers would offer to rebate some or all of the remuneration to enhance the clients' position. This may have arisen from the fact that, as business people, the advisers were seeking to develop and maintain long standing relationships with their clients' that would benefit both parties over the long term.

Then along came the IMD and MiFID. Let me state that the directives in themselves were quite unremarkable and merely put a structure around the sce-



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He also spent time on the board of the Convention of Independent Financial Advisers (CIFA).

He lives in Cyprus.

“...Cyprus... that the EU together with the IMF and ECB deemed to be so insignificant that they authorised depositors' money to be confiscated...”

nario that I have just described. Most EU countries had by that time, if not for a long time preceding the directives, operated overseeing bodies for activities in financial services within their jurisdictions. However, 27 countries took the directive and passed laws or made amendments to existing laws to “accommodate” the directives.

Well here we are some 6 years on (*again apologies for taking so long to get in touch*) and I thought it may be helpful for you to understand what the effect of legislation, amendments to legislation and more crucially the “interpretation” of the directives by government departments has had on the market here in Cyprus.

The entire population whether Cypriot or not has seen a substantive reduction in the products of both life assurance companies, life insurance companies and collective investment companies that they can access. This is due in part to the myriad different legislative interpretations that companies now have to undertake to ensure that their products are compliant in Cyprus (*and other countries*). As a consequence, and notably partly due to the small size of the population of Cyprus, several companies have simply not bothered to make their products available to residents of Cyprus, irrespective of the clients nationality. Now a UK national of Cyprus finds he or she cannot access a life insurance product in the UK. A French national finds they cannot access a SICAV from France. Companies have either withdrawn from the market or not expanded their product range. The end effect? The ability of advisers to give solid fiscal advice to consumers wherein they have the right to use any product from within the EU (*and indeed outside the EU under WTO agreements*) has been largely de-

stroyed. This, over time, will have the effect of leaving many of the general public, whose wealth is not substantial, but who wish to provide for their families and their own financial security, without access to independent financial advice. The upshot of the twenty seven versions of the directives is that regulators are shutting doors as fast as they can on cross border business both under FOS and FOE in case the arrangements and legislation of the state from which an adviser is operating does not comply with theirs and hence a uneven playing field would be the end result.

I was led to believe by the political rhetoric which surrounded the implementation of the IMD and MiFID, that it

“...IMD and MiFID ... was to encourage cross border advice and business in insurance and financial services ...also aimed at giving the consumer broader access to advice and products...”

was to encourage cross border advice and business in insurance and financial services, and it was also aimed at giving the consumer broader access to advice and products that would encourage competition and hence reduce costs and lessen the often cited “bad advice” syndrome that was frequently quoted as being solely “commission driven”.

May I respectfully suggest that, as an independent financial adviser, our business is not rocket science? I am quite willing to accept that some financial products are created by individuals who may be rocket scientists; but in the main advising an individual or family on a simple financial plan and helping them develop that plan over time takes some knowledge and, importantly, understanding. This being so forgive

me if I see the legislation that has been passed and the legislation that is proposed as looking at the problem from the wrong end of the telescope. If the EU central regulatory body is satisfied with the competence of each regulator of each member state operating in financial services, then, may I simply suggest that any PRODUCT approved by a regulator in a member state as acceptable for retail distribution to the general public shall automatically be available to the public in ALL member states? This may focus the regulators’ energies more appropriately at the end of our business that is (a) more easily controlled and (b) needs to be more aggressively policed. That part is the scrutiny of the products that are allowed to be distributed to the public.

To cope with the problem of “commission driven” advice then simply categorise products into groups. These groups in the main have existed and still do. Life insurance; Life assurance; Savings plans; Single investments in collective investment funds; Single Investments with enhancements (*e.g. Life assurance bonds*). After such classification then a maximum commission amount for each group of products is to be set. That remuneration amount must be the same for every member state. Further the commission schedule for the product type must be shown in any material available to the public and the commission for an individual contract must be part of the clients’ application form which the client must sign. No application for an approved product will be acceptable without that criterion being met.

In this manner it becomes irrelevant where a product is offered from within the EU as all regulators will be considered competent to authorise products

for retail distribution. In the event of an objection by a regulator, to a product approved by another regulator, then this may be referred to a suitable assessment body for decision. It will further dispense with the 27 different versions of IMD and MiFID which now exist through Europe and which frankly are driving consumers away from the extreme important, but simple, business of ensuring they are making financial provision for themselves and their families. It may also have a desired effect of driving costs to the consumer down. Since the abolition of remuneration from products distributed in the UK and Holland it is highly noticeable that the costs and charges to the client have not dropped proportionately. In introducing an RDR type structure the client is now effectively being charged twice. Once by the product which carries similar charges to pre RDR, and once by the adviser who has been denied access to sharing those charges with the product provider.

The implementation of product driven regulation, as opposed to retail distribution legislation would also allow a fo-

cus to be placed on standard of advice. Qualifications that are available under the aegis of the Ministry of Finance in Cyprus are only recently reflecting the activities of financial advisers. This was because largely they did not exist to work with the local population. Such business had been largely conducted by banks.

Therefore, for the large part of the past 8 years or so, the Cypriot regulator recognized qualifications from the UK which bore little or no relevance to the status of international clients resident in Cyprus. Qualifications granted here in Cyprus by the Ministry of Finance have no recognition in the UK and some other EU member states. I was led to understand that the EU Equalise programme in financial services was due to be completed in 2012 and that as a result, qualifications obtained in one country would have standing in another. If there exists no consistency in basic levels of knowledge and or experience, then again the consumer pays the price in confusion as to the degree of competence they can expect from advisers whether independent or

acting as tied to larger institutions such as bancassurance companies.

In short, the introduction of IMD and MiFID has confused and segregated the market and importantly has shattered consumer confidence. Before any further legislation for the sake of legislation is passed there may be time to secure the future of individual financial services within the EU without which a great deal of valuable asset investment will dry up as individuals withdraw from traditional investment programmes with the potential effect of becoming more financially dependent upon the member states for economic assistance.

I am not sure whether any change in direction of future legislation will take place. If it does not then I would venture to suggest that more and more of the wealth of EU citizens will emigrate, potentially with the owners, to regions of the world more favorably inclined to allow individual choice in financial management.

“...the introduction of IMD & MiFID has confused and segregated the market and importantly has shattered consumer confidence...”

Richard Stevens

Member of CIFS/FECIF (Cyprus)



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Modelli di business a confronto

Indagine Bocconi.

Roma, 6 febbraio 2014 – Banche e reti impongono la loro attività su modelli di business differenti e il valore aggiunto nei servizi erogati al risparmiatore deriva da elementi specifici dei due approcci: è questa una delle evidenze emerse nell'indagine che Anasf ha commissionato all'Università Bocconi presentata oggi in occasione del convegno inaugurale di "ConsulenTia 2014 - Professionisti in Capitale", che si svolge a Roma, all'Auditorium Parco della Musica.

Dopo un'introduzione e il saluto dell' On. Luigi Casero, Vice Ministro dell'Economia e delle Finanze, la parola è passata a Paola Musile Tanzi, Docente SDA Bocconi e Professore Università degli Studi di Perugia, che ha spiegato nel dettaglio la ricerca, condotta anche attraverso un confronto normativo a livello europeo del servizio di consulenza finanziaria con focus anche sulla revisione della Direttiva Mifid, tramite una comparazione dei bilanci 2006-2012 di un campione rappresentativo domestico di banche reti, banche tradizionali e gruppi bancari.

"La prolungata crisi finanziaria globale originata dagli eventi degli anni 2007/2008", ha commentato Maurizio Bufi, Presidente di Anasf, a ruota delle presentazioni del convegno inaugurale, "ha reso necessario un ripensamento dei modelli di business nel settore dei servizi finanziari, sia a livello internazionale sia a livello domestico. L'esigenza è quella di riportare il settore finanziario al servizio dell'economia "reale",



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Un paese ancora perplesso



ovvero delle famiglie e delle imprese e di contrastare quei comportamenti dell'industria finanziaria in senso lato, che tendono soltanto ad accrescere i profitti a scapito della loro stessa stabilità, nonché a minare quella salvaguardia delle tutele dei risparmiatori, come presidio irrinunciabile per lo sviluppo di un mercato finanziario efficiente e competitivo".

Se il modello di business è inteso come il risultato delle scelte strategiche delle società e del suo management, allora cosa attende oggi il mercato e in particolare banche e reti?

Lato promotori finanziari, quanto valore aggiunto erogare? Come farlo? Attraverso quali servizi, tecnologie, competenze? Quale grado di architettura aperta?

Lato banche, quale riferimento scegliere sul fronte della distribuzione? Quale mix di attività (*finanza di proprietà, credito*)? Quale livello di valore aggiunto inserire nei servizi?

Queste domande, sul futuro della distribuzione in Italia, sono state rivolte ai relatori della tavola rotonda, moderata da Andrea Cabrini, Direttore Class Cnbc,

e con: Maurizio Bufi, Presidente ANASF; Massimo Doris, Amministratore Delegato Banca Mediolanum; Armando Escalona, Amministratore Delegato Finanza & Futuro Banca; Pietro Giuliani, Presidente e Amministratore Delegato Azimut; Gian Maria Mossa, Co-direttore Generale Banca Generali; Paola Musile Tanzi, Docente SDA Bocconi e Professore Università degli Studi di Perugia; Marco Panara, Caporedattore Affari & Finanza, La Repubblica; Antonello Pincastelli, Amministratore Delegato di Fideuram Vita; Laura Zaccaria, Responsabile Direzione Norme e Tributi ABI.

Se, in un mercato complesso come l'attuale, il valore del promotore finanziario emerge con forza, grazie a un approccio consulenziale di qualità, una flessibilità nei confronti del cliente che rappresenta uno dei driver di successo e un vantaggio competitivo rispetto al mondo bancario dimostrato, ora la sfida, secondo i relatori si gioca su più fronti: una crescita delle quote di mercato e di risparmiatori che si affidano a questo canale distributivo, un'innovazione tecnologica degli strumenti a supporto da parte delle società, una regolamentazione e una remunerazione adeguate alla figura professionale del promotore finanziario, che dovrà essere sempre più valorizzata e considerata per le sue caratteristiche precipue.

Il convegno si è quindi concluso con uno sguardo al futuro della professione. "E' necessario", ha commentato Bufi, "che l'industria tutta si interroghi sul mix migliore per garantire ai risparmiatori il miglior servizio di consulenza e collocamento e per far questo è prioritario che la riflessione miri anche a individuare un percorso condiviso per l'evoluzione della figura del promotore finanziario. Siamo noi a rappresentare "le trait d'union" con i risparmiatori, siamo stati noi in questi anni a consentire di costruire un clima di fiducia coi risparmiatori e saremo noi a garantire quel dialogo costante con le esigenze degli investitori. Le società e il regolatore devono quindi, insieme a noi, trovare la sintesi per un equilibrio di questa professione, che ha dimostrato di essere uno snodo fondamentale per il successo del modello rete a confronto con lo sportello tradizionale, addividendo a una soluzione valida e sostenibile per tutti."

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Il risparmio gestito cresce, per merito dei PF, ma resta molto da fare



Il risparmio gestito cresce ed i sottoscrittori sono decisamente più contenti

Ma le forme storiche dell'investimento (ed il RG) faticano a tornare ad essere un fenomeno di massa

In un clima sociale di forte distacco e poche speranze sulla capacità progettuale della finanza



2007 (PRECRISI):
Investitori in amministrato o gestito 31%

Disinteressati alla finanza fra i decisori finanziari (74%) ↑



2013:
Investitori in amministrato o gestito 26%

Disinteressati alla finanza fra gli stessi investitori (59%) ↑



Alcuni dei cambiamenti in atto muteranno la competizione?



•La rivoluzione fisica del banking

Meno sportelli ma più efficienti

Hub & spoke

Migliaia di nuovi promotori bancari per la «promozione fuori sede» (e contratti nuovi)

«Convergenza finance»: Grandi banche più tecnologiche, banche hi-tech più fisiche

Nuovi prodotti più impernati sui bisogni dei clienti

Mifid2: il coinvolgimento delle SGR nella responsabilità di vendita al cliente?

Un esempio delle possibili domande aperte dai mutamenti...

Come cambierà la risposta del mercato?
Cosa accadrà all'immagine del sistema della PF?
La maggiore flex dei modelli di business darà origine a ulteriore domanda di stabilità delle relazioni dei segmenti relazionali?
La mobilità e l'integrazione dei canali richiederà un salto quantico alla capacità di usare il CRM aziendale (modelli di servizio diversi per segmenti diversi dentro la stessa azienda)?
Nuove culture di impresa (bancaria) per popolazione di professional ?



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ConsulenTia 2014 Professionisti in Capitale

La percezione della figura del promotore finanziario tra i risparmiatori.

Tre clienti su quattro lo raccomanderebbero.

A "ConsulenTia 2014 - Professionisti in Capitale" gli esiti della ricerca Ispo.

Roma, 7 febbraio 2014 – Affidabilità e competenza rappresentano i driver di scelta del promotore finanziario da parte degli investitori, ma il 25% del campione non sa attribuire un giudizio a questa figura professionale.

Così ha spiegato Renato Mennheimer, sociologo della società Ispo che ha condotto per Anasf l'indagine sulla percezione dei promotori finanziari tra i risparmiatori, in occasione del convegno del 7 febbraio e nell'ambito di **"ConsulenTia 2014 - Professionisti in Capitale"**.

Se serietà e affidabilità rappresentano le caratteristiche più importanti per un promotore finanziario sia per i già clienti sia per chi conosce la figura professionale pur non servendosene per i propri risparmi e investimenti, è rilevante come la capacità di innovare in modo costante l'offerta di prodotti e servizi rappresenti per i clienti un driver di successo; diverso per chi non si affida a questo canale distributivo, tra cui questo elemento non è percepito come importante.

Anche la capacità di parlare in modo semplice rappresenta per i già clienti una caratteristica fondamentale, meno rilevante invece per i non clienti.



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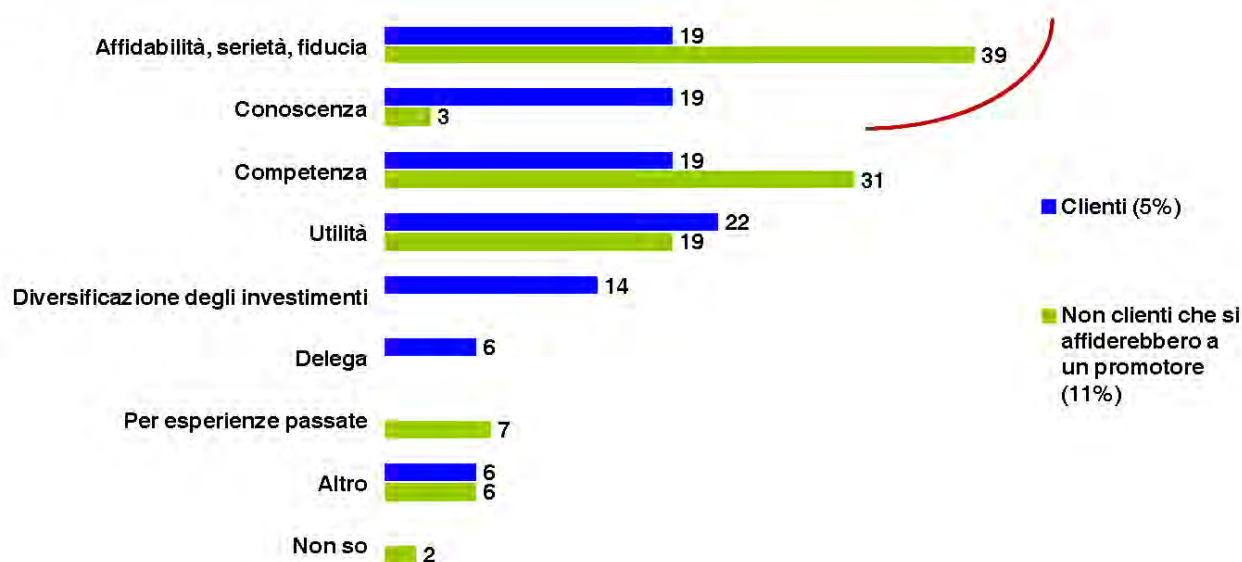


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Fiducia, competenza ed utilità risultano i principali driver di scelta del promotore finanziario

Le leve all'affidamento dei risparmi ad un promotore finanziario
risposte spontanee - totale risposte



TESTO DELLA DOMANDA: "Potrebbe dirmi qual è il motivo principale per cui ha deciso di affidarsi ad un promotore finanziario per la gestione dei suoi risparmi ed investimenti?" "Lei ha detto che sarebbe disposto ad affidare i suoi risparmi ed investimenti ad un promotore finanziario. Mi può dire perché?"

Valori percentuali

Un'altra evidenza emersa è la scarsa fiducia che si riconosce al promotore finanziario tra quei risparmiatori bancarizzati che non si affidano a un promotore finanziario.

"Questo sembrerebbe un aspetto negativo, in realtà ci tranquillizza molto", ha spiegato il Presidente Anasf Maurizio Bufi.

"Se i nostri clienti ci riconoscono grande fiducia e soddisfazione, allora basta farci conoscere presso quei risparmiatori che ancora non ci conoscono. E sono tanti."

Come emerge dall'indagine, il 71% del campione conosce poco o per nulla la nostra categoria professionale.

Si tratta di un bacino molto ampio di possibili clienti che ci consentirebbe di aumentare quella quota di mercato e di ricchezza a noi affidata, oggi attestata al 9%, che ambiamo a sviluppare nei prossimi anni", ha aggiunto Bufi.

In conclusione, cosa cercano quindi clienti e non clienti dal promotore finanziario?

Tra gli aspetti imprescindibili e trasversali per gli uni e gli altri sicuramente se-

rietà e affidabilità, tra quelli rilevanti la capacità di dare valore agli investimenti dei risparmiatori e la capacità di parlare in modo semplice e chiaro.

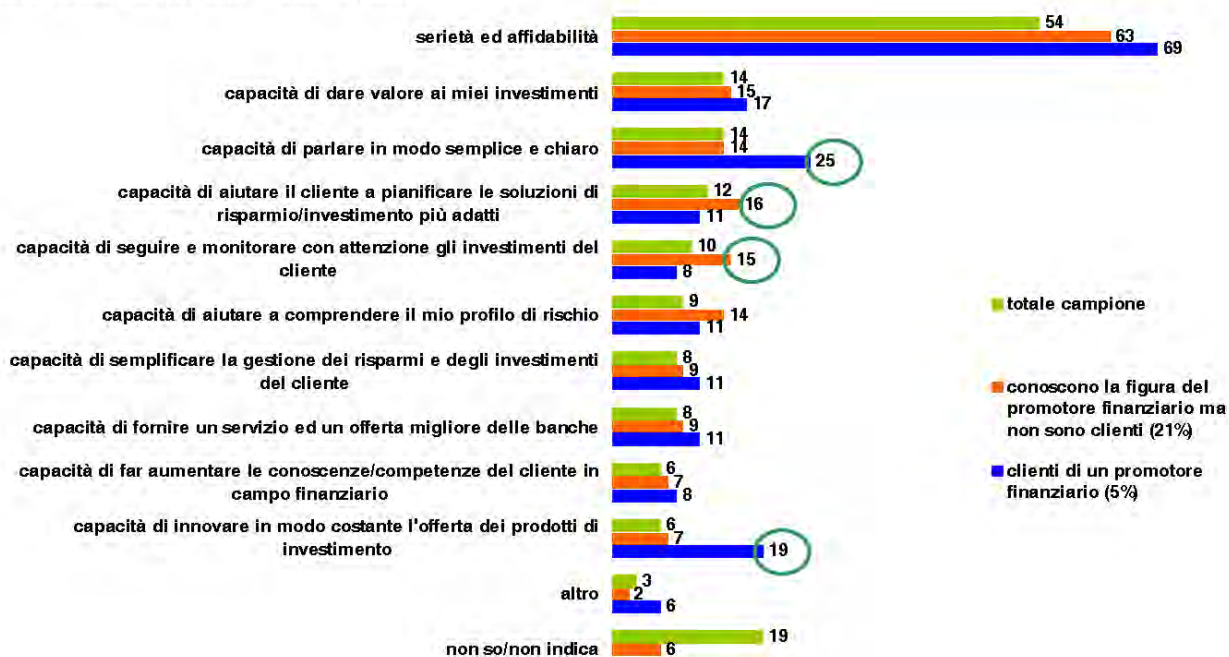
Cosa cercano i non clienti poi?

La capacità di aiutare il cliente a pianificare le soluzioni di risparmio e investimento più adatte, la capacità di seguire e monitorare con attenzione gli investimenti del cliente, la capacità di aiutare a comprendere il proprio profilo di rischio.

Cosa chiedono i clienti?

Serietà e affidabilità cruciali per oltre la metà del campione

Le caratteristiche più importanti per un promotore finanziario
possibili fino a due risposte – totale risposte



TESTO DELLA DOMANDA: "E tra le seguenti caratteristiche, quali sono secondo lei le due più importanti che un promotore finanziario dovrebbe avere? Le citi in ordine di importanza, partendo dalla prima caratteristica, quella che le sembra più importante."

Valori percentuali

La capacità di innovare in modo costante l'offerta dei prodotti di investimento.

"Da qui parte la sfida per l'industria e per la nostra categoria", ha concluso Bufi.

"Conosciamo ora le esigenze della domanda. Il testimone passa a noi. Crescere significherebbe riuscire a rispondere potenzialmente ai bisogni di tutti i risparmiatori".

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Stop the discrimination against European expatriates

Part of the professed policy of the European Union is to allow freedom of movement of labour in such a way that all European citizens have the right to be equally treated on the labour market.

Over the years the number of Expats has increased and they now represent a significant proportion of the working and voting population, their mobility contributing knowledge and skills to all parts of the European economy.

However, they are the subject of unfair discrimination under current European financial services legislation.

For this purpose, an Expatriate is any European citizen living, and usually working, in another country than that of which he is a citizen and passport holder.

Working Expats are inevitably involved with several countries at the same time:

- The country of nationality, or home country to which he will potentially return or retire;
- The country of residence, i.e., the present host country;
- One or more country/ies of destination, i.e., the next country, or a succession of countries, in which he will work even if he does not yet know it;
- Occasionally, a country of connection by virtue of having married a person of a different nationality.

One of the most common and traditionally safest forms of investment and saving is through life insurance, paying single or recurring premiums, and Expats could reasonably expect to have

access to all sectors of this market.

However:

1. In the majority of cases, an Expat can derive little benefit from investing in a life insurance or savings product issued by a provider in his host country because he will not remain there long enough to obtain the same fiscal advantages as the indigenous population. In many cases, there are no other major reasons for investing in them.

“...part of the professed policy of the European Union is to allow freedom of movement of labour in such a way that all European citizens have the right to be equally treated on the labour market...”

2. Commonsense would say that all he has to do is to find an insurance provider in his own country and apply to it. If he does so, he will be confronted with a “Refusal to sell” by the company on the grounds that it is not authorized/passported to do business in his host country, and even if it were passported he would receive no fiscal benefit in either country.
3. If he does decide to invest through a provider in his host country, he will usually have to sign documents

and conduct communications with the provider in a foreign language which he may barely understand. Each country still applies its own linguistic rules.

4. If he leaves the host country to move to a new host country, or to return home, he will have to decide whether to surrender the said policy early and incur penalties or leave the money dormant in the country that he is about to vacate until it matures.
5. The more countries of Destination the worse this fragmented situation becomes.
6. If he keeps the policy he will sometimes have difficulty persuading the fiscal authorities in the new Host Country or his home country that it is a genuine insurance policy if it does not comply with their own rules in all respects.
7. The Expat can sometimes turn to one of the companies specializing in cross-border provision of services but even those companies are not compliant in all European states and may also refuse to continue accepting ongoing premiums or new investment if a client changes his Host Country to one where they are not compliant.
8. There are very few insurance providers that offer an effective service to Expats/non residents. Current European legislation imposes significant costs in seeking regulatory approval to become compliant in another country before they can conduct

business with one of its residents. So, there is no incentive for any provider to incur major outlay getting into a market which will never be more than a small increment to a well-established domestic business.

9. We have encountered cases where a client, even of long standing, has not been able to add to a policy with which he was totally satisfied only because he had moved to another EU country and the regulations would no longer allow him to do so. As a result, not only did he have to accept a new inferior product but he also lost the benefit of continuity of investment to an established investment strategy.

10. It is totally unjustifiable that we, as an ethical advisory company, should be obliged by the European regulations to offer some clients an inferior product only for the reason that, although a better and more suitable product exists, it not legally compliant in his Host Country where he will only be resident temporarily in any case.

11. Particularly hard hit are individuals working in another country on a temporary self-employed basis, such as computer and telecoms contractors. They have contracts of indeterminate length, no certainty of renewal and are in need of flexible savings arrangements and insurance that can be made portable from country to country.

“...the situation is an absolute disgrace to the European Union, but no action to rectify it has ever been taken...”

12. These anomalies can only encourage the more naïve (or enterprising?) investors to look outside the EU for their financial services providers, which offers a far greater risk of becoming the victim of fraud or mis-selling than would ever be acceptable in the European Union. This is the exact opposite of the intent of the legislation.

In reality, no one is better qualified to give a client advice on the most suitable product for his needs than an experienced Financial Intermediary who, having completed a full fact find with him, understands his hopes and aspirations before recommending any products at all. This seems to have been ignored completely. It is alarming that the regulatory rules run contrary to best advice.

The main problem is that the European Financial services legislation is conceptually flawed. It is based on regulating the provider according to where the customer lives; rather than allowing regulated providers to accept business from anywhere inside the Europe Union and imposing consistent compliance rules and commission tariffs on providers based on where that provider is sited.

The situation has been further clouded by an unproductive focus on commis-

sions' vs. fees. The perception seems to be that fees are always fair whereas commissions are not.

I do not believe that commission is the real issue. It would be relatively easy for all European regulators to work with insurance providers to compile a fair and uniform commission tariff for each type of product which may not be exceeded. This could encompass a total ban on high indemnity commissions on long-term products and any form of concealed incentives. Penalties for non-compliance could include making the contract unenforceable with the premium refundable with heavy penalties; and, there would certainly be very few abuses.

It is worth noting that even the medical profession in Belgium had a more enlightened approach to medical costs many years ago, by allowing doctors to work to a tariff accepted by the state insurance system or work outside it. The doctor must inform the patient if he is “non-tariff”.

The situation is further confused by some of the most complex compliance and KYC processes that could ever have been devised by mankind.

Is it too late to persuade the European Union commissioners of the error of their ways? They seem to be unconcerned by the damage they are inflicting on a large body of Expat investors.

Currently, the situation is an absolute disgrace to the European Union but no action to rectify it has ever been taken.



GRAHAM REID is the managing director of Classic Financial Solutions CVBA, whose headquarters are in Tervuren in Belgium. He is a qualified Chartered Accountant who has specialised in financial planning for expatriates for over 30 years.

This article reflects his long held view that more regulation is not better regulation and that many senior regulators have a civil service mentality and little or no experience in the industries being regulated.

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Benchmarking in Financial Advice

CRM Client Relationship Management and the Financial Planning Process



In his recent article, Standard Life director Innes Miller described RDR as a success. RDR is an important barometer for the 2nd generation of the EU regulation family about “finadvice” Mifid-PRIPs-IMD. One can say there are certain open issues like the advisory gap or simplified advice or the unregulated quasi advice from B2C platforms etc. *However, there is clear evidence of how successful IFA businesses transformed their operations into the new world of financial advice.* One of the key statements of the transition study is:

“Leading advisory firms have created a culture of engagement where each employee consistently practices operational excellence while working toward a ‘common goal’ with shared values and beliefs.”

The core of this new culture is the **Suitability** of advice. This requires new skills in the daily practice of advisors, new routines like psychometric risk profiling, a comprehensive product and platform know how, a honest discussion of risks, returns and remuneration and basic life planning skills at least. The independent advisor can’t rely only on the support from product vendors anymore or his/her previous qualifications either. He/she has to add

a new view, a new mind-set and new methods to provide the clients with the relevant and necessary information on the path to the so called “**informed consent**”. The Transition study gives a nice introduction and checklist for the managers about how such a successful business looks like. But, how does “suitable advice” happen, how legal and change management terms are translated into the daily business of an advisor? Giorgio Canella, independent and fee-only financial life planner, who went through all the stages of the transition, discusses his advisory practice, the steps of the planning process and the initial and ongoing communication with the Client:

1. Presentation of “**WHO I am**” and “**WHAT I can offer**” (*analysis, spot service or Planning service*), as well as conditions (*fees and so on*). If the client chooses the Planning service (*gives the mandate*):
2. It is time to talk about the client’s goals (*life goals*) and his/her risk profile, a process requiring 1 to 4 or 5 meetings (*about 2 hours per meeting*) to fully explore the topic. I use 2 questionnaires and, once the Client has established the goals (*what, when, which amount and so on*), I ask

some questions to verify whether the declared goals are REALLY the main GOALS (*many times, the questions help the Client to identify priorities and /or to rethink some of the goals*). An important aspect to be explored with the client is the RISK PROFILE. During these meetings, I do not seek to know about the particular investments, or insurances, or real estate at all, as they are already in the portfolio/property of the Client (*like a doctor, at the beginning, I want to explore the situation, diagnose... not yet interested in what the Client has already done to achieve those goals*). All outcomes of these talks are recorded in written form.

3. After step 2 is accomplished, I want to learn about the overall situation of investments, insurance, real estate, as well as the Client’s revenues, and so on ...*all what matters with NUMBERS...* and I collect all the necessary information about the Client from this point of view.
4. At the next meeting:
 - a. I show one “technical sheet” per each investment or product where I describe the characteristics and risk profile of each product and ask the Client, what goal he/she

Suitability

Know Your Client

Know Your Product

Know Your Platform

Make a Plan

Reach informed consent

CIFA Forum 2014

wanted to achieve with that product and if he/she thinks that the product is coherent with the risk profile he declared in the questionnaire ...and, at this time, the Client often discovers (by him/herself) that some things he/she has already done do not fit her/his goals or risk profile... and we write down everything about this meeting. Then, we begin to make some hypotheses about the new "to be" situation that we are going to build together.

- b. I offer a comment over the aggregate portfolio, as well as about the coherence between the risk profile as in point 2 and the one that really affects the analyzed portfolio.
- c. I inform the client that if he/she has more than one goal, I suggest a separate portfolio for each goal and, sometimes, with a different risk profile (different "cars" for different "paths") based on the client's indications.

5. At the next meeting, I show at least 2 written hypotheses ("plans") for a new global portfolio and wealth diversification ...*broken down in particular portfolios for each goal*... underlining the need to take care, first of all (*if not already solved*), of personal and family protection. We discuss the various options and, when the client has decided, what he/she prefers. We write down the WHAT and WHY.
6. Afterwards, if and when the Client wants and/or when the market conditions appear attractive, we start to modify the situation to create the "ideal situation"... and we keep records of all changes, of course.
7. Then, we plan regular meetings (*at least 4 times per year*) to verify the persistence of goals, the persistence of the initial risk profile and so on.

Why do we refer to this best practice? On one hand, to show how you arrive at the "informed consent" with your client and, on the other, to point out that it works in quite the same way in corporate consulting, like advisor coaching or management consulting, or even in the IT project field. Therefore, the communication layer of this process can be considered as a set of generic skills in advice.

Another key finding of the Standard Life Transition Study is that *"Leading firms predict a move away from charging clients on a percentage of assets basis towards fixed fees and value pricing based on complexity of client needs, not wealth"*.



We believe that independent advisors shouldn't charge clients on the basis of a percent of AUM mainly because:

- If 2 clients have the same amount of "wealth" it does not mean they have the same needs, implying that different time and knowledge could be necessary to serve them. Respectively, a client with 500k liquid assets does not necessarily need 10 times the efforts required for a 50k capital.
- Charging clients based on the assets is "too close" to the method used by commercial people – *not very professional* – or in other words, commission like AM fees can distract advisors from acting as a fiduciary (*in the best interests of the Client*). For this reason in particular, we think that a



hourly fee or a flat fee (*retainer*) for continuing service is the best fit for fiduciary planning and, maybe, also for the 2nd generation of EU regulations on advice.

The JP Morgan (UK) Advisor charging study (*"Putting a price on financial advice"*) gives an excellent overview of the different remuneration models, as well as about the transition challenge.

Clients are usually not aware of the particular remuneration models, **not to tricks**. It is true. But, if they learn about the compensation methods prior to the engagement, they are more able to understand and to make the distinction between one model and the other. They get it even better if we are able to make examples comparing, for instance, what we do with the job they do (*and we have not to forget that Clients have different*

habits, which could take a long time to change, if at all).

Giorgio Canella EFA
www.giorgiocanella.it

Reported by Zoltan Luttenberger PhD

Giorgio Canella

Giorgio Canella accumulated a long experience (1987-1999) as "tied-agent" in Italy first with a 1-brand company, then with multi-brand companies.

In 2000, he set up as an independent fee-only financial advisor. Eventually, he decided to specialize in financial planning and Life Planning.

He is currently a seasoned "fiduciary and fee-for-service" Financial Planner devoted to help customer achieve their life goals.



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More than a banking relationship

Tired of working?

Thinking of setting up your own pension fund?

Going into involuntary retirement?

At the 12th CIFA Forum, from 23 to 25 April in Monaco, I spoke to quite a number of delegates who indicated that they volunteer to do pro bono financial planning or counselling, for lower-income families.

In Singapore, the Society of Financial Service Professionals has been providing pro bono financial counselling for needy families, for about a decade.

For example, its volunteers have been providing financial counselling for bankrupts through an arrangement with the Official Assignee, a government agency under the Ministry of Law, for seven years.

I have also been a volunteer doing financial counselling for about a decade now. One of the most common cases that we come across, are people who have lost their jobs, their business has to be discontinued for reasons other than business financial failure that may typically consume most of their assets, or people who may feel that they are tired of working and need a long break.

A real life case study in Singapore (or any country)

I shall share one typical case as a case study.

Ms Lee, age 50 was retrenched about 2 years ago. She has not been able to find a job that is acceptable to her, and

is becoming rather anxious as to her future. Her 4-room public housing flat is fully paid for.

Her monthly expenses are about \$1,500.

Her assets are as follows:

- Pension account balance: \$200,000
- Insurance cash values: \$100,000
- Bank balance: \$100,000

That is a total of \$400,000.

Apart from her savings, she has a medical insurance plan and a rider to cover the deductible and co-insurance, in the event of hospitalization.

Assuming an average rate of return of 6 per cent on her total assets and 2 per cent inflation, she needs a capital of \$355,403 to generate \$1,500 monthly income for her expenses, increasing at 2 per cent per annum (*indexed for inflation*) for 38 years, from age 50 to 88.

While the life expectancy of females in Singapore is age 83. Most studies indicate that as one advances in age beyond the 70s, the monthly expenses tend to decline in real terms by about 15 per cent per every 10 years or so.

So, she has an excess capital or buffer of \$44,597 (*\$400,000 assets minus \$355,403 capital required to generate the monthly retirement income*).

To plan for her retirement, she sets up a portfolio of approximately 30% equity, 30% bonds, 20% commodities and 20% property – comprising 7 funds for her Pension Account balance and the balance of her cash. All this after keeping



Leong Sze Hian

Leong is the Past President of the Society of Financial Service Professionals, an alumnus of Harvard University, has authored 4 books (*quoted over 1500 times in the media*), has been host of a money radio show, a daily newspaper column, Wharton Fellow, SEACeM Fellow, a Member on the CIFA Advisory Board, executive producer of the movie *Ilo Ilo* (21 international awards), and invited to speak more than 100 times in more than 25 countries on 5 continents.

He has served as Honorary Consul of Jamaica and founding advisor to the Financial Planning Associations of Brunei and Indonesia.

He has 3 Masters, 2 Bachelors degrees and 13 professional qualifications.

about 6 months of her expenses in the bank – \$10,000.

The portfolio for her funds are as follows:

Global Property fund – 20%

Global Commodities fund – 20%

Global Bond fund – 15%

Asian Bond fund – 15%

Global Technology fund – 10%

Emerging Markets Equity fund – 10%

Asian Equity fund – 10%

Monthly drawdown from portfolio

So, within about 3 to 6 months, she will start to withdraw about \$1,500 monthly from her portfolio for her monthly expenses by selling the fund (*out of the 7 funds*) that has increased the most.

Why sell the fund that increased the most?

Because historical trends tell you that when funds go up a lot for a very long period, they may be more likely to come down and vice versa. Therefore, by selling the highest returns fund, the investor is able to cash out the “earnings” of the investment on a periodic basis, without trying to guess the markets – as to what and when to sell?

Ms Lee has in effect, set up her own pension fund.

Wherever in the world you may be, perhaps you or some of your clients may have an interest in the above, at some point of time in their lives.

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Leong Sze Hian



500 years of personal finance experience makes a difference!

It is not complicated. We all know it. People should be allocating more of their assets to equities when they still have 30 years to retirement. Later on they should be gradually reducing the share of equities in their portfolios as they are approaching the retirement age. That is something even novice advisor should be not just well aware of but he or she should be able to apply it in real life with every client too.

We have realized that novice advisors do understand the concept of asset allocation well in theory but they very often have an issue with applying the concept consistently in real life.

We have started to look for a tool which would help novice advisors to grab the concept of asset allocation more thoroughly and consistently. Looking for an asset allocation whole personal life simulation we discovered eNestEgg. We have found out that it takes about 300 years of financial planning experience until novice advisor is able to apply asset allocation theory in practice smoothly and easily. They all learn by doing what they should be doing in real life. The only difference is that they go through almost five hundred years of experience in about 3 hours and that makes the novice advisor training highly efficient.

Let me describe today what we found out in a training module of eNestEgg for our novice advisors.

35 years to overcome fears of equities, 45 more years to fall in love with them

The first set of financial planning scenarios is oriented on achieving long-term clients' goals. Players have to

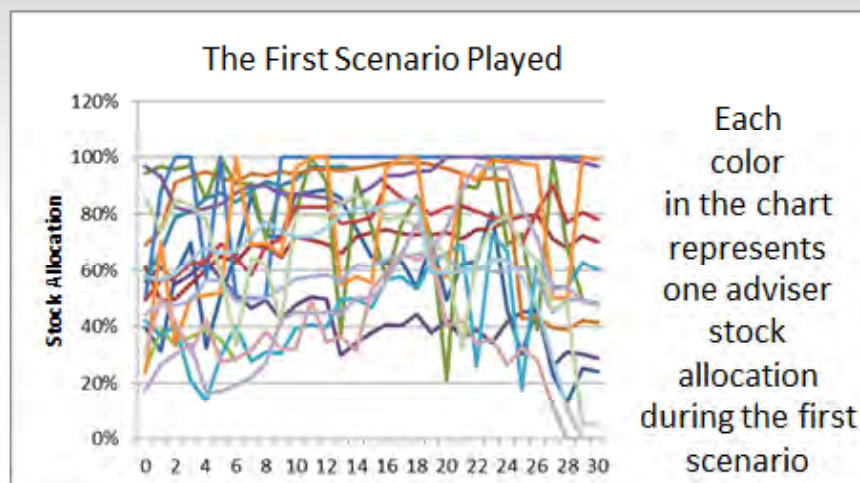
succeed in 15, 20 and 30 years real life historical scenarios.

Most novice advisors exposed to long-term scenarios very often avoid equity market exposure within their clients' simulated portfolios when they start to play. They do not apply asset allocation theory consistently and very often they invest to equities from 20% to 40% of their clients' assets even if clients' investment horizon is longer than 15 years. It takes 35 years before they start to invest significant portion of clients' portfolios to equities.

When exposed to another 45 years of long-term financial planning scenarios novice advisors start to love equities in their clients' long-term scenarios. They become so attracted by equities that they start using them even when they should be reducing the equity exposure.

It is like in real life. People typically avoid equities when they are 30 years old. They rather use term deposits and buy bonds. Only some 20-25 years later they look back, see strong long-term equity market performance and start

Stock Asset Allocation – the First Game



Picture 1: Novice advisors do not apply asset allocation rules consistently. Source: eNestEgg.org

moving most of their money to equities. They usually do it in times when financial future headlines are very optimistic and the equity markets are reaching their new highs.

30 years to learn that equities are not the solution for short-term scenarios

Just after players start to love equities too much they are being exposed to short-term scenarios. It takes two 5 years long scenarios and two 10 years long scenarios for players to understand how much damage equities can do when investment horizons are shorter.

It is similar like in real life again. People start to buy equities a lot just 5 or 10 years before their retirement. They usually buy when equity markets are at their new highs and equity markets future seems so optimistic. Then equity markets drop 20, 30 or 40% and people get nervous. Their personal wealth is being "damaged" and they are learning about volatility the way they do not like at all – by losing their own money.

Another 100 years to learn strategic asset allocation

Only after novice advisors realize both the long-term performance potential and the short-term volatility of equities they start to use equities more appropriately. They start to allocate higher portion of portfolios to equities in the beginning of the long-term scenarios and they start to reduce equity positions when investment horizons shorten. It takes 4 financial planning scenarios and another 100 years of experience before novice advisors are able to apply strategic asset allocation efficiently with every client they meet.

80 years more to learn tactical asset allocation

Equity markets become sometimes cheaper and sometimes more expensive. Clients value a lot when their advisor is being able to reduce equity position when markets are too hot and increase those positions when markets are cheap. Novice advisors learn this in another 15, 20 and 30 years scenarios.

180 years of history or practice makes perfect

Novice advisors are exposed to 6 scenarios at the end of the training simulation. They have to allocate money well when working with their clients in 30 years long scenarios. The scenarios consist of bull markets and bear markets, low, growing and high interest rates environment and low and high inflation environment too.

500 years of experience in three hours

It takes a novice advisor about three hours to go through almost 500 years of experience. As they apply asset allocation rules again and again they become more and more efficient in that. Their own skills confidence level increase significantly and they are able to deal with real clients' investment needs much better way.

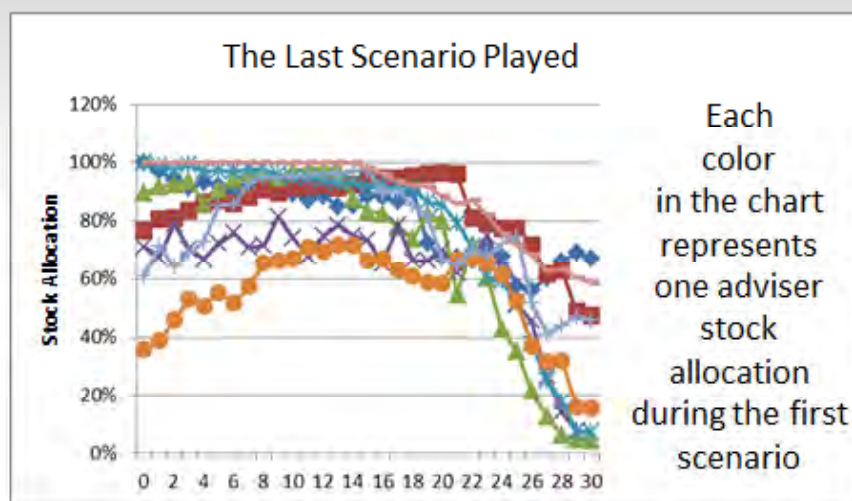
And that is what we wanted to achieve – much smarter advisors and much more productive advisors in very short period of time.

You can learn more about eNestEgg on EfpaEurope.eNestEgg.org.

Michal Srubar

Member of SQC EFPA CZ and EFPA Europe

Stock Asset Allocation – the Last Game



Picture 2: Three hours later — advisors become very consistent when applying asset allocation rules. Source: eNestEgg.org

Certification professionnelle et normalisation

Les apports de la certification professionnelle et de la normalisation dans le conseil patrimonial.

Principe de la certification professionnelle

Par définition, une certification professionnelle enregistrée atteste d'une "qualification" c'est-à-dire de la capacité à réaliser des activités professionnelles dans le cadre de plusieurs situations de travail, à des degrés de responsabilités définis dans un "référentiel". La certification atteste donc du "comment" un travail doit être effectué (*nous sommes donc dans le domaine du process*) mais aussi du "qui" peut exercer ce travail (*nous sommes donc dans le domaine de la compétence de la personne: savoir, capacité, performance*). Pour certains métiers, des règles "morales" doivent être associées: on parle de code de déontologie professionnelle. Le système de normalisation est un système de garantie de conformité et la certification atteste de cette conformité (*soit au niveau d'une entreprise soit au niveau de l'individu l'appliquant*).

Une certification professionnelle peut être organisée à trois niveaux:

- **Des titres délivrés au nom de l'Etat.** Ceci est généralement régi par des commissions professionnelles consultatives, des commissions pédagogiques, des commissions de titres validant un niveau de formation (*savoir et savoir faire*) initial sans continuité de contrôle. En gestion de patrimoine, nous retrouvons ici

plutôt des diplômes (*licence, master, doctorat*) ou des certificats de formation partielle ou de spécialisation (*formation continue*),

- **Des certificats élaborés dans le cadre d'une branche professionnelle.** On parle alors de certification de qualification professionnelle. Nous nous situons plutôt dans l'auto-régulation professionnelle. Nous retrouverons dans ce cadre l'organisation du métier de gestion de patrimoine. Ces certificats demandent deux étapes: une certification initiale puis généralement un contrôle périodique de l'adéquation du professionnel avec les exigences de la certification (*on pourra parler alors de recertification ou de renouvellement de certification*). C'est à ce niveau que nous rencontrons les certifications que nous évoquons plus loin,
- **Des titres élaborés par des organismes publics ou privés de formation.** Ces titres pourront avoir une reconnaissance régionale mais non nationale, et être décernés à l'initiative d'un organisme ou par un organisme à la demande de professionnels. Il témoigne de la délivrance d'un savoir et d'un savoir faire ciblé à un instant T, sans suivi dans le temps du maintien ou de la progression de niveau de qualification.

L'accès à ces certifications peut se faire de différentes manières, prises indépendamment ou mixées:

- **Formation initiale.** Dans le cadre de cet article, la formation initiale sera plutôt une exigence de niveau avant

d'entrer dans le processus de certification (*exigence de la licence, du master...*) plutôt qu'une finalité. On parle parfois de niveau 0 de certification,

- **Formation continue.** Dans le cadre des certifications évoquées plus loin, ce sera plutôt soit un moyen (*pas forcément obligatoire*) de se préparer pour un examen et une exigence post certification initiale d'entretien et de progression dans la qualification professionnelle,
- **Formation par alternance.** Ceci pourra être une option de préparation à la certification en gestion de patrimoine, mais non une finalité ou une exigence,
- **Validation des acquis (par l'expérience).** Certaines organisations de certification vont reconnaître ce qui se dénomme parfois "clause de grand-père" mais généralement cette reconnaissance n'a qu'une existence limitée dans le temps (*lors du démarrage d'une nouvelle certification, les fondateurs et les premiers membres peuvent bénéficier de cette facilité*) et ne donne pas toutes les garanties nécessaires vis à vis de l'épargnant. Les années d'expérience peuvent être une exigence mais pas la seule exigence pour obtenir la certification professionnelle,
- **L'examen.** Généralement, la procédure d'obtention de la certification va débuter par une vérification que le professionnel possède bien le niveau minimum de connaissance professionnelle nécessaire pour exercer le métier, c'est-à-dire qu'il

a le minimum de savoir pour appliquer le process normé de travail. L'examen n'est en principe pas une condition suffisante d'obtention de la certification, mais est une condition nécessaire suivie par d'autres exigences (*expérience, assurance, non condamnation, éthique...*). On parle parfois de niveau 1 de certification (*si l'organisme émetteur est un organisme privé, et de niveau 2 s'il est organisé par une autorité sous contrôle de l'Etat*).

Dans certains pays, les certifications professionnelles peuvent faire l'objet d'un enregistrement officiel. Par exemple, en France les titres sont enregistrés au Registre Nationale de la Certification Professionnelle (RNCP) géré par la Commission Nationale de la Certification Professionnelle (CNCP).

La certification CFP®

La crise de 1929 a eu une répercussion dont les effets sont encore sensibles aujourd'hui dans l'organisation professionnelle du conseil patrimonial.

Suite à cette crise, donc, une loi a été votée en 1933 aux Etats Unis dénommée "Glass - Steagall act" ou "banking act" qui, pour résumer rapidement, créait l'incompatibilité entre l'activité de banque de dépôt et celle de banque d'investissement. Cette loi n'a été abolie qu'en 1999. La conséquence pratique de cette loi et d'autres lois réglementant aux USA le marché de l'assurance, de l'immobilier et les règles spécifiques des métiers réglementés a été que chaque branche du conseil patrimonial s'est focalisée sur son métier propre (*notamment les banques de dépôts gèrent les comptes et font du crédit mais ne s'impliquent pas en Bourse ou dans la promotion immobilière par exemple...*). Après la seconde guerre mondiale, des classes moyennes émer-

gentes ont commencé à s'enrichir aux Etats Unis et le besoin de conseil transversal (*associant du droit de la famille, du conseil fiscal, du conseil en allocation d'actifs du conseil en protection sociale*) est né. La loi américaine ayant fortement compartimenté les métiers, la transversalité avait disparu et les nouvelles richesses ne trouvaient pas dans leurs conseillers habituels (*banque, juriste, fiscaliste, assureur, agent immobilier, courtier d'assurance*) une vision cohérente de développement de leur patrimoine.

D'où le besoin d'un nouveau métier, indépendant, de "financial planner", pour assurer un conseil garantissant la cohérence des montages réalisés entre les besoins du client, ses objectifs et les composantes juridiques, fiscales, financières, budgétaires de sa situation financière. Très vite ce groupe de "pionniers" en est venu aux conclusions que ce métier naissant exigeait un certain nombre de contraintes: au niveau du process de travail, de la formation, de l'expérience et de la déontologie afin de pouvoir donner aux détenteurs de patrimoine des garanties de compétence, d'indépendance, de neutralité et de démarche éthique. C'est ainsi qu'est apparue la première certification professionnelle en gestion de patrimoine dans les années 70. Ce mouvement a été suivi par d'autres groupements de professionnels créant chacun sa propre certification. Très rapidement la certification CFP® s'est imposée par l'adéquation de la démarche à la découverte du client, par sa profondeur et par la rigueur de sa recherche. Puis peu à peu, elle a essaimé dans d'autres pays. Ceci aboutit aujourd'hui à une présence d'auto-réglementation de la profession dans 24 pays sous la marque CFP® (*Certified Financial Planner*®) gérée maintenant par le Financial Planning Standards Board (*Denver, Colorado*). Plus de 150 000 professionnels ont

adopté ce process certifié qualifié par le Wall Street Journal de "Golden Standard".

Ce process définit les conditions d'exercice de la profession tant en ce qui concerne les étapes de la relation du professionnel et de l'individu étudié, les modes d'établissement d'un bilan et du conseil patrimonial. Mais il définit également des règles quant à la compétence, l'éthique, la formation continue du professionnel pour faire passer les intérêts du client en priorité et garantir rigueur et professionnalisme.

La norme ISO 22222

L'International Standards Organisation (ISO) est une fédération mondiale d'organisations nationales de normalisation. Elle élabore des normes d'applications internationales, à partir de demandes de l'industrie ou de toute autre partie prenante, qui signale l'intérêt d'une norme au membre de l'ISO de leur pays. Les normes ISO sont ainsi fondées sur une expertise mondiale constituée à partir d'experts, et de représentants d'association de consommateurs, d'ONG, d'universitaires, de gouvernements. Les normes ISO sont donc le fruit du consensus entre toutes ces entités; elles sont d'application volontaire dès lors qu'elles sont publiées.

C'est ainsi qu'en février 2001, à l'initiative de l'ANSI (*organisme de normalisation représentant les Etats Unis d'Amérique à l'ISO*), suite à la demande du Financial Planning Standards Board de l'époque, il a été décidé d'élaborer la norme ISO 22222 dans le cadre du comité technique ISO TC 2222. Elle a été publiée le 15 décembre 2005 sous le titre de «Conseil en gestion de patrimoine-Exigences pour les conseillers en gestion de patrimoine». Plusieurs pays membres l'ont alors transposée dans leur collection nationale de normes vo-

lontaines. En 2009, suite à la demande de révision de la part de l'ISO aux pays membres qui ont contribué à son élaboration, il a été décidé de la maintenir en l'état.

La norme ISO 22222 constitue donc un référentiel international pour les professionnels quels qu'ils soient (*régulateurs, sociétés de gestion, banques, compagnies d'assurance, conseillers en gestion de patrimoine indépendants...*) impliqués dans la distribution de produits financiers. Elle leur permet de:

1/ Définir précisément ce qu'est la "gestion de patrimoine" ("financial planner" en anglais).

2/ Structurer le conseil apporté par le conseiller en gestion de patrimoine en 6 étapes: les étapes du process dans ses différentes étapes:

- l'établissement et de la définition de la relation entre le client et le conseiller en gestion de patrimoine,
- le recueil des données concernant le client et la détermination de ses objectifs et attentes,
- l'analyse et l'évaluation de la situation financière du client,
- l'élaboration et la présentation du plan financier personnel,
- la mise en œuvre des recommandations en matière de gestion de patrimoine,
- le suivi du plan financier personnel et de la relation de conseil en gestion de patrimoine.

3/ Définir les exigences générales à respecter pour exercer le conseil en gestion de patrimoine tel qu'il est structuré

4/ Préciser les niveaux de compétence et d'expérience nécessaires à l'exercice du métier par le professionnel ainsi que les exigences pour maintenir ces niveaux.

5/ Traiter les différentes demandes de mise en conformité à la norme, dont la certification par tierce partie des conseillers en gestion de patrimoine...

Apport pour l'épargnant

La norme ISO 22222 ainsi que la certification CFP ont pour but de protéger l'épargnant contre certaines pratiques commerciales et de lui garantir que le professionnel en face de lui met ses intérêts comme prioritaires à toute autre considération (*rémunération du conseiller, favoriser telle ou telle solution voulue par l'entreprise l'employant, préférence vers sa compétence professionnelle initiale*) et de gommer si possible tout risque de conflit d'intérêt

Le professionnel que rencontre l'épargnant a dû justifier, quels que soient ses diplômes et son expérience préalable, de son savoir, de son savoir faire et de savoir être à travers un examen organisé par un organisme neutre de tout producteur de produit financier, de tout métier autre que celui de la gestion de patrimoine. Il doit également entretenir annuellement (*et le prouver auprès de l'organisme certificateur*) son savoir et son savoir faire. Ceci offre à l'épargnant un gage de compétence.

Le professionnel certifié s'engage à respecter un code de déontologie qui prévoit notamment que son intervention doit être effectuée dans l'objectif exclusif de la satisfaction des intérêts de l'épargnant. Il doit justifier d'autre part par écrit les différentes solutions ou préconisations souhaitables et donner à l'épargnant le moyen d'exercer librement ses choix. Ceci est un gage d'objectivité pour l'épargnant.

Le professionnel certifié prend en compte toutes les recommandations du code des standards et pratiques professionnelles organisant de façon normée

le process de travail et les documents utilisés et remis. Ceci est un gage de transparence pour l'épargnant.

Le professionnel certifié s'impose de ne pas intervenir dans des domaines qui ne sont pas de sa compétence ou dépasse son niveau de compétence dans le domaine et s'oblige à faire appel à des spécialistes chaque fois que la nécessité est avérée. Ceci est un gage d'efficacité pour l'épargnant.

Le professionnel certifié doit justifier de son intégrité et donc de l'absence de condamnation pénale. Il doit également justifier d'être assuré en responsabilité civile professionnelle au niveau nécessaire en liaison avec son niveau financier d'intervention. C'est un gage de professionnalisme et de protection pour l'épargnant.

Missions CIFA

La "Convention of Independent Financial Advisors (CIFA)" est une ONG consultante exclusive auprès du Conseil Economique et Social de l'ONU. Elle revêt la forme d'une fondation suisse intervenant dans les domaines de la finance, de la gestion d'actifs et du conseil financier global. C'est un centre international de haut niveau qui s'est donné pour objectif:

- De protéger et défendre les intérêts des conseillers financiers au niveau national et international,
- De proposer des projets nationaux et internationaux pour l'harmonisation des règles opérationnelles et de la régulation des métiers de la finance, de la gestion d'actif et du conseil global financier.
- De faciliter l'implantation de nouvelles normes et procédures dans ces métiers,
- D'établir des codes de bonnes conduites professionnelles.

Le fondement des interventions de la CIFA a été la rédaction d'une charte en 10 points des droits de l'investisseur pour protéger la propriété des biens de l'investisseur acquis dans des conditions morales contre tout risque d'aliénation, confiscation, expropriation. Cette charte est signée et appliquée par les pays et organisations affiliées.

L'article 9 de la charte précise un point très important: "l'investisseur a le droit d'attendre des Etats et Gouvernements des structures adaptées, la supervision et la surveillance adéquates du marché". C'est sur ce dernier point que nous souhaitons revenir.

L'application de cet article porte sur le fonctionnement du marché mais également sur les intervenants du marché et les exigences de structures pour garantir aux investisseurs un fonctionnement cadré. Nous retrouvons dans les pays de l'OCDE et dans la plupart des pays économiquement organisés des organisations de type SEC aux Etats Unis, AMF/ACPR en France, FSA en Grande Bretagne (*il s'agit maintenant de la FCA*). Nous retrouvons dans la cadre de l'Union Européenne des directives encadrant le fonctionnement des marchés et des instruments financiers tels les Directives MIFID et MIFID 2, ou CRD pour les banques (*liées aux accords Bâle 2*) ou Solvabilité 1 et 2 pour les assurances

Un autre champ de régulation apparaît également: comment rendre ce service? En effet, il est pertinent de réguler le fonctionnement du marché, les différents intervenants et comment sécuriser les instruments financiers. Mais tout cela ne protège pas encore suffisamment l'épargnant. En effet, même s'il passe par un intermédiaire dûment enregistré, régulé, contrôlé, supervisé et qui va "l'habiller" de produits financiers ou d'assurance normés, comment

l'adéquation entre les besoins du client et les produits ou services recommandés est-elle assurée, garantie, définie. Nous abordons un autre domaine, qui n'est pas complètement défini, qui est la procédure du conseil.

Conclusion

Avec plus de 700 000 professionnels se reconnaissant dans la démarche CIFA de défendre l'épargnant, il est évident que l'organisation ne peut rester en dehors de ces démarches mondiales de normalisation et de certification professionnelle, qui a pour unique la "protection de l'épargnant" et qui encourage ces travaux.

Liens utiles

ISO: <http://www.iso.org/iso/home.html>

FPSB: fpsb.org

CIFA: cifango.org

RNCP: cncp.gouv.fr

Règles certification: www.etoile.regioncentre.fr

Définitions: wikipedia.org

Qualification: www.cereq.fr

Références:

Art L 115.27 du code de la consommation

Art 6314-1 du code du travail

Art L 6412-1 du code du travail

Art L 6412-1 du code du travail

Art L 335-6 du code de l'éducation

Contribution:

JP Willems et JM Luttringer du 3/06/2008

Loi de modernisation sociale 2002-73 du 17/01/2002

Remerciements: à Monsieur Emmanuel DUHAYS de l'AFNOR pour ses précieux conseils.



Patrick DUFOUR

CFP®, ISO 22222

Membre du Comité Exécutif CIFA

Ingénieur diplômé ENSG et ENSPM.

Master de gestion de Patrimoine (CETFI).

Fondateur et membre d'honneur de CGPC.

Ancien administrateur de FPSB.

Auteur de "L'essentiel du Patrimoine".

Carrière internationale dans l'industrie pétrolière, ensuite area manager Amérique Latine d'une banque américaine, directeur commerciale d'une filiale d'AGF puis vice-président de Sycomex (*éditeur de progiciels financiers*).

Actuellement gérant d'ASP Consulting et chargé d'enseignement à l'Université d'économie Aix-Marseille, à l'Ecole supérieure d'assurance, et à ISEG School of Finance.

Patrick DUFOUR

What African Action on AIDS (AAA) did for the implementation of the MDGs

SUCCESSSES AND OBSTACLES

This article is based on the presentation made by the President of AAA - Ongoing and Emerging Challenges for meeting the Millennium Development Goals (MDGs) — during the 12th CIFA Forum held in Monaco (23-25 April 2014). AAA was founded 23 years ago to support children affected by AIDS. Creating stronger and healthier communities allows AAA to increase the ability of local people to take care of their own children through the following three programmes:

The first is **'JUST KNOW'** that emphasizes the local language concept of **MA YEM MA BO** meaning, **I KNOW and I DO**. We believe that people should first understand their bodies and get the kind of knowledge that leads to positive behaviors for the betterment of their own lives.

The second is **'HEALTH before WEALTH'**, which is an idea that rose from our experience in villages where microcredit is practiced. We empower people for disease prevention to enable them to work effectively, save and use their savings to grow.

The last is **'WOMEN's ECONOMIC AUTONOMY'**, the main tool being educational scholarships for vulnerable girls that lead to financial autonomy, greatly reducing the risk of being infected with HIV through sexual abuses based on economic needs.

Solidarity, collaboration and partnerships among social actors on global and local levels (*village chiefs, schools,*

UN) are essential for the realization of the three programmes.

As for the MDGs, we started by observing two characteristics: One positive that allowed us to understand that MDGs function at individual and global level. The success in one has an impact on others and facilitates the scaling-up process.

The negative characteristics, a perfect reminder of depressive Africa is presented as a series of **LACKS**. It is very difficult in that context to realize anything positive. We wished for a special MDG that would not only refer to a lack of something but also highlights things being well done! This negative characteristic is Africa's biggest challenge. Indeed, African communities continue to wait for a future that at this rate may never come, and if it ever did, the belief that it may be as a result of someone else's effort and not that of the people themselves is definitely depressing! The MDGs should therefore emphasize knowledge tailored to needs and values that empower people as they go about solving their daily problems, making them players instead of perpetual beneficiaries of development.

This led AAA to choose the MDGs that would help people understand that Community Poverty aggravates the vulnerability of each member. Cultivating community spirit on the other hand removes common barriers to success and joy. We therefore adopted MDGs 2, 3, 6 and 8. **COMMUNITY MOBILIZATION** is our long term and main tool, with each action preceded by training and debates, to ensure at least the follow-



Ruth Engo Bamela

RUTH ENGO BAMELA is, since 1991, the President of African Action on AIDS (AAA), NGO in special consultative status with UN-ECOSOC. Her activity focuses on Preventive Health starting with AIDS, Malaria and Water borne diseases that affect 80% of people who visit medical centres in her country. Her approach emphasizes individual and collective responsibility of concerned communities. She focuses on rural areas and girl orphans whom she considers as "Agents of Change, not Objects of AID". After earning her doctorate in Social sciences from Paris University, she served as Director of Labour of Cameroon before joining the UN Secretariat in 1984. At EXPO 2000 in Hannover, Germany, she presented a paper in Global Dialogues series on "The Role of the village in the 21st Century". After retiring, she devoted all her time to the development of AAA. She is member of the Club of Rome, since 1991, and the International Jury of Futuroscope in Poitiers, France.

ing: **a)** People are aware of their collective problems; **b)** They get practical knowledge of different options to solve the problem at stake; **c)** The importance for each member to take personal responsibility and get involve; **d)** The need to understand that seeking external partnership does not eliminate local efforts or contribution but also that the community should envisage living without total external help; **e)** The importance of team work and endurance. Mobilization also means knowing and doing. We have to create a Show-and-Tell of sorts, transmitting the message most of the time in local languages geared toward reducing preventable diseases. When you go to a kitchen and everything is on the floor, you have to explain the consequences of placing



COLLECTION MAY YEM – MA BO or I KNOW AND I DO: Concrete Mobilization tool in local languages			
<p>"The doctor of the future will give no medicine but will interest his patients in the care of the human frame, in diet, and in the cause and prevention of disease". It empowers people by giving them the knowledge to act on root causes of diseases through MA YEM – MA BO, a sort of show and tell on basic health and hygiene presented mostly in local languages : Bulu & Bassa.</p>			
a) MA YEM AJÖ MFUBAN MENDIM b) I know about clean water c) ME NYI JAM LI MALEP MAPUPI	a) MA BO b) and I do c) ME MBOŃ	a) MA YEM AJÖ MFUBAN MENDIM b) I know about clean water c) ME NYI JAM LI MALEP MAPUPI	a) MA BO b) and I do c) ME MBOŃ
1. MA YEM NAA MENDIM MA NYU MA YIANE BO MFUBAN 1. I know that the water I drink must be clean 1. ME NYI LE MALEP ME NYO MA NLAMA BA MAPUPI		4. MA YEM NAA EYON MENDIM ME MANE YAA VOE, MA YIANE SOE ME VOM MVIT ESE NGULE YAA NYINE 4. I know that when water is cold, I must pour it in a clean container that allows no dirt in 4. ME NYI LE NGEDA MALEP MA SUNE ME NLAMA HA MO HOMA MAHINDI MA DJÖ P BE	
2. MA YEM NAA MA YIANE TO'OTÖ MENDIM NDA BÖT JA NYU E MFUBAN VIEK ÉTE 2. I know that I must boil the water my family drinks in a clean pot 2. ME NYI LE ME NLAMA PILIS MALEP NDAP BÖT YEM I NYO I KÉTÉ HIRÉE HI MPÖP		5. MA YEM NAA MENDIM NDA BÖT YA NYU MA YIANE KE TEBE SI 5. I know that the water my family drinks does not stand on the floor 5. ME NYI LE MALEP NDAP BÖT I NYO MA NLAMA BÉ TELEP HISI	
3. MA YEM NAA EYON ME MANE YAA TO'OTÖ MENDIM, MA YIANE BUTI ME A YANGE NAA ME VOE 3. I know that after boiling the water, I must cover it and let it cool down 3. ME NYI LE NGEDA MALEP MA MPÉL ME NLAMA KINDE MO LETEE MA HOL		6. MA YEM NAA KOP NDA BÖT JA NYU U JE MENDIM JA YIANE BO MFUBAN A JA YIANE KÉ TEBE SI 6. I know that cups used by my family to drink water must not lay on the floor 6. ME NYI LE NYÖL MALEP I NDAP BÖT I NLAMA BA MAPUPI NI LE I NLAMA BÉ TELEP HISI	

CAfrica Action on Aids

drinking water on the floor!

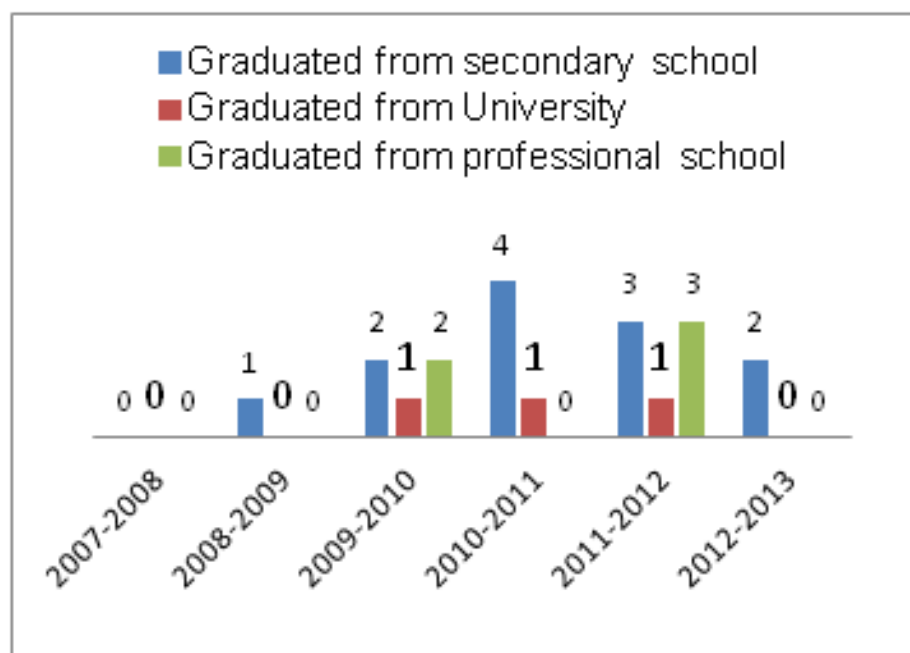
EDUCATION, of women and younger girls is our second focus. It takes the form of a scholarship with the objective to increase the pool of vulnerable girls eligible for continuing into secondary, professional schools and University. Since 2007, we've had a steady flow of 25 students each year of all levels. The selection is based on the following: **a)** Give preference to total orphans (*lost father and mother*); **b)** When possible place sisters separated at the death of parents in same schools; **c)** A new girl is enrolled only if we have the means to support her education in at least one whole level (*i.e., secondary*); **d)** Same importance given to school education and life skills. Girls must learn to wash their hands and to sleep under mosquito nets. These scholarships are expensive because they have to include not just academia but everyday life. For ex-

ample, we teach them to dress responsibly - if you go to the market to buy a banana plantain, you should avoid dressing as if you were going to the opera house, because you may be charged based on your external looks! The main lesson that has been learned in the past nine years is that, when vulnerable girls



are placed in an environment suitable for pursuing education and are encouraged to do so, they are more likely to succeed. Recipients are encouraged to develop a network; understanding that they must grow to become agents of change in their communities. One of the girls who graduated is now co-financing another girl. Each girl entering AAA signs a letter of commitment that they will help others even before they earn a regular salary. Some secondary school girls signed an engagement to fetch water for an elderly woman in their community. Another decided to contribute some of what she earned babysitting. The last one is a volunteer with an organization taking care of vulnerable children of her community.

All aspects of **PREVENTIVE HEALTH** are part of our work. AAA's Preventive health plan is a package of essential actions to avoid diseases in communities. The plan includes: AIDS screening test; Malaria prevention; Hand washing with soap; Drinking potable water; Dignified/clean toilets; De-worming; Vaccination; Body and mouth hygiene, etc... To ensure that communities have clean water, AAA builds wells in villages, with maintenance funds coming from contributions of each family - 300 francs CFA a month - and 125 francs a year for each school child. This behavior is not only cheaper, but also sustainable because



it places the "**I FACTOR**" in the centre of health. Indeed, in a country like mine where people are busy from Thursday to Saturday burying the dead, preventing diseases is cheaper than curing them. To sustain this behavior in 2008, AAA introduced Water Stations. This innovation of AAA was registered by the African Regional Intellectual Property Organization (OAPI) as a useful tool for health prevention.

An important aspect of disease prevention is the impact of malaria. Malaria is

the highest cause of ill health in Cameroon (40%). While malaria programmes tend to mostly focus on children aged under five, AAA objective is to draw attention on 3 groups including: **a)** Pregnant women, because, when malaria parasites bind to the placenta they can cause inflammatory reactions that could lead to spontaneous abortions, still births and babies born with low weight; **b)** People Living with HIV/AIDS. Their defense system is weak and this explains why malaria is more frequent



and severe with cases of treatment failure both resulting in deaths. AAA therefore tends to combine HIV/AIDS and malaria prevention activities; Systematic protection of school children living in orphanages and dormitories because of a high percentage of school absenteeism due to malaria. The vision of AAA is to hook mosquito treated bed nets in all institutions lodging school children.

Finally, AAA believes in progress through networking and partnership. Indeed, AAA opens each year with a

Mosquitoes treated bed nets in dormitories of school children



Networking Day, drawing attention on solidarity and collaboration as essential ingredients to progress and community building. Dialogue among actors increases knowledge, technical skills and facilitates the sharing of human resources, which all serve to broaden the dissemination of successful strategies as well as lessons from problems encountered. AAA various partnerships, go from local to global including with UNAIDS, Batonga Foundation, CPC, USAID, CIFA, Governments' institutions, Private sector, Mayors, village Chiefs, Nurses and Medical doctors. We sign

conventions with local communities to ensure that they do their part.

To conclude, we would like to draw attention on 2 ideas that are at the centre of AAA actions: **a)** "The doctor of the future will give no medicine but will interest his patients in the care of human frame, in diet and in the cause and prevention of disease", by Thomas Edison; **b)** "Most intimate aspects of development are virtual and impalpable like happiness, health and joy" by Prof. Joseph Kizerbo.

Ruth Engo Bamela



School children drumming on the Day of the African Child!



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Discussing Investment Risk

When talking to clients, Financial Advisers are required to consider investment risk. There are many risk profiling tools available for advisers to help understand a client's attitude to risk. But what happens next?

When I joined the industry, understanding risk was much easier than it is today.

Cash in the bank was considered low risk or even no risk at all. Government Bonds were considered slightly higher up the risk scale whilst Equities (*shares*) were higher risk again. Property was not considered risky and gave its name to the English expression, "As Safe as Houses".

In 2008 everything changed. Banks failed, Governments were under financial stress, Stock Markets fell. Do these events mean advisers should tell clients that everything is high risk?

Banks are being recapitalised and in the European Union, Governments guarantee the first €100,000 of a bank deposit. There are two caveats to this:

- 1/ not all accounts carry the guarantee, and
- 2/ the guarantee is by the banking group, not an individual bank. If a depositor has money in 2 banks but they are part of the same group, then only €100,000 is protected.

We are all feeling better about the strength and security of banks so that is the good news. What about the deposit rates we are being paid? Is there an inflation risk we should be concerned with? If inflation is running at

a rate greater than the deposit interest we are being paid, we are losing money in real terms aren't we?

We have also seen Countries in financial difficulty and even being bailed out. Is it therefore always sensible to hold Government Bonds? What happens to bond values if interest rates rise? Is there a risk the value of Bonds would fall?

We have seen volatility in Equity markets with some large companies having financial difficulties. At the same time some companies are doing very well, are cash rich and are paying good dividends.

Regulators tell advisers we need to understand our clients' attitude to risk and provide solutions to our clients that match those attitudes. The regulators do not yet tell us which asset classes represent high risks or low risks. Is it therefore good advice to tell a cautious investor to leave their money on deposit at a bank? Almost certainly not! So how do we advise a client who wants no risk and a return in excess of inflation? It's not an easy job.

Our feeling is that the only advice we can offer is to spread the risk, diversify in terms of asset classes, pay attention to liquidity and fully understand any product or portfolio. Now is certainly not the time to have all one's eggs in one basket!

Michael Lodhi

The Spectrum IFA Group



Michael Lodhi

MICHAEL LODHI joined the International Financial Services industry in 1991 with Mondial Expatriate Services in the Benelux region.

In 1999 he joined the Luxembourg-based, pan-European brokerage, European Business Network S.A.

In 2003, he founded The Spectrum IFA Group, an expatriate-focused IFA firm. With 48 advisers working from 12 offices in 6 European countries Spectrum is one of the largest English speaking, expatriate focused, cross border IFA firms of its kind.

Michael was instrumental in the formation and is Vice Chairman of FEIFA (*The Federation of European Independent Financial Advisers*).

He is also a board member of another financial services trade body, FECIF (*La Fédération Européenne des Conseils et Intermédiaires Financiers*).



Behavioral Finance

an overview in a few sketches...

When we talk about investments, we all know about things like Risk, Return, Volatility, Standard deviation, Efficient frontiers, Asset Allocation, Risk profiling and Questionnaires, Modern Portfolio Theory... But recently we hear more about Behavior, Loss Aversion, Emotions, Irrationality, Overconfidence, Regret Theory...

Welcome to the world of Behavioral Finance! Did you know that the first research and studies on Investor Behavior go way back already to the mid 1800's?

I recently read an interesting description of Investor Behavior: *The field of investor behavior attempts to understand and explain investor decisions by combining the topics of psychology and investing on a micro level (i.e., decision process of individuals and groups) and a macro perspective (i.e., the role of financial markets). The decision-making process of investors incorporates both a quantitative (objective) and qualitative (subjective) aspect.*

Investor behavior examines the cognitive factors (mental processes) and affective (emotional) issues that individuals, financial experts, and traders reveal during the financial planning and investment management process. (1)

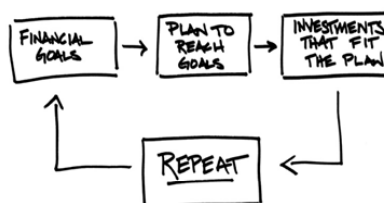
What triggered me in this description, is the relationship between Investments and Financial Planning as well as the process. I strongly believe that in the near future, our clients, and as a result of this, the financial industry, need a renewed focus on the process, and on behavior, to prevent investors, from

repeatedly making the same mistakes and wrong decisions. You may call this bad investment behavior.

Question: Do you still want to be the advisor who only selects, on a portfolio level, the best stocks to buy? Due to new legislation in The Netherlands (2), this practice is almost history...

What will be the future? Our clients need financial PLANNING but they don't always need a 'three inch thick' financial PLAN! And they still need someone they can call for advice and who can help keeping them on track.

Because people want to achieve their goals and dreams. Investments are an important part of this process. But our brains are designed to make it difficult to analyze our results. We need a step by step process to track our results, otherwise people will have no idea how well they are doing.



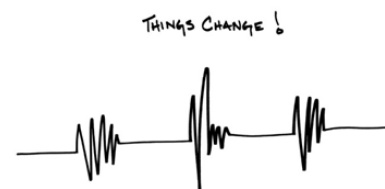
Sounds simple, right? But it happens to be not that easy to do. Why? Yes, our behavior, our biases and our emotions! Allow me to give you a small overview.

1. Illusion of Control

We have ZERO control over most of what is happening in the world. We DO have control on our decisions. So

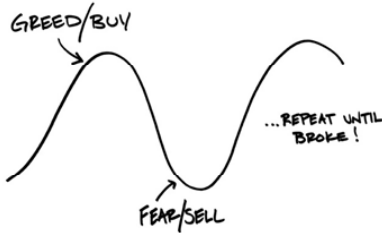
focus on what is important and what you can control. Because we're human, we're inclined to take the thing we just experienced and project it into the future. It becomes our point of reference, and tricks us into thinking and feeling a certain way about different things.

If we let what's just happened become the sole reason for certain decisions, we may end up limiting our options in the long term. We've got to be smarter than our brains and accept that things can be different tomorrow. But does this need to change my plan and do I really need to take action?



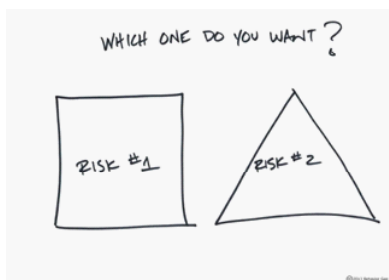
2. Overoptimism, Overconfidence and Loss Aversion

An overoptimism individual believes that he or she is less at risk or more likely to achieve better results. Loss Aversion people weigh losses about twice as much as gains. While overconfident individuals believe that they can affect outcomes to a greater extent than they actually can. When taking into account the poor timing most individual investors suffer from, this combination is very dangerous when everybody in the market is feeling too greedy or too anxious!



3. Risk Perception and Tolerance

Individual risk attitudes can be categorized into two main types: pure risk and speculative risk. An example of pure risk is a car accident. Speculative relates to positive or negative chances to realize gains or losses. Some people often (*are expected to*) bear more risk, youngsters (*due to the long-term investment horizon*) or business owners, who, frequently are expected, to have experiencing more risk while running their business.



Have you experienced what I call, the risks of measurement of risk tolerance? Risk profilers, questionnaires and software tools, are mostly good at determining how investors should behave, but do a poor job of finding out how investors will actually behave in real market scenarios! Many advisers have experienced a situation when an investor has said one thing in a risk profile, and behaved completely different. And it is not uncommon for people who fill out a risk profile questionnaire to respond in ways they HOPE TO BE, not in ways they REALLY ARE. And last

but not least, many questions are not foolproof.

4. Happiness: income, wealth, spending, working and having a meaningful life

Most of us need a balanced life. Planning can be helpful achieving this. Day traders might disagree with me, but if money can buy you happiness, individual investors might need to limit their time investing so that they have adequate and quality time to spend with their family and friends. There is a strong relationship between being too greedy and unhappiness...

Remember: Money does not make us happy, we can do things with money that make us happy. Don't confuse these.



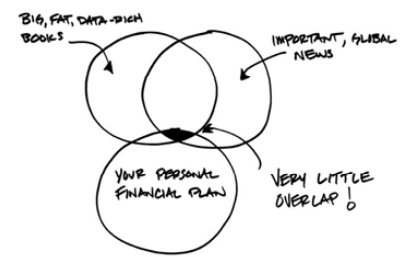
5. Overtrading

Research amongst individual investors who work with so called execution only investment platforms, and hit the buy or sell button themselves, learn us that too much trades most of the time result in higher costs and more losses. When someone is over trading he or she tends to be impatient to get results and may sell at the wrong times.

6. Instinctive versus Pattern Bias

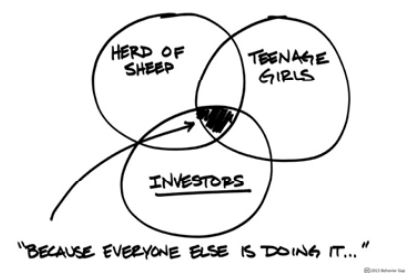
If someone tends to make decisions quickly and emotionally on instinct, instead of facts, he or she can hit the button, to buy or sell, too fast. Other investors investigate too much and will try to find predictable patterns in the financial markets.

We look too often for information that's easily available - this may not be representative. The track record of the investment industry for many years didn't help us if we know that many marketing departments were very clever at manipulating historical data to make their performance look better than it really was. Historical data only is no guide to future performance. It is only a data point in deciding what investments to buy, if buy them at all!



7. Herd follower

People should invest to make money in order to do the things that they really value. If all we do is invest to make money and do the things others do, we are missing the point.



Money or investing is the means to an end, not an end in itself! Be careful about following investment trends. Know why you are investing. Set clear goals and don't judge yourself against other people.

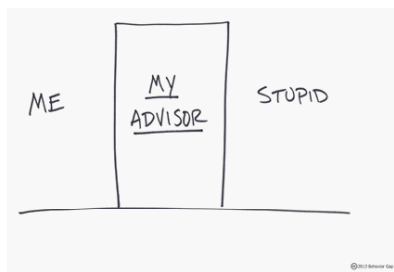
8. Disposition Effect

Did you ever meet someone who talks about his stocks like he is talking about

his children? Or investors who talk about stocks like a collection of art-work, cars, paintings etc. These type of investors may sell winners and hang on to losers for too long because they are strongly convinced that the price will get back to the historical price, the investor, many years ago, paid when buying that stock!

Conclusions: What might help? Simplify, Simplify, Simplify!

People might say: "These are some of my biggest problems... I need someone to help me stop it!"



Put someone between you and stupid. Certainly to big money decisions. Before making a change, like investing an entire portfolio in an investment someone MUST buy, ask a trusted third party if this makes sense. People are always tempted by something new and shiny. If it looks too good to be true, it is. People also will be tempted to act because everyone else does. Remember: There is always a pause button.

Take a look at your plan, and repeat step by step, the process. Track results, otherwise people will have no idea how well they are doing. But don't track only investments and on a too regular basis. And please try to ignore the latest and biggest headlines in media noise. Test the accuracy of the information and look for the real facts. And if or how much it will have an effect on the plan!

The emotions people feel about financial topics can sometimes make them resistant to asking questions. But what does it cost us to ask a few questions and take a closer look at what we're thinking about doing?

When it comes to investing, sometimes the crowd is going in the exact opposite direction of where you want to be headed.

The financial industry thrives on making us think we need complexity to reach our financial goals. It proves that by drilling down to the actions that matter most, we can make better decisions about money and simplify what many people consider to be a complex process.

Robert G.J. van Beek



Robert G.J. van Beek

Robert G.J. van Beek CFP® (1973) is a Financial Life Planner and Business Consultant with a working experience of more than 20 years in the financial industry. He started his own company, About Life & Finance, in 2010 after working as business consultant, wealth planner, account manager and asset manager for different large and small financial companies.

Since 2013 he is partner at De Weygerbergen, bureau for performance and risk measurement and wealth management (www.veygerbergen.com)

As author, in both the Netherlands and Belgium, Robert published 5 books (*in Dutch for both consumers and advisors*) and a variety of articles (*in Dutch and English*) about financial planning, wealth management, investments, risk & return and financial literacy.

His latest project is a translation of the book and concept of The Behavior Gap® by Carl Richards. Great sketches that help both advisors and clients to have meaningful conversations and helping them to stop doing dumb things with their money! (www.behaviorgap.eu)

Robert is member of different professional bodies, serves the board of FPSB Nederland, FPA Belgium (*Chair*) and also represents Belgium and The Netherlands of Financial Planning Association (*FPA USA*) EAME International Community and Geofocus group.

- (1) *Investor Behavior, The Psychology of Financial Planning and Investing*, editors H. Kent Baker and Victor Ricciardi, Wiley 2014, ISBN 978-1-118-49298-7
- (2) *K-Y-C, Ban on commission and AFM repeatedly being positive on the concept of financial planning*

A portrait of Diane Jacobs, a woman with short blonde hair, wearing a brown leather jacket over a dark blue top. She is smiling slightly and looking towards the camera. The background is a blurred cityscape.

Diane Jacobs

Head of Business Development



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L'assistance administrative en matière fiscale en pratique

EN ACCEPTANT LE 13 MARS 2009 D'INSÉRER DANS LES NOUVELLES CONVENTIONS DE DOUBLE IMPOSITION (CDI) SIGNÉES PAR LA SUISSE OU MODIFIÉES EN CE SENS L'ARTICLE 26 DU MODÈLE DE CONVENTION OCDE, LE CONSEIL FÉDÉRAL A ADMIS L'ÉCHANGE D'INFORMATIONS À LA DEMANDE.

A ce jour, plus d'une trentaine de CDI prévoyant ce système sont en vigueur. Afin de mettre en oeuvre de manière uniforme sur le plan procédural l'assistance administrative en matière fiscale, le parlement helvétique a voté le 28 septembre 2012 la Loi fédérale sur l'assistance administrative internationale en matière fiscale (LAAF) qui a été modifiée par les chambres fédérales aux mois de décembre 2013 et mars 2014.

Il importe de souligner que le droit international prime le droit interne et que la LAAF ne peut pas restreindre les conditions d'assistance prévues dans les CDI. Par conséquent, pour étudier un cas concret, il est impératif de prendre en considération non seulement la LAAF, mais également la CDI concernée.

L'assistance administrative doit obéir aux trois principes suivants. Tout d'abord, elle est accordée exclusivement sur demande, ce qui exclut l'échange automatique d'informations et l'assistance administrative spontanée. En revanche, la LAAF prévoit l'assistance administrative groupée. En second lieu, la procédure d'assistance administrative doit être menée avec diligence. Enfin, la transmission de

renseignements concernant des personnes qui ne sont pas concernées par la demande est exclue.

Si la CDI applicable dans le cas d'espèce ne donne aucune information sur le contenu d'une demande et qu'aucune autre réglementation ne peut être déduite, la demande doit comprendre les informations suivantes:

- a) L'identité de la personne concernée, cette identification pouvant aussi s'effectuer autrement que par la simple indication du nom et de l'adresse;
- b) L'indication des renseignements recherchés et l'indication de la forme sous laquelle l'Etat requérant souhaite les recevoir;
- c) Le but fiscal dans lequel ces renseignements sont demandés (*Principe de la spécialité*);
- d) Les raisons qui donnent à penser que les renseignements demandés sont détenus en Suisse ou sont en la possession ou sous le contrôle d'un détenteur des renseignements résidant sur sol helvétique;
- e) Le nom et l'adresse du détenteur supposé des renseignements, dans la mesure où ils sont connus;
- f) La déclaration selon laquelle la demande est conforme aux dispositions législatives et réglementaires ainsi qu'aux pratiques administratives de l'Etat requérant, de sorte que, si les renseignements demandés relevaient de la compétence de l'Etat requérant, l'autorité requérante pourrait les obtenir en vertu de



Philippe KENEL

**Docteur en droit - Avocat
Python & Peter
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Me Philippe Kenel, né le 9 janvier 1961, a étudié le droit et les sciences politiques à l'Université de Lausanne. Après avoir rédigé une thèse de doctorat sur la responsabilité pénale des personnes morales en droit anglais, il a étudié le droit européen à l'Université Libre de Bruxelles. Titulaire d'un brevet d'avocat, Philippe Kenel exerce cette profession au sein du Cabinet Python & Peter depuis 1995. Il travaille essentiellement à Genève, Lausanne et Bruxelles, ville dans laquelle il est en charge du bureau Python & Peter et Président de la Chambre de Commerce Suisse pour la Belgique et le Grand-Duché de Luxembourg. Philippe Kenel est spécialisé dans la planification fiscale, successorale et patrimoniale, et plus particulièrement dans la délocalisation des personnes fortunées en Suisse ou en Belgique. En plus de son activité professionnelle, il a rédigé plusieurs ouvrages et articles ayant trait essentiellement à la fiscalité des personnes physiques fortunées.

son droit ou dans le cadre normal de ses pratiques administratives;

- g) La déclaration précisant que l'Etat requérant a utilisé tous les moyens disponibles en vertu de sa procédure fiscale nationale (*Principe de la subsidiarité*).

Le législateur a expressément prévu que l'Administration fédérale des contributions (AFC), autorité suisse compétente en la matière, ne doit pas entrer en matière sur une demande, notamment, si elle est déposée à des fins de recherches de preuves (*fishing expedition*) ou si elle viole le principe de la bonne foi, notamment lorsqu'elle se fonde sur des renseignements obtenus par des actes punissables au regard du droit suisse.

L'AFC pourra, afin d'obtenir les renseignements, s'adresser à la personne concernée (*la personne au sujet de laquelle sont demandés les renseignements faisant l'objet de la demande d'assistance administrative*) si elle est assujettie à l'impôt en Suisse de manière limitée ou illimitée, au détenteur de renseignements (*la personne qui détient en Suisse les renseignements demandés*), aux administrations fiscales cantonales ou à toute autre autorité suisse.

L'AFC a l'obligation d'informer la personne concernée des parties essentielles de la demande de même que toutes les autres personnes dont elle peut supposer, sur la base du dossier,



qu'elles sont habilitées à recourir avant de transférer les informations demandées. Cependant, suite à la récente révision de la LAAF, il peut être dérogé à cette règle si l'Etat requérant établit de manière vraisemblable qu'une information préalable compromettrait le but de l'assistance et l'aboutissement de son enquête.

Lorsqu'une personne à informer est domiciliée à l'étranger, l'AFC invite le détenteur des renseignements à faire désigner par cette personne un représentant en Suisse autorisé à recevoir les notifications. Il peut s'agir, par exemple, d'un avocat.

Concernant la transmission de renseignements, deux procédures s'offrent aux personnes habilitées à recourir. Tout d'abord, en donnant leur consentement irrévocable à l'AFC à la re-

mise des renseignements à l'autorité requérante, elles acceptent l'utilisation de la procédure simplifiée. Si tel n'est pas le cas, l'AFC aura recours à la procédure ordinaire en notifiant à chaque personne habilitée à recourir une décision finale dans laquelle elle justifie l'octroi de l'assistance administrative et précise l'étendue des renseignements à transmettre.

La procédure de recours contre la décision de l'AFC se caractérise par le fait que seule la décision finale peut faire l'objet d'un recours. Toute décision précédant celle-ci, y compris une décision relative à des mesures de contraintes, est immédiatement exécutoire et ne peut faire l'objet d'un recours que conjointement avec la décision finale.

Une fois que la décision finale ou la décision sur recours est entrée en force, l'AFC transmet à l'autorité requérante les renseignements destinés à être échangés.

Me Philippe KENEL



FATCA: Foreign Funds Lending into the U.S. and Investing in U.S. Indebtedness Should Take Heed

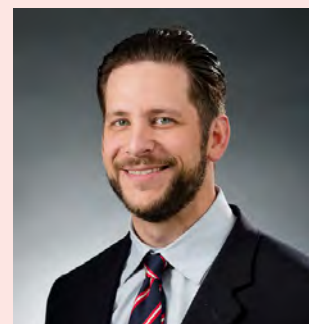
The recent enactment of the Foreign Account Tax Compliance Act ("**FATCA**") has greatly expanded the tax reporting obligations of foreign persons investing in the U.S. Ostensibly targeted by the drafters of this legislation, private equity funds and hedge funds investing in the U.S. (*through either debt or equity investments*) should be particularly concerned with the FATCA regime. The 30% withholding tax, which may apply to the receipt of certain U.S. source payments, will certainly gain the attention of foreign investors. Thus, a foreign fund which receives payments of interest, original issue discount, or dividends (*as well as other streams of revenue which are not attributable to an active business of the fund within the U.S.*) may incur a new incremental tax cost as a result of FATCA.

Unfortunately, the broad provisions of FATCA go even further also imposing a 30% withholding tax on the gross proceeds from a foreign person's disposition of property interests which ordinarily give rise to U.S. source payments of interest (*i.e., indebtedness of a U.S. debtor*) or dividends (*i.e., shares of a U.S. corporation*). This withholding tax liability is determined based on the gross amount of the payment (*i.e., whether or not the foreign investor enjoys economic gain as a result of the payment*). Accordingly, a foreign person who suffers a loss upon exit from a U.S. investment (*equity or debt*) may be further disappointed at settlement when the proceeds from the sale are shy of 70% of the sales price. With few exceptions, foreign investment funds investing in the U.S. should consider executing a

reporting agreement in order to avoid the 30% withholding tax.

For an industry which has historically remained reluctant to disclose information concerning its investors, these new U.S. reporting requirements will likely give investment funds pause upon considering prospective investments within the U.S. For old and cold debt obligations of U.S. borrowers held by foreign persons as of January 1, 2014, the U.S. Internal Revenue Service ("**I.R.S.**") has granted a small but meaningful reprieve. Payments of interest and original issue discount on "grandfathered obligations" are exempt from FATCA withholding tax. Furthermore, upon the sale or redemption of a grandfathered note (*of a U.S. debtor*), a foreign holder can rest assured that the proceeds will also be free of FATCA withholding tax.

However, due to peculiarities in U.S. tax law, debtors and creditors should be wary not to materially disturb or amend the terms of a grandfathered obligation. In practice, where the economic circumstances of the parties to a lending arrangement have changed, the parties may seek to modify the terms of borrowing (*e.g., modifying the applicable rate of interest on the loans or deferring payments due on the indebtedness*). Under U.S. tax law, even where a note holder does not actually dispose of a debtor's note, modifying the terms of an existing lending arrangement may give rise to a deemed debt-for-debt exchange. Regarded as a significant modification for U.S. tax purposes, the outstanding note is deemed to be



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Jonathan D. Tiegerman has significant experience rendering US tax planning and consulting advice to investment funds and multinational corporations. Jonathan frequently advises upon the tax consequences incident to financing arrangements including debt modifications, refinancings, and cross-border financing. Jonathan regularly assists clients in CFC planning in order to minimize subpart-F income and income arising from investments in U.S. property.

Jonathan received his LL.M. in taxation from New York University School of Law and his J.D./M.B.A. from Hofstra University.

retired with the holder surrendering the old note in exchange for a new, modified note.

Not only are these "deemed exchange" rules deceptively easy to trigger, they can cause a grandfathered obligation (*otherwise exempt from FATCA*) to spoil. Where material modifications are made

to the terms of a grandfathered obligation after January 1, 2014, and such amendments give rise to a significant modification under U.S. tax law, the grandfathered obligation would be deemed retired with a new modified note deemed to be issued in satisfaction thereof. The unfortunate consequence of such a deemed exchange would be that the foreign lender in this arrangement would thereafter hold an interest in U.S. debt which is no longer exempt from FATCA withholding tax. For an unwitting lender that has executed amendments to the governing credit agreement of outstanding U.S. inbound loans, it is entirely conceivable that, having the bona fides belief that the note had been a grandfathered obligation, the lender remains oblivious to the 30% withholding tax

liability suddenly owed on the receipt of subsequent payments of interest on the note. As well, gross proceeds from a subsequent disposition of the note could also be subject to 30% withholding tax. Accordingly, foreign funds holding U.S. indebtedness qualifying as grandfathered obligations should take heed when modifying the terms of the lending arrangement.

As for U.S. debt obligations not bearing grandfathered status, a potentially significant hidden tax cost may result upon modification of the terms of lending. As discussed above, parties which make one or more material alterations to outstanding indebtedness may unintentionally bring about a deemed debt-for-debt exchange. Under U.S. tax law, the note of a debtor is generally regarded as property in the hands

of a holder-creditor. Accordingly, a deemed debt-for-debt exchange is regarded for U.S. federal tax purposes as a taxable exchange of property with the holder surrendering the old note for a new modified note. Hence, even where a holder does not actually dispose of the note, the drafters of FATCA viewed a deemed disposition of the note as a fitting occasion to impose a 30% withholding tax upon the gross proceeds of the note – in most cases either the fair market value of the note or the stated principal amount, as the case may be. This latter withholding tax will become effective upon full implementation of FATCA beginning January 1, 2017.

Darlene HART

Jonathan D. TIEGERMAN

US Tax & Financial Services *Across the World*

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& FINANCIAL SERVICES

The US Tax & Financial Services specialist team of cross border advisors provides tax advice, guidance, planning and compliance services for individuals, partnerships, corporations, trusts and estates for anyone subjected to the US tax system, wherever they may be in the world.

Established more than 25 years ago, US Tax & Financial has offices in London, Zurich and Geneva with clients in more than 32 countries.

We are unique in that we are an integrated firm of US qualified tax lawyers and accountants. The value in our service is that we live and work within these complicated international issues every day and can ensure you or your clients are compliant.

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www.anasf.it

Chi Siamo

Anasf, Associazione nazionale promotori finanziari è l'unica associazione di categoria che rappresenta esclusivamente promotori finanziari e conta su oltre 12.000 iscritti.

È stata fondata nel 1977 dagli operatori allora definiti "consulenti finanziari" con l'obiettivo principale di ottenere il riconoscimento e la tutela della professione mediante la creazione dell'albo, che è poi stato istituito con la legge n. 1/1991.

Servizi ai Soci

In questa sezione il socio può usufruire dei servizi di consulenza fiscale, legale e previdenziale; contattare la Commissione tutela dei promotori finanziari nel rapporto con le società mandanti e iscriversi ai seminari di aggiornamento professionale targati Anasf.

Alla voce ufficio studi sono presenti aggiornamenti sulla Mifid e sull'attività di Anasf come socia del Forum della Finanza sostenibile. Sono inoltre presenti i risultati di Real Trend, che indaga il sentiment dell'industria del risparmio gestito attraverso le risposte dei promotori finanziari intervistati ogni mese dall'Osservatorio Anasf, le statistiche sulla rappresentatività di Anasf nel mercato e l'andamento dello sviluppo associativo.

Attività

L'Associazione svolge una azione di rappresentanza degli interessi della categoria presso Governo, Parlamento e Istituzioni e dialoga con le Autorità su tutti gli aspetti di regolamentazione dell'attività dei promotori finanziari. Anasf partecipa attivamente ad APF, l'Organismo per la tenuta dell'Albo dei promotori finanziari, operativo dal primo gennaio 2009. Accanto all'impegno per la tutela, valorizzazione e formazione degli iscritti, da sempre l'Associazione presta una forte attenzione ai risparmiatori e alla necessità di favorire una maggiore consapevolezza nelle loro scelte d'investimento e nella gestione dei propri risparmi.

Il futuro della professione di Promotore Finanziario

La proposta di ANASF:

CONTRATTO "EUROPEO" DI PROMOZIONE FINANZIARIA

Accordo Economico di Categoria

Anasf presenta il nuovo Contratto Europeo di Promozione Finanziaria, un documento che intende offrire una visione adeguata del presente e del futuro della professione.

<http://www.anasf.it/areetematiche.php?go=57>

Vania Franceschelli Responsabile dell'area Estero



Per iniziare a spiegare in cosa consiste l'incarico, occorre specificare che Anasf è membro di due organismi a livello europeo: Fecif, The European Federation of Financial Advisers and Financial Intermediaries, e Cifa, Convention of independent financial advisors.

Il Fecif è l'unico organismo europeo a rappresentare consulenti, promotori finanziari e intermediari. Ha sede a Bruxelles e raggruppa membri di sedici Paesi europei attraverso ventisette associazioni nazionali. La Federazione promuove il settore della consulenza finanziaria in Europa e favorisce la comunicazione e gli scambi tra le diverse nazioni dell'industria europea di servizi finanziari. Aderiscono al Fecif oltre 180 mila tra tied agent, multi-tied agent, broker, consulenti e intermediari finanziari.

Fecif e di conseguenza Anasf si occupano di monitorare e intervenire presso

la Comunità Europea in tutti gli ambiti di interesse: Mifid, Ucits, Prips, riforma del sistema di vigilanza europeo, direttiva sulla mediazione assicurativa, consulenza, previdenza complementare, Credit default swaps.

CIFA é una fondazione no-profit che ha sede a Ginevra e agisce sotto il controllo dell'autorità svizzera, perseguendo per lo più compiti di natura istituzionale. E' interessante sottolineare come dal 2007 il Cifa sia diventato una Ong, una non governmental organization, con sedi permanenti a New York, Vienna e Ginevra.

Gli obbiettivi di Anasf

Nell'ultimo Congresso Nazionale, la mozione 7 relativa alla Commissione Evoluzione della professione ha previsto un'apposita discussione sull'ampliamento della base Anasf, €fpa ed estero, estendendo anche ad altri soggetti la possibilità di iscriversi alla nostra Associazione, come anche ad €fpa, richiedendo un'attività più intensa per incidere nei board europei, soprattutto quelli che si riuniscono a Bruxelles, dove sempre più spesso vengono prese decisioni sulla revisione delle norme europee.

Inoltre è stata rilevata l'esigenza di mantenere relazioni e contatti frequenti in ambito europeo in modo da incidere in maniera ancora più rilevante sulla nostra figura professionale. .

Il ruolo di Anasf come responsabile dell'area Mifid è di primaria importanza per l'evoluzione della nostra professione. Occorre infatti sottolineare il fatto che la Mifid viene applicata nei vari Paesi in maniera divergente e la sfida è quella di uniformare questo linguaggio.



Economic@mente

Realizzato da Anasf in collaborazione con la società Progetica, Economic@mente® - Metti in conto il tuo futuro è un progetto di educazione finanziaria per gli studenti della scuola superiore, per formare gli investitori di domani.

L'iniziativa è stata lanciata nel 2009 ed è proseguita negli anni con una crescente adesione degli istituti scolastici su tutto il territorio nazionale.

Obiettivi

L'obiettivo è fornire ai giovani gli strumenti di conoscenza del mondo del risparmio, partendo dalle loro esigenze, per spiegare attraverso le loro esperienze l'uso migliore delle risorse che si troveranno a disposizione nel corso della vita.

Partendo dal concetto di ciclo di vita e dall'analisi degli eventi che scandiscono le fasi di transizione della famiglia, viene trattato il tema del valore della pianificazione finanziaria per raggiungere i propri obiettivi in maniera efficace ed efficiente e vengono spiegati gli strumenti del mercato che consentono di soddisfare le esigenze della vita.

L'innovatività del progetto consiste proprio nel partire dalle reali esigenze dei ragazzi per sviluppare attitudini che consentano di perseguire obiettivi definiti sulla base delle proprie priorità.

Destinatari del Progetto

Il progetto è rivolto agli studenti del terzo, quarto e quinto anno delle scuole secondarie di secondo grado.

Programma Didattico

Il programma di educazione finanziaria si articola in sei moduli di uno/due ore ciascuno e la proposizione dei contenuti è interattiva e coniugata con gli interessi e le motivazioni degli studenti, ad integrazione delle materie curriculari.

Sono largamente utilizzati simulazioni, esercitazioni e test di verifica.

La proposta formativa tratta i seguenti temi:

- il ciclo di vita e gli eventi che scandiscono le principali fasi di transizione;
- la pianificazione finanziaria come modalità efficiente ed efficace per raggiungere i propri obiettivi;
- gli strumenti del mercato che consentono di soddisfare le proprie esigenze;
- gli operatori e gli intermediari che forniscono un supporto qualificato.

Crediti Formativi

Il programma Economic@mente™ - Metti in conto il tuo futuro è stato riconosciuto idoneo all'attribuzione di crediti formativi da parte di alcuni Istituti che hanno già avviato le lezioni, nell'ambito dell'attività complementare ed integrativa della didattica scolastica.

Il programma può essere considerato tra le proposte formative rivolte agli studenti, da inserire nelle 132 ore di attività in alternanza scuola-lavoro da svolgere in quarta e quinta classe.

Formatori

I formatori sono promotori finanziari iscritti ad Anasf che seguono un corso di formazione specifico e ai quali l'Associazione rilascia un attestato di idoneità a svolgere l'incarico di formatore nell'ambito del progetto.

<http://www.anasf.it/economicamente.php?go=3>

Press Release - 8 July 2014



The Swiss Futures and Options Association ("SFOA"), which was founded almost 35 years ago and is one of the most significant and important global associations for the derivatives industry today announced the recent appointment of Dan Day-Robinson as a Member of the Board and Vice-Chairman of the Association.

Geneva-based Dan Day-Robinson is a former Cargill trader, market-maker at Kleinwort Benson and Economic Affairs Officer at UNCTAD. He is the founder of Global Training Group in Geneva and the creator of Global Energy in Geneva, a trade show for the oil and gas industry. He is also the Chairman of the GTSA Working Group on Communications.



Otto E. Nägeli, Chairman of the Swiss Futures and Options Association said, "Dan Day-Robinson is a great addition to our Board. He brings a wealth of detailed knowledge, not just about markets and derivatives, trade finance and global aid, but he will also provide us with invaluable help in the further development of our global derivatives meeting, Bürgenstock and other new initiatives planned by the Association".

Dan Day-Robinson became Vice-Chairman of the Swiss Futures and Options Association on July 1st, 2014.

For further enquiries, contact:

Carol Gregoir, Secretary-General

Swiss Futures and Options Association, Geneva / +41 22 860 2103

Join Us at Bürgenstock 2014

Global Forum for Derivatives Markets

23-25 September 2014

InterContinental Hotel, Geneva

Switzerland

Join us for SFOA/FIA/FIA Europe Bürgenstock: The Global Forum for Derivatives Markets which will take place on September 23-25 in Geneva, Switzerland. The Bürgenstock conference, now in its fourth decade, has a long history of attracting distinguished speakers and prominent names from the economic, academic and political worlds for high-level debate and discussion.

www.burgenstock.org



35th

Bürgenstock

35TH ANNUAL BÜRGENSTOCK - THE GLOBAL FORUM FOR DERIVATIVES MARKETS

23-25 SEPTEMBER 2014 | INTERCONTINENTAL HOTEL | GENEVA, SWITZERLAND

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CIFA

C I F A CONVENTION OF INDEPENDENT
FINANCIAL ADVISORS
A Non-Profit Foundation

A Non-Governmental Organization in special consultative status
with the Economic and Social Council of the United Nations

GSCGI



CIFA INITIAL CONTRIBUTOR

GRUPEMENT SUISSE DES CONSEILS
EN GESTION INDÉPENDANTS, G.S.G.G.I.
SCHWEIZERISCHE VEREINIGUNG
UNABHÄNGIGER FINANZBERATER, S.V.U.F.
ASSOCIAZIONE SVIZZERA DEI CONSULENTI
FINANZIARI INDIPENDENTI, A.S.C.F.I.
SWISS ASSOCIATION OF INDEPENDENT
FINANCIAL ADVISORS, S.A.I.F.A.

and FECIF



at the Virtual FinFair stand.

* * *



Dear Sir/Madam,

We, at E-MERGING, have always been proud of our lead in the modern world of technology and now we prove this fact once more as we invite you with great enthusiasm to another Virtual FinFair event this September, 24-25th 2014.

Virtual FinFair is a one of a kind experience with nothing like it in the world, made to help connect you and your company, large or small, to the world of finance from the easy, simple and efficient click of your mouse and comfort of your home or office. The opportunities offered at this prestigious event cannot be replicated anywhere else and gives you numerous options to explore.

For the exhibitors, we offer you the unique chance to create your own customised exhibition booth for hundreds, even thousands of potential clients to visit and admire as you share brochures, videos and business cards which can be saved, and later printed or watched at any time after the event by your new clients. What could be better?

RESERVE YOUR BOOTH NOW!

For the visitors, you can create your own avatar, a virtual person online, who will meet thousands like them, all potential new business connections from around the world in the space of two days. Enjoy Skype calls, live chats and exchange of details with professional and private investors. You can only gain from this incredible occasion.

REGISTER NOW FOR FREE!

CIFA, FECIF and GSCGI will be exhibitors. Come and visit our booth during the Virtual FinFair.

If you think Virtual FinFair is also amazing, (even if you don't, we do) spread the word, forward the email and tell your friends, colleagues and others of this distinct event that everyone can join, benefit and enjoy!

<http://finfair.e-merging.com>

Do not hesitate to contact us for further information:

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Financial Life Planning: Smoke on the water or a Real business?

FINANCIAL PLANNING, LIFE PLANNING, FINANCIAL LIFE PLANNING. WHAT DO THESE TERMS MEAN?

There've been a long discussion about Financial Planning. Is it a marketing tool or just the 6 steps process view of the suppliers' one stop or allfinance strategy or is it a new profession hall-marked by certifications? Does it include implementation (*product sales*) or not, what makes it comprehensive and shall be the planner a fiduciary or not? Many questions, still open for discussion.

Even less information there is about Life Planning. Some say it is about about coaching clients through their life (*difficulties*) or just helping clients to come clear about money matters from a psychological point of view or it is a domain of behavioral finance addressing believes and habits around money or again, a certification makes you to a life planner.

Do we probably try to connect 2 cloudy activities to create a 3rd confusing one? In contrast, the **missing link** between Financial Planning and Life Planning makes Financial Life Planning critical to every financial advisor! Achieving life goals ultimately depends on the cash flow and various insurance and investment risks (*so far, no news...*). But, also vice versa our ability to earn money and manage



financial and insurance risks heavily depends on our life style, the behavior we follow on the way to our life goals. Supposedly, you do actual advice and you aren't a sales guy, you face situations like this. You explain a great deal of the investment world, touching retirement plans as well, referring to health insurance matters and just mentioning alternative medicine almost by chance and ...*guess what...* the client, close to or already in his retirement age, asks you not about particular investment vehicles or strategies but how to address Age Related Diseases first. Is this surprising? Not really, if you're familiar with Life Planning practices.

Another critical field is the relationship between the advisor and the client, is that actually honest and trust based or rather *-this is the common case-* rule

The NatMed link to FLP

Serve the client's best interest

Act in utmost good faith

Act prudently

Avoid conflicts of interest

Disclose all material facts

Control investment expenses

(The Institute for the Fiduciary Standard)

The Healing Power of Nature

Identify and Treat the Cause

First Do No Harm

Doctor as Teacher

Treat the Whole Person

Prevention: The best cure

Wellness

The 7 Principles of Natural Medicine



Dr. Zoltan Luttenberger

Zoltan Luttenberger PhD has been working in the FS industry since 1989 as (*independent*) financial planner, management and IT consultant.
www.linkedin.com/in/luttenberger

Zoltan Luttenberger PhD is a Founding Partner of the "European Transition Program in Financial Advice™"

Zoltan Luttenberger PhD is Member of the Board (*in charge of International Relations*) and the Founding Chairman of the Hungarian Association of Qualified Financial Planners.
www.HAQFP.org

based, “complying” but not fiduciary, very close to the European MiFID regime which asks you to act “honestly and in the best interests of the client”.

There is a very similar oath, the Hypocritic one of the doctors. We can discuss financial curriculums and advisor development methods and regulations a long time, but just taking a look at the 4k years old fiduciary duty and the 2.5k years old tradition of the (Western) doctor’s ethical norm reveals an easy rule: your “financial doctor” needs **integrity**.

Another interesting parallel to observe is **the role of the product vendors** like the Financial and Pharmaceutical industry. Do you still think all the “marketing” aims at the best interests of the clients (*customers*)? Like people w/o meds have a better life expectancy, so do the finances of clients not falling in the traps of FS providers or their biased “advisors”. There is a very **simple tool to test the integrity** of the advisor: just ask the question “Cui bono” about the action she/he suggests? Or, in other words, it is often “Cherchez la monnaie”, another simple method. Doctors misled by Medical Representatives and hospitals on alimony from the Big Pharma suffer from Catch22: they think they need the supply for the patients and, to be able to treat them, they need the “sponsors” and so they get trapped, while the money flows actually and mainly from the taxpayers (*patients, clients*) to the pharmacy (*banks*). To keep control of the doctors, Alternative and Natural Medicine has been banned in recent decades from the curriculum of Western doctors, and the media as well. Eastern tradition sustains: Ayurveda is part of the Indian Medical Law(!) and Indian planners, as I mentioned the link between NatMed and FP, immediately realized it. However, their next question was: why did I not speak on this (*at the conference in the US...*)? Traditional Chinese Medicine — TCM — has similar

FP and FLP practices

Planning as Usual

Well insured and treated,
Good pension capital,
Good estate
Died at 75 after 10 years of
Alzheimer

Financial Life Planning

Little insurance need,
Long time “working capital”
Healthy, happy and active
family member
Died at 95 in a flu

roots. Also the Euroatlantic region has a very rich and valuable NatMed tradition. Hence, promising or even exciting Western research is there as well, but it is just not exploited, partly because of restrictions like the FDA prohibition of any public comments on a positive effect of any herbs (*often known for centuries*) in connection with a disease. This is just censorship, while long term fallacies about the causes and treatments of Civilization Diseases have been around for decades.

However, the EU recently set up a special project on CAM <http://www.cambrella.eu/>

Let us **assemble the FLP puzzle**:

- Planning and Facilitating Life Goals, Life Coaching
- Risk Profiling as part of the Suitability requirements (“Know your client”)

- Curriculums and Certifications in “Life Planning” (*like the Kinder Institute, or CDFA Certified Divorce Financial Analyst*)
- Behavioral Finance (*part of Behavioral Economics*)
- CAM Complementary and Alternative Medicine, which includes
- Natural Medicine
- Complex Life styles like Ayurveda or other (*Eastern*) traditions

Shall we, financial advisors become a doctor or a psychologist? Not really. We just have to be clear about our own biases and also those of the clients and other “advisors” working with the clients. This is what makes us actually a financial-life-planner.

Zoltan Luttenberger PhD

Further readings:

The origin and scope of the Fiduciary duty:

<http://www.thefiduciaryinstitute.org/2013/02/15/what-fiduciaries-should-be-reminded-by-valentines-day/>

Hypocratic Oath: http://en.wikipedia.org/wiki/Hippocratic_Oath

Suzue Orman on Life Planning and Personal Finance:

http://www.huffingtonpost.com/suze-orman/the-8-qualities-of-a-successful-life_b_3229878.html

Behavioral Finance: <http://www.behaviorgap.eu/>

Investor Behavior - The Psychology of Financial Planning and Investing:

http://www.amazon.com/dp/B00H3JZ2JA/ref=wl_it_dp_o_pC_nS_ttl?_encoding=UTF8&colid=331PZFNZHP9VC&coliid=I1R0ORXK10S656

“Natural Medicine Bible” (US): http://www.amazon.com/gp/product/B0061Q5QO2/ref=kinw_myk_ro_title

Foods to fight cancer (Researches of Prof. Beliveau):

http://www.amazon.com/Foods-Fight-Cancer-Essential-prevent/dp/0756628679/ref=pd_sim_b_3?ie=UTF8&refRID=1AKR9FDAPDZ789TPPE31

Ayurvedic Herbs: <http://www.himalayaherbals.com/herbs/index.htm>

The Ayurvedic Pharmacopoeia of India: <http://www.ayurveda.hu/api/API-Vol-1.pdf>



CONVENTION OF INDEPENDENT
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Distribution

This issue will be widely distributed worldwide free of charge, in particular to CIFA's partner federations and associations, and at the United Nations' ECOSOC, UNITAR, UNCTAD, FOSS, etc.

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CIFA regroups over 70 international professional federations and national professional associations in Europe, North America, South America, Oceania and Asia. CIFA represents over 750,000 individuals and/or legal entities involved worldwide in financial intermediation.

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<http://www.afpa.at/cms12/>

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ANAF, Spain

<http://www.anaf.es>

ANASF, Italy

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ANBIMA, Brazil

<http://portal.anbima.com.br/Pages/home.aspx>

ANCDGP, France

<http://www.ancdgp.net>

APFA, UK

<http://www.apfa.net>

APFIPP, Portugal

<http://www.apfipp.pt/index.aspx?MenuCode=bottomHomePage>

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<http://www.bzb.be>

CAPS, Argentina

<http://www.caps-financialplan.org.ar>

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<http://www.fpanet.org>

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<http://www.fpsbindonesia.net>

FPSB, USA

<https://www.fpsb.org>

GSCGI/SAIFA, Switzerland

<http://www.gscgi.ch>

HAQFP, Hungary

<http://mptsz.org>

IFMA, Switzerland

<http://www.ifma-net.ch>

IFP, UK

<http://www.financialplanning.org.uk>

LATIBEX, Spain

<http://www.latibex.com/ing/mercado/Latibexadvantages.htm>

NAFSMA, Hong Kong

<http://www.nafsma.net>

Network financial planner e.V., Germany

www.network-financial-planner.de

ONIIP, France

<http://www.oniip.fr>

OVb, Slovakia

<http://www.ovb.sk>

PMAC, Canada

<http://www.portfoliomangement.org>

SFAA, Switzerland

<http://www.sfaa.ch/fr/welcome.asp>

SFOA, Switzerland

<http://www.sfoa.org>

SFSP, Singapore

<http://sfsp.org.sg>

SPAA, Australia

<http://www.spaa.asn.au>

USFCR, Czech Republic

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“Depuis 2007, la CIFA a créé un partenariat avec l’ECOSOC, qui s’est élargi aux domaines de l’éducation et de la formation. Chaque pays doit disposer de conseillers financiers compétents afin de protéger les consommateurs.”

S.E. Nestor Osorio,

Président de l’ECOSOC

“L’Afrique a besoin du soutien des financiers pour son développement et sa croissance; mais l’Afrique a aussi besoin d’une tribune pour être écoutée de l’opinion publique internationale. A ce titre, la CIFA a un rôle important à jouer aux Nations Unies: elle se doit d’être le porte-parole des sans-voix.”

Jean Ping,

Ancien Président de l’Union Africaine,
Président de la 59ème session de l’Assemblée générale de l’ONU, ancien président de l’OPEP

“La CIFA possède une grande expérience et a bien défendu les droits des investisseurs. Les Nations Unies ont besoin de ces connaissances pour que le secteur financier fasse à nouveau partie de l’économie réelle.”

Andrei Abramov,

Chef, DESA Département ONG



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Suite au succès de sa 12^{ème} édition

La CIFA

**1^{er} think tank spécialisé dans la
moralisation des pratiques financières**

tiendra son

13^{ème} Forum International

du 22 au 24 avril 2015

Hôtel Hermitage, Monaco

Qu’est-ce que la CIFA ?

Les principes fondateurs de la CIFA s’articulent autour d’une réflexion éthique et d’une réforme du système financier mondial. Elle a pour mission de remettre la finance au service des épargnants et protéger les droits fondamentaux du citoyen sur les marchés financiers.

La CIFA est composée d’associations professionnelles regroupant plus de 750 000 gestionnaires de patrimoine (individuels et institutionnels) à travers le monde.

En 2007, la CIFA a développé une importante alliance stratégique en obtenant le « statut consultatif spécial » auprès des Nations Unies dans le cadre du Conseil économique et social (ECOSOC) et participe activement aux travaux de ces organes mondiaux.



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