Chapter X: Financial Ethics Part One

Knowing the right course of action is one thing, having the courage to stand behind that interpretation is something else entirely – (Clavien, 2015).

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Learning objectives

After reading this chapter, learners should be able to:

LO1.1 Define the concept of financial ethics

LO1.2 Develop critical knowledge of key ethical principles and theories in finance

LO1.3 Demonstrate awareness of key financial regulations in the United Kingdom

LO1.4 Understand why human resource managers should be concerned about financial ethics

1.0. Introduction:

Financial ethics is of relevance in business management. Its usefulness is pervasive to financial, non-financial institutions and business practices alike. For example, the concept of financial ethics is relevant not only to financial institutions but also to businesses, government and human resource managers (HRM).

Besides, issue of finance (either in financial institutions and other in businesses) is a matter of ethical importance as philosophy is said to offer the best reward in inquiring issues of ethical importance (Graham, 2004; Donaldson, 2003). Based on this fact, it is inferred that financial ethics has its root in moral philosophy. However, morality unlike science which is based on facts, is based on values and values in turn are based on personal opinions. This explains the saying *there are no moral facts*. Universally, science is objective while morality is fundamentally subjective.

The above explanation shows implicitly, the interdisciplinary nature of financial ethics as comprising and not limited to field of finance, moral philosophy, HR, and business management. This distinctive nature of this concept explains the multi-theoretical and hybrid features inherent in financial ethics. All these set the scene that financial ethics is of importance in financial institutions, businesses, government and human resource management.

Based on this logic, this chapters covers the following themes and learning outcomes (LOs):

(i) Definition of financial ethics;

(ii) Development of critical knowledge of key ethical principles and theories in finance;

(iii) Demonstration of awareness of key financial regulations in the United Kingdom;

(iv) Understanding why human resource managers should be concerned about financial ethics.

As reflected in the listed learning outcomes, because of the sheer importance of financial institutions, implications of unethical conducts in financial sector to wider economy, this chapter focuses primarily on financial institutions, management of financial reports and financial regulations and relevance of human resource management in financial ethics. The chapter by nature is descriptive with use of modest and relevant case studies intentionally selected to cover other areas of businesses outside financial sector. The chapter's descriptive nature aims to accommodate readers with no financial, ethics (philosophy) backgrounds while incorporating and highlighting human resource management in these disciplines.

This chapter in part helps in furthering need for interdisciplinary consideration of business management themes in contemporary business practices. It also conforms with business school pedagogical demands for adequate classroom discussions with relevant examples.

Key words: financial ethics, theories of ethics, human resource (HR) managers, morality, moral hazards, unethical conduct, financial regulations.

GROUP ACTIVITY 1.

1. *Financial ethics cover financial activities, conducts of financial institutions, other businesses including ethics. Is this statement true? Come up with logical explanation for your answer.*
2. *Does Human resource management play important role in the formulation and adherence to ethical conducts in the workplace. How and why?*

1.1.The Definition of Financial Ethics:

Financial Ethics or business ethics (as some would refer to it) is a difficult term to define. The difficulties arise based on its moral philosophical root, its link to religion, including ties with existing law and societal views (e.g. norms, beliefs and values). In many countries and firms, religion does not tie people together, rather it is the autonomy to practice or not to practice whatever individual holds in high esteem (Clavien, 2015). In like manner, existing laws are prone to change. It is inconceivable to base ethical standard on such. It is also believed that laws do have their political undertones and politicians cannot be held to high ethical standards (Seven Pillars Institute, 2019).

While some believe that the judicial arm of the government has the responsibility of performing duties of checks and balances including reviewing laws as it relates to its constitutionality. Others are quick to remind us that, judicial arm of government consists of political appointees. This translates that their appointment to the judicial offices may not be without predetermined agendas and compromise tendencies. Lastly, societal held views may be based on historically held beliefs which are in modern times perceive in negative terms. In another light, such views may represent the privileged and powerful few in the society. While the privileged minority may move the society forward to high ethical stance; however, this is not immune against abused or generational (historical) relevance/irrelevance.

The above explanation shows the inherent difficulty associated with defining financial ethics. In addition to issues of difficulty surrounding ethical consideration, there are other factors linked to this important concept. For example, the basis of a moral perspective cannot be separated from its underlying principles. Also, societal views (as mentioned above) are the social factors that play important role in a person's decision to bend or break rules, or to keep them.

Thus, it is important that any definition of financial ethics include how we may consistently challenge ourselves to do better in all aspects of life as it concerns ethical analysis. This implies that defining financial ethics must have element of continuous review of moral beliefs, actions taken for the common good in the organisations and society at large. Financial ethics therefore could be defined as the *continuing drive towards reviewing own moral beliefs, actions and conducts, and making efforts that the organisation an individual is opportune to lead and manage base its actions and operations on standards that are always reasonable and generally considered acceptable for the common good.*

1.2.Relevance of Ethics in Finance

The collapse of many businesses particularly over the last decade till present time is associated with issue of unethical practices in finance. Of note are, the collapse of Carillion which has been linked to unethical practices in financial reporting (BBC News, 2018). The financial (accounting) misconduct of the energy giant Enron in the Fall of 2001, including the auditing firm Arthur Andersen (AA), its indictment (in March 2002) and conviction (in June 2002) for obstruction of justice. Similarly, the financial crisis of 2008/09 readily brings to fore the relevance of ethic in finance. While this is true, it is therefore important to consider underlying assumption – theories of financial ethics.

2.0.Theories of Ethics in Finance

Ethics is inherently associated with morality; while morality is construed as moral judgements, generally acceptable standards and codes of conduct (Taylor, 1975). Generally, ethical theories are normative in nature, as they centred on developing the framework to guide relevant professionals in their conducts particularly to act in a generally acceptable manner (Hunt & Vitell, 1986).

Accountants and other financial experts are required to act in accordance with the rules and regulations, any act outside this may amount to ethically questionable conducts. Considering this view, theories of ethics are not only relevant in Finance but could offer important insights into the basic underlying factors behind unethical behaviours.

The first consideration is the moral view of how humans ought to live and behave. This view constitutes the normative theories of ethics. They are generally classified into two mainly deontological or teleological. Deontological theories reflect individual behaviours and/or inherent aptness of a conduct while teleological theories reflect the outcomes of behaviours or actions. However, many moral ethical theorists have argued for a mixed framework of deontological - teleological theories of ethics.

Other identified ethical theories include ethical egoism, ethical universalism, hedonism, systems perspective, naturalism and virtue theory, existentialism, Kantianism, Utilitarianism, Contractualism (Graham 2004). Other include social contract theory, Integrative social contracts theory (ISCT), stakeholder theory, and experimental economics/game theory (Donaldson, 2003; Donaldson & Dunfee, 2002; Clavien, 2015; Hunt and Vitell, 1986). The primary focus here is to identify theories of financial ethics for more discussion into theories of financial ethics, readers may check other scholarly materials (e.g. Clavien, 2015; Graham, 2004; Donaldson & Dunfee, 2002) for more insights on them. However, some of these theories are briefly considered.

Ethical egoism construes that individual should always attempts to advance their personal greatest profit. Conversely, ethical universalism construes that a conduct is right only if it yields the greatest wellbeing for the greatest people. Closely related to egoism is hedonism. It is the belief that the essence of living is to live pleasurably. Thus, according to the hedonists, the best form of life is the most pleasurable one. The hedonists believe enjoying life should be highly desired and use this mindset in valuing pleasure. This represents a misconception of what pleasure connotes. Systems perspective refers to "a system consists of set of components that are part of and operate in the context of an entity to comply with a standardized requirement" (Clavien, 2015).

Of all the theories listed above, Integrative social contracts theory (ISCT), seems to capture various aspects of ethically related business transactions. According to Donaldson & Dunfee, (2002), ISCT highlights the ethical importance of long existing norms in the industries, businesses, and other economic groups. This theory goes beyond normative assessment of certain ethical problem as articulated by Kantian Deontology (virtue). The uniqueness and scope of ISCT is seen in its generally- held intuition that various ethical guidelines are at times suitable for various industries, businesses and profession. It reflects a novel approach to business ethics, that stresses the implicit understandings or ''contracts'' that connect industries, businesses, and economic systems into moral communities.

ISCT thrives on the assumption that the legitimacy of social contracts emanating from particular cultural and geographic contexts is valid. However, it also recognises the limitation of the legitimacy. It acknowledges the moral authority of relevant transcultural truths, for instance, the notion that human beings irrespective of their background are worthy of respect. As Donaldson & Dunfee, (2002), stated any social contract construct outside these boundaries should be considered as illegitimate regardless its wider acceptability within any financial or economic setting. These settings could be seen as consisting ''micro'' social contracts, irrespective of their level of existence - national, industrial, or business. They need to adhere to an assumed ''macro'' social contract that highlights moral responsibilities for any social contracting. In this sense, ISCT occupies midpoint on the spectrum of moral belief that distinguish relativism from absolutism. It allows significant ''moral free space'' for countries and or governments and other economic clusters to form their distinguishing ideas of economic fairness while setting boundaries against un-toward disregard for core human values.

According to the proponents of this theory, the primary intent of the theory is to highlight the ties that bind us together as humans regardless of where you come from. The HR practice as employee advocate operate in a complex business environment with series of interests (short-term, long-term, etc). However, the discipline could leverage on insights from ISCT to build, balance competing set of stakeholders' interests on the fulcrum of ''macro'' social contract as against instilling practices that favour ''micro'' social contracts.

This should be the basis of professional conduct regardless of any profession – accountant, CEO, HR practitioners, different professionals manning various government regulatory financial sectors.

GROUP ACTIVITY 2.

1. *Identify five theories of Financial ethics. Discuss any two of them.*
2. *In what ways does integrative social contracts theory (ISCT) support the idea of the common good. How does ISCT be applied in HR practice.*

3.0. Regulations in the Financial Sector

3.1. Introduction

This section examines regulations in the financial sector. The section begins by considering and analysing different definitions of financial regulators and then, followed by the definition adopted in this chapter. The purpose, importance and objectives of financial regulations within the UK context is subsequently considered. The section then identifies the financial regulators within the UK and analyse the similarities and differences in their roles as well as the laws that govern their activities. The key financial regulators considered include: Financial policy committee of the Bank of England (BoE), Prudential Regulation Authority (PRA), Financial Conduct Authority (FCA), Competition and Market Authority and International Monetary Fund/World Bank (IMF/WB). The section ends with a summary of analysis on the impact of financial regulations on UK financial sector using case study evidence.

In order to ensure the safety and soundness of any economy, business activity, and the protection of consumers' interest, a well-functioning financial system is important. Within the framework of business, this objective is attained with the introduction of a set of rules which come in the form of regulations that guide the activities of the individuals and organisations that operate within the financial system. According to the Central Bank of Ireland, financial regulations are the rules that guide financial activities and puts into effect the application of these rules to firms that are operating within the financial industry such as banks, credit unions, insurance companies, financial brokers and asset managers (Central Bank of Ireland). Amadeo (2019) on the other hand describes financial regulations as those laws that govern banks, investment firms and insurance companies and protect customers from any form of financial risk or fraud. The point to note from the above description is that financial regulations are guidelines used to monitor the activities of the firms operating in the financial industry so as to protect customers from risk and fraud and also to ensure that the economy runs smoothly and efficiently (Amadeo, 2019; Brunnermeier et, al., 2009).

Within the context of business and management, financial regulations are referred to as the laws which firms operating in the financial industry must follow while carrying out their day-to-day activities. In accounting it is described as those forms of regulation, which subject financial institutions to certain requirements and guidelines which are aimed at maintaining and sustaining the integrity of the financial system. Given the above explanation, it can be argued that financial regulations are rules that compel financial institutions to meet certain requirements in their day-to-day activities in order to uphold the confidence of the customers and reliability of the financial system (IFRS, 2006: 528, ICAEW, 2011).

Given that regulations provide the code of practice which are used for the process of monitoring and supervising the activities that takes place within the financial industry (Brockington, 1993:190), the Financial Services and Markets Act (FSMA, 2000) has been identified as the main source of framework for the legislations that govern the system of banking and financial services within the United Kingdom. Although the current UK regulatory framework is derived mainly from the FSMA and related implementing legislation, it is also considerably influenced by various European laws which set minimum requirements for the regulation of banks and banking services in the European Economic Area (EEA). It is imperative to mention that individuals, businesses and the entire economy tends to depend on the financial system in one way or the other hence, it is important to consider the objectives and importance of financial regulations within the UK (Penn, et al., 2018; Hall, 2009).

3.2. Financial Regulators in the United Kingdom

This section will be considering regulatory bodies, set up under the terms of the Act of Parliament to regulate the activities of financial institutions and the economy (Brockington, 1993:190). The United Kingdom financial system is regulated by six regulatory bodies namely: Financial policy committee of the Bank of England (FPC), Prudential Regulation Authority (PRA) and Prudential Regulation Committee (PRC), Financial Conduct Authority (FCA), Competition and Market Authority (CMA), International Monetary Fund /World Bank (IMF/WB). The further discussion on these regulatory bodies is considered in table 1.0 in the next page. This is followed by analysis of the key differences and similarities in their activities.

Table 1.0: Major Financial Regulators in the United Kingdom

Regulator	Brief Description	Constitutional Aims & Objectives	Other Functions
The Bank of England (BoE)	UK's central bank	To promote the good of the people by maintaining monetary and financial stability.	BoE establishes and oversee other regulatory bodies such as FPC
Financial Policy Committee (FPC)	Established by BoE in 2013	To identify, monitor and take actions to reduce systemic risks with a view to protecting and increasing the flexibility of the UK financial system. To support the economic policy of the government and to publish Financial Stability Report which sets out the committee's view on the main risks to financial stability.	FPC was part of the new system of regulation brought in to improve financial stability after the financial crisis in the early 2000. It assesses how prepared the financial system is to resist or tolerate risks or future financial crisis. The Financial Stability Report of the FPC summarises the recent activities within the financial system and evaluates its impact and then considers any actions that need to be taken to address the identified issues (Financial Policy Committee, 2013).
The Prudential Regulation Committee (PRC) & Prudential Regulation Authority (PRA)	Created by the Bank of England (BoE). BoE's functions are exercised by PRAs while operating through PRCs which are committees that was established under the Bank of England Act 1998.	To uphold the security and trustworthiness of PRA-regulated firms. To advance effective competition in the markets for services that are provided by PRA-authorised persons while executing their regulated activities. to set the PRA levy by way of rules and to adopt the budget of PRA with the approval of the court (FSMA, 2000, PRA, 2018). To ensure firms within the financial sector act safely and responsibly by making sure that they reduce their chances of getting into any form of financial difficulty.	PRC has responsibilities within the BoE to function as the Bank's Prudential Regulation Authority (PRA) as set out in the Bank of England Act 1998 and Financial Services and Market Act 2000. PRA supervises over 1,500 financial institutions which include banks and insurance companies. Monitors and supervises the different aspects of the business such as the financial products and services. The PRA make sure that financial institutions provide these services to their customers in a safe and sound way and in a manner, which avoids any form of adverse or hostile influence on the stability of the UK financial system.

Table 1.0: Major Financial Regulators in the United Kingdom (continued)

Regulator	Brief Description	Constitutional Aims & Objectives	Other Functions
The Financial Conduct Authority (FCA)	An independent public body that is funded entirely by the firms that they regulate and this they do through charging of fees. Regulates the conduct of over 59,000 financial service firms. Accountable to the Treasury, which is responsible for the UK's financial system, and which is also accountable to the UK Parliament.	To protect the interest of consumers by making sure that suitable amount of safeguarding and protection is in place. To protect and enhance the integrity of the UK financial system which is aimed at protecting the financial market while at the same time. To promote effective competition in the interest of the consumers.	It regulates and standardizes the conduct of businesses by ensuring that financial markets carry out their activities (such as children's ISAs, pensions, direct debits, credit cards, loans to investments) in an honest, fair and effective way that ensures consumers get fair and reasonable deals. FCA works with consumer groups, trade associations, professional bodies, domestic regulators, EU legislators and a wide range of other stakeholders.
The Competition and Markets Authority (CMA)	An independent non-ministerial department responsible for promoting competition for the benefit of consumers, both within and outside the UK.	To ensure that businesses operate within the law and consumers get a good deal when buying goods and services. To provide advisory role to government and other market regulators by encouraging them to use competition effectively and in the interest of the consumers (CMA, 2013).	CMA investigates cases of mergers and acquisitions which may arise between organisations and make sure that these organisations do not reduce competition. Takes actions against businesses and individuals that take part in cartels or anti-competitive behaviour and protects consumers from unfair trading practices.
The International Monetary Fund and World Bank (IMF/WB)	Created in Bretton Woods in 1944 are institutions in the United Nations System.	To raise the economic standards of their member nations. IMF focuses on macroeconomic issues. WB concentrates on long-term economic development and poverty reduction within the nations. IMF provides policy advice and capacity development support that helps countries to build and maintain strong economies through the provision of loans, assistance with the design of policy programmes and solution of balance of payment problems especially when the terms for net international payment cannot be attained. The WB provides technical and financial support to help countries reform certain sectors or implement specific projects such as building schools, providing electricity and water, health care centres and protecting the environment from diseases.	The financial responsibilities and activities of the IMF/WB is important to the UK because as a member nation, it plays a significant part in the transformation projects among member nations and provide financial support which are needed to strengthen the United Nations ability to deal with economic and social issues.

Table 2.0: Similarities and Differences in the Roles of Financial Regulatory Institutions in the UK.

Regulators	Similarities	Differences
FPC and PRC/PRA	These institutions were established to supervise the financial system in the UK. They maintain money and regulate the system so as to promote financial stability. Both institutions also have the responsibility to prepare financial institutions for unexpected events/crisis by assessing the level of tolerance or resistance of these institutions when put under hypothetical financial pressures.	PRC was established before the 2000 financial crisis; FPC was established after the 2000 financial crisis. FPC publishes financial stability reports while the PRC creates policies for firms to follow and PRA supervises each firm to identify problems and strategies on how to put them in checks.
FCA and CMA	Both ensure customer-focused and innovative businesses so as to promote better products at lower prices and protect the interest of consumers. Both institutions are committed to ensuring safeguarding and protections are in place by making sure that businesses operate within the law and customers get good deals when buying goods and services. These institutions also regulate and standardize the conduct of businesses by protecting consumers from unfair trading practices and making sure that the financial market is secure by ensuring that there is no consumer or competition problem.	FCA regulates financial service firms and is accountable to the Treasury while CMA is an independent non-ministerial department that investigates cases of mergers and takes actions against cartels or anti-competitive market behaviours.
IMF/WB	Both have a wider remit as their establishments and activities are tailored towards the members of the United Nations.	IMF focuses on macroeconomic issues which includes providing policy advice and capacity development support to member nations with the aim of maintaining strong economy. IMF also provides loans and assists member nations with the design of policy programmes and solutions needed for payment problems. The WB on the other hand places its attention on long-term economic development and poverty reduction among member nations. In order to attain this goal, the WB provides technical and financial support to member nations and assist countries in the reform of certain sectors and implementation of specific projects.

CASE STUDY I: Impact of Financial Regulations on UK Financial Sector

According to the Mirror newspaper online, The Southwark Crown Court has ordered a couple who made £58million from a HBOS bank scam of over £245million to pay back over £10million - or each will be jailed for 10 years. This report reveals how Banker Lynden Scourfield, 57, forced struggling clients to use the services of his ally - David Mills while authorising huge loans to high-risk customers - regardless of their ability to repay them. The Court was told how Mills, 63, charged exorbitant 'consultancy' fees and expenses while running companies into the ground. Mills, his wife Alison, 54, Michael Bancroft, 76, and John Cartwright, 73, fleeced millions of pounds to fund the purchase of property across Europe, lavish birthdays in Thailand and Barbados, trips to Ascot, and a £2million 100-foot long yacht Powder monkey, shored up in the Mediterranean. The couple were ordered to repay assets, including a yacht and homes, under the Proceeds of Crime Act. When clients' firms went into administration, Mills would seize what assets were left and transferred them to his sham companies named 'The Sandstone Organisation and Knightingale Investments'. HBOS had to write off £245m from Scourfield's toxic loan book after the rogue banker's scam which lasted between 2003 and 2007 came to light. Hence, the bank, which was once the UK's biggest mortgage lender, almost went bust in the 2008 credit crunch; taxpayers were left to foot the £20.5billion bill. This case further revealed how Scourfield who worked in HBOS Reading branch, conspired to corrupt, money laundered and involved in four other counts of fraudulent trading, he was jailed for 11 years in February 2017. Additional investigation into this case showed that Scourfield's kickbacks included holidays around the world in the best hotels. David was jailed for 15 years, Alison was jailed for three years, Bancroft was jailed for 10 years, Cartwright for three-and-a-half years and HBOS banker Mark Dobson, 57, received four and a half years. A detailed analysis of the case revealed that the couple made a total of £58m from the fraud and returned to court for a hearing under the Proceeds of Crime Act. During the hearing, David was ordered to repay £5.6m while Alison must pay £4.8m after a probe into their realisable assets. While reading the judgement, Judge Beddoe ordered the couple to repay the amounts within three months or face another ten years each in jail (Mirror Newspaper Online, 16/09/2019).

Group Activity 3.

1. *Identify and discuss the key financial regulation issues in this case study?*
2. *Mention the UK regulatory bodies that were involved in this case and highlight their roles?*
3. *How did the legislation facilitate the prosecution process and its outcome in the case study?*
4. *To what extent did the financial regulations monitor the activities of HBOS and protect its customers from risk and fraud?*

4.0. Relevance of Financial Ethics for Human Resource Managers

HR as a profession is relevant in financial ethics considering that HR professionals are viewed as strategic partners in the organisational structure. Usually, they are members of top management team playing a vital role through human capital management in the achievement of sustained competitive advantage as against short-term gains fuelled by unethical conducts. Furthermore, HR managers are often viewed as considered Employee Advocates saddled with maintenance of employee – employer relations. This role represents traditional practice of HR. However, as the practice evolves HR managers are increasingly become strategically relevant as they become internal consultants, business partners and trusted advisors on human capital. This emerging role diminish their power balance role in employee-employer relations with power tilting toward the elites in the organisations. As the elite are known for vigorously pursuing the maximisation of shareholders' wealth with little or no consideration for larger societal good, implicitly HR managers are implicated in condoning unethical conducts (MacKenzie, et al., 2012).

Strategic HR practices mainly focus on 'resource maximization, productivity enhancement' and the promotion of 'core capabilities of the organization' (Anderson, 2009). This brand of HR practices was tasked with the responsibility of developing and remunerating employees with high performance (short -term orientation). This practice is construed as the economic-centric orientation of HR practice.

Beyond the evidently clear HR practice that has evolved from set of operational and tactical activities (that facilitate individual, group and organisational learning and development, reward and sanctioning erring members) to strategic roles (being internal consultants, business partners and reliable advisors to the management), HR practitioner must stand up to be counted by ensuring compliance to practices that promote "macro" social contract and the common good of the society at large. This can be done by promoting within the organisational settings, adherence to ethically sound practices that support sustainable growth and profit not just for the few but for wider stakeholders at large.

Group Activity 4.

1. *In what ways, is Financial ethics to HR managers?*
2. *Financial ethics must of necessity seeks the common good of "macro" community as against "micro" elite. What do you understand by this statement? Discuss your responses in your learning groups.*

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