

Finance, Faults, Fines, and Fiefdoms

iff Financial Services Conference

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John Maher

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Purpose of the presentation

- **Explore** the parameters of failures and fines in the financial sector.
- **Identify** areas where judgement is required.
- **Assess** the propensity and trajectory for change across the variables and actors involved.

Structure

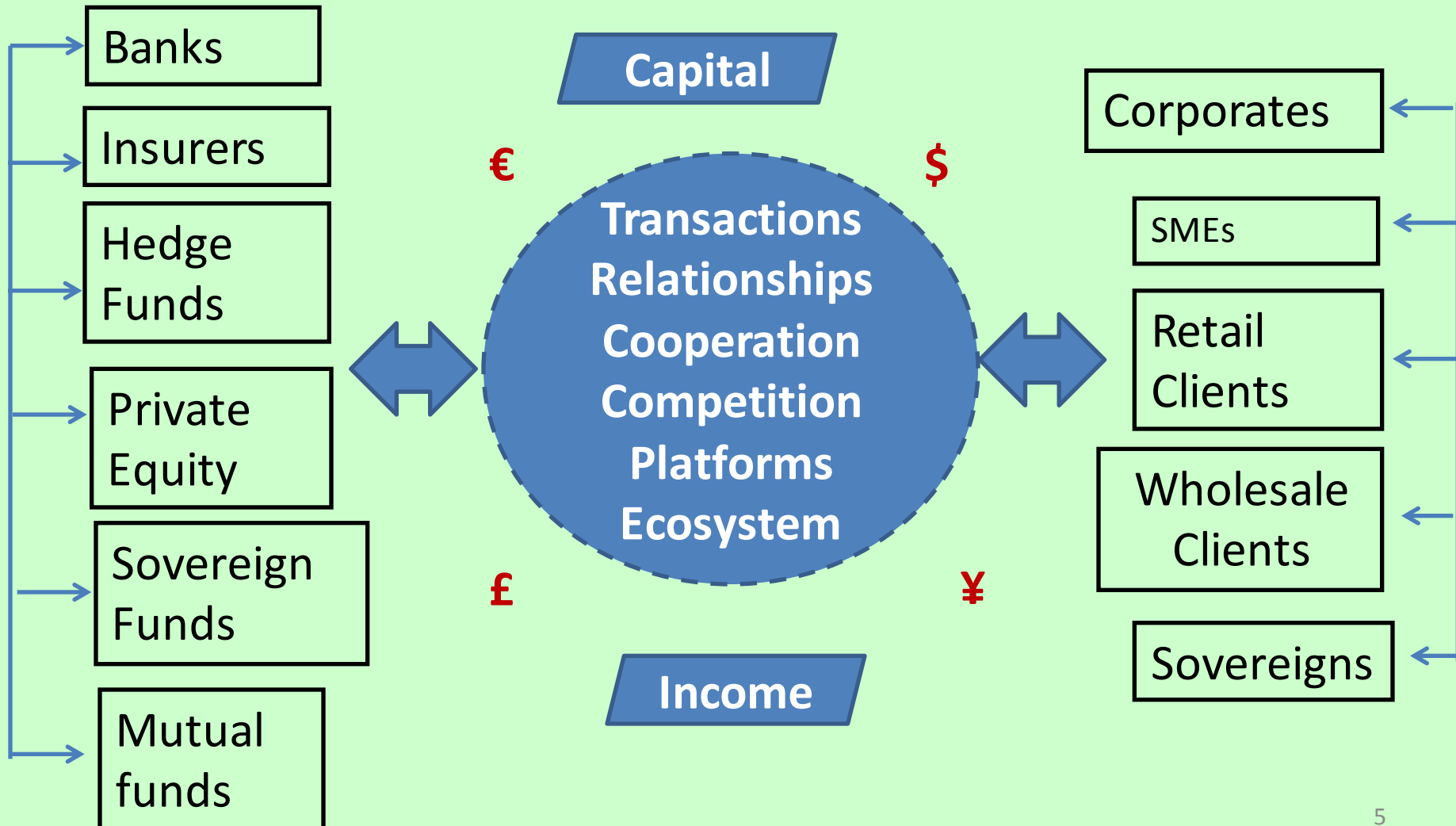
1. Goals
2. Market Context
3. Historical influences
4. Conceptual paradigms
5. Recent fault lines
6. Objects of scrutiny
7. Compliance & consequences
8. An informed frame
9. Hypotheses
10. Emerging landscape
11. A journey of reform & change
12. The Future
13. Final reflections
14. Some literature

The Regulatory Goals

- Securing the **integrity** of the financial services market.
- Promoting **confidence** in the market.
- Demonstrating and effecting **enforcement** which is fair and just.
- Upholding **conduct** among professionals commensurate with their responsibilities, status, and remuneration.

The Market

Regulators, Central Banks, Exchequers, Parliaments,
Trading Blocs, Intl. Agencies, G#, Community



Some business conduct antecedents

- The Washington Consensus
- The Single Currency
- Incomplete control, regulatory and stabilisation systems and mechanisms
- Information - deficits, sharing, protection, whistle-blowing.
- Too big to fail
- Socialisation of losses, privatisation of gains
- Challenge of complexity & of singularity.

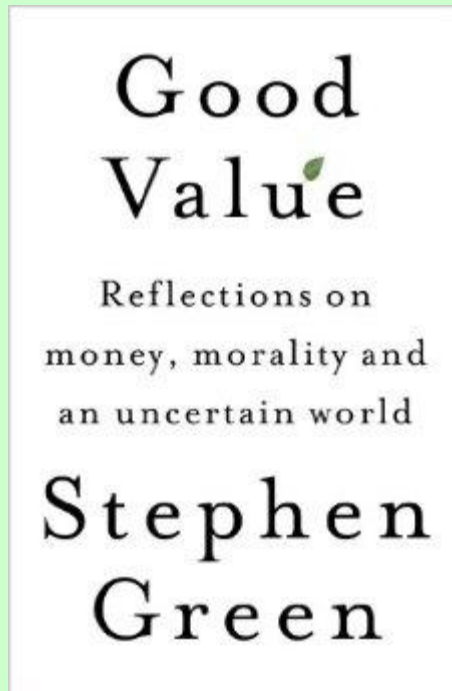
Conduct of Business Activity & its economic effects

- Opportunities forgone (& losses forgone !)
- Risk appetite framing
- ICT & Staff development
- Compliance processes
- Quality assurance
- Fraud reduction
- Regulatory transfers : fines, reimbursements, restitution,
- Reputation damage or enhancement

Wrongdoing Paradigms

Palmer (2013)

A Normal
Organisational
Phenomenon



An Abnormal
Organisational
Phenomenon



Fines, Penalties, Consequences

- Ill gotten gains
- *Encourager les autres*
- Behaviour Reform
- Pay for Damage
- Popular Response
- Private Settlements
- Corporate Criminality
- Draw a line & move on
- *The Golden Rule*



Offences / Failures

- Money laundering
- Tax evasion
- Market manipulation
- Mis-selling
- Systems failure
- Fraud
- & Others



Roles under scrutiny

- Chairs of Boards
- Audit committees
- Internal audit
- CFO / CRO
- Legal Counsel
- Auditors
- Regulators
- Economic Stability Agencies



Processes Under Scrutiny



Burden bearing under scrutiny

- Directors
 - Executives
 - Shareholders
 - Customers
 - Regulators
 - Political Leaders
 - Professional & Educational Bodies
 - Trade Associations
- ✓ Who pays, initially & ultimately.
 - ✓ Who remains
 - ✓ Who trades
 - ✓ Who speaks
 - ✓ Who listens
 - ✓ Who professes / teaches
 - ✓ Who enforces
 - ✓ Who gets elected
 - ✓ Who does time

A Compliance Consequences Spectrum

**Expansion
Inhibited**

Expansion
Neutral

**Expansion
Promoted**

**Political
Distance**

Political
instrumentality

**Political
Access**

LO



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**Regulatory
Distrust**

Regulatory
Caution

**Favourable
Regulatory
relationship**

**Market
Distrust**

Market
Recognition

**Market
Acclaim**

Developing an informed frame

- Explore
- Assess
- Track



The Camino

Hypotheses

This is a short term phenomenon which will not change secular patterns of behaviour, decision making, activity, or wealth creation.

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Current penalties will cause a shift in strategic choices within the sector, stimulate cultural change and lead to different patterns in sectoral and organisational variables.

What could emerge?

- **Businesses** built on foundations involving new business models, strategy, culture and control / assurance mechanisms – **is this likely?**
- **Regulatory architecture** build on law reforms, emerging social norms and new economic realities – **new wine in in old bottles?**
- **International financial system** built on the shifting sands of capital flows, trade, real-politik and some prevailing social and philosophical principles – **the World Order from Davos?**

The future

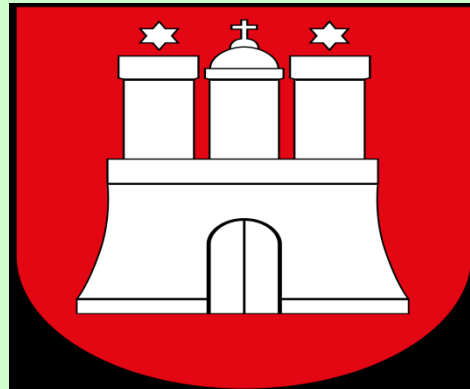
- Politics
- Embedded practices
- Monitoring & Surveillance
- The Herd



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Final reflections

- Search for some truths.
- Establish the *goods* and the *bads*, realising they come in baskets.
- Treat of complexities and do *sensemaking*.
- Seek pathways for improvement, mindful of human frailty.



Some helpful references

- RD Blair & T Knight (2013) *Compliance with Corporate policy : an economic approach*, Managerial & Decision Economics, Vol 34, pp 529-537
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