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How important are the regulation and supervision authorities in economic society? The new Ethics Chain of Value

Abstract

The bankruptcy of the fourth biggest investment bank of the United States which invested on the so called market of sub-prime loan, was provoked by bank assets sustained on mortgage title values of a much lower real market value than the originally estimated, what undermined investors confidence and the institution saw its shares value fell more than 95% over the last year. The serious problems of spreading seen in other financial institutions around the world and in economical and social structure of several countries, for instance, in Iceland, are the factual example that in a society each time more world spreaded, the lack of ethical and conduct principles and the absence of a strong social responsabilization of individual and corporational, public and private entities can cause the fall of the entire social and economical structure of corporations, regions, countries and continents. Portugal, in particular, has not been immune from all these questions. This article intends to analyze the role and importance that some Portuguese official entities of regulation and supervision of economic and financial activities give with regard to ethical, deontological and social responsibility issues, regarding principles and rules which they seek to ensure the effective achievement of the diverse entities under their jurisdiction, authority and regulation.

Keywords: ethics, supervision, regulation, social responsibility.

JEL Classification: A13, D41, D63, G38, K29, M14.

Introduction

Knowing that present Economy is sustained on the information, and realizing that knowledge is the component that moves economic actions and decisions on which the information presents itself as the principal productive factor, it is easy to apprehend how important are ethical issues in a professional and organizational context. The professionals, information and knowledge workers, by the access they possess to the sources and by the possibility of handling those sources of information, should be ad strained to the achievement of ethical principles which are essential to make activities trustworthy.

Portugal, in particular, has not been immune from all these questions. The most mediatic cases related to the Portuguese banking and financial sector, coming undoubtedly from strategical patterns and principles of business management supported at a discutable social responsibility and at a supposed absence of ethical and professional deontological principles, have taken the governmental authorities and the official regulator agents to apply strong measures in order to fight the serious problems brought up at the correspondent institutions, in attempt to avoid their collapse or uncontrolled consequences to national economy, shareholders, and in particular those who amount their savings.

The nationalization and reformulation of the entire administrative structure of a specific bank have been promoted and six executive directors of another financial institution have been preventively

suspended for an alleged account falsification, and a huge investigation process was promoted, simultaneously, by the regulation entity of Portuguese banking and financial sector (Bank of Portugal), by the Portuguese Parliament through a Commission of Inquire ad hoc, besides civil and criminal investigations conducted by Portuguese judicial entities.

Some of the authors have tried, since 2003, to make a diagnose on the ethical questions related to the teaching of enterprise and business management sciences and their applications throughout the economical, labor, and corporational/enterprise world/realities and in Portuguese society development.

Having previous studies focused on different areas related between themselves in the global ethical context, starting at higher education area of enterprise and business management sciences and the importance of professional associations and orders recognized on professional activities regulation context, and going through the relevance that's been given by employer organizations and selection and recruitment entities of corporations' superior staff personnel to selective questions related to ethical and social responsibility patterns, it wouldn't have been possible to conduct a further and deeper analysis if the main Portuguese entities that supervise and regulate economic, financial and corporational activities weren't analyzed.

1. Study objectives

Continuing the previous investigations on this subject, the present work's object is to analyze some of the entities that, officially, in Portugal, are

entrusted with functions of economic, financial and market regulation and supervision. Therefore, the following institutions will be examined: Bank of Portugal (BdP), Securities Market Commission (CMVM) and Competition Authority (AdC). It will be appropriate to find out and to inquire into the importance of those entities for ethical, moral and social responsibility issues, in their internal side at their operating structure through the multiple demands of the several agents under their supervision, and in their external side through the respective statutory and normative structures and throughout the existing ethical and behavioral codes.

As a consequence of the present study, the hypothesis is set of reformulation of the Ethics Chain of Values elaborated by some authors (Anunciação et al., 2007), through the introduction of those regulation and supervision entities as an essential element in the pursuing and development of the frame of each one of the positioning.

2. Methodological approach

We applied the inductive method which adopts a set of systematic and rational activities. Analyzing a group of particular data and evidences was enough to disclose a general truth not contained in the examined parts, the existence of an ethics chain of value.

The authors looked for conclusions with higher content than the premises that had given origin to it, supported in previous studies made by the same.

Knowing that the premises, which support a correct inductive argument, sustain or attribute credibility to its conclusions, therefore we are sure of the truth of conclusions taken in this study.

We used the Grounded Theory sustained by Strauss (1989) and Strauss and Corbin (1990, 1994). This inductive theory appeals to a flexible qualitative and interpretative methodology, looking in working practices, documents, activities and contexts, the data collection and their analysis.

We selected study cases, aiming at the adoption of a Professional Work Practice Approach (Iivari, Hirschheim and Klein, 1998; Yin, 2003), which enhanced its importance for the understanding of the general trends and the practical or concrete and detailed actions of investigation, in view of the possibility of influencing the developed organizational practices.

The present study's structure, which has an empirical nature in terms of the information scheme, documents and functional and organizational structures of the entities analyzed, although the organizing limitations, due to the fact that the

frontiers and analysis context couldn't be found entirely defined yet, can assume a representative and demonstrative nature, and also it can show us the typical behavior of a larger set of entities with the same functions and characteristics, and assume an informative and advisable role on the present theme (Yin, 2003).

It is a methodology that allows us to put together several sources of information in a quantitative and qualitative way. It also allows us to perform transversal and longitudinal analyses, assuming simultaneously descriptive, explanatory and predicative characteristics, making possible important theoretical approaches on the subject (Pérez Aguilar, 2004).

On the ground of our previous studies and being based upon several sources of information (Sarabia Sánchez, 2004), we intend to inquire, understand and update the concepts of Ethics, ethical principles, behavior codes or patterns and social responsibility, as well as their pragmatic execution, practicability and effects on social, economical and corporational realities.

3. Previous studies framing

In 2003, some of the authors have begun to analyze the importance of ethical, deontological and behavior codes, as management and organizational instruments, pursuing an investigation on a Code of Expectations and Behavior, made by the students of School of Management Sciences from the Polytechnic Institute of Setúbal (Santos and Anunciação, 2003), taken as a role model for any college institution of ethical principles and values, facing regional and national society. It was also taken for a lesson of pragmatism concerning the deontological aspect of Ethics, on what it is referred to the diligence that an ethical and cultural process must put in an organization.

In 2004, due to the necessities and conditions imposed by ethical and deontological codes, which were approved and overseen by several professional orders and associations – which are entitled with the power to authorize or to deny a certain profession, can or cannot be apprehended by a specific graduated person entering that area's employment market – some of the officially qualified entities with these functions were analyzed (Loureiro et al., 2004). These associations connected to the State, by defining and applying those professional and ethic codes, seek to secure the execution of a set of principles essential for dignifying the practice of such professions. Also, they allow to reduce the existing differences between the multiple patterns of personal references, by guiding the professional workers activity, all linked together by general

principles of behavior and human conduct regarding competence, confidentiality, integrity and objectivity, among others, essential to perform their own professions.

As the existence of specific formation of professional Ethics and Deontology is one of the categorical and imperative conditions, in order for recently graduated college students to gain access to some of the professions – which, as we already know, must be previously authorized by public professional orders and associations, it was verified that in Portuguese Universities, namely in the area of Enterprise and Business Management Sciences, only 25% of the total courses and 31% of educational institutions included a discipline or a seminar (obligatory) about Ethics or Deontology in their 2003/2004 curricular official planning.

In 2007, the analysis was made which was similar to that performed in 2004. The analysis focused on the specific learning formation on Ethics and Professional Deontology at Higher Education, regarding curricular changes occurred when Bologna Higher Education Reform was implemented in Portugal and the consequent courses structural readjustment was made (Anunciação and Santos, 2007).

In 2009 the first approach was made to the hypothesis of reformulation of the original Ethics Chain of Values set in 2007 by some of the authors, studying the introduction of regulation and supervision entities as its essential element (Anunciação et al., 2009).

4. Present study originality and approach

Society and Economics are built up upon a close cooperation between their respective agents that are based upon a correlation of trust. This trust, which makes easier present and future cooperations towards non-related tasks (Prusak and Cohen, 2001), justifies the relevance of Ethics theme as the watchword of proper closure of all the transactions between the respective social and economic agents.

Considering Ethics centrality as the fundamental element that ensures economic and social harmony, its collective dimension shows itself everytime someone, while pursuing his goals or purposes, hinders or gets in the way of others inhibiting them to reach their own goals and purposes (Mason et al., 2000).

If it is normal to find *consensus* as to the necessity of ethical principles and values to guide professional practices in economic and social contexts, we cannot always reach that same agreement when we confront

individual opinions concerning the principles that should guide some practices or lead the decisions taken at professional practice (Anunciação et al., 2005). It is therefore natural that many organizations seek to introduce in their respective cultures some mechanisms which can influence their members (Ming and Chia, 2005) and assume their role as ethical agents within their economic activities, through “show off” ethical or behavior mechanisms or instruments (*exempli gratia*, codes), which can guarantee a fairer and more balanced social, economic and organizational development (Grupe et al., 2002).

Ethics and Social Responsibility should be encouraged, stimulated and taught in order to enlighten the higher value existing in the practice of proper behaviors and actions coming from the principles, which are collectively understood as ideals towards the harmony of this communitarian and collective system. This stimulus and teaching are made at several dimensions and levels (five of them) which integrate different participants and interveners, amongst which an interaction and complementation are established essential to human balance which is necessary to professional activities practice: the personal side, which consists of the first approach to Ethics perception and comprehension, deeply influenced by family, friends, culture, amongst other factors; the professional side, emphasizing collectively incorporated values and principles by the professionals, guiding behaviors and responsibilities; the organizational side, including ethical culture of employer organizations, carried and brought on to ethic codes or incarnated in a moral and collective organizational conscience teaching; economic and social sides, which correspond to society and market ethical values and principles that guide the economic and social activities of their several agents.

Considering that Ethics is a universal and collective phenomenon, and that it has no barriers whatsoever on culture, race, beliefs, creed or religion, and is frequently influenced by the institutions we contact and interact with, we must know which main entities are responsible for personal and ethical teaching, so that it is important to define and identify all the entities which may be part of an Ethics Chain of Value, in order to make easier each positioning framing, identifying every responsibility those entities have on their probationer or trainee’s teaching and consequently on their *modus agendi*.

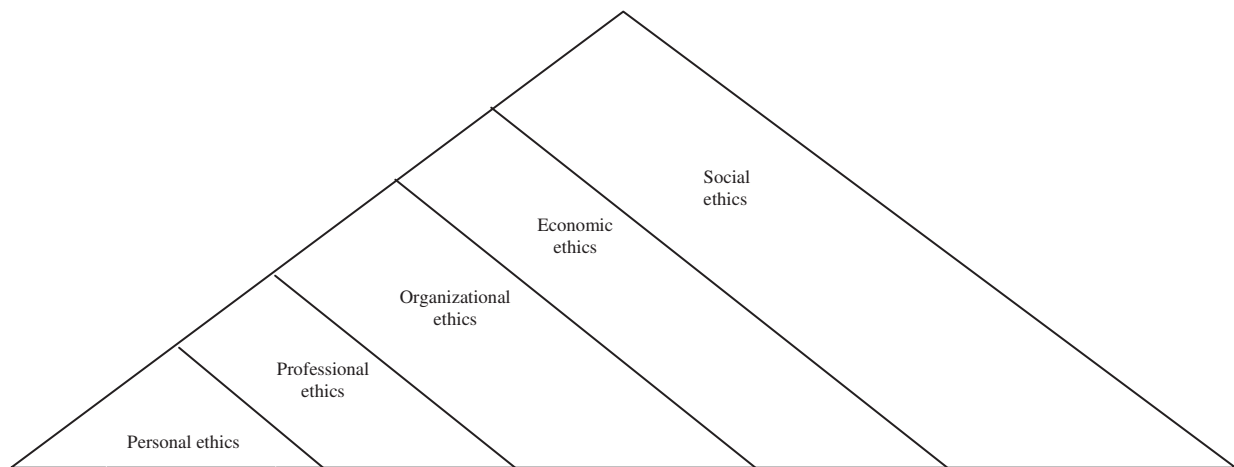


Fig. 1. Multiple ethical dimensions (Anunciação and Santos, 2007)

Considering that every person finds him/herself in a permanent process of learning and study and that this person's intelligence and abilities allow everyone to adjust his behavior, we can easily realize that each of those entities which stand in the Chain of Values has its own particular share of

responsibility, so that it has a certain specific intervention, due to its competence and performance range. Each of these entities influences the ethical set formation which comes as a role model and adapts itself according to the different roles it assumes.

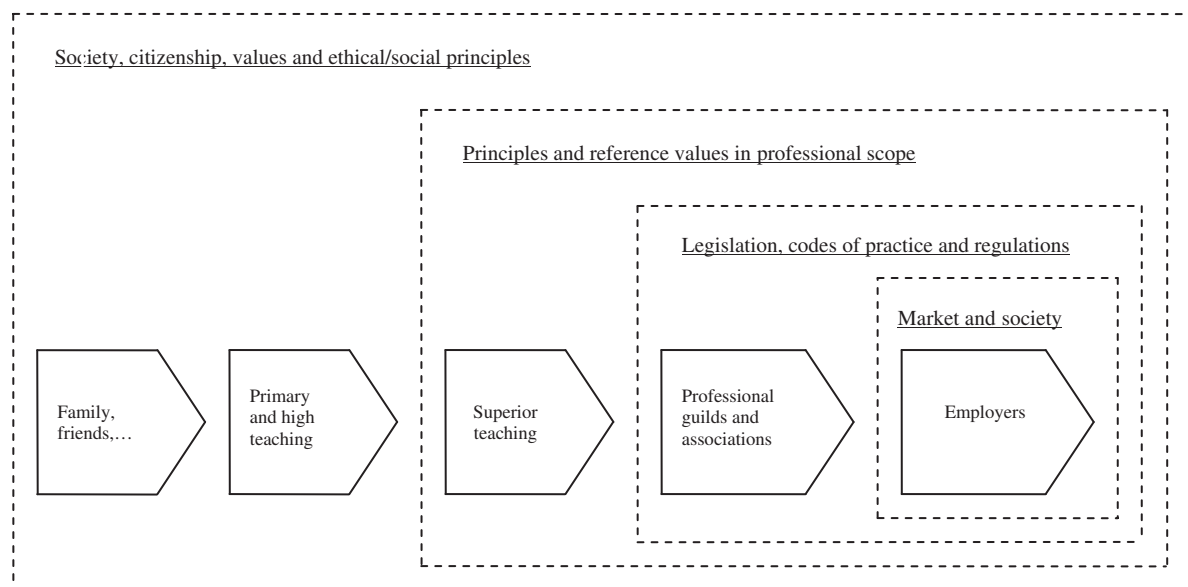


Fig. 2. Ethics Chain of Values (Anunciação and Santos, 2007)

The entities identified in some previous studies that influence and integrate Ethics Chain of Value are as follows: family and friends (who compose society's nuclear cell) and social basic element of interaction, transferring and carrying essential values and principles in order to be in harmony with society; educational institutions (primary or junior school, secondary or high school, and higher education at universities) – self-centered and oriented *per se* to a formal and scientific teaching, highly restraining their students way of being and interacting as future professionals; professional public orders – monopolizing who can or who cannot practice a specific profession, looking out for professions practice, observing diligently professional behavior of their associate members and dignifying the

profession and professionals as well; the employer corporations or organizations – who seek to influence, through their socially accepted culture, the moral principles of their employees.

It is therefore natural that Ethics in those corporations that adopt it publicly is understood and felt as a functional strategy in a moral context, whose value system will necessarily reflect in the society and in the economy. Besides, it will always be seen as an instrument that is able to criticize the internal behavior and an organization's culture, allowing us to survey and harmonize the connection between participants' values and the organization's value system (Sommerlatte, 1997).

The authors are convinced that Ethics Chain of Values will not end on the employers and need to integrate the economic and market regulation and supervision authorities. By their nature, they possess their own missions with a strong ethical character, regarding their role as “judges of credibility” of the markets and the institutions inside them.

Knowing that the importance given by our society to Ethics professional and organizational questions is, mainly, a reaction to the lack of Ethics that’s been generally felt in the respective professional activities (Argandona, 1997), the regulation and supervision authorities are the main references of confidence and credibility of all the system functioning.

Nevertheless, felt inside the community is the necessity to develop and implement or apply ethical behavior organizational policies. These policies should include a wide set of conditions and guidances, at an internal level between the different components which form the organizations, and at an external level of the connections made with institutions, governments, suppliers, clients and with the society in general, dignifying the profession and its professionals, growing up a common sense of Ethics and Responsibility (Middlestadt et al., 1997).

The ethical challenge, at an organizing level, lies in the harmonization of the ethical and professional values and principles set with a supra individual framing, in order to arrange and guide behaviors, actions, attitudes and decisions.

5. Study of regulation and supervision entities

5.1. Bank of Portugal. Bank of Portugal (BdP) has been founded by a King’s decree on November 19th, 1846, having, in its early stages, been essentially a commercial and a money emission bank (Banco de Portugal, 2007). After its public incorporation in State’s patrimony, with its nationalization, in September 1974, its functions and legal statutes were redefined by an organic statutory law dated from November 15th, 1975, that gave it the legal status of the main and central Portuguese bank, starting for the first time banking supervision functions. After Portugal entrance in European Community, in 1986, BdP has assumed important responsibilities in monetary and credit controlling areas and in monetary markets organization and regulation. The bank’s management and administration were made in the context of significant autonomy towards Government, although it meant bigger responsibilities regarding bank’s accountancy and transparency of all its activities.

Because of the increasing integration in the European markets, BdP functions come closer to those of all the others European central banks, so

that since June 1st, 1998 it was integrated in the European System of Central Banks (ESBC).

In terms of BdP organic law statutes¹, to maintain the stability and solidity of the financial system in order that we can assure its working efficiency and the deposit accounts safety, as well as the protection of financial services clients against losses which can result from a ruinous and bad management, of fraud and financial services bankruptcy, BdP has been committed to make the supervision of credit institutions (banks, factoring corporations, leasing companies, investment firms, and similar entities), financial corporations (stockbrokers, brokerage firms, exchange and financial mediator firms, management fund investment societies, patrimonial management societies, companies that emit and manage credit cards, regional development societies, societies dealing with capital of risk, societies that administer group purchases, exchange agencies) and management corporations of societary participations, when they are under control of one or more credit institutions or financial corporations, or when its social participation “wallet” is superior to 50% in this kind of firms.

BdP investes in the legal power to authorize the constitutive acts of every credit institution and financial corporations in those cases where the decision is determined exclusively by technical and prudence criteria, avoiding the entrance of some institutions into the market that could, for several reasons (*verbi gratia*, an inadequate shareholder structure, insufficient human and technical resources, entities of questionable reputation), cause financial system instability.

It follows continuously the activities of the supervised institutions, it looks out for the observance of the rules and norms that discipline these activities, it sends out recommendations so that all detected irregularities are amended, it penalizes all infractions committed and takes extraordinary providences of staff expurgation and expulsion, basing itself upon a set of prudence rules and supervision practices (like direct inspections).

BdP supervision instruments, which have a preventive nature, aim to ensure the stability of the institutions and values that have been entrusted on them, but they cannot substitute and replace the management board and the effective internal control of the institutions and financial corporations, including the important role performed by the auditors, whether internal or external ones, who have the power to control the accomplishment of those

¹ Approved by Law No 5/98, 31st January, with the amendments introduced by the Decree-Law No 118/2001, 17th April, Decree-Law No 54/2004, 10th March and Decree-Law No 39/2007, 20th February.

minimum criteria of client and consumer information about the financial conditions practiced at the administrative services, as well as the respective risk.

Facing some eventually serious disturbances in normal conditions of an institution every day life, and in order to avoid the spreading of these situations to the rest of the system (spreading risks control), BdP can impose corrective expulsion measures. These corrective measures can be quite different depending on the dimension and seriousness of the existing problems, although, in some extreme cases, an insolvency judicial process due to bankruptcy can be triggered, having as a consequence the institution's patrimony liquidation. Every year BdP sends out a Behavior Supervision Report, synthesizing the activity of an institution regarding credit institutions and financial corporations supervision, essentially focused on banking regulation, promoting transparency and efficiency of the commercialization of financial products and services, and protecting consumers interests, accomplishing by BdP its legal obligation with regard to informing about its performance, mainly at controlling the respect of legal regulation concerning retail financial markets, making regulation norms related to BdP's legal powers and dealing with the costumers complaints against credit institutions.

BdP rules itself through a Behavior Conduct Code (Banco de Portugal, 2009), which has come into effect on January 1st, 2005, and it has been published in its Official Bulletin, integrating the Manual of Bank Staff. In harmony with the Code's point 1 – Code's Range, “the present Behavior Conduct Code [...] establishes guiding lines on professional ethics towards every effective worker [...], therefore being as well a reference to the public on what concerns to the demandable behavior pattern (to BdP) when it is in contact with the general public. The Code contains the conventions and ethical rules that are considered to be obeyed and it clarifies reference patterns that must be used to evaluate on which level those obligations are assumed and fulfilled by the Bank's workers...”.

As important as this 1st point, and with particular relevance, the Code's point 5 – Code's Application – “The adequate application of the present Code depends, above all, on workers professionalism, consciousness and judgment capability. In particular, those workers in superior hierarchy positions must have a role model performance with regard to assuring the principles and criteria established in this Code, as well as to ensure its accomplishment and regard”.

From the stated principles in BdP's Behavior Conduct Code, regarding BdP's internal structure,

the importance is given to the principles of loyalty, honesty, independence, exemption and impartiality, discretion and to the capability to ignore any personal interests from the workers, as well as they cannot discriminate at all in any occasion in order that they should show sensibility and mutual respect, restraining any behavior that can be taken as offensive towards general public. Bank workers must, as well, be ad strained to high professional ethic patterns, avoiding any situations that can cause interests conflicts of and they must also show loyalty, obedience and respect towards their superiors in hierarchy.

BdP's employees must always accomplish with zeal, efficiency and in the best way they can the obligations and responsibilities that are put upon them (and they should be consciously aware of its importance). Moreover, they must take into consideration the expectations general public has towards their behavior conduct, within generically and socially accepted patterns, and finally they must behave in such a way as to strengthen and maintain general public's trust in the banking institution and encourage its efficient work and service, good image and appearance towards the public.

From an external point of view, BdP's employees are forced to guide their selves by principles of independence (in order that they aren't subjected to external influences, in order to prevent them from making decisions aiming at a future eventual job position in other companies, so that workers don't solicit, receive or accept any “free given donation”, other benefits or rewards, as well as to prevent the practice of external activities that could cause conflicts of interests, especially political nature activities, and the relation with groups of interests must also be based on elementary rules of professional ethics), principles of professional confidentiality and secrecy (they cannot give or use confidential information obtained at work and they also must avoid using abusively the information they have access to), and principles of public interaction showing towards general public availability, efficiency, uprightness and courtesy, respecting legal rules when related to personal citizen data, neither being allowed to use those personal data for illegal purposes nor to give them to non authorized people.

When relating with any other institution or entity, whether national or international, whether private or public ones, the bank's employees must observe the orientations and position that are assumed by BdP, guiding their activity according to quality, integrity and transparency criteria, assuring, creating and promoting a good relationship with the entities the bank gets related to.

5.2. Securities Market Commission. The Portuguese Securities Market Commission (CMVM) was created in 1991 as an independent public institution, with administrative and financial autonomy. Its legal goal was to supervise and regulate securities and share stock markets and related financial instruments, as well as the activity of all agents that interact at these financial markets, making regulation regarding some economic specific sector activity and/or market functioning, regarding the activities of economic and financial entities that operate on these markets, especially on securities and stock markets. CMVM also regulates public company purchase offers and the economic performance of all the entities operating in those markets. To be brief: CMVM regulates all the matters concerning securities and share stock markets.

Its legal goals are the investors protection (those who have more difficulties in defending and protecting their rights, namely in stock markets), the efficiency and the regularity of market functioning, information control, prevention of unmeasured risks and discouraging illegal activities through permanent practice of supervising and regulating functions which are conferred by law to CMVM. It assures too several services aiming to ensure a direct support to general public and investors.

Under Minister for Treasury and Finance supervision, CMVM is inspected by an internal entity that follows and controls CMVM's financial management (Commission of Inspection), so as it is also controlled by several external entities, namely the Minister for Treasury and Finance, the Parliament, judging and approving CMVM's budget and bills, the Department for National Budget which CMVM responds to, periodically, the Court for Public Accounts which controls the legal regularity of all incomes and expenses and evaluates the institution's financial management, and finally Fiscal and Tributary Courts, Administrative Courts and Criminal Courts when a judicial petition is made by private entities and people in general.

The supervision CMVM undertakes is made by teams that, through routine actions, follow the activity (presential supervision) of financial intermediaries and market management entities, as well as share stocks centralized systems and liquidation systems management entities, consisting in following permanently the performance of the entities and people that interact on the capital market with the main goal of detecting any illicit act, consisting also in controlling the respect for the legal impositions, in the detection of law infractions and its punishment, namely by applying pecuniary fines and by spreading out information, *verbi gratia* about

stock market companies and detected disregard for legal regulation, as well as the applied pecuniary or criminal sanctions.

The following entities are under CMVM's supervision, to which all solicited cooperation must be given: entities which emit securities and stock values; financial intermediaries; autonomous consultants; entities of market management; liquidation systems and securities and stock values centralized systems, whose societary object is the compensation of operations at merchandise markets; institutional investors; investment funds; the owners of social participations qualified in opened societies; security funds; systems of investors indemnities and their respective managing entities; auditors and risk managing societies; funds and societies of capital of risk; funds and societies of credits titularisation, management societies of credit funds titularisation, as well as others that have, professionally or accessorially, activities associated with securities and security values.

With no prejudice for other legal norms applied to markets and collateral activities that, having legal status, are approved by the Portuguese Parliament and the Government, as for instance the Code of Securities, approved by the Decree-Law No. 486/99, November 13th, CMVM approves and publishes internal regulations and instructions in order to define internal procedures of some entities, recommendations towards one or more subjects under its supervision, and its opinion and judgment on those questions that are sent and written to CMVM by any entity under its supervision or by the respective associations.

With an enlarged perspective of cooperation, CMVM cooperates with other national authorities which have supervision and financial system regulation functions, like BdP and Insurance and Pension Funds Supervisory Authority, besides participating in similar international organizations and following European Union institutions related works, all these things as a way to make their supervision more effective, to approach their market performance to those practiced by the same institutions in other countries, and to fight against international financial fraud.

CMVM has a Conduct Behavior Code (CMVM, 2009), applicable to all its workers and participants, (Article 2). "[...] establishes guiding lines regarding professional Ethics towards all its participants, serving also as a reference to the general public on what concerns to the conduct behavior pattern that is demandable to CMVM when relating with the general public".

The Code establishes a set of duties that must be followed by CMVM's participants and workers, namely those regarding professional diligence, loyalty towards the institution, honesty, independence, exemption and impartiality, not attending to personal interests. CMVM's workers must adopt high standards of professional Ethics and must avoid situations that could cause conflicts of interests.

CMVM's participants must also identify and provide, as soon and as accurately as possible, their superior in hierarchy with all the needed information, performing their functions with zeal, efficiency and responsibility, assuring the instructions accomplishment, the respect for hierarchy and transparency when dealing with everyone, adopting the proper behavior in order to maintain and strengthen society's trust and contribute to the effective functioning and the institution's reputation.

CMVM's workers external relations should, in the right terms of its Code, be guided by principles of independence, acting in harmony with the instructions and orientations that come from the institution. They also cannot ask for, receive or accept any benefits, payments or gifts from an entity that is under CMVM's supervision or from an entity that provides CMVM with goods and services, in order to respect the principle of loyalty and preserve scrupulously the professional confidentiality and secrecy impositions in the case they may have other activities outside CMVM. In its relations towards the general public, workers must accomplish the requisites of availability, efficiency, technical precision and personal uprightness, reflecting the institution's position, not being allowed to explore and to mention, abusively on their own profit, their post or functions at CMVM.

When relating with entities under CMVM's supervision or with other private entities, as well as with other Portuguese public entities or similar foreign institutions, workers and participants must guide themselves by a spirit of straight cooperation, directing their activity according to the criteria of quality, integrity and transparency, assuring and growing a good relationship with those entities.

5.3. Competition Authority. The Competition Authority (AdC) was created by the Decree-Law No. 10/2003, January 18th, similar to anti-trust¹ regulation entities in Europe and in most developed countries. It has a substantial independence and it is a public law entity, of institutional nature, with

administrative and financial autonomy and with legal powers covering all Portuguese economy in order to apply competition rules, in coordination with sectorial regulation entities (Autoridade da Concorrência, 2003).

Its role is to secure competition rules application and execution in Portugal, regarding the principle of economy market and free competition, in order to guarantee the efficient market functioning, an efficient allocation of the resources, a high level of technical progress and the protection of interests and the higher benefit of the consumers, in the right terms foreseen in the law and defined by the Treaty of Rome 1957 (creating EEC, later EC) and by the Treaty of Maastricht 1992 (creating EU), focusing on "non deceiving competition" as a guiding basic directive and preventing the existence of the so called predatory practices, searching, within its objectives and in the exercise of its activities, to prevent that fusion and acquisitions processes may become a power market threat restraining competition and prejudicing the consumers, identifying and preventing market cartel agreements (horizontal agreements) and vertical agreements restraining competition, dominant position abuse and Estate restrictions to market competition whether made by legal regulation, or by the intervention at markets by the public corporational sector or autonomous public entities.

AdC activities are, amongst others and considering competition's protection is a public good and value that AdC must preserve in order to accomplish the constitutional imperative at art. 81.º, f), of Portuguese Republic's Constitution, to control enterprises (cooperative and concentrative) strategies, to fight restraining and abusive practices in order to ensure a proper level of competition, to identify those markets where competition has been restricted and promote the best solutions to improve efficiency and benefit consumers, to raise public awareness of the context and of the benefits of competition and to provide an effective service for the government, other regulatory agencies and society at large, at the highest standards, taking internationally recognized best practice into account.

As regard to AdC statutory terms, in order to fulfil its mission, the Authority will strive to reach the highest levels of scientific and intellectual rigor in economics and law by creating a body of highly qualified staff with the capacity to formulate methodologies, carry out research and discharge supervisory duties, firmly uphold the principles of justice, fairness and impartiality, ensure transparency in the information provided and in the execution of its tasks. It will be accountable and respond to the executive, legislative and judicial

¹ Intended to prevent companies from unfairly controlling prices (Longman, 2009).

authorities, with a view of strictly fulfilling its duties within a democratic society.

The Authority has also regulatory, supervisory and disciplinary powers to propose laws to the competent institutions, and approve regulations required to enforce a competitive environment, to propose and approve codes of behavior and best practices, to identify and investigate practices prejudicial to free competition, on the basis of national and Community laws, and to undertake studies, surveys, and hearings to investigate those practices, to gather information and decide on administrative procedures related to anti-trust practices, considering, *pro forma*, that those practices are not against competition laws, to raise public awareness among economic agents. AdC alone or together with other similar entities tries to make those principles respected and to avoid any competition distortions that could seriously damage public welfare, as, for example, public contests, estate help funds, dumping practices¹ and sectorial regulation.

Conclusions

Society and Economy build themselves upon the close cooperation between their agents, whether particular or collective, public or private ones. The justified importance of ethical values and behavior conduct codes as ensuring the demandable and proper achievement of the respective transactions between the diverse agents is corroborated by the major importance given by those official agents and entities of regulation and supervision while achieving their activities and pursuing their goals.

In a context where information has a relevant economic value, where it influences the knowledge and conditions, market and society, it is important to guarantee that professional practices are undertaken under the perspective of human cooperation and its respective development. The deliberate distortion of the processing patterns of information's input and output influences premeditatedly knowledge and, consequently, actions and decisions, conditioning organizations functioning and development, and markets and society as well. Ethics in a globalized society of information and knowledge is the nuclear cell for conscious, coherent and responsible (personal and organizational) positioning, assuring professional autonomy in the development and responsabilization of organizational actions. This cell must integrate three central principles, amongst others, that are essential to the respective professional practices basis:

- ♦ urbanity or politeness, implying the diverse activities have an impact or serve as an output to other activities in a perspective of economic and social chain value;
- ♦ integrity, implying the awareness that the processing made should correspond to the treatment demanded to the activities and information in order that they translate with fidelity the reality they correspond to;
- ♦ uprightness or aptness, implying the personal and collective capability to perform and assume the responsibility for the activities they perform and for the people they orientate, integrating the set of scientific and moral competences essential to the performance of some jobs and tasks.

These general principles can be specified more accurately in some qualities that should be generally considered by each and every professional, irrespective of his activity area:

- ♦ independence: the capacity to put aside personal interests, influences or external pression that may be made to professionals, in a way that does not compromise the technical and professional performance and personal actions and behavior;
- ♦ responsibility: the capacity to assume the acts, which are practiced in respect of law and the most adequate ethical principles;
- ♦ competence: the capacity to accomplish functions diligently and in a technically responsible way, using correctly and adequately knowledge and scientific techniques;
- ♦ confidentiality: the capacity to keep professional secrecy on information, facts or decisions they are aware of at their functions practice, not divulging it;
- ♦ rule of Law or legality: the capacity to practice the respective activities according to valid present laws, dignifying their profession.

Regulation and supervision entities and their professionals have an increased ethical responsibility over the markets and the institutions trust and credibilization index. The demerit of their activities and responsibility lead to "waves" of suspicion and distrust that spread all over the market and society. Any professional belongs to an economic and social network, and therefore his performance will serve as an orientation line to other professional, economic or social activities, work and practice. The credibility of the developed activities and the responsibility for the taken actions and behaviors will be an example and a stimulus to all of those they interact with and to consolidate so valuable and universal principles such as honesty, integrity, dignity, impartiality, prudence or justice, amongst others, as fundamental conditions for a conscious and diligent performance of their respective activities.

¹ The selling of goods in quantity at below market price (Merriam-Webster, 2009).

Given the importance of regulation and supervision entities regarding the most essential economic, financial and corporational activities, in the economic and social context, it makes all sense to

include the same entities, because of their specific configuration, importance and role performed in the society, into the concept of a New Ethics Chain of Value:

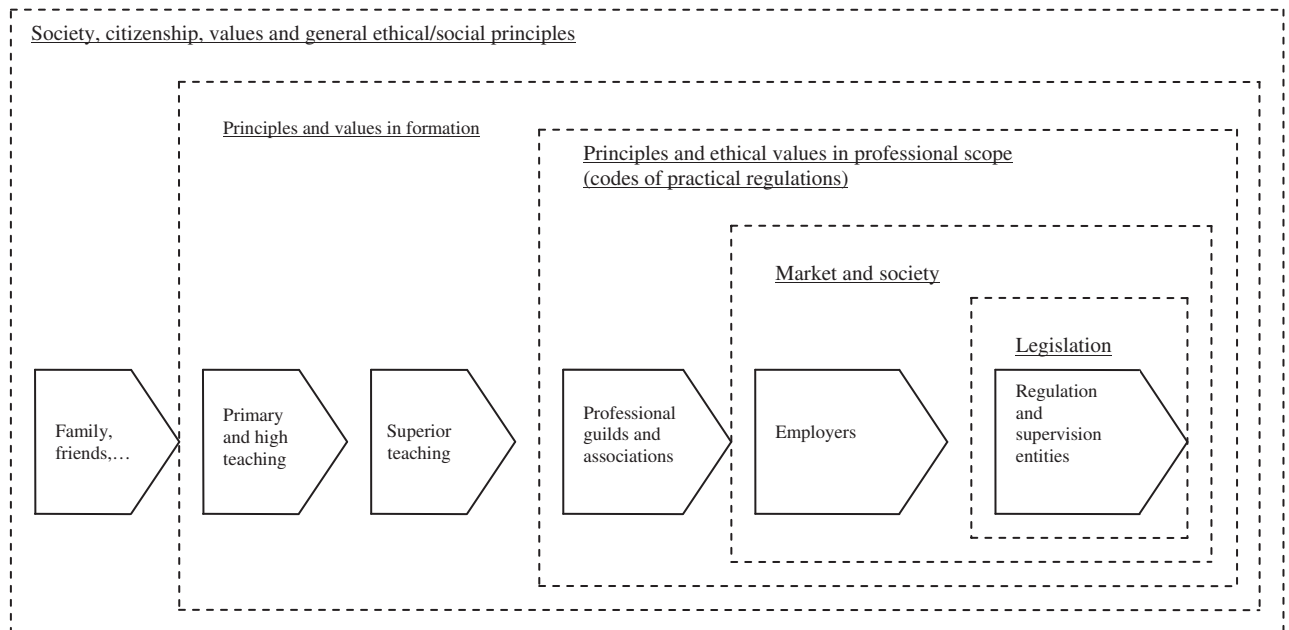


Fig. 3. New Ethics Chain of Values

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