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THE SOPHISTS

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THE FIRST ISSUE

CAPTIVATING INSIGHTS ON CURRENT ECONOMIC AND LEGAL ISSUES

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Mission Statement | Message to Aspiring Writers

The Sophists is an original and innovative student magazine, which seeks to explore the interaction between law, politics and economics and its relevance to the modern individual. Its primary purpose is to offer readers a critical and engaging perspective on current affairs, whilst also providing them with a platform on which they can express their views and challenge deep-rooted and dogmatic assumptions, in the tradition of the Sophists of Ancient Greece.

"The Sophists" aims to bring out a QM publication of the standard of other prestigious university publications focussing on quality, content and relevance and improve skills such as writing, research, commercial awareness, attention to details and teamwork, among others. The Sophists shall offer a new and fresh perspective to students on the interplay between law, politics and economics and will allow them to participate and debate the latest topics in news.

- The Sophists Founders

All students are encouraged to contribute articles and may send them to qmul.review@gmail.com. You are requested to send all entries with endnotes/footnotes and articles should not exceed 2000 words. The topics must be related to law, economics or politics.

DEADLINE: February 24 2014

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From Left to Right

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A special thank you to Professor Rodrigo Olivares-Caminal, Professor Stavros Brekoulakis and Professor Ioannis Kokkoris for all of their help and contributions to the journal.

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Contents

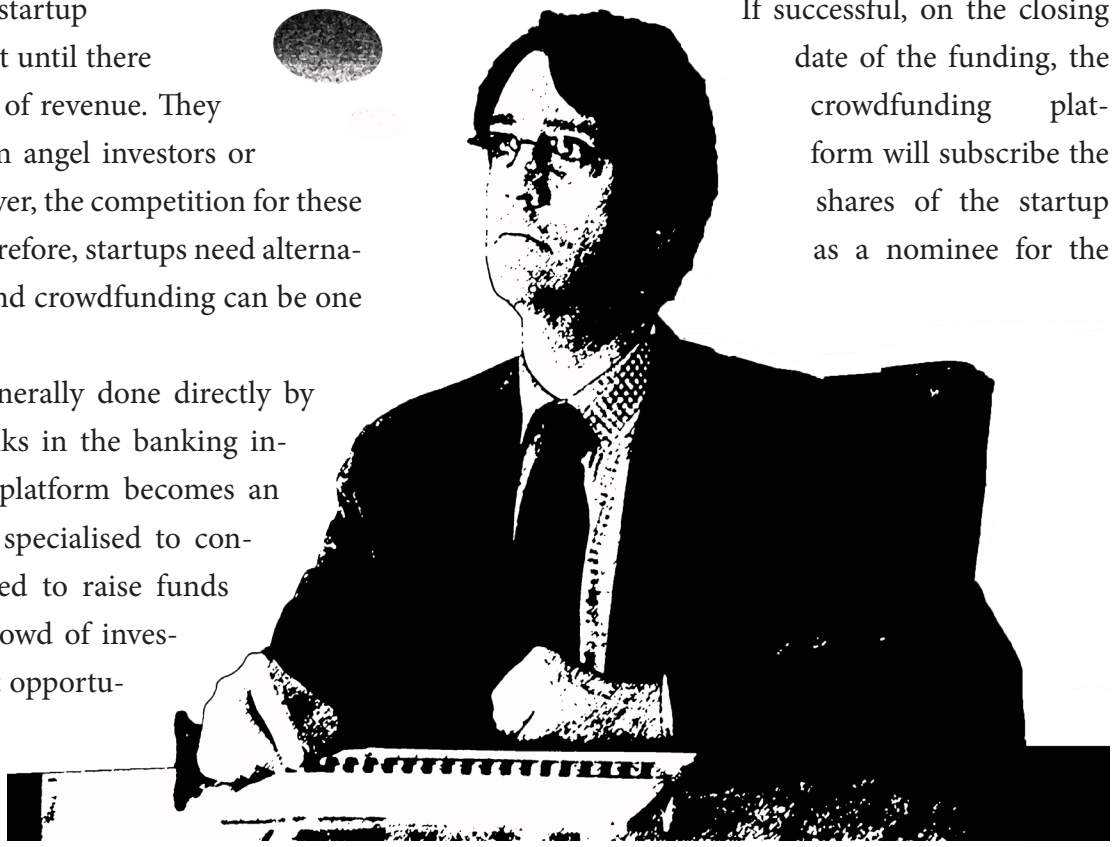
Crowdfunding | An Alternative Source of Financing

Ivan Nikolas Tambunan, MSc Law and Finance

Carl Schramm, the CEO of the entrepreneurship-focused group, Ewing Marion Kauffman Foundation, in 2010 stated "for a lot of entrepreneurs, when they have an idea, it becomes a passion, almost an obsession." Such passion, however, will not be materialised if entrepreneurs cannot find funding for their ideas.

This article will explore crowdfunding as an alternative solution for entrepreneurs, especially founders of startups, to raise funds for their businesses. It is the collective peer-to-peer effort of individuals (the crowd) who network and pool their money, usually via the internet, to support efforts initiated by other people or organisations.[1] While traditionally startup founders finance their startups using their own savings, usually done by selling assets or borrowing money from their families, such ways are no longer reliable to cover the startup cost, let alone to maintain it until there can be a consistent stream of revenue. They can also seek funding from angel investors or venture capital firms; however, the competition for these investors is very tough. Therefore, startups need alternative sources of financing, and crowdfunding can be one of them.

Crowdfunding is not generally done directly by startup founders. Like banks in the banking industry, the crowdfunding platform becomes an intermediary organisation specialised to connect businesses, which need to raise funds for their project, with a crowd of investors looking for investment opportunities. Startup founders hire these crowdfunding platforms to do the crowdfunding for them. The crowdfunding platform will select all the crowdfunding proposals submitted by startup founders and list these proposals in their website to be bided on by the crowd willing to provide financing. As the success of a crowdfunding depends on the willingness of the crowd to invest in the proposed startup, startup founders have to make a convincing pitch about their idea, how the idea works, who runs the idea, how it will gain market share and be profitable, how much rate of return they forecast the business will make and what is the strategic exit plan for the crowd. The pitch will be listed for a certain period of time on the crowdfunding platform's website (usually 45 days), during which the crowd can review the pitch and bid for the proposed startup. At the end of the period the funding will be realised if the proposed startup receives the expected amount to be raised from the crowd. If not, the funding will be returned by the crowdfunding platform to the crowd. If successful, on the closing date of the funding, the crowdfunding platform will subscribe the shares of the startup as a nominee for the



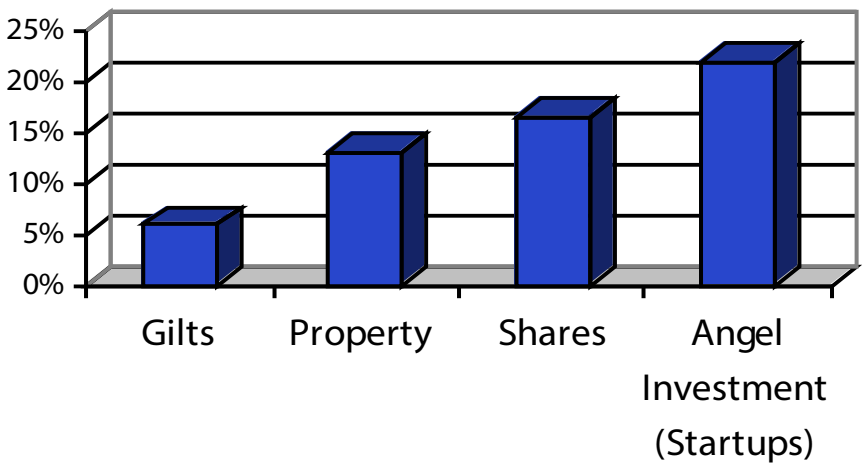
crowd, and the startup will simultaneously receive its funding.

There are many benefits from crowdfunding that startups can get. One of these benefits is that crowdfunding platforms will accept any kind of startup to list on their website, as long as it meets the platform's requirements. A startup founder therefore can have direct access to capital without having to overcome all the bureaucracy involved in traditional fundraising. Moreover, as the investors are generally individuals and are not directly related to the startup (the platform subscribes the shares of the startup on behalf of the investors), the startup can focus on doing business without the usual pressure of institutional investors. However, as a downside, crowdfunding is a relatively expensive fund raising process, as the platform usually charges a fee of 5% to 10% of the realised funding. In addition, it differs with a venture capital firm, which closely monitors and provides support to the management of the startup company through its incubator. The platform rarely gives any kind of support to the startup and such support have many times been fundamental to the success of a startup, especially if the founders have no previous business experience.

For investors, crowdfunding offers investment diversification opportunities into startups that are not usually accessible for small investors. As can be seen in the chart below, between 1998 and 2008, investments in UK startups yielded a higher return than in other investments. However, this should not be taken for granted. Equity crowdfunding investment in startups involves high risk, something which has been confirmed by the FCA in 2013.[2] According to the FCA it is widely agreed that most startups fail. Investors therefore must be clever in selecting startups they want to invest in, particularly, they must understand the business of the startup, its future prospect and its valuation. Investment in startups is also illiquid. There is no secondary market for the investors to sell their shares, therefore, they have to wait for the startup to be floated in the market or to have their shares purchased by the majority shareholders. It may take years before investors receive any returns through dividends.

"The UK crowdfunding scene is growing so fast that it is considered as a leader in equity crowdfunding."

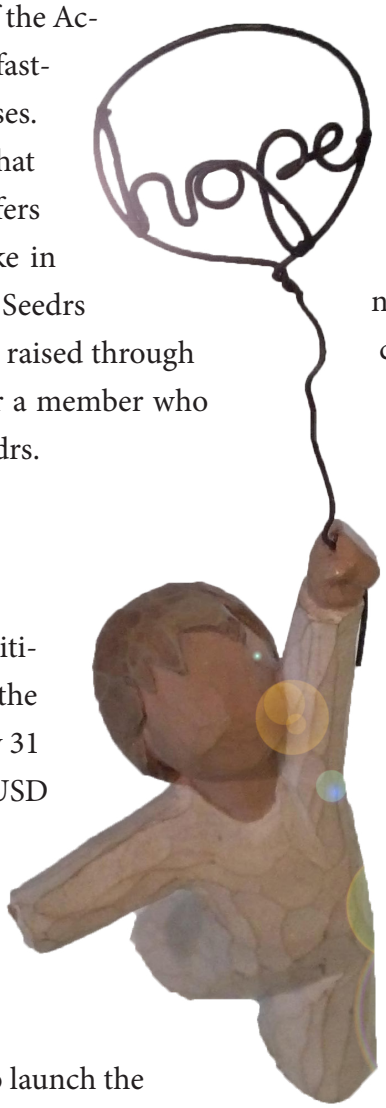
Annual Return on Investments in the UK



Source: Seedrs.com based on NESTA/BBAA report, Siding with the Angels (angel investments), FTSE All Share Index (equities), FTSE 5-15 Year Gilts Index (gilts) and IPD UK Annual Property Index (property) in 1998-2008.

The Platform Story

The UK crowdfunding scene is growing so fast that it is considered as a leader in equity crowdfunding. One of the major UK crowdfunding platforms is Seedrs, the first platform that has received UK Financial Conduct Authority's approval. Seedr was co-founded in July 2012, by, among others, Jeff Lynn, a former lawyer at Sullivan & Cromwell LLP. Within one year Seedr has helped over 35 startups to raise more than GBP 2 million. Seedr was listed by the The Guardian as one of East London's 20 hottest tech startups and is a member of the Accelerate 250, a group of UK's top 250 fastest growing small and medium businesses. Currently, it is the only UK platform that has a crowd investment fund, which offers UK investors the chance to take a stake in ten companies with a single investment. Seedrs charges a 7.5% fee for every investment raised through it, and has a 5% cash back program for a member who refers an investor to invest through Seedrs.



Success Stories

Christ Roberts, the creator of Star Citizen, a space simulation PC game, has the biggest crowdfunded project to date. By 31 August 2013 he had raised more than USD 17 million to realise the game and had organised the crowdfunding independently without the assistance of any crowdfunding platform. Star Citizen is aiming to obtain a further USD 5 million by the end of this year to launch the game as a completely community funded game.

A Chicago designer, Scott Wilson, also made one of the most successful crowdfunded startup, TikTok. In 2010, he listed his project on Kickstarter, a famous US crowdfunding platform to create the TikTok and LunaTik wristbands, which converted the Apple iPod Nano into a watch. He initially asked for USD 15,000, however, he managed to attract around 13,500 investors, raising almost USD one million in the process. Major retailers, including Amazon, now sell TikTok and LunaTik.

Amanda Palmer, an American singer, seeked USD 100,000 through Kickstarter to finance her record, art book and tour with the Grand Theft Orchestra. She managed to obtain more than USD one million. The crowdfunding was so successful that musicians now see crowdfunding as the major alternative to raise money for their albums and recording.[3]

All in all, crowdfunding is indeed a viable alternative source for entrepreneurs, particularly startup founders, to finance and materialise their ideas. It is growing fast and has attracted substantial interest from both entrepreneurs and investor crowd. However, entrepreneurs and investor crowds should weigh the costs and benefits before being involved in crowdfunding. Now, go grab your camera and start preparing your pitch you might be the next crowdfunding success story.

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Fiduciary Obligations | In The Context of The Banker - Customer Relationship

Adebisi Sanda, LLM Law and Economics

According to Millet L.J in Bristol and West Building Society v. Mothew.[1] "A fiduciary is someone who has undertaken to act for or on behalf of another in a particular matter in circumstances which give rise to a relationship of trust and confidence."

A fiduciary relationship usually arises when someone relies on the guidance or advice of another who is aware of that reliance and obtains a benefit from the transaction, or has some other interest in it being concluded.[2] Fiduciary duties arise to prevent the abuse of a position of trust and confidence and encompass a duty of loyalty and a duty of prudence or a duty to act with care and skill. As stated by Milllet L.J "The distinguishing obligation of a fiduciary is the obligation of loyalty. The principal is entitled to the single-minded loyalty of his fiduciary. This core liability has several facets. A fiduciary must act in good faith; he must not make a profit out of his trust; he must not place himself in a position where his duty and his interest may conflict; he may not act for his own benefit or the benefit of a third person without the informed consent of his principal. This is not intended to be an exhaustive list, but it is sufficient to indicate the nature of fiduciary obligations."[3]

The four well- established categories of fiduciary relationship in English law are the relationships between a trustee and a beneficiary, a director and a company, partners inter se and a principal and an agent.[4] The banker – customer relationship does not generally give rise to fiduciary obligations.[5] However, the courts sometimes consider the manner in which a transaction is carried out or some unconscionable conduct of a party in a transaction in finding a fiduciary relationship.[6] Thus, banks have been held to owe fiduciary obligations in the provision of investment advice to their customers.[7] Generally a fiduciary would be able to exclude liability for a breach of fiduciary duty by contract or by obtaining the consent of its principal after the disclosure of material facts. However, in certain circumstances, such contractual exclusions, are subject to the provisions of the Unfair Contract Terms Act 1977 or the Unfair Terms in Consumer Contracts Regulations 1999.

The Markets in Financial Instruments Directive (MiFID) imposes some regulatory obligations on investment firms. Although, some of these obligations are similar to fiduciary obligations, they differ and "neither can be ignored at the expense of the other."[8] The said obligations are important because unlike fiduciary obligations they cannot be excluded by contract[9], and in deciding whether a transaction should give rise to a fiduciary obligation, it is sometimes appropriate to consider what financial regulation would ordinarily have required in that circumstance.[10] Article 19(i) of MiFID imposes a general obliga-

tion on a firm to act "honestly, fairly, and professionally *in accordance with the best interest of its client*" (italics supplied).[11] This general positive duty is frequently referred to as the "client's best interest" principle. MifID also identifies specific circumstances, which may give rise to conflict of interest. Further, when executing orders, firms are required to obtain the best possible result for their client by taking into consideration price, cost, speed, likelihood of execution and settlement, size, nature and other consideration relevant to the execution of the order.[12] This requirement is often called the "best execution" principle and it is arguable that it creates a fiduciary obligation.[13] However, the duty to obey MiFID is primarily owed to the regulator.[14]

Hudson points out that the rule that a banker – customer relationship that does not give rise to fiduciary obligations was formed in the 19th century when banks only operated normal accounts.[15] He suggests that circumstances in which a bank may be treated as a fiduciary should be extended by statute to include:[16]

1. When selling any investment product to a retail customer;
2. When selling any speculative investment product to any client who is not a "market professional" under COBS, except for levying a reasonable and well disclosed fee;
3. When selling any product in which the bank stands to make profit from the transaction, which is undisclosed to the customer;
4. When selling any product as a market maker, which has not been disclosed to the customer; or
5. When acting as a calculation agent in speculative transactions;
6. The "client's best interest" principle under MiFID/COBS;
7. The "best execution" principle under MiFID/COBS;
8. The exercise of any positive obligation imposed on a financial institution by the COBS rulebook; and
9. When exercising any power in relation to a mortgage in which the borrower is in arrears and the mortgagee is not seeking to sell the property and terminate the mortgage contract.

In proposing that the Financial Services (Banking Reform) Bill ('the Bill') should impose a fiduciary duty in the acceptance of deposits and a duty of care in the provision of other financial services in retail banking, Lord Eatwell stated as follows:[17]

"Over the past several months, we have seen a variety of scandals which have … polluted the relationship between banks and their customers, particularly those holding household accounts or those which are small or medium-sized enterprises. We have had the PPI scandal, the scandal over the mis-selling of interest rate swaps and now newspaper headlines cover the accusations which come from within the Government that RBS has been winding up small firms and seizing their assets to its own advantage. Just yesterday, the Governor of the Bank of England, Mr Carney, referring to RBS, said that this behaviour is a fundamental violation of the integrity of the banking relationship."

Lord Eatwell argued that in view of the forgoing scandals the amendment that he was proposing is important in restoring trust in the banking system.[18] However, the said amendment was rejected by the House of Lords at the committee stage by a vote of 237 to 204. It was argued that the amendment is unnecessary in view of several legal obligations imposed on banks by contract and regulation and specific obligations and liabilities, which the senior management and the employees of banks would be subject to under proposed amendments to banking standards.[19] Also, the amendment was described as unhelpful, as the most effective way to protect the interest of customers is to encourage competition in the banking industry, and the proposed duty lacked clarity and did not impose any specific responsibilities.[20]

For example, in Israel a general fiduciary duty is imposed on banks.[21] This is relevant because Israeli law on the subject was originally received from English law.[22] The courts have generally based this duty on concepts such as trust and reliance, physical control of assets or

control arising out of a legal relationship, lack of equal bargaining power and the quasi – public status of banks.[23] The courts have gone even further to suggest that banks owe a fiduciary duty to the public at large even where no direct connection can be established between the member of the public in question and any service provided by the bank.[24] Examples of such a duty may arise in terms of financial reporting, investment policy or financing of projects detrimental to the public.[25] However, what form does the common interest of the public take and how can banks fulfil such an unwieldy duty at all or without compromising the stability of the banking system?[26] Further, is such a duty even useful at all?

The duty can be carried further on the basis that when banks fail, the government often rescues them with tax payer's money; a practice that has been described as privatising the profits of such banks and nationalising their losses.[27] Should the conduct of the banks not be governed by duties owed to the public in view of the forgoing 'relationship' and the vital role, which banks play in the stability of the economy as a whole? The approach of Israeli law on the subject appears to be partially based on considerations that reflect the approach of the provision of vital services in a quasi – monopolistic market structure. Sir Donald Cruickshank's "Competition in UK Banking: a Report to the Chancellor of the Exchequer"[28] and the Office of Fair Trading's "Review of the Personal Current Account Market"[29] provide compelling evidence of insufficient competition in the banking industry.[30] Yet, the approach of English law is markedly different from that of Israeli law.

Also, as illustrated by sub-prime mortgages in the US, should banks owe fiduciary obligations if they offer loans or mortgages, to unsophisticated members of the public with questionable ability to repay? If such a defence were permitted, it is not difficult to see how it would evolve into a first line of defence or a frivolous defence in many debt recovery actions. Further, Hudson suggests that in such cases a remedy might arise in negligence.[31] Ironically, the crises resulting from sub-prime mortgages in the US illustrates that such obligations may be of practical benefit to banks and the economy. In the least, it might reduce the appetite of banks for unnecessary risk taking.

The idea of responsible investing or the consideration of environmental, social and governance factors in making investment decisions is already gaining some currency, at least amongst commentators and scholars. Although, not on the same plane as a fiduciary duty to the public, the discussion acknowledges that even within the context of fiduciary obligations owed directly to investors, some form of obligations owed to the wider society is permissible if not coexistent. Berry points out that the Deepwater Horizon oil spill, which led British Petroleum to cancel its dividend for the first time since the Second World War, illustrates how such obligations may converge.[33] Also, statutory obligations such as disclosure obligations under money laundering legislation overrides the duty of a bank to keep its customer's affairs confidential. In a way, this reflects how broader societal need takes precedence over private obligations.[34]

The courts often look beyond the relationship between parties and consider the manner in which a transaction takes place and some unconscionable conduct of a party when deciding whether or not to impose fiduciary obligations. Further, there are several regulatory stipulations that are intended for the protection of the customer. Thus, whilst the extension of the circumstances in which a bank would be held to owe its customer fiduciary duty has its merit, is sweeping reform to be preferred over an

"The courts have gone even further to suggest that banks owe a fiduciary duty to the public at large even where no direct connection can be established between the member of the public in question and any service provided by the bank."

incremental and tempered approach? An adoption of the approach of Israeli law might lead to unnecessary confusion and uncertainty in English law. It may expose banks and the economy to risks and liabilities, which cannot easily be predicted or provided for. Also, banks should not be expected to place the interest of others above their own interest based on some ill-defined public duty or societal need. Ultimately, they are businesses and not charity organisations. Financially and legally relevant information is increasingly becoming freely and readily available; does this not suggest that a more restrictive approach may be useful? Under a general fiduciary duty within the context of banker – customer relationship, the protection granted to the 'unsophisticated' customer is likely to lose meaning and significance where banks may be required to treat 'unequal's' equally.

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Interview | PROFESSOR SIMON GASKELL

President and Principal of Queen Mary, University of London

Rumen Zhechev, MSc Law and Finance

You have previously been involved in the management of a number of academic institutions prior to joining Queen Mary as Principal in 2009. What, in your opinion, makes Queen Mary different from the other universities that you have worked at?

The defining features of the ethos at Queen Mary are a very unusual combination of a highly aspirational university, aspirational that is, in international terms combined with a very clear sense of a rootedness in its communities and surroundings. Being based in East London, and we are very proud of that. A connection with the community is really important; I saw some of that when I was in Manchester; a city that is very proud of its university. The combination at Queen Mary of this very interesting interaction with local communities is really very distinctive.

In an article for the Independent, published in October 2009, shortly after you joined Queen Mary as Principal, you were quoted as saying that you would try to build upon the successes of your predecessors and the academic strengths of the university. What did you perceive to be the biggest challenge facing you as Principal at the time?

I think it was a question of self-confidence actually. If you looked at the progression of Queen Mary from its position as Queen Mary College and then Queen Mary Westfield, when I arrived here I got the sense that there was still a feeling of "we are just Queen Mary in the East End, we are not really of international standard, we are not really up with the big players, even in London terms, and we are comfortable with where we are". That seemed to be under ambitious, and not to build upon sufficiently all the achievements which had been made, because if you looked at the trajectory of the institution it had been steadily increasing, it was just that I think that internally, there was this lack of self-confidence about going any further. So saw the major priority as actually saying to the institution "this is a really good base on which to plan further progress and we can begin to talk in terms of being within the big four in London, we can talk about getting into the top 100 internationally. We are

ranked 115th at the moment so we are not very far off." That sort of talk a few years ago would have been considered rather irresponsible or exaggerated , but no one questions this anymore. The priority in 2009 was to get people to think in terms of this institution as not being pretty good considering that it is based in the East End of London but actually a very highly aspirational university in international terms, again, combined with a continued adherence and appreciation of the local community.

You have just actually quoted some of the rankings I was going to put to you. For example, the fact that since becoming Principal in 2009, Queen Mary has consistently improved its standing in international university rankings, being ranked 36th according to the latest Guardian university guide for 2013/4, whilst the latest QS rankings placed the university 115th worldwide. I understand that this has been to a large extent due to your efforts to recruit more high-profile and successful academics.

Are we more likely to see more such academics joining Queen Mary in the future and particularly more Nobel laureates?

There has been momentum towards improved performance for a number of years and I wish I could claim credit for it but I can't. What I have tried to do is to ensure that this momentum continues, and the issue of recruiting the highest quality academics of course is based on a "snow ball effect", so you get some very high quality academics and people take notice of the institution, start recognising Queen Mary in this case, as an institution where it is highly desirable to work, where there are really attractive interactions with very highly valued colleagues. It then becomes easier and easier to recruit very high quality staff. The same thing happens with students of course, when prospective students see how difficult it is to get in, they want to get there even more because it is seen as a high quality institution. It is very much an accelerator that we are trying to get going here. Do I think that there is further scope for improvement? Absolutely I do, and we have focused on a certain number of areas where the national and international ranking wasn't so high, but this has improved significantly over the past couple of years because we have focused on bringing in very high quality people. Having said all that, of course, we should always retain a healthy scepticism about all of these rankings because they vary a lot. The Guardian rankings have put us in the thirties, this is nothing like where we should be, we should not in any way be satisfied with that ranking and that is of course much less favourable than the ranking derived from, for example the last research assessment exercise which put us at eleventh in the UK. These different methodologies, and frankly, different degree of credibility of the ranking mechanisms mean that we should be a little bit sceptical, but there was a little reassurance for example, when we had within a couple of months of each other, a Times Higher Education world ranking which placed us 113th and then the QS ranking, a couple of months later which placed us 115th, which is an implication that this is where we are.

What are your personal ambitions for Queen Mary? Are there any specific targets which you have set for the university and are pursuing at the moment?

It's a very interesting topic and a very timely one because we are just developing the new strategy for Queen Mary at the moment. We have an existing strategy as you probably know, which formally speaking runs to 2015, but so much has changed to the institution and the external context since the strategy which I drew up in 2009/10 was published, that it seems sensible to refresh that. One of the points about setting a strategy is that you have to have contestable objectives. You can view many universities' strategic plans, and they say: "we aim to be internationally leading and world class… and that's it", it is completely meaningless. How can you possibly fail because someone will always be observing you somewhere, and therefore you are internationally known. You have to actually set your targets in a way that makes it visible, both internally and externally, if you succeed or if you fail, that's why the current strategic

plan has a series of indicators which we actually measure each year to see how far we are getting. We have targets for improving in research funding, numbers of research students, and we have indicators that show how our entry requirements are progressing. All of these things have to be quantified and the same will apply in the new strategy, but what we will be doing is emphasising what will change and what will stay the same, because it is very important that at a time of quite significant change, externally imposed, there are certain things which we do because we are a university and because we are Queen Mary.

Because we are a university, we pursue both the creation of knowledge and its dissemination, and that's a rather obvious point you would think, but it actually needs restating. Because we are Queen Mary, we have a continuing commitment to cover a broad intellectual range and that is actually terribly important because, particularly at the moment with the financial pressures on universities, it would be easy in financial terms to say "listen, we will focus on a few subjects where we can ensure that we can easily cover our costs, and we will drop some of the high cost subjects which are more expensive to teach, or where at the moment the demand or students is lower". We will maintain our commitment to widening participation, particularly paying attention to the consequences of postgraduate study which is really, in my view the new frontier for widening participation.

We will maintain our commitment to that because we are Queen Mary, that's part of our ethos, it's part of our history, part of our culture if you like. What we will do in addition, however, is improve our facilities which we provide for our postgraduates, both taught and research. We will explore new initiatives, with one example being is the Life sciences initiative, where we are bringing together from each of the three faculties a new focus on certain aspects of the Life sciences, particularly population health. This is a major new initiative which we expect to take forward in the coming years therefore, the new strategy and our focus at the moment is a combination of a restatement of our fundamental values and the way that we will do things in the future.

As you know very well, the current coalition government raised the cap on tuition fees at English universities to £9,000 in December 2010, in spite of considerable public protests. Looking back at the impact which the decision has had, do you feel that it has had the intended effect of achieving a better balance between, on the one hand, the need to make universities more financially independent and the need to ensure equal access to higher education, on the other?

I think that the first point to make is that I think, to everyone's surprise, the rise in tuition fees has not so far had the detrimental effects that it could have done. One of the reasons why I think that the taught postgraduate area is the new frontier for widening participation is that students who have swallowed hard to accept a £9,000 per year fee and the debt that goes with it will simply find the prospect of postgraduate fees one step too far, and that's why I particularly focus on that. But, it is important to recognise what I think the fundamental question is here. Almost everyone agrees that the benefits of a university education are to the individual student and party to the society from which that student comes, whether that's UK society or a society outside the UK, and almost everyone agrees that in both of those cases, there is a division between the material benefits, in terms of salary and employability for the individual student, economic growth for society, and intangible benefits on the other hand. For example, we know that graduates are much more likely to exercise their democratic right to vote in elections. So if you are thinking in terms of the societal benefit in non-material terms, then the vibrancy of democracy is served by having a large proportion of the population going on to university. Most people accept the division of individual and societal benefits an the material and intangible benefits. Where the dispute comes is how you translate the cost of university into reality. One thing which I find personally discouraging is that the appetite of

UK society to pay for universities is relatively low and this is what fundamentally, all three parties are struggling with. How do you come up with a policy which divides the cost between the individual and society in a way which can be objectively justified and politically acceptable?

The irony of the current position is that nationally, we have not saved any money with the current scheme, which is very expensive. Some would say that's because it is too generous in repayment terms, which is of course a highly contentious point. What is unarguable is that we are risking simply loading the cost of the current scheme onto future generations and that cannot be acceptable, however you think the dividing line should be placed between personal and societal costs, it seems to me very difficult to defend a position which is loading that cost onto future generations rather than current generations of beneficiaries. What this adds up to is that after the next election there will be a change in the student support system and how it changes will depend on who is in power and how the figures look. The fact is that the cost of the current system, be it deferred for a few decades, is far higher than the anticipated costs when the scheme was introduced. There is lots of rethinking to be done, which is continuing within the university sector and it is actually starting within government but will be very low profile because no one would be ready to go into government with a firm commitment of a specific course of action because it is so politically contagious.

Moving on to the current jobs market for university graduates, you must be perfectly aware of the frequent stories in the media of graduates who can't find a full-time job, which together with the considerable rise of the costs of a university education, have made a lot of students question whether the benefits of a university education still outweigh the benefits of securing a part-time job. Do you feel that their doubts are in any way indicative of a wider shift in the current jobs market, from one which has traditionally placed a great value and premium on qualified graduates to one in which relevant industry-relevant experience may be becoming more relevant?

Well I think that we need to get to a balanced position on this. When I left school, it was considered perfectly acceptable, for example, for individuals who wanted to become accountants or lawyers not to go to university. They would go straight into those professions, into essentially apprenticeships within a profession as clerks For those individuals who wanted to go down that route that was fine, there was no stigma attached for not going to university. We have got to the point where now, going to university has become almost obligatory to maintain a particular status. Ultimately, there will be cases where going to university might not be the right route for candidates, and this would not be limited to those people who do not have the intellectual background to go to university than people who may choose not to go to university, despite of being perfectly capable of doing so. I think what should inform the debate is the availability of such opportunities, but also something beyond the discussion of how much more can I earn as a result of being to university or how much easier it would be to find a job. I think individuals need to take a look at the total benefits to themselves and society of a university education. The fact is that there has been a framing of the debate in the last decade around the benefits of a university education in purely material terms. Economic growth is promoted undeniably, and school leavers should be going to university because they will learn more over the course of their lives. If, for example, you are a female school leaver your increased earnings will be around a quarter or a million pounds. That is why you should go to university. But that is not a balanced debate. The figures are not wrong, but that is only part of it. So you can imagine a situation where there may be someone coming out of school who might say; "I don't actually think that there is much material benefit for me to go to university for what I would like to do, but I would like the university experience. I would like the intangible benefits of going to university and that's why I am going to do it."

We need to have a much more balanced debate than currently occurs at the moment.

With current youth unemployment currently standing at over 1 million, what in your opinion is the main reason why so many graduates are struggling to find work? Is it because of the wider economic climate or is it, as some commentators have suggested, due to the fact that many university graduates lack many of the essential skills which businesses are looking for?

Well, I think it is certainly true that not all graduates have all the skills that commerce and industry are looking for.. It has always been the case that major businesses have felt the need to continue the education of their employees, which is specific for the industry or the commercial organisation, so I don't think that there is a fundamentally new point there. Whether this is exacerbated or worse now or not, I don't know. It's very difficult to get objective evidence for that. The fact that there are many unemployed graduates is perhaps no more than a reflection of the fact that a higher proportion of the population goes to university. If you have a situation where only 10 per cent of the population goes to university, the rate of unemployment amongst that 10 per cent as graduates is likely to be low and it is logical that as that proportion of the population increases the proportion of the unemployed in that group will also increase. The fact remains however, that the unemployment amongst graduates is significantly lower than it is amongst non-graduates so a university degree is still a significant personal benefit.

Do you feel that the problem of student unemployment might be in any way exacerbated by the fact that some courses such as law and medicine have been traditionally over-subscribed, in the sense that universities may be producing too many graduates with such qualifications than the market can sustain?

I don't think that this applies to medicine. In fact the numbers of medical students which we are educating nationally is decreasing at the moment and there is a view that this is very short-sighted, and that we will in due course have a shortage of trained doctors.

Isn't the same happening with other courses, such as Engineering?

Well, that is a different issue because of course with medicine, there is a very high demand to study medicine at university, making it extremely difficult to select the best candidates. The problem with engineering is quite different. The problem with engineering is that we need many more engineers than that we have individuals who would like to study engineering. That is a perception of status. In the UK, the perceived social status of a doctor is much higher than the social status of an engineer and aspiring young people and perhaps their parents see medicine as a much more desirable profession than engineering. We absolutely do have a problem of low demand for the courses in Engineering and we and other organisations are trying to counter that. It's partly of course linked to what people understand, children aged two and three dress up as doctors, they therefore understand what it means, whereas you can go through a complete school career and not understand what an engineer does. It has always been a difficulty to match the supply and demand, supply in this case being the output of graduates and demand being what society needs at any one time, because of economic cycles and because it is very difficult to predict what the real demand is.

Do you feel that the government is currently doing enough to help graduates and young people looking for work?

I am not sure that the government is doing much at all. The government is certainly encouraging universities to pay more attention to helping graduates or develop students in a way that would make it easier for them to find jobs. When I was a student, I suppose there must have been a careers service at my university, but I have no recollection of any exposure to it or any real expectation that there should be one. There was a vague careers service at school but there was almost an acceptance that once at university, you didn't expect a careers service. If you contrast this

with what we do at Queen Mary for example, which is give a lot of focus on careers' advice, internships and work experience. it is a completely different environment. I guess the government has done a lot in terms of loading that responsibility onto universities to do more by increasing expectations, but I don't think that the government per se has done much at all.

What advice would you give to Queen Mary students or recent graduates who might be finding it difficult to find work or who might be worried about their job prospects after they leave university?

I think the key advice is to retain flexibility. The work place is full of people who have very fulfilling occupations which are different from their original expectations. And I think that there are many ways of using university education in a broader sense which may not be entirely in line with the preconceptions that the student had when she or he went to university. This takes us back to the value of university education. I think it is a question of ensuring that you benefit from the broader aspects of a university education which will essentially relate to transferable skills.

In relation to the public commitment of Queen Mary, as we have already mentioned, of serving the people of London and the East End, with increasing financial pressures on universities to become more independent and business oriented, what particular steps are you planning to take in order to ensure that Queen Mary continues to fulfil that public role in the future?

Well, one thing it is that I don't know any other university that has a Vice Principal for public engagement. Peter McOwan is the Vice Principal for public engagement and he coordinates activities like the Legal Advice Centre, which comes under that umbrella, but also the Centre of the Cell at Whitechapel. Forty thousand school pupils per year go through that centre which is an extraordinarily successful outfit. There is also the Mile End group, which is another aspect of our reach, but also other events in the People's Palace like tea dances that are organised for the local community. We have a very broad range of activities and we will continue leading nationally in our commitment to those areas. To me it is part of the fundamental mission of a true university is to create and disseminate knowledge, and knowledge dissemination isn't just teaching, It is about making sure that the benefits of research and scholarship that take place here and are felt more broadly in the community beyond the gates of Queen Mary.

Finally, are there any reforms to the existing structure of higher education in the UK which you feel that need to be made in order to ensure that the courses offered by UK universities remain consistently high and continue to fulfil international expectations?

I think that the fundamentals are in place and that the balance between collaboration and competition between universities is probably about right. I think what does fundamentally need to change however, is a more explicit recognition of different roles of universities, or at least a balances of roles. There is, if you like, a pecking role in UK universities which is useful to some extent but then can be quite harmful. There are universities for example where the extent of research that is conducted is not even close to either the quantity or the quality of the research that is conducted at Queen Mary, but those institutions in some cases are stunningly good at providing a very high quality education to the students in the areas where they teach. Now, that sort of university shouldn't be worrying that it is not Queen Mary, any more than we should worry that we are not Cambridge, but equally we and universities like us should fully respect the status and the contributions which those universities make. I would like to see not so much a structural change, but recognition across the higher education sector that there are different balances of roles that need to be played and that each of those is very valuable and the implied value judgments which sometimes appear are often not helpful.

The European Market Infrastructure Regulation | New Rules for OTC Products

Alessandro Demetrio Barbaro, MSc Law and Finance

After the Great Recession, economies worldwide required radical changes related to financial regulation. During the 2009 G-20 Pittsburgh summit, which was one of the several meetings held in response of the financial crisis of 2007–2008, world leaders made an agreement on new regulations for Over-the-Counter (OTC) products. These are financial products negotiated between two parties and not traded on any regulated market, implying that there is not the typical supervision of organised exchanges. Before this agreement came into place, no official rules existed for counterparties involved in OTC products; however, there were some private agreements based on samples.

Briefly, the European Regulation N° 648/2012 of the European Parliament and of the Council of 4 July 2012 entered into force on 16 August 2012.[1] On 7 February 2013, the EU Parliament finally approved the Regulation of Technical Standards regarding OTC derivatives, central counterparties (CCPs) and contract registration systems (Trade Repositories), after taking under advisement the European Securities and Markets Authority (ESMA) Regulatory Technical Standards, drafted in order to better implement the regulation, which came into force on 15 March 2013.[2] The new obligations however are coming into effect in accordance with a calendar that includes various maturities between 2013 and 2014.[3]

"The EMIR lays down a common European framework for the regulation of derivatives traded outside regulated markets, with the primary aim of reducing the systemic risks connected to them."

As the Dodd-Frank Act did in the US, the aim of the European Market Infrastructure Regulation (EMIR) is to regulate practices of trading, increasing the stability of the OTC derivative markets amid European countries. The EMIR lays down a common European framework for the regulation of derivatives traded outside regulated markets, with the primary aim of reducing the systemic risks connected to them. With the EMIR, European institutions are trying for the very first time to regulate the field of OTC derivatives by imposing new and stringent obligations on the operators involved. In particular, the regulation requires operators to assess their turnover related to operations in derivatives. When exceeding a certain threshold, which is calculated as the sum of the notional value of OTC derivatives transactions concluded (divided by class group), operators will bear specific disclosure and declaratory obligations.

The main features of the EMIR can be summarised into three points:

1. Operators are obliged to communicate and deposit all information related to OTC derivatives transactions concluded to Trade Repositories that must track, store and keep them available for supervisory checks.
2. OTC derivatives transactions that exceed certain thresholds will be centrally overseen by clearing bodies, such as clearing houses or central counterparties (CCP), which must be authorised to carry out such activities by European authorities. Upon current market practices, ESMA has identified five "macro classes" of derivatives subject to CCP; these are commodity, credit, equity, interest rates and foreign exchange.
3. Operators, financial and non-financial counter-

parties to which the aforementioned clearing processes do not apply, must use other instruments to mitigate the risks associated with OTC derivatives trades. This includes the obligation to document specific confirmation of the conclusion of transactions within a short time term, the Timely Confirmation, the exchange of collateral and adequate capital to cover the exposures arising, as well as to proceed according to pre-defined deadlines to portfolios reconciliation regarding derivatives transactions between counterparties, this is done in order to verify that there are no mismatches or differences. Other risk mitigation techniques include dispute resolution, marking-to-market and marking-to-model.

Analysing these points more in depth, the second threshold are set by Article 11 of Technical Standards: when exceeding even one of the gross notional value indicated considered in relation to its respective derivatives class (credit, equities, interest rate, foreign-exchange rates), non-financial counterparties will be required to communicate this status to ESMA and to the competent national authority.[4] Furthermore, Article 12 of Technical Standards set different deadlines regarding contract confirmations (3), which states that depending on the nature of the counterparty, as well as the type of operation concluded, from the end of the second working day until the end of the seventh subsequent day, all time-limits indicated in the technical standards will suffer reductions in the adjustment period, between 2013 and 2014.[5]

After this communication, there will be an observation period of thirty working days, and if the average volume of the forthcoming derivatives contracts within this time period following such notification status remains above these thresholds, operators will finally be bound to submit to CCP, clearing all the contracts concluded. Conversely, a subsequent decrease in derivative transactions below the relevant threshold will eliminate the obligation of clearing upon them. Interestingly, it is up to every national authority to define procedures, sanctions and liabilities for non-compliance.

Focusing on the UK Regulation, the competent authority designed to carry out such activities of supervision is the Financial Conduct Authority,[6] which establishes that:

"All counterparties need to report details of any derivative contract (OTC or exchange traded) they have concluded, or which they have modified or terminated, to a registered or recognised trade repository (TR) under the European Markets Infrastructure Regulation (EMIR) reporting requirements.

(…)

Both counterparties MUST report each trade unless by prior arrangement, one party can report on behalf of both counterparties. Where one report is made on behalf of both counterparties, the report shall indicate this fact. The EMIR technical standards set out what information shall be submitted in relation to each of the counterparties, and what information shall be submitted only once.

Either counterparty to the trade may delegate report-

ing to a third-party (such as a central counterparty or trading platform).

Where one counterparty reports on behalf of another counterparty, or a third-party reports a contract on behalf of one or both counterparties, the details reported shall include the full set of details that would have been reported had the contracts been reported by each counterparty separately.

(…)

Reporting for asset classes which there is a registered TR, will begin 5 working days plus 90 calendar days after a TR has been registered for these asset classes. Registrations of TRs is the responsibility of European Securities and Markets Authority (ESMA). Their earliest estimate for TR registration decisions to be made is currently 7 November 2013. If a registration decision is made on this date, reporting will begin on 12 February 2013.

There is a 180 day transitional period from each of the start dates indicated above for the reporting of exposures information (both information on collateral and mark-to -market or mark-to-model information).

Information on trades entered into on or after the 16 August 2012 must be reported to a TR: if the trade is still outstanding when the reporting start date begins, then firms have 90 days to report the information to a TR; and if the trade was not outstanding on the reporting start date, firms have three years to report the information to a TR."

Perhaps, it can be argued that the financial industry mostly focused its attention on the repercussions of the Dodd-Frank Act leaving aside the concern about the prospective impact of its new relative, the EMIR. However, the overview on the EU Regulation presented above shows that we are at the beginning of a real revolution for the entire sector of OTC Derivatives.

In this view, the confirmation procedures represent the basement for the fulfilment of the several and more stringent obligations set by the EMIR, and it is likely intended to increase transparency in communicating, through trade repositories, to the authorities the transactions concluded, as well as to set mandatory collateralisation margins to significantly reduce the counterparty risk associated with each OTC derivative transaction. The goal of this framework is to increase transparency and thus reduce systemic risk in the market of those products, which until now have been left almost completely deregulated. Although, the most common market practices already provided confirmation procedures as tools for the effective documentation of transactions, and above all, International Swaps and Derivatives Association Master Agreement, which is the most commonly used agreement for OTC market.

However, problems may arise when both financial counterparties and, more likely non-financial ones that operate in derivatives, will not fully be ready to face new obligations under this new regulation. In particular, non-financial corporations will have to gear up to gain the relative skills and know-how, as well as establish (costly) internal procedures in order to better manage all the new obligations they are already facing.

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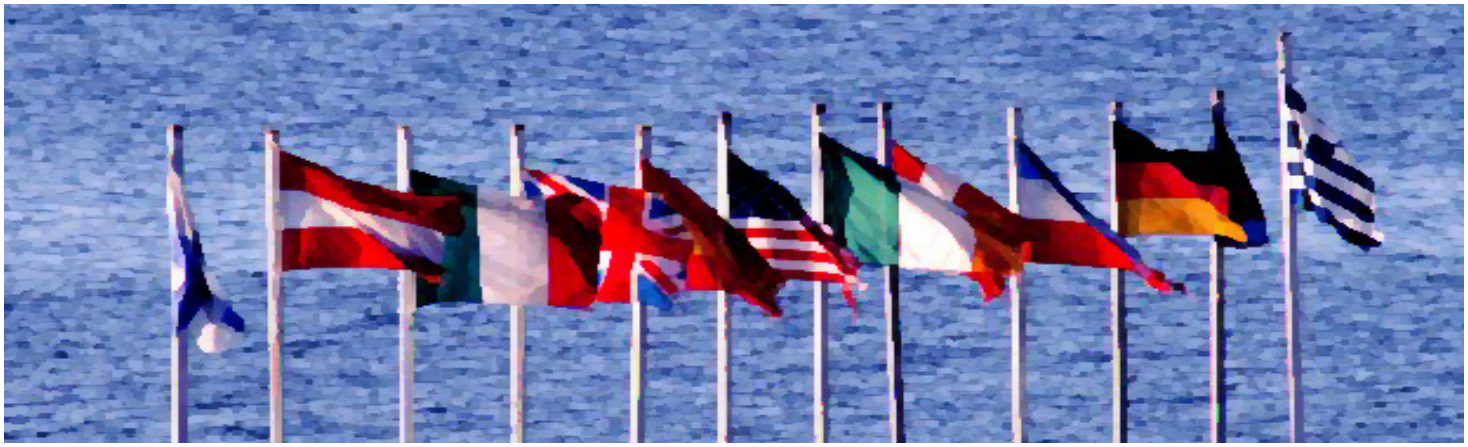
The EU and the Tobin Tax | A Complicated Relationship

Marco Contaldi



During the years following the 2008 financial crisis, many Europeans leaders suggested the introduction of an international financial transactions tax (FTT) in order to improve the financial sector's contribution to public finances and avoid future crises by reducing systemic risk. This tax is often called the Tobin Tax because its advocates were originally inspired by the work of Nobel Laureate James Tobin on an internationally agreed uniform tax for all spot conversions of one currency into another. Its purpose is to discourage jump in short-term speculation, which may increase market volatility.

Tobin first drafted the proposal of the tax shortly after the Bretton Woods system of monetary management ended in 1971, when the unstable foreign exchange market caused a jump in short-term speculations, which greatly increased exchange rate fluctuation. Tobin did not consider these short-term transactions to be beneficial for the global economy and began to search for a mechanism to discourage them. His work showed that introducing a small levy on each transaction would curb speculation and strengthen market stability, benefiting long-term investors. These are the ideas that have inspired the proponents of the FTT.

The FTT states that all transactions on financial instruments between financial institutions will be taxed when at least one party to the transaction is located in the EU. The European Commission proposed the introduction of this levy for all EU Member States in September 2011. One of the primary goals of the Commission was to ensure that the financial sector "pays its fair share… at a time of fiscal consolidation in the Member States, after Governments and European citizens at large have borne the cost of massive taxpayer-funded bailouts to support it".[1] While international implementation of the tax was not approved at the November 2011 G20 summit in Cannes, the European Commission continued to move forward.

Opinions on the possible outcomes of introducing a FTT across the entire European Union differed greatly among Member States. Notably, France, Germany, Italy, Spain, Austria and Belgium have supported the proposal. However, the group of opposing nations, led by the UK, expressed strong views about the negative impact of the tax and declared that "they were against any common system of financial transaction tax at the level of the European Union unless an FTT of similar kind was introduced at the global level".[2] The fate of an EU FTT is still in limbo, as European Commission proposals need unanimity to be implemented, and both sides continue to remain firm in their respective positions. However, this has not stopped the progress of negotiations among the proponent Member States. Indeed, on October 2012, the European Commission formalised a proposal to the

European Council to allow the eleven States who presented an official request to proceed with enhanced cooperation on an FTT.[3] As defined by Fabbrini "enhanced cooperation is a procedure where a minimum of nine EU Member States are allowed to embark on a project of differentiated integration, by pooling their forces and coordinating their action in fields which are not yet ripe for common action by all EU member states."[4] After receiving the approval by the Parliament and the Council, in February 2013 the Commission unveiled the details of its proposal for the implementation of a common system of FTT in the Member States who requested the enhanced cooperation procedure.

Brussels plans to introduce a levy of 0.1% of the consideration paid on stock and bond trades and 0.01% of the notional value of the underlying asset on derivatives transactions. All transactions involving at least one financial institution with its headquarters in a Member State, or trading on behalf of a client based in a Member State adhering to this enhanced cooperation procedure are to be taxed.[5] The Commission expects to raise around EUR 30 billion per year from its planned levy. While several Member States, including the UK, have some sort of taxation on equities, almost none of the EU States imposes a levy on derivatives trading. However, both France and Italy recently approved new taxes on derivatives and are being considered a test case for a broader application. Overall, the Commission's blueprint its very similar to its initial proposal in September 2011, however, it has one main significant difference that raised the concerns of many international investors. The Commission established that the tax will also apply to transactions based on where the share, bond or exchange traded derivative was issued, even if the deal takes place outside of the FTT area. This implies that if a US bank were trading German bonds with a Japanese Bank, then both parties would be subject to the levy, even if the collection method is still unclear.

The above-mentioned burden for international investors triggered further complaints from the financial industry. The industry is strongly adverse to the introduction of such a tax and sceptical towards the positive effects for the economy sustained by Tobin tax supporters, arguing that the FTT is incapable of discriminating between desirable and undesirable trading activity.[6] A coalition of US business groups has written to the Commission objecting to "the unilateral imposition of a global financial transaction tax".[7] Apparently, there are solid reasons for such concerns: even if the levy on each transaction looks rather small, if applied to the large number of trades that financial intermediaries conclude on a daily basis, it could cause serious damage to the industry's total revenue. A recent Goldman Sachs study put the cost at a total of EUR 170 billion for 42 European banks it surveyed, based on 2012 trading patterns, virtually wiping out all the annual profits.[8] Furthermore, banks are particularly concerned with the potential effects on the repo market, an instrument that is used to raise short-term capital by temporarily exchanging cash for securities. The European Repo Council of International Capital Market Association has warned that the introduction of a FTT could contract this kind of transactions by 66%, according to a study it commissioned.[9] In the worst-case scenario, the repo market in the FTT territory could disappear almost overnight, depriving banks of a relevant tool to obtain liquidity.

"Any compromise on the contents of the proposal would only increase public perception that the EU is once again bowing down to the financial sector."

The UK government was particularly concerned about the extraterritoriality aspects of the proposed tax. In April, they launched a legal challenge against the authorising decision in the European Court of Justice.

More recently, an opinion of the EU council legal team was leaked to the FT, which also presented concerns about the extraterritoriality aspects of the tax. Council lawyers concluded that applying the tax to groups outside the tax bloc "exceeds member states" jurisdiction for taxation under the norms of international customary law as they are understood by the union".[10]

There is also apprehension brewing even among the proponent Member States. Both France and Germany's central bank governors have expressed their unease about some unintended effects of the tax, which may potentially be harmful for their economies. Italy's EU ambassador has also warned about the possibility that an implementation of the tax could further increase borrowing costs, especially for Southern European countries who already pay very high yields on sovereign debt.[11]

Given the current circumstances it may be improbable that the FTT, as proposed by the Commission, will actually become effective, even if EU tax commissioner Algirdas Semeta defended his policy by stating that the FTT "is legally sound and fully complies with EU treaties and international law".[12] Nevertheless, the proponent States cannot simply discard the FTT now because the tax is very popular among EU citizens. Furthermore, any compromise on the contents of the proposal would only increase public perception that the EU is once again bowing down to the financial sector. The massive taxpayer-funded bailouts and the long recession left the citizens disgruntled and resentful, as demonstrated by the recent success of extremist political parties around Europe. It is a due exercise of democracy for EU leaders to make the financial sector "pay its fair share". They cannot ignore this, otherwise they could face serious political issues that might endanger EU's future as a single market. However, Brussels has to find a way to do it without causing major market distortions and threatening the liquidity of an already troubled banking system in a time when Europe is finally starting to get out of the recession. The broad FTT designed by the Commission could cause more trouble for the economic system without fully realising its purposes, which could once again lead citizens to ultimately paying for it.

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Interview | MICHAEL SKAPINKER

Assistant editor of the Financial Times and editor of the Financial Times special reports.

Elina Spyropoulou, MSc Law and Finance

The sophists decided to interview Michael in order to gain an insight into his views on the challenges faced by the legal profession in this complicated era. Michael is the editor of the Financial Times Innovative Lawyers Report[1], where individuals and law firms are ranked on the basis of out of the box thinking and value creation. Because of declining profitability, global inter-connectivity and liberalisation proceedings are instigating changes in what is thought to be one of the most conservative professions in the world. This could be interesting for our readers, as some may wish to engage in a legal services carrier path, to find out more about how law firms are trying to innovate in an inspired, credible and engaging way through the crisis.

We are in a time where the legal profession is under tremendous pressure. Law graduates greatly exceed the demand for law professionals and the future seems grime for those now entering the legal services market. This year's FT Innovative Lawyers report is themed as the Collaboration issue. It is a wide conviction that lawyers are autonomy seeking by nature. Are we moving towards transcending this traditional approach?

If I can, I will start with why we started the Innovative Lawyers report because some people think as a title it is meant to be funny, are lawyers supposed to be innovative? The reason that we did this is because there are a lot of publications that look at legal issues, case findings, court judgments; there are magazines, which look at the gossip of legal professions, which partners have moved from one firm to another. We wanted to look at how law firms are managed the way they are run and that is the basis of the report.

So, to come to your question, yes, lawyers like many other knowledge professionals are individualistic by nature. That is true not just of lawyers, it is true of many doctors, it is true of journalists; generally people have their own ideas about how they want things to be done. I think what we are seeing in law, is that as you pointed out there are too many people that want to be lawyers and the costs of law, I think, have become too high for many individuals and many companies.

So, one of the themes that we saw this year in our magazine is the way in which law firms are trying to reduce their costs by systemising some of their processes, making them routine, making them uniform, not everything needs an original legal opinion. So, in a way it is trying to turn some of what the legal profession traditionally does, trying to make it cheaper, more of a routine and really trying to reduce the cost of it. So, that means that there is less scope for individual action in those areas, but there still are the areas where you still count on lawyers to do something different to give something new and that is what we give our awards for. We give our awards for innovation.

So, I think some aspects of law are becoming less innovative, and that is why there needs to be more collaboration. There are offices and people who learn to do things the same way because they have been there before and that can free the lawyer to do some "unusual" things for their client.

The law firm blogger and US based legal services consulting provider Adam Smith ESQ recently commented on the practice of outsourcing, which law firms have adopted in order to save costs. "Labour market arbitrage can be an effective tactic and can deliver meaningful cost savings but it is fundamentally uninteresting and there are no meaningful barriers to entry. It should and will run its course."[2]

Law firms are identifying routine transactions and making sure they are treated as routine transactions. So, that is not quite outsourcing. It is not like they were looking for lawyers that would work at a cheaper rate in another country. Instead, I think what we saw is making the routine something that is just there, something that you can get access to. I think that for transactions, which are done in a similar way every day, I think that there is a recognition that you can not expect people to pay for lawyers to do them originally each time. So, I think in the experience of lawyers we dealt with, that is more important than outsourcing. Saying a lawyer in India or the Philippines can perform these routine transactions more cheaply. I am sure that is happening. But, it was not a big thing in our report this year. What was more important was separating the tasks, which really require innovation and an original legal opinion and those that do not, because we know how they are done, and let us just get on and do those as cheaply as possible.

Consolidation waves arise in all industry markets as a form of adaption to prolonged financial instability and gradual decline in profitability. Are we likely to witness a consolidation wave in the legal industry? If yes, given the increased significance of emerging economies, do you foresee a consolidation wave international in nature?

The answer to that is yes. I mean this is already happening. We have already seen a consolidation wave in the magic circle firms, we have seen firms combining with US and UK firms, we have seen UK and German firms, we have seen it throughout Europe. We have seen firms doing this in China. Basically clients are international, they want their law firms to serve them internationally, they want them to be present in every jurisdiction they are in. So, in the question you have asked me the inevitable answer is yes.

However, it is common knowledge that mergers often prove to be unsustainable in the long run. In a variety of industries there are few examples of mergers, which managed to preserve a sustainable business model. It is often the case that sooner or later mergers resolve to some kind of conflict. Do you think that the same applies to mergers between law firms?

You know that is a very interesting question. I think there is a possibility that mergers between law firms will be more successful. I think that mergers in the company world often do not succeed because of a difference in culture and because of differences in things like IT systems. Now obviously those things exist in law firms as well, but I think because law firms are partnerships there seems to be some form of acceptance that in each individual country people will run the firm in the way that is best for that country. As far as I can see, because law firms are partnerships, there does not seem to be the same drive as you have in corporate mergers to make everything uniform and to try and integrate everything. It is still early days, but some of them seem to be successful. Going back a number of years, there were cultural problems in Clifford-Chase in the US, there were complaints about the management style of Clifford-Chase when they came to the US and I think those were resolved. So, in theory, yes mergers between law firms should be difficult, but I think they are done on the basis of equality because lawyers are partners, they are equals. So far, and as far as I can see, mergers seem to be going well, but I suppose you need to speak to law firms to get a better picture of that. I really cannot say that I am an expert in this matter, that is just my observation.

The legal services Act allows non-lawyers to invest in law firms

and be involved in their management. Do you think that this concept is likely to be introduced in other jurisdictions, namely continental Europe, where there is a deep-rooted assumption that the legal profession should be exclusive and entry to the profession is heavily regulated?

I do not really know the answer to that. It is very difficult to change the structure of the legal profession anywhere. Even though this innovation is taking part in the UK, take for example the split bar in the UK between solicitors and barristers that has been there for centuries and there does not seem to be any move to change that, although, in other parts of the world, parts of Canada for example, they fused the professions. I do not really know, it seems hard to me, it is a very conservative profession in many ways and as you have mentioned it is very proud of its privileges.

However, one of the things we do see in the Innovative Lawyers Report are attempts by lawyers in one jurisdiction to apply the principles of law from another jurisdiction. For example, we had a very interesting entry; I think it was two years ago, where a French law had used the English law of trusts to argue a case in front of the French courts. Because there is a lot of cross-boarder business, we do see lawyers trying to use elements of the law from the law of one jurisdiction and apply in another, but that is very different from the structure of their own profession. It seems hard to me that the concept will be introduced anywhere else, and I think people will probably want to wait and see how this goes in the UK. It is very early; we do not know how this is going to work out, so, I do not really know, I sense that the answer to your question is probably not for quite long time.

In the years following the crisis in 2007, could you handpick a legal innovation strategy or individual that you consider a game changer for the future of the legal industry?

What we see every year is lawyers looking beyond the law in order to innovate. The lawyer as a businessperson has been happening for a long time, the law who understands the clients business has also been happening for a long time.

If I had to find a trend since 2007, it would be lawyers looking beyond law because their clients problems go beyond law. Let me give you two examples:

One of our winners, three of four years ago, was a German lawyer who basically at the time of the financial had to look whether it was constitutional, under the German constitution, for the state to bail out banks. In Germany, for historic reasons the state coming in to bail people out is a very sensitive topic, going back to the great inflation of the early Weimar Republic. This was a lawyer who effectively changed German constitutional law to make the salvation of the German financial system possible.

At the completed opposite, we have had a lot examples of lawyers solving people's community problems though innovative use of law. People saving community foot clubs, looking at trust law, looking at ways to solve people's problems. I think the biggest change we have seen since 2007, certainly among the lawyers that we have been profiling, is that they see themselves as being far more than lawyers now. They see themselves as involved in society. It is not like living in an Aviary tower, the best lawyers are basically going out and saying "the law is a tool to make life better for people". I would say that is the most revolutionary change we have witnessed since the financial crisis. It is very noticeable

Finally, which attributes do you sense the new generation of lawyers should possess in order to succeed in an ever-changing UK and international legal landscape?

This is a really difficult question. You identified at the beginning that there is a lot of competition for law jobs now. It has never been an easy profession to go into, there has always been a lot of competition for the top jobs, but I think the competition has become much more severe now for the two reasons we have been talking about.

First, that the costs are under pressure, and secondly, there is a lot of mobility among lawyers, there is a lot more international competition.

The fact that there are so many international students doing law just saws that, I mean the brightest people are competing for fewer and fewer jobs.

First, of all what you need is a real love of the law. I do not think this a job, if it ever was, to go into just to secure that, you will earn a lot of money. It has got to be something that you really what to do, because like all these jobs, it is going to take up a lot of your time. I also think that enthusiasm will transmit itself to the people that you want to get a job from. They will see very quickly how committed you are to the law.

I also think from the successful lawyers that we have looked into, that it seems to involve a very unusual combination of great attention to detail, but the ability to see beyond that detail. I think those are the two things, which are very difficult to have. There are a lot of people who really work their way through the detail, but they cannot lift their eyes and think where we are going. There who have got the big picture, but not necessarily the detail. The best lawyers obviously have both of those attributes.

I also think that there must be more scope and more opportunity for multilingual multicultural people in law. So many legal problems are cross-borders, most obviously in corporate law, but only in corporate law. For instance take immigration law, if you think how much mobility there is across boarders now, so much of that involves understanding the law. The expansion of the European Union, the freedom of movement of more and more throws up more and more legal issues. So, I believe there is opportunity for people who can transcend through more than one country more than one culture. Some of the impressive lawyers we have seen are people who can do exactly that. As I said, those are people who manage to combine the best of different legal jurisdictions to come up with the best answers.

The other thing is for those working in London. Although London has had a lot of competitive threats, it remains the centre of international law. Many contracts in many industries as you know are written under English law. So, I think that people who have an understanding of that, have an added advantage.

I might add a third characteristic, which is detailed industry knowledge of an industry from outside of law. For example, if you have a real understanding of technology or of the intellectual property behind the new technologies, I think you are offering a potential employer something very big. If you are a scientist, for example, you bring knowledge from something outside the law, and this can prove to be very useful if clients come from a particular industry of which you have specific knowledge.

So, overall I would say that these three things are very important, the ability to combine detail with an overall vision, being multilingual and multicultural and the ability to bring knowledge from outside the law.

You can view Michael Skapinker's weekly columns on Business and Society here: http://www.ft.com/comment/columnists/michaelskapinker

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The Latin American Integrated Market | The M.I.L.A.

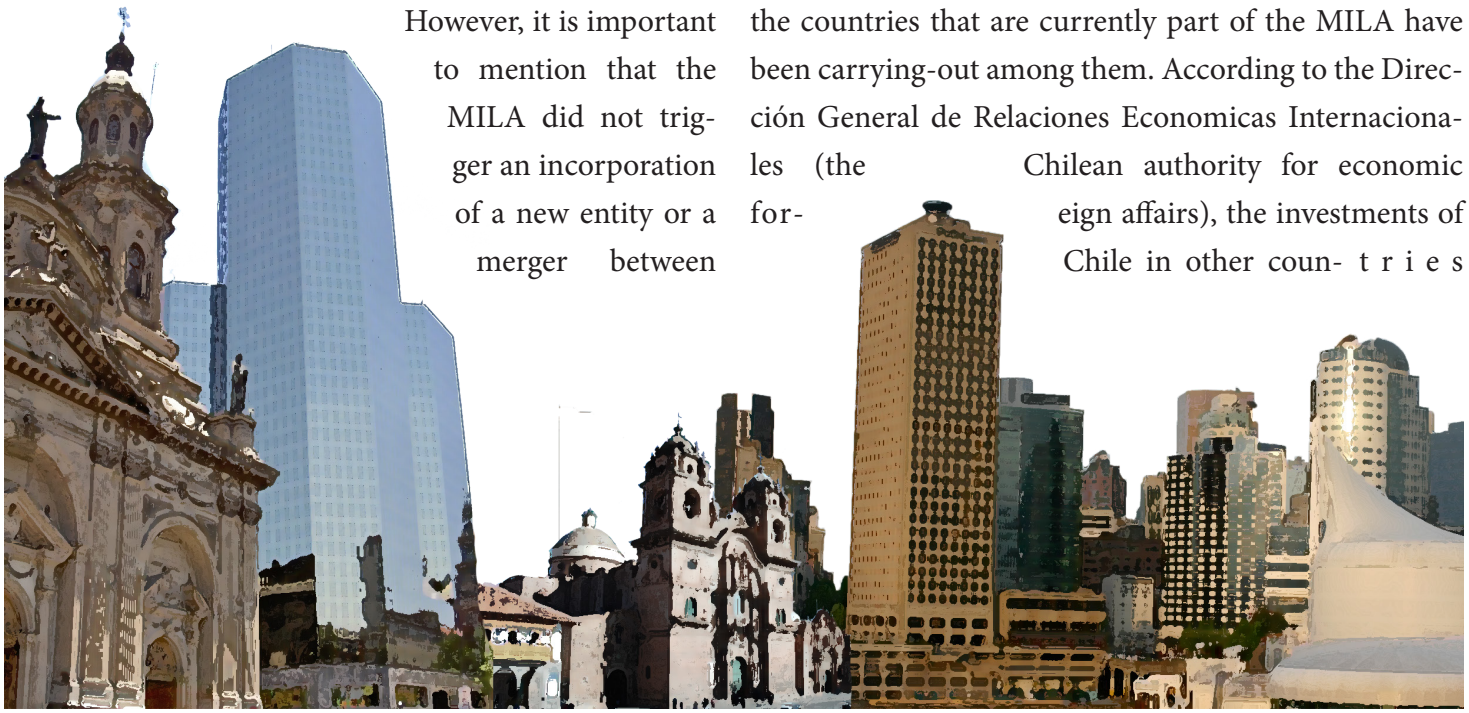
Diana Avila, MSc Law and Finance

Since May 30, 2011, an integrated market has been running between the stock exchanges of Colombia, Chile, Peru and their corresponding clearing and settlement institutions, this is known as the Latin American Integrated Market (the "MILA" for its initials in Spanish). In the MILA, the intermediaries of each one of the three stock exchanges are allowed to enter into transactions in relation to the shares of the three markets. For instance, if a Colombian investor desires to purchase shares of an issuer incorporated in Chile, whose shares are listed in the Santiago Stock Exchange, he may contact his local broker who will purchase the shares of the Chilean company directly through the MILA. Thus, it is worth analysing the main characteristics of the MILA, the general economic and political framework in which this integrated market performs, the challenges for its success, the recent developments related to the MILA and its impact in other commercial initiatives among Latin American countries.

The MILA consists of three stock exchanges, which are still independent, incorporated in their countries and with their original capital structure. However, it is important to mention that the MILA did not trigger an incorporation of a new entity or a merger between existing entities. The integration was made through an agreement, technological tools, standardisation of applicable regulations for the trading of shares and adaptation of the corresponding custody, clearing and settlement rules. Transactions that might take place in the MILA are only purchases and sales, excluding term-transactions, such as repos or derivatives.

This integration of the stock exchanges is evidence of the importance these Latin American countries are giving to commercial integration and inside trading in the region. After some periods of economic recession and security issues, starting with Chile and followed by Peru and Colombia, these countries have been transforming their political and economic situation by becoming stronger emerging economies. Therefore, these three countries are not only ready for receiving foreign investments, but also for performing investments abroad; they might be aware that the easiest and best alternative is to start by investing in their own region.

In order to understand the framework in which the integration of the stock exchanges has been taking place, it is important to mention the foreign investment that the countries that are currently part of the MILA have been carrying-out among them. According to the Dirección General de Relaciones Economicas Internacionales (the Chilean authority for economic foreign affairs), the investments of Chile in other countries



during 2012 grew by 47% in relation to 2011, reaching a total amount of USD 8.5 billion.[1] From this investment, Colombia received the most of Chilean foreign investment, as a consequence of the acquisition of financial institutions and retail companies, among others.[2] In the financial sector, Corpbanca, a Chilean financial group, acquired two Colombian institutions: Banco Santander, previously owned by the Spanish Santander group, and Helm Bank. In the retail sector, Cencosud, the largest retail company in Chile, acquired the operation of Carrefour in Colombia. During 2012, Banco de Crédito del Perú, one of the largest financial groups in Peru, acquired Correval, one of the largest broker-dealer companies in Colombia. Additionally, Banco de Crédito del Perú recently received the authorisation from the Colombian Finance Superintendence to incorporate a representative office in Colombia and, therefore, promote its products and services in Colombia and to Colombian residents. Futhermore, according to the Departamento Administrativo Nacional de Estadística (administrative department for national statistics, "DANE") of Colombia, during 2012 Colombian economy grew by 4%, and during 2011 by 6.6%.[3] In addition, according to the DANE, the Peruvian economy grew by 6.2% during 2012 and Chilean economy by 5.5%, during the same year.[4] The MILA is a signal of how Latin America is becoming a strong region in economic terms and how integrated markets are being introduced in order to maintain and increase the positive economic perspective.

Even though the MILA is becoming a strong exchange market in the region, some challenges must be considered in order to consolidate the integrated stock exchange and guarantee its success. After the stock exchange in Brazil, Bovespa, the MILA is the second largest stock exchange in Latin America in terms of market capitalisation, with a total amount of USD 646.5 billion as of September 2013.[5] However, the difference in fees charged by each one of the three stock exchanges and the applicable tax regulations in each country are still some of the main problems in order to allow the increase of trading in the MILA. The governments of Colombia, Chile and Peru support international trade, especially trade between Latin American countries. Nevertheless, this private integration requires the constant support of the governments and the compromise towards a standardisation of national applicable rules to trading in stock exchange markets in order to make the MILA more efficient. Besides, there are some negative externalities of the MILA. For example, the behaviour of the market has decreased during this year in relation to year 2012. As a matter of fact, the S&P MILA 40 index, which provides exposure to the 40 largest and most liquid stocks traded in the MILA (considering at least 5 shares of each one of the three countries of the MILA), shows a variation of -16.51% on 30 September 2013 in comparison to last year.[6]

"Even though the MILA is becoming a strong exchange market in the region, some challenges must be considered in order to consolidate the integrated stock exchange and guarantee its success."

Nevertheless, recent positive developments have occurred in relation to the MILA. First of all, the stock exchanges of Colombia, Chile and Peru launched on 2 October 2013 an integrated foreign exchange market, though the three countries have each their own currencies.[7] This integrated currency market would only be applicable for transactions performed through the MILA. Secondly, since 23 October 2013, an ETF based on the stocks of the S&P MILA 40 started trading in the Colombian Stock Exchange.[8] Furthermore, Mexico, one of the other leading economies in Latin America, is considering becoming part of the MILA. It is expected that by 2014 the MILA will include the stock exchange from Mexico, which is currently the third largest in terms of

market capitalisation and number of listed companies in Latin America, after Brazil and the MILA.[9] Thus, these three recent developments related to the MILA market gives confidence about the successful path that is still remains for this integrated and innovative market in Latin America.

Even though the MILA continues to have challenges in order to become more efficient and attractive to investors of Colombia, Chile, Peru and abroad, the integration of the stocks exchange of those emerging economies in Latin America is evidence of their positive perspectives in economic terms, which is supported by their stability in political and security aspects. Last but not least, it is important to mention that the MILA is a good example of how serious Latin American countries are taking the importance of their integration, which is evident by other initiatives that are being conceived, such as the Pacific Alliance.

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When Law exceeds its purpose | A Local's Perspective of Argentina's 2001 Economic Crisis

Mariano Gemignani, MSc Law and Finance

This article briefly addresses a historical event that questioned the very roots of Argentina's economic backbone for a decade: the convertibility system. With a clear affinity with the Washington consensus and the IMF's advice, the Argentinian government during the 1990's implemented the convertibility regime when President Carlos Saul Menem took the presidency of the Argentinian state after president Raúl Alfonsín withdrew from the position. The point of highlighting this specific historical period relies in its singularity. The economy took an 180º violent turn with one clear principle that had no link to reality. The core postulation of this system was simple: one Argentinian peso was equal to one American dollar. This was simple. Its consequences on the other hand were not. One could argue that this was just one law. Nevertheless, its effects were not only legal, but also social, cultural, political, economical and ultimately historical.

The illusion of progress, magnified by the instantaneous dramatic rise of the population's purchasing power, was an immediate social effect. This can be explained through a practical example, which will be illustrated by a personal anecdote. During those years the points of interest of young adolescents were music, sports and other typical pastimes. The musical instruments market was clearly affected by this policy. For beginners, it is only natural to have flexible demands in terms of instrument quality. The fact was that store's inventories were amazingly under priced, and it was shocking to see guitars, which one would later on find out to be fine professional instruments at bargain prices. Even the cheapest guitars were items of high quality. The reason behind this undervaluation was the forced equal condition between the local currency and the US dollar, which instantaneously made import products much cheaper. This anecdote is in itself an explanation of why this economic model had the approval of a great extent of the Argentinian society. From one day to the next, without explanation of the necessary economic infrastructure and productivity, the national currency had the same value as the US dollar. This led to the fake belief that Argentinians could purchase items at the same prices as other countries with different economic backgrounds. This gave sufficient social support to the political group, which brought this scheme to life, and gave them a second chance to continue applying their plan. The last stage of the scheme led to Argentina's greatest economic-financial crisis in 2001. The second election was conducted in 1995, where support was astonishing with 49.94% of the voters supporting president Carlos Saúl Menem, and the on going convertibility regime would see its second half executed.

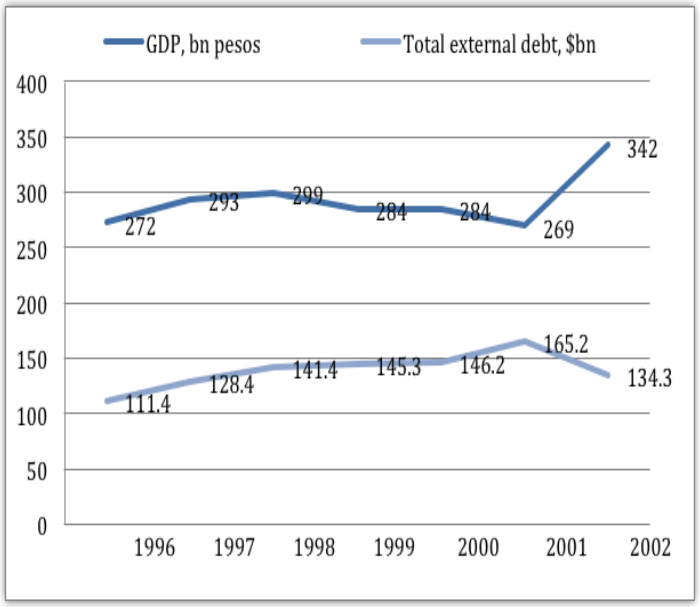
"From one day to the next, without explanation of the necessary economic infrastructure and productivity, the national currency had the same value as the US dollar."

This scheme brought on further economic implications to Argentina. One of these implications was the massive entrance of foreign products that were introduced into the internal market to compete with locally produced products. This was combined with a consistent and deep withdrawal of the state from any kind of regulatory or subsidised practice, which was the cornerstone of Argentina's economic activity. As the rest of the world witnessed the unrelenting privatisation of several public services, such as water, telephone and oil, local entrepreneurs had to compete with the imported products on a

"mano a mano" standard. A clear perspective on this tendency can be read in "The big push towards privatization in Argentina".[1] The consumer had to choose between imported products and locally produced ones, both being sold at similar prices. This created serious problems for Industrial production, which started falling dramatically in 1999 and continued until 2002. During that period, the industrial production went from -6.5 to a slight increase of a total -0.3, and then dropped to -7.16. Furthermore, in 2002 industrial production continued dropping from -7.6 to -10.6.[2]

One of the most important macroeconomic reasons, which forced the country to default in January 2002 and unleashed the social protests that took the lives of 16 people, was that unemployment rates rose to an alarming 23.6%. From 2000, the Argentinian government started to systematically contract debt at an exponential rate.[3] This historical perspective of Argentina's public debt build up can be observed by comparing the percentages from the Carlos Saúl Menem administration and his predecessors. From 1976 to 1983, the last military dictatorship increased the public debt from USD 8 billion to USD 45 billion, which is an increase of 364%. Afterwards, during the Raúl Alfonsín period, the debt went from USD 45 to USD 65 billion, increasing another 44%. However, the focal point is that immediately afterwards came the second greatest increase in Argentina's public debt. Between 1990 and 1999, public debt increased by 123%, going from USD 65 to USD 145 billion.

Another contributor to the 2001 crash, which is intimately connected with the rise in public debt and affected the Argentinian society as a whole, was how Argentina's tax reserves shifted. Furthermore, it is particularly revealing to pay attention to how the Argentina's tax reserves shifted between the years of 1997 and 2001. The CEPAL online database shows a clear tendency of decline, arriving to the point of no return in 2002, with a deficit of 153.61% of GDP.[4] The above mentioned economic factors continued to move steeply towards regression. However, there was still one last piece of the economic puzzle to be revealed. In August of 2001, Argentina received an USD 8 billion loan from the IMF in an attempt to rescue the country. Quoting the Bretton Woods Project (2004), 'The loan was approved to "ensure that the [Argentine] authorities, not the IMF, took responsibility" for the painful changes that had to be made."[5] The prospects of success were "at most 20-30%", and most staff recognised that the loan would disappear



Source: "Argentina's economic crisis: causes and cures." Jim Saxton, Joint Economic Committee of the United States Congress. Published in June 2003. http://www.hacer.org/pdf/Schuler.pdf

to overseas bank accounts in capital flight. This would happen to be the last step in the path that led to Argentina's de-financing and then its collapse, which occurred in the last days of 2001.

In conclusion, it is necessary to interpret the economic measures in light of their results. Given that one of the cornerstones of this process was in fact the law that declared instantaneous equality between the peso and the US dollar, a concrete reference is required. The philosophy behind such measure is that reality can be effectively apprehended and modified by a legal instrument. It could be argued that this premise might hold at a theoretical debate, however, it does not comply with reality. It is the law that must adapt to the vibrant and changing times. Not vice-versa. Therefore, it would seem reasonable to say that trying to predetermine an entire country's economic, social and political fate with a law that sets arbitrary conditions, such as "from now on, one peso is worth one dollar", implies a non-realistic approach, which can cause disastrous consequences. The proof is given by the facts imposed in the everyday reality that neglects illogical constraints to its biorhythm, in this case in the form of laws written in stone.

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An 'Un-Indian' Summer | Tracking The Sudden and Un-Precedented Fall of the Indian Rupee

Ojasvita Srivastava, LLM Commercial and Corporate Law

The summer of 2013 was particularly unpleasant for the Indian Economy as the Indian rupee fell by over 20% against the American dollar. This was partly due to global factors and partly due to systemic reasons. The strengthening of the American dollar by 1.86%, along with hints of the US Federal Reserve shifting to a tighter monetary policy and therefore withdrawing its stimulus package, prompted global investors to withdraw money from emerging markets. This resulted in the depreciation of several emerging market currencies across the globe, however, none of these currencies fell as sharply as the Indian rupee. As a result of this fall in currency value, many countries like Brazil and Indonesia resorted to increasing interest rates making their currencies more attractive than the Indian rupee. Nonetheless, the sharp and sudden fall of the rupee needs examination in the context of other economic indicators, such as a slower growth rate, widening current account deficit, higher oil prices and rising inflation. The future of Asia's third largest economy has to be evaluated in the light of this broader context rather than the sudden and rapid fall of the rupee between June and August 2013.[1]

"India's fascination with gold has created a voracious appetite for the precious metal, which has made it the largest importer of gold in the world amounting to nearly 25% of global consumption."

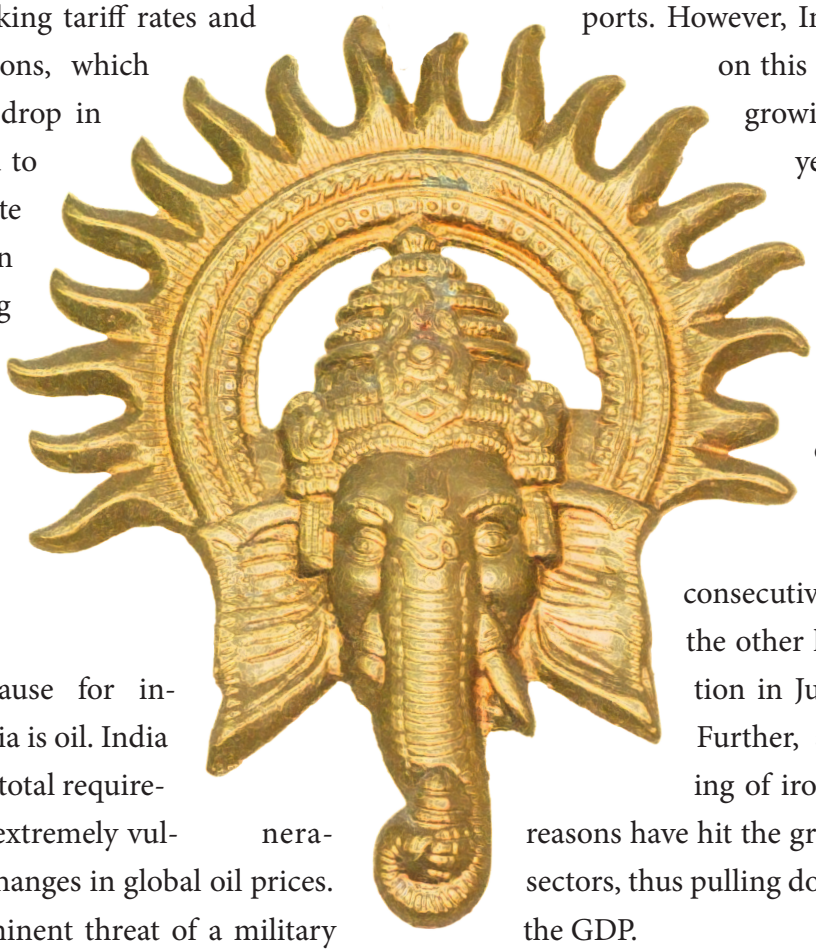
The Problem

Towards the end of August 2013, the Indian Prime Minister addressed the parliament on the matter of the falling Indian rupee. While part of the currency slump is a "natural" correction to reflect high inflation, the Prime Minister stated that the "foreign exchange markets have a notorious history of overshooting (and)…unfortunately this is what is happening."[2]

However, it would be naïve to assume that this was the sole reason behind the rupee fall as there were several systemic and endemic factors that led to the fall of the rupee. One well-known and publicly acknowledged cause is a high fiscal and current account deficit. The 2013-2014 budget had aimed at lowering the fiscal deficit to 4.8% of the GDP. However, in October this year, the IMF predicted that India's Fiscal deficit may rise to 8.5% of the GDP in 2014. A month later, on 15 November 2013 the Finance Minister made a public statement indicating that India was still committed to meeting its fiscal deficit target, and that the government was working towards lowering the fiscal deficit to below 4.8% of its GDP. In fact, India has been aspiring to reduce its fiscal deficit for a long time now, and had even introduced the Fiscal Regulation and Budget Management Act (FRBM Act) in 2003, which aimed at completely eliminating revenue deficit and reducing the fiscal deficit to 3% of the GDP by 2008-2009. However, due to the global financial crisis, the targets of the FRBM Act were not met. The high fiscal deficit along with a high revenue deficit means that India's expenditure exceeded its revenue, thus increasing the overall debt and in turn threatening the overall financial stability of the economy.

India's increased expenditure is said to have been caused by the expansion in borrowing for imports. Factors that have led to the rise in the dependency of imports include social, environmental, judicial and polit-

ical issues. To begin with, India's fascination with gold has created a voracious appetite for the precious metal, which has made it the largest importer of gold in the world amounting to nearly 25% of global consumption. The Government has taken several steps to reduce the import of gold by hiking tariff rates and imposing other restrictions, which has resulted in a 14.5% drop in import of gold compared to last year. However, despite these steps being taken in October this year, owing to the Diwali festivities and the wedding season, the import of gold increased. This led to a sharp rise in India's trade deficit to USD 10.76 billion.[3]



Another important cause for increased borrowing by India is oil. India imports nearly 80% of its total requirements, and as a result is extremely vulnerable to even the slightest changes in global oil prices. In August 2013, the imminent threat of a military action in Syria could have further worsened the current situation. However, the decision by the UK parliament not to proceed with any military action in Syria resulted quite favourably for India.[4] However, the fall in the rupee directly impacted the importing capacity of oil companies and to ease this pressure, towards the end of August, the Reserve Bank of India (RBI) announced that it would provide foreign exchange directly for the purchase of oil by the major oil importing companies. This greatly reduced the demand for the US dollar and temporarily stopped the fall of the rupee. Since August, the RBI has provided nearly USD 14 billion to oil companies. However, the RBI withdrew this emergency measure in November 2013, and the markets reacted by sudden and temporary slump of the Indian rupee as the demand for American dollar increased, though it was viewed positively by the business community as they hoped for revival of the economy.

On the other hand, the fall in the rupee could have compensated the increase in borrowing for imports if India's exports had grown proportionately with its imports. However, India could not capitalise on this situation despite exports growing by 13% (year over year basis) due to a weak manufacturing sector, out-dated mining techniques and poor industrial growth. On a year over year basis, exports for October rose 13.5%, while imports contracted for the fifth consecutive month by 14.5%. On the other hand, industrial production in June contracted by 2.2%.[5] Further, a judicial ban on mining of iron ore for environmental reasons have hit the growth of steel and related sectors, thus pulling down the overall growth of the GDP.

Other than these factors, opposition parties and several critics argue that populist measures, being taken ahead of general elections due next year, have further contributed to slowing down of the economy. The recent legislation on Food Security passed by the Indian Parliament aims at providing subsidised grains to almost two thirds of India's population and is expected to translate in an increase of 1% of GDP. By implementing this new legislation on Food Security, other than posing a heavy burden on an already slowing economy, India would also end up breaching the Agreement on Agriculture under the WTO, which does not allow members to provide farm subsidies above 10% of agricultural production. India, therefore, proposed amendments to provisions of the Agreement on Agriculture at the Bali Ministerial Meeting of the WTO, in December 2013.[6] Another new

law on land reforms has also been slammed by critics as they feel it will delay the process of buying land, thus making setting up factories a more difficult affair.

Furthermore, several economists feel that a lack of effective spending on infrastructure and policy paralysis due to political reasons are also proving a bottleneck in India's growth. The government has not been able to tap in and increase the inflow of Foreign Direct Investment (FDI) in the economy. Red-tapism, corruption, clearance delays, land acquisition problems and lack of promptness have all been sighted as reasons for the withdrawal of major projects from India, such as those by ArcelorMittal and Posco. Last year Indian companies spent more overseas than foreign investors in India.[7]

The downgrading of Indian stocks by leading global agencies and banks has also led to investors pulling out their money leading to flight of Foreign Institutional Investments (FII) over concerns of economic growth recovery. Overseas investors pulled out nearly USD 7.5 billion in June and about USD 3 billion in July from the Indian Capital markets. This put further pressure on the falling Indian rupee during those months.[8]

The bright side

Despite all the above causes for concern, the most important of these is that borrowing in foreign currencies by the poor or middle class households and small and medium businesses is prohibited in India. This allows debt to be concentrated among only the wealthy individuals and large multi-national companies. Those that have debt in US dollars are usually individuals or companies whose income is also in US dollars, thus limiting mismatches.

Further timely steps by the Indian government as well as the RBI in curbing the imports of gold greatly reduced the burden of imports, resulting in an 80% drop in imports of gold in September 2013(year over year basis).

Fire-fighting

In order to halt the rupee slide, the RBI had announced several measures, such as direct credit of forex to oil importing companies, restriction on Indian firms investing abroad and on outward remittances by resident Indians.

On 27 August 2013, the Finance Minister had said that the government had fast-tracked USD 27 billion of power and other projects stuck in red tape.[9] On 15 November 2013, he reiterated that the government had cleared 99 projects worth nearly USD 55.5 billion and that there were some big foreign investment proposals in sectors such as pharmaceuticals, aviation and telecoms.

However, if the slowdown of the Indian economy worsens and the rupee falls

ther, major and drastic steps would become necessary. If India lets the currency fall in the hope of exports rising to reduce the current account deficit, the comparatively small and under-developed Indian manufacturing sector may not be able to cope with the demand for the hike in exports. This balance of payment downturn may lead investors to panic further and leave. It may also lead to inflation. Another measure adopted by other growing economies facing the same situation is to increase interest rates in order to attract FDI. However, there is a fear that this may not fare well for the Indian economy and may also lead to increase in bad bank debts. It might also be a cause of worry to investors in the Indian equity market, which may in turn lead to the flight of nearly USD 200 billion in listed shares. Another method might be the lowering of government borrowings. However, in the light of the general elections scheduled for next year, making big cuts in government spending might not be feasible for the government. The possibility of increasing revenue by raising tax may also be difficult as only 3% of Indians pay income tax.[10]

Despite all these challenges and risks that may lie ahead of the Indian economy, it would be too radical to brand this economy as non-resilient and doomed. With the Indian middle-class growing despite the downturn, and the government taking steps to control the rising deficits, there is little doubt that the situation will eventually turn around. As is the case with any other economy, growth is closely linked with political developments as markets are governed mostly by predictions and possibilities. This is the reason why an environment of uncertainty makes markets wary. Although, with the general elections due in summer 2015, the markets find the policy-making scenario uncertain and unpredictable, however, post elections the picture is bound to get much clearer.

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