

**A NEW PARADIGM FOR  
INTERNATIONAL FINANCIAL  
REGULATION: TOWARDS A HELSINKI  
CONSENSUS?**

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# **I.1 – THE 6 LESSONS TO BE LEARNT FROM THE ANALYSIS OF MAJOR FINANCIAL COLLAPSES 2007-2010**

## **5 MAJOR COLLAPSES:**

**-NORTHERN ROCK**

**-THE ROYAL BANK OF SCOTLAND**

**-LEHMAN BROTHERS**

**-THE ANGLO IRISH BANK**

**-ALLIED BANK**

# I.1 –THE 6 LESSONS TO BE LEARNT FROM THE ANALYSIS OF MAJOR FINANCIAL COLLAPSES 2007-2010

6 INGREDIENTS **ALWAYS** PRESENT IN THESE COLLAPSES:

- A POWER-HUNGRY & AUTHORITARIAN LEADER
- A FAILING OF THE INTERNAL GOVERNANCE
- AN ALMOST UNLIMITED ACCESS TO CHEAP SHORT-TERM FUNDING
- MASSIVE INVESTMENTS IN A THEORETICALLY SAFE AND LIQUID REAL ESTATE-BASED INVESTMENT
- AN UNREALISTIC VALUATION OF THE ASSETS
- THE NONCHALANCE OF THE FINANCIAL REGULATORS

## 1.2 REACTING EFFECTIVELY AT FIRST

- The central banks and governments acted relatively efficiently in handling the crisis at first
- However, afterwards the legislators acted too emotionally and too politically in limiting the freedom of the financial institutions and the freedom of the markets

# I.2 BUT OVERREGULATING THE ACTORS AFTERWARDS

The excessive political reactions towards the actors meant notably for them:

- many constraints, adopted too quickly for the capital of the banks (Basel III) and the insurers (Solvency II)
- the return to a Glass-Steagall Act is not necessarily efficient: eg. the French banks
- too much paperwork to fill in

## **1.2 AND OVERREGULATING THE MARKETS**

The political reaction was no less excessive towards the markets:

- many constraints, especially for short selling and the CDS markets

## **I.3 NOTING THE 2 PILLARS OF THE FOUNDATIONS OF MODERN REGULATION OF THE FINANCIAL SPHERE**

- THE NATURE OF MAN WILL NOT CHANGE IN THE NEAR FUTURE
- THE BELIEF IN THE EMPOWERMENT OF FREE MARKETS IS NOT EQUIVALENT TO THE BELIEF IN SELF-REGULATION OF THESE MARKETS OR IN THE BELIEF OF LIGHTER REGULATION OF THE MARKETS



## **I.3 FINDING THE EPISTEMOLOGY OF MODERN REGULATION OF THE FINANCIAL SPHERE**

- THE ALMOST -TAUGHT POSITIVISM IS NOT ADAPTED TO THE UNDERSTANDING OF THE NATURE OF THE CRISIS AND OF THE NATURE OF MODERN REGULATION
- IT IS PERTINENT TO USE A CONSTRUCTIVIST PARADIGM

# I.3 THE NEW REGULATION FRAMEWORK

- 2 DIFFERENT APPROACHES:
  - FOR CORPORATE GOVERNANCE (THE INTERNAL REGULATION OF THE ACTORS)
  - FOR REGULATION OF THE FINANCIAL SPHERE GLOBALLY (THE EXTERNAL REGULATION OF THE ACTORS AND THE MARKETS)

## **II.1 – CORPORATE GOVERNANCE: JUST DO IT!**

- THE FAILURES OF THE PRACTICES OF CORPORATE GOVERNANCE ARE OBVIOUS
- THE GOOD PRACTICES OF GOVERNANCE ARE WELL-KNOWN (CADBURY CODE 1992), BUT NOT APPLIED

## **II– APPLYING AN EFFICIENT CORPORATE GOVERNANCE: JUST DO IT!**

- IMPROVING THE GOVERNANCE BY:**
  - RESHUFFLING THE BOARDS**
  - SELECTING COMPETENT BOARD MEMBERS**
  - SELECTING INDEPENDENT BOARD MEMBERS**
  - INCREASING THE POWER OF SHAREHOLDERS**

## II-2 –REGULATING THE ACTORS: A NOT TO DO LIST

- **PLEASE DO NOT:**
  - FORBID UNIVERSAL BANKS
  - RAISE EXCESSIVELY AND TOO QUICKLY THE NORM OF BANK EQUITY (BASEL III)
  - RAISE EXCESSIVELY THE NORM OF INSURANCE EQUITY (SOLVENCY II)

## **II-3 REGULATING THE MARKETS: A TO DO LIST**

- **REGULATING THE FINANCIAL MARKETS:  
TAMING NOT KILLING THE BEAST**
- **ALLOWING SHORTS AND NAKEDNESS**
- **AUTHORISING THE FULL USE OF CDS ON  
GOVERNMENT BONDS**

# CONCLUSIVE COMMENTS: THE FAILURE OF THE 2 REGULATION PARADIGMS

- THE FAILURE OF LIGHT REGULATION BASED ON THE PRE-CRISIS ANGLO-AMERICAN MODEL «*THE CABLE CONSENSUS*» WHICH PAVED THE WAY FOR THE FINANCIAL CRISIS
- THE FAILURE OF THE REGULATION FRAMEWORK IN THE MAKING BY AN EXCESS OF REGULATION «*THE CURRENT OFFICIAL CONSENSUS*»

# **CONCLUSIVE COMMENTS: NEW PRINCIPLES TO BE FORGED**

- **ADOPTING CLEVER REGULATION AS OPPOSED TO HEAVIER REGULATION**
- **LIMITING THE ADMINISTRATIVE BURDEN OF THE FINANCIAL INSTITUTIONS**
- **USING PRINCIPLES NOT BOX-TICKING**



# **CONCLUSIVE COMMENTS: TAMING LEVIATHAN**

- **LIMITING THE ROLE OF BIG GOVERNMENT**
- **BY A STRICT CONTROL OF THEIR EXPENSES**

# CONCLUSIVE COMMENTS: THE CENTRAL ROLE OF CENTRAL BANKS

- EXPANDING THE ROLE OF CENTRAL BANKS
  - It might become the role of central bankers to receive a clear objective to burst also assets' bubbles and not only consumption inflation
  - The ideal regulator has to be competent, independent and answerable to the people's representatives

# CONCLUSIVE COMMENTS

- PRINCIPLES NOT RULES
- *EST MODUS IN REBUS*