Ethics, Values & the Compliance Paradigm: A Perspective from Andrew Chow

Andrew Chow is a legal, compliance and tech practitioner who is currently with BNP Paribas. He offered delegates a personal, detailed and insightful talk at the Hubbis Compliance in Asian Wealth Management Forum 2020, armed also with an immensely detailed slide presentation. His talk covered how conduct initiatives have altered the compliance paradigm, why regulators see conduct as imperative, including the latest ethical requirements set out in the MAS' FEAT Principles, and how conduct programs should be approached and developed. Above all, he implored the wealth management attendees to act with the correct ethical values throughout their days in the industry.

CHOW BEGAN BY REMARKING THAT ALL COMMENTS IN HIS TALK REFLECTED HIS PERSONAL VIEWS and not the views of any others. "My session today," he reported, "is about conduct, understanding ethics and setting standards."

With that, he began with the remarks of William Dudley, then the President of the New York Federal Reserve Bank, in October 2014, who said that improving culture in the financial services industry was imperative not only in order to ensure financial stability over time, but also to ensure public trust in the financial system.

Culture, Dudley said, is essential as it represents the implicit norms that guide behaviour in the absence of regulations. "When you talk about organisational integrity," he elaborated, "it's about self-governance and having a set of principles. And that is why Chow remarked that this constituted a paradigm shift, simply because it is not simply about compliance, nor about meeting rules and regulations, it was really about attitude."

He highlighted this as the reason why the G30, a group of leading global banks came out with their banking conduct and

ANDREW CHOW
Formerly at BNP Paribas

Link to Presentation
Link to Article on website
Link to Event Homepage

culture paper, back in 2015. "They focus on how we actually set conduct principles in place and how to achieve those goals," he reported. "In short, the focus on core values and conduct creates the right culture. Core values are deeply engraved principles that guide all the actions, they are cultural components. But as we saw from Enron, you might espouse the best values, but if you don't fully embed them culturally within the firm, they are going to be worthless. So, the banks say it is not simply the tone from the top, it is an echo from the bottom as well."

He noted that the G30 opined again in 2018 to push for a clear and rapid response shift to these issues, to drive for the inculcation of the right culture and ethics throughout banks and firms at large. "In one financial organisation that I worked with we had this discussion about who owns conduct, and everyone believed that compliance owned it. In reality, conduct is owned by the whole organisation, led by senior management."

This is because while compliance is rooted in avoiding legal sanctions, organisational integrity is based on the concept of self-governance in accordance with a set of guiding principles. From the perspective integrity, the task of ethics management is to define and give life to an organisation's guiding value, to create an environment that supports ethically sound behaviour, and to instil a sense of shared accountability among employees.

The G30 banks also offered a broad set of 12 recommendations that are especially relevant for financial sector intermediaries, including the need to define the desired culture, specify their cultural aspirations through a robust set of principles, and fashion and create mechanisms that deliver high standards of values and associated conduct consistent with the firm's purpose and broader role in society. "Core values," Chow reiterated, "are the deeply ingrained principles that guide all of an enterprise's actions, serving as its cultural cornerstones, they can never be compromised, either for convenience or short-term economic gain," quoting various management articles from Harvard Business Review.

Chow moved on to focus on a rather more daunting topic, namely the arrival of the Hong Kong and Singapore guidelines and future regulations on individual accountability, in the form of the 2017 Hong Kong Manager-in-Charge (MIC) regime and Singapore's forthcoming Monetary Authority of Singapore Guidelines on Individual Accountability and Conduct (IAC Guidelines).

"These are somewhat scary, I will admit," Chow told delegates, "as they involve personal liability on the part of senior managers, not just in the business lines but also in compliance, risk and operations." And he then highlighted the 5 outcomes by which the MAS will measure everyone. In addition, in late 2018, MAS published the Principles to Promote Fairness, Ethics, Accountability and Transparency (FEAT) covering the Use of Artificial Intelligence and Data Analytics in Singapore's financial sector.

"Most of you here today working in Singapore's financial sector have already actually been subject to the MAS thematic inspection on wealth management for transaction monitoring in relation to AML/CFT. FEAT adds a layer relating to ethics, to ensure that people in the banks and financial institutions operate in line with their firm's ethical standards, and governance and compliance relating to digital technology. The most important for bankers is that we all need to be aware of these prescriptive requirements, failing which we become individually accountable," he said.

He then moved on to explain that ethical behaviour must encompass all actions, even where there are no defined rules. For example, the LIBOR investigation that the UK serious fraud office only closed in 2019 after a seven-year investigation related to self-governance of the rate setting process by the British Bankers Association, which had no specific regulations around the collusion which was endemic to the previous process.

"I was external counsel during the LIBOR, SIBOR, SOR and NDF investigations, and my firm had represented some global banks," Chow told the audience. "Well, the reality is that the behaviour was unacceptable from an ethical perspective."

He then warned the delegates against making bad decisions and thinking they would never be found out. He pointed to the 1Malaysia Development Berhad (1MDB) scandal and a ruling in January 2017 in Singapore that a Swiss national, a former branch manager of Falcon Private Bank in Singapore was sentenced to jail and received a hefty fine for his non-compliance with AML rules, in short for failing to flag suspicious transactions related to the movement of almost USD1.3 billion of funds relating to 1MDB. Chow's message was that no matter how big the fish involved in these situations, there is always a major risk that the truth of these activities will come out and will result in very unpleasant penalties.

Chow also pointed to the use by MAS today of augmented intelligence to actually try and find out if you are manipulating the market and using data analytics to look at any firm's transaction monitoring. "When you as a bank look at transaction monitoring you are looking at your own transactions," he remarked, "but the MAS now has the capability to combine everybody's flows and whether there are potential issues which were missed. Technology is driving immense change as MAS seeks to better protect investors and uphold market integrity."

He closed his talk by reference to the Johnson & Johnson 'Tylenol' recall crisis of 1982, noting that the company's rapid recall was the right way to behave in the face of substantive problems impacting their customers. "That was the very first recall we know of and is now used as the platinum standard in business management. It lost them a lot of money at the time, but it won them many plaudits for their responsibility to all the stakeholders of the business. Without the shared values and principles set out in their Credo drafted in 1937 applied by all employees at every level, they wouldn't have achieved that outcome. And with that wonderful example, I close my talk today." ■