Conduct Top-Down and All-Around

Tan Sri Dato' Dr Mohd Munir Abdul Majid

Chairman, Financial Services Professional Board (FSPB), shares his vision for an ethical future for financial services.

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In this article **Tan Sri Dato' Dr Mohd Munir Abdul Majid**, Chairman, Financial Services Professional Board (FSPB), talks about financial institutions having a duty to adhere to sound business conduct based on good ethical standards in line with regulations and laws. Beyond good enforcement and explicit codes financial institutions need help to internalise professional conduct.

We are seeing populist movements in different countries rising up against the political and financial establishment, most notably the vote for Brexit in the UK and for Donald Trump's election as the 45th President of the United States.

Too generally seen as a demonstration against globalisation, this can also be seen as a reaction by the marginalised against the powerful elite who are seen to benefit from an infrastructure of privilege and a different set of rules.

I dare say the same kind of sentiment is to be found in the financial services industry. In a survey commissioned by the Financial Services Professional Board (FSPB), an industry-styled initiative launched by Bank Negara Malaysia and the Securities Commission Malaysia to develop a strong culture of professionalism and ethics across the financial

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services industry, there was a response of scepticism about codes of ethics and conduct which are seen as not being adhered to by those at the top.

A study by IDEAS (Institute for Democracy and Economic Affairs) on Whistleblowing in Malaysia established that only 0.3 per cent of cases reported to the Malaysian Anti-Corruption Commission (MACC) are submitted by whistleblowers. One of the main reasons identified was the lack of legal protection against retribution by the powerful.

There does therefore seem to be a fair amount of apathy towards some of the codes of ethics and conduct which are not followed by or do not seem to apply to those at the top and, at the same time, a fear of landing in trouble if something is done about it as, under the infrastructure of privilege, the rules are deemed to be applied discriminately.

This is the kind of tension that can result in potentially calamitous outcomes – as arguably can be seen from the Brexit vote and the Trump election. In a financial institution, a deepening gulf between top leadership and those below will at best result in sub-optimal performance because resentment does not encourage commitment and efficiency.

At its worst there can be labour and union strive. A good part of top management's time could be taken up by firefighting and human resource problems.

If nothing else, the utilitarian case for good ethics and conduct – right across a financial institution – should move the board, top management and all members of staff to work together to have a well-functioning and ethical organisation for everyone's good.

This was what moved Lee Kuan Yew to fashion a Singapore which works, where corruption is not tolerated and the rules and laws are applied top-to-bottom without fear or favour. It was a behaviourist approach based on effective enforcement. This is the best approach because all other ways will take a long time.

So there is no alternative to uniformly-applied rules, regulations and laws. This is the challenge to regulators. Yes, they need good information to work on – but they will only get it if those providing the information are protected.

A structure of accountability that is asymmetrical, institutional top-down decision-making which is not transparent and a climate of fear – these are all conditions which will not result in good information coming forth.

Of course, beyond the deterrence of good enforcement, if most of the time is taken up dealing with violations, it would mean the whole system is not working. Financial institutions exist to conduct business and to make a profit, so good ethics and good conduct must prevail if organisations do not want to waste shareholder capital on scandals and investigations.

Thus, top-down and bottom-up, they have a duty to adhere to sound business conduct based on good ethical standards in agreement with the rules, regulations and laws.

It is not a desirable situation if all the time is taken up enforcing rules and laws, and if – assuming there is protection for the whistleblower – accusatory fingers are ceaselessly pointed at some boss for his or her misdeeds. That would mean the whole system is not working. There must be initiatives taken to help financial institutions help themselves to secure a level of conduct and professionalism which is for their own good.

What I envisage for FSPB, once the codes of ethics and conduct are established, is work on two matters which would assist financial institutions in gaining adherence to the codes even as they strive to prosper in their businesses.

First, an internalisation handbook to help financial institutions develop human resources cognisant of the need for and the value of ethical professional conduct. We are not talking of lessons in morality but of value being attached to such conduct in performance appraisal.

There is no reason why such appraisals by the heads of risk, compliance and audit cannot take place separately from that undertaken by the head of department. The CEO can also be evaluated by the relevant board committees with independent input from risk, compliance and audit.

The board itself, as part of the peer review process, should reserve a column for measurement of individual

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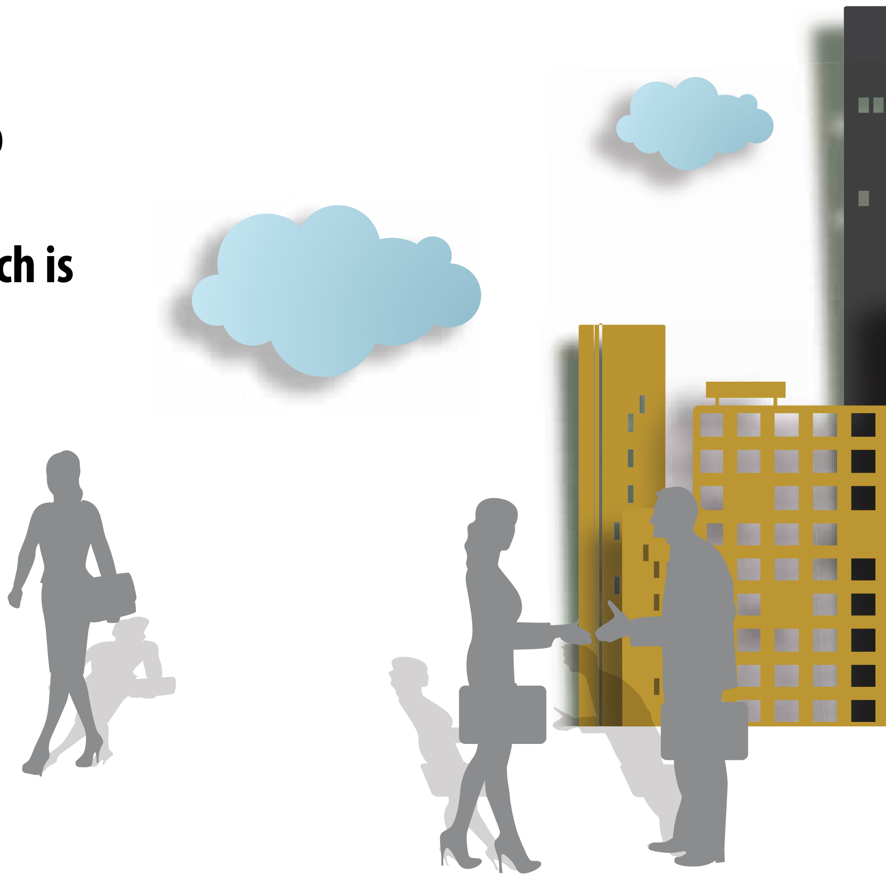

directors against ethical and professional conduct. The chairman of the board should initiate a discussion on how the organisation has performed against codes of ethics and conduct, at least a couple of times a year.

A more serious and better structured conduct review process would breathe life into the many drafts of the different codes that exist. At the same time, FSPB should run workshops and publish the deliberations on case studies to highlight conduct failures and corporate disasters.

For example, a workshop on what went wrong at Enron might draw attention to the series of questionable relationships internally and with external parties which condemned the company to bankruptcy. The causes of the Western financial crisis in 2008 or the Asian financial crisis of 1997-98 could be dramatised to remind us greed, lack of transparency and poor corporate governance can shatter a whole system and its most venerable institutions.

The point is FSPB, and other initiatives, once they have issued codes of ethics and conduct must give life to what they are meant to be and what they are all about.

Second, FSPB can truly add value by anticipating issues that may arise in the future from the digitalisation of finance. The multiplication of practitioners that this brings and the speed with which transactions are made have to be examined in the context of conduct and standards and protection of the customer. In many senses this is a space that has to be watched for its enormous promise and its great risks.

The development of guidance notes in the digital environment is something that can be usefully undertaken as an industry-driven exercise to achieve a balanced approach even as regulators themselves grapple with this new frontier in finance.

Issues pertaining to good ethical practices and professional conduct should be addressed in the round and without complacency. Regulators have their defined role. Individual financial institutions have a clear responsibility. Bodies such as FSPB have to work with the industry to come up with ways and means to make such practices and conduct a matter of course.

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