

BY THE WAY: WHO IS YOUR BANKER ?

If there is, today, a strong suggestion of a crisis of confidence in the banking system of the Hongkong Special Administrative Region (HKSAR) of the People's Republic of China (PRC) as well as in part, if not in whole, of the banking systems of the entire Western World, then, that crisis has been brought about by stupid, negligent and/or crooked bankers, themselves.

By accident or design, banks and/or crooked bankers are the root causes of their present, possibly precarious, situations.

But, oddly, the public shareholders of those stupid, negligent and/or crooked bankers, as well as the millions of customers of many of these criminal-lending organisations, have not, as yet, stood up on their hind legs in resolute revolt.

There was that time, not that long ago, when bankers always wanted to be good friends of customers and tried to act in their best interests by offering free advice on how best to secure customers' wealth and, when applicable, to assist in increasing it.

The logic of banks of those days was simple enough: What was good for the banks' customers had to be good for banks. After all, when a customers' wealth increased, banks were bound to benefit, financially, on the grounds that the customers would not forget the sage advice of the banking experts.

Today, however, bankers are not averse to state that, in the main, customer loyalty no longer exists.

This situation, too, has been brought about by the banks' managements and the armies of the many mediocre people that they employ: Bankers have nobody to blame for their present situations but themselves.

The Function of Banks

Banks have become an essential component of business in the world of today, and very few corporate entities are able to grow materially without the support of their banking partners.

The same is true, to a great extent, for many a bank's smallest customers. These are, what the Bible describes as, *'The Salt of The Earth'*.

In Matthew 5:13:

'Ye are the salt of the earth: But, if the salt have lost his savour, wherewith shall it be salted? It is thenceforth good for nothing, but to be cast out, and to be trodden under foot of men.'

For the masses (the salt of the earth), most of whom covet what they perceive as a better life than their present ones, after working for a period of time and having amassed enough money for the down-payments on new homes, they must turn to banks in order to have the lending organisations be their short-term partners in the purchases of those new homes via lending the remainder of the purchase prices that the customers do not have.

Sadly, today, most banks employ quite a number of ignorant and, mainly, apathetic salesmen and

saleswomen whose only purpose in life, as far as their job description is concerned, is to sell bank products, regardless of whether or not those products are to the benefit of targeted bank customers.

These salespeople are able to earn large commissions if they are successful in convincing bank customers to purchase the products that their banks are trying to foist at a particular time.

They are motivated, strongly, to work hard because failure to meet a quarterly sales quota could result in these salespeople, looking for new employers, posthaste.

Banks and bankers, today, the world over, are not of the same ilk as they were in days of yore: They are, simply, product salesmen and saleswomen, in the main.

A classic example of the above-mentioned was when, on Tuesday, February 12, 2013, UBS AG, the biggest bank in Switzerland, operating in more than 50 countries and employing more than 63,500 employees, was fined \$US14.80 million (about \$HK115.44 million) for exposing its customers to unacceptable risks.

Great Britain's Financial Services Authority (FSA) announced that UBS had been negligent when it sold units in AIG Enhanced Variable Rate Fund to about 2,000 high, net-worth customers between December 1, 2003 and September 15, 2008.

This AIG fund was supposed to be aimed at improving returns on investing in assets, backed by securities and floating rate notes.

The FSA determined that UBS had mis-sold the fund to some 19 customers and mishandled not less than 11 complaints.

Ms Tracey McDermott, Head of Enforcement of the FSA, said, about this case:

'UBS's conduct fell far short of (that) which its customers deserved and what the FSA requires. It failed to ensure (that) it understood the product that it was selling, failed to recommend it to the right customers and failed to take effective action in the financial crisis when the problems with the fund came to the fore.'

This was not the first time that UBS had been brought to book to account for its actions or its lack of appropriate action(s) when needs were such. (More about UBS, later on in this survey.)

The Wegelin Debacle

For investors, the world over, who thought that Swiss banks were financially solid and very conservative in their banking practices, their banking staff, unable to do wrong, they got a very rude awakening when Wegelin and Company, formerly Switzerland's oldest bank, having been founded in 1741, was taken to task on criminal charges for conspiracy to help wealthy US citizens evade taxes to the tune of at least \$US1.20 billion (about \$HK9.36 billion).

In January, this year, this private bank admitted to permitting more than 100 US citizens to hide about \$US1.20 billion from the US Internal Revenue Service for about one decade.

Wegelin and Company was forced to pay \$US57.80 million (about \$HK451 million) in fines at a Hearing before Judge Jed Rakoff of The US District Court of Manhattan, New York.

The Managing Partner of this Swiss bank, said, at that Hearing:

'Wegelin was aware that this conduct was wrong.'

Wegelin had been in the habit of making use of the services of the Stamford, Connecticut, branch of UBS in order to hide its criminal acts. The US Government had seized more than \$US16 million (about \$HK125

million) of Wegelin's funds from this UBS branch in a separate civil forfeiture complaint in 2012.

Wegelin no longer operates as a bank, anywhere in the world.

But with regard to paying out big bucks in fines, to use the American vernacular, that is saved for one of the world's largest banking institutions: HSBC Holdings plc, a bank that has about 60 million customers, worldwide.

Late last year, HSBC agreed to pay a record of \$US1.92 billion (about \$HK15 billion) in order to settle allegations that it failed to enforce rules, designed to prevent the laundering of (criminally amassed) monies.

The case was brought by the US Justice Department. It charged the bank with failing to maintain an effective programme, designed to prevent money-laundering.

Also, it was alleged in documents, filed in The Federal Court at Brooklyn, New York, that the bank had violated sanctions by doing business with customers in Iran, Libya, Sudan, Burma and Cuba.

HSBC admitted that there had been a breakdown in respect of controls and apologised for its conduct.

In the words of Mr Stuart Gulliver, Chief Executive of HSBC:

'We accept responsibility for our past mistakes. We have said (that) we are profoundly sorry for them and we do so again. The HSBC of today is a fundamentally different organisation from the one that made those mistakes.'

'Over the last two years, under new senior leadership, we have been taking concrete steps to put right what went wrong and to participate actively with government authorities in bringing to light and addressing these matters.'

So, is Mr Stuart Gulliver suggesting, by innuendo, that the previous management of HKBC had been negligent, stupid or ...?

Sullyng Many a Bank's Name

The following **TARGET** () data is but some of the many other important cases that, over the past decade or so, have been brought to light and, in so doing, have managed, over and over again, to sully the names of quite a number of banking institutions, around the world, banks that were, once, perceived to be manned by professionals, whose ethics and standards of expertise were above reproach.

Standard Chartered plc, a bank that employs about 87,000 people in 70 countries, was forced to pay \$US327 million (about \$HK2.55 billion) to several authorities in the US in order to settle allegations that it violated a number of laws and, also, in hindering US Government enquiries into those allegations.

That was in December, last year, but just four months earlier, Standard Chartered was required to pay another material sum of money, \$US340 million (about \$HK2.65 billion), to the New York Department of Financial Services.

In total, therefore, Standard Chartered paid out about \$HK5.20 billion in order to put to bed its confirmed and admitted wrongdoings.

This bank had defrauded regulators, falsified records, and obstructed US Government officials in their enquiries after the New York State Banking Supervisor discovered that it had hidden vital details, involving transactions with entities in countries, including Iran.

In the words of Mr Lanny Breuer, Assistant US Attorney-General:

'The United States expects a minimum standard of behavior from all financial institutions that

enjoy the benefits of the US financial system. Standard Chartered's conduct was flagrant and unacceptable.'

To these words, Mr Benjamin Lawskey, New York State's Banking Regulator, added that Standard Chartered was a '*rogue institution*'.

Barclays plc, a British-based, multinational bank, headquartered in the United Kingdom but operating in more than 50 countries and having about 48 million customers, was fined \$US470 million (about \$HK3.67 billion) for its attempts to manipulate the US electricity market.

In November 2012, The US Federal Energy Regulatory Commission announced that it had discovered a number of nefarious activities of this bank, all of which took place between 2006 and 2008, and that it was taking definitive action.

It was alleged that Barclays, in April, last year, bought and sold electricity in sufficiently large quantities so as to affect the price of complete derivative positions.

The result of those transactions led to the state of California and other US states to lose about \$US140 million (about \$HK1.09 billion).

About five months earlier, in June of 2012, Barclays was fined about \$HK3.54 billion (about £290 million) in trying to manipulate interest rates, both The **London Interbank Offered Rate (LIBOR)** and The **Euro Interbank Offered Rate (EURIBOR)**.

LIBOR and EURIBOR determine, among other things, the cost of borrowing for homeowners and corporate entities in addition to interbank borrowings.

Great Britain's Financial Services Authorities, as well as authorities in the US, discovered repeated breaches of rules, dating back to 2005. These breaches involved what was described as '*significant number of employees*' (of Barclays), including senior managers.

The penalties, imposed on Barclays, were part of an international investigation with regard to a number of other UK banks, including **Lloyds Banking Group plc** and **The Royal Bank of Scotland Group plc**.

Mr David Meister, Director of Enforcement of The Commodity Futures Trading Commission, said that the '*false submissions*' of Barclays were the direct result of '*senior management's orders*'.

He said, about this matter:

'When a bank acts in its own self-interest by attempting to manipulate these rates for profit, or by submitting false reports that result from senior management orders to lower submissions to guard the bank's reputation, the integrity of benchmark rates is undermined.'

In December, last year, **UBS AG** admitted that it had engaged in fraud and bribery in respect of the manipulation of interest rates. It agreed to pay fines, amounting to \$US1.50 billion (about \$HK11.70 billion).

In addition to this bank, paying the fines, US prosecutors charged two former UBS traders, Messrs Tom Hayes and Roger Darin, with criminal conspiracy and wire fraud in indulging in a scheme to manipulate LIBOR and other benchmark interest rates. US and UK investigators labelled Tom Hayes as the ringleader for UBS's manipulation of certain interest rates.

This situation had been going on for some years, it was discovered.

Both traders were arrested on international warrants.

Mr Sergio Ermotti, Chief Executive of UBS, in an official statement, said:

'We deeply regret this inappropriate and unethical behavior. No amount of profit is more important than the reputation of this firm.'

While the above statement came from the top echelon of UBS, the FSA of the UK discovered that UBS staff made *'corrupt'* payments to reward brokers for helping to manipulate interest rates, thus widening this scandal to include bribery.

In some cases, UBS, via its traders, paid brokers as much as \$US24,000 (about \$HK187,000) per quarter for their assistance in rigging interest rates.

As the investigation got under way and extended to criminal behavior, from top to bottom of the bank, it was discovered that not less than 45 UBS staff members were, directly or indirectly, involved in artificially raising or lowering interest rates to the benefit of the bank and to the detriment of customers.

Most of the 45 UBS employees, who were interviewed, told investigators that it was just normal banking business.

The Wells Fargo Scandal

Wells Fargo and Company, the fourth-largest, US bank by assets and market capitalisation, was forced to pay a penalty of \$US6.50 million (about \$HK51 million) in order to end its dispute with the US Securities Exchange Commission (SEC) in respect of confirmed sales of mortgage-backed securities without disclosing their actual risks.

In addition, last August, the SEC charged a former Wells Fargo Vice President with improperly selling asset-backed commercial paper, structured with high-risk, mortgage-backed securities and collateralised debt obligations to municipalities, non-profit institutions and other customers.

The former Wells Fargo Vice President had to pay a fine of \$US25,000 (about \$HK195,000) and agreed to be suspended from the securities industry for six months.

Ms Elaine C. Greenberg, Chief of the SEC's Enforcement Division's Municipal Securities and Public Pensions Unit, said of this case:

'Municipalities and other non-profit institutions were harmed because Wells Fargo abdicated its fundamental responsibility as a broker to have a reasonable basis for its investment recommendations to customers.'

One month earlier, in July last year, Wells Fargo had been forced to pay \$US175 million (about \$HK1.37 billion) in order to settle accusations that it discriminated against African-American and Hispanic borrowers in violation of fair-lending laws, the US Justice Department announced.

The Deputy Attorney-General, Mr James Cole, said that the actions of Wells Fargo resulted in discriminatory lending practices against qualified borrowers, numbering some 34,000 African-American and Hispanic customers in 36 different states, resulting in higher interest rates, having been levied on loans – simply on the basis of the colour of the customers' skin.

Mr Cole said, among other things:

'The (Justice) Department's action makes clear that we will hold financial institutions accountable, including some of the nation's largest, for lending discriminatorily.'

At about the time that Wells Fargo was getting dragged over the coals, **The ING Group**, the Dutch bank and financial institution, agreed to pay a fine of \$US619 million (about \$HK4.83 billion) for acts that were in violation of US economic sanctions.

The ING Group is the world's largest banking/financial services/insurance conglomerate with revenues,

exceeding \$US150 billion per annum. It has more than 85 million individual and institutional clients in more than 45 countries.

This bank admitted falsifying the records of New York financial institutions, according to the Manhattan District attorney, Mr Cyrus Vance.

Mr Vance said, in a public statement:

‘These cases give teeth to sanctions enforcement, send a strong message about the need for transparency in international banking, and, ultimately, contribute to the fight against money laundering and terror financing.’

The ING Group moved money from Cuban and Iranian clients through New York banks, deliberately concealing the transactions from US authorities.

JPMorgan Chase and Company, the largest bank in the US, had to pay the sum of \$US296.90 million (about \$HK2.32 billion) for its part in misleading investors in the sales of risky mortgage bonds.

At the same time, last November, **Credit Suisse Group AG** was caught with its pants, down to its ankles, and was forced to pay \$US120 million (about \$HK936 million) for misleading its customers in respect of sales of risky mortgage bonds.

The SEC said that, in a Prospectus of JPMorgan Chase, it materially overstated the quality of home loans that supported the contention of a \$US1.80 billion (about \$HK14 billion) residential, mortgage-backed securities offering that the bank was underwriting in December of 2006.

As for Credit Suisse, the SEC said that it had misled investors by falsely claiming when it would buy back mortgage loans in two offerings in which borrowers had defaulted on their initial payments, and that ‘*all first payment default risk*’ had been removed.

Money-Laundering Can Cost a Bank, Heavily

Money-laundering by banks, when proven, has, historically, been a costly exercise as the Dutch bank, **ABN Amro Bank N.V.**, learned in December 2005.

ABN Amro paid \$US80 million (about \$HK624 million) in order to settle the claim of violating regulations, aimed at preventing money-laundering.

The Financial Crimes Enforcement Network at the US Treasury Department claimed that the bank had permitted people from Russia and other former Soviet republics to move \$US3.20 billion (about \$HK25 billion) to ‘*shell*’ companies in the US between August 2002 and September 2003.

It was discovered that the Chicago and New York branches of ABN Amro participated in wire transfers and trade transactions from 1997 to 2004, all of which violated economic sanctions with Libya and Iran.

The US Government discovered that ABN Amro’s branch in Dubai, The United Arab Emirates, falsified various payments, processed at branches in the US, in order to hide the involvement of **Bank Melli Iran**, an Iran-Government bank, and **The Arab Bank for Investment and Foreign Trade**, which is partially owned by the Libyan Government.

This bank, it appears, did not learn the lesson of December 2005 because, in May of 2010, it was hit, once again, this time with what amounted to a fine of \$US500 million (about \$HK3.90 billion).

By May of 2010, ABN Amro had undergone somewhat of a transformation and the newly organised bank had been renamed **The Royal Bank of Scotland N.V.**

The new bank's name, however, did not stop the US Government from charging it with the claim of conspiracy to defraud it.

It was alleged that the bank had violated the International Emergency Economic Powers Act and, also, The Trading with The Enemy Act and, in addition, it had acted contrary to The Bank Secrecy Act.

It was proved that the bank had '*facilitated the movement of illegal money through the U.S. financial system by stripping information from transactions and turning a blind eye to its compliance obligations*', according to Assistant Attorney-General Lanny A. Breurer.

Lloyds TSB Bank plc was another bank that got caught by the US authorities on money-laundering charges.

In October 2007, the US Attorney's Office in Manhattan, New York, filed charges against Lloyds TSB Bank and **The Bank of Cyprus PCL** in respect of money-laundering and securities fraud.

It was alleged that the banks permitted Mr Lycourgos Kyprianou, the former Chairman of AremisSoft Corporation, to launder money, derived from a securities fraud.

AremisSoft Corporation was a company, formerly listed on The NASDAQ. It filed for bankruptcy almost as soon as allegations were made by US authorities of insider trading on a massive scale.

Lloyds TSB Bank and The Bank of Cyprus were said to have assisted Mr Kyprianou to launder the proceeds of the AremisSoft fraud through numerous accounts that he beneficially owned and/or controlled.

The US Attorney-General was seeking civil penalties in the amount of \$US130 million (about \$HK1.01 billion) from Lloyds TSB Bank, and \$US162 million (about \$HK1.26 billion) from The Bank of Cyprus.

In January of 2009, Lloyds TSB Bank plc was, once again, in the news when it agreed to pay \$US350 million (about \$HK2.73 billion) to the US Government for assisting US customers to circumvent US Government sanctions in dealing with Libya, Sudan and Iran.

The US Department of Justice alleged, in this case, that Lloyds TSB Bank falsified wire transfers, involving countries or individuals on the US sanctions' list. This practice dated back to 1995.

It was proven that Lloyds TSB Bank removed customer information so that transfers of money would pass undetected through sanction-focused filters at US banks, thus violating Federal Laws, aimed at starving terrorists of money in certain countries.

Manhattan District Attorney Robert Morgenthau explained:

'The Iranian banks have money on deposit in London with Lloyds. They were having Lloyds send the money to the US and beyond and stripping the identification (of the beneficial sender of the funds).'

And, In The Year of The Snake

With only two months, having elapsed in The Year of The Snake, a total of not less than six banks have been forced to agree to pay fines with regard to past actions.

Bank of America Corporation agreed, in early January, to pay \$US11.60 billion (about \$HK90.50 billion) to the US Government in respect of the settlement of mortgage claims.

Bank of America is the second-largest bank in the US by assets and the fifth-largest company in the US in terms of total revenue, per annum.

Fannie Mae, which provides mortgage credit in the US, alleged that Bank of America was responsible for the losses that it incurred.

About one month later, The Federal Reserve announced that it had reached an agreement with five US banks on penalties, totalling \$US766.50 million (about \$HK5.89 billion).

The five banks and the amount of penalties that each bank had to pay were as follows:

Bank of America Corporation	\$US175.50 million (about \$HK1.37 billion)
Citigroup Incorporated	\$US22 million (about \$HK171.60 million)
JPMorgan Chase and Company	\$US275 million (about \$HK2.15 billion)
Wells Fargo and Company	\$US87 million (about \$HK678.60 million)
Ally Financial Incorporated	\$US207 million (about \$HK1.61 billion)

Then, in the first week of February, it was announced that **The Royal Bank of Scotland Group plc** was fined \$US612 million (about \$HK4.77 billion) in respect of manipulating Interbank Lending Rates.

The fines will be paid to regulators in the UK and the US.

More than one dozen traders in the offices of The Royal Bank of Scotland at London, Singapore and Tokyo were said to have been involved in the manipulation of The London Interbank Offered Rates between 2006 and 2010.

Lastly, last September, HSBC Holdings plc, in its submission to the members of The Banking Commission of the United Kingdom, warned that wholesale banking businesses could leave the UK if London's reputation is not restored.

HSBC said, inter alia:

'There is, also, a risk of some UK-headquartered companies, following the move ... to those competing centres ... Sector capital allocation to the UK is at risk of being diverted to other banking markets if current issues are not expeditiously addressed.'

The bank, also, said that it feared that costs of banking scandals, such as LIBOR-rigging, interest-rate swap, mis-selling, and money-laundering and dealing with suspected drug merchants could see investors, pulling out their capital from British banks over fears of new losses.

HSBC had warned, in the past, that it would consider relocating from London if the cost of remaining in the UK was too high.

Aside from the fact that it has been the banks and its managements that indulged in criminal and/or negligent activities, thus forcing the hands of regulators in the US and Europe to try to clean up the mess in the wake of numerous international scandals, one might like to ponder whether or not HSBC was sending a veiled warning to The Banking Commission along the lines:

*'Stop looking closely at our affairs. Leave banking to us, hard-nosed bankers.
Piss off! Or suffer the consequences!'*

Or is **TARGET**, being too harsh on the hard-working gentlemen of financial institutions whose reputations are, all, squeaky clean? One, also, has to ask:

Are shareholders and/or bank customers, today, having to pay the piper for their banks' greedy actions or criminal acts of yesteryear and, perhaps, to this day?

The following is **TARGET**'s summation of its survey, which, while it is far from being comprehensive, it does give a strong indication of the amount of money that has been paid by stupid, negligent and/or crooked

managements of below-mentioned banks and financial institutions as well as quasi banks that have indulged in criminal activities over the past eight years or so:

Date	Name of the Financial Institutions	Fines/Penalties	
		\$US	\$HK
2/2013	UBS AG	14.80 million	115.44 million
2/2013	The Royal Bank of Scotland Group plc	612.00 million	4.77 billion
1/2013	Bank of America Corporation	11.60 billion	90.50 billion
1/2013	Wegelin and Company	57.80 million	451.00 million
12/2012	Standard Chartered Bank plc	327.00 million	2.55 billion
12/2012	UBS AG	1.50 billion	11.70 billion
11/2012	HSBC Holdings plc	1.92 billion	15.00 billion
11/2012	Barclays plc	470.00 million	3.67 billion
11/2012	JPMorgan Chase and Company	296.90 million	2.32 billion
11/2012	Credit Suisse Group AG	120.00 million	936.00 million
8/2012	Standard Chartered Bank plc	340.00 million	2.65 billion
8/2012	Wells Fargo and Company	6.50 million	51.00 million
7/2012	Wells Fargo and Company	175.00 million	1.37 billion
6/2012	Barclays plc	£290.00 million	3.54 billion
6/2012	The ING Group	619.00 million	4.83 billion
2/2012	Bank of America Corporation	175.50 million	1.37 billion
2/2012	Citigroup Incorporated	22.00 million	171.60 million
2/2012	JPMorgan Chase and Company	275.00 million	2.15 billion

2/2012	Wells Fargo and Company	87.00 million	678.60 million
2/2012	Ally Financial Incorporated	207.00 million	1.61 billion
5/2010	ABN Amro Bank NV (Name changed to The Royal Bank of Scotland NV)	500.00 million	3.90 billion
1/2009	Lloyds TSB Bank plc	350.00 million	2.73 billion
10/2007	Lloyds TSB Bank plc	130.00 million	1.01 billion
10/2007	The Bank of Cyprus PCL	162.00 million	1.26 billion
12/2005	ABN Amro Bank NV	80.00 million	624.00 million
TOTALS:		About 20,493,653,846	About 157,807,644,000

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