Regulatory relationships and incentives: from Riggs Bank to HSBC

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Abstract

Purpose – The aim of the paper is to examine what type of relationship existed between the Office of the Comptroller of the Currency (OCC) and Riggs Bank in respect of anti-money laundering (AML) compliance. Different commentators have established certain trends in the interaction between a regulator and a regulated entity, and this paper seeks to apply these findings to the relationship between the OCC and Riggs Bank and ascertain where this example lies in the wider domain of regulatory relationships. The paper then examines whether the relationship between the OCC and HSBC United States was similar to the one between the OCC and Riggs Bank or did the regulator adopt a more aggressive supervisory stance. Throughout this work, there is also a focus on the underlying incentives which may adversely affect how a financial institution interacts with a financial regulator and possible solutions to this problem proposed.

Design/methodology/approach – Research undertaken by commentators was assessed and their findings as the different regulatory relationships that may develop between a regulator and a regulated entity were applied to the interactions between the OCC and two different financial institutions, namely, Riggs Bank and HSBC United States. Examples from the Senate Subcommittee Reports into the AML failings into these financial institutions were examined through the prism of pre-existing regulatory relationship categories.

Findings – The paper ultimately concludes that the OCC was far too passive in its interactions with both Riggs Bank and HSBC United States and that the primary underlying motivations for both institutions were profit- rather than compliance-led.

Research limitations/implications – One of the main limitations to this research was the absence of direct input from either personnel from the banking sector in the USA or of regulators from the same jurisdiction.

Practical implications – This paper proposes a number of practical solutions to recast the relationship between financial regulators and regulated institutions away from the former deferring to the latter to one where the former dictates to the latter.

Originality/value – This paper seeks to examine an actual regulatory relationship between a financial regulator and two different institutions that is reported in the public domain by applying pre-existing academic research on question of regulatory relationships and see how the practice differs or corresponds with the theory.

Keywords Penalty, Incentives, Regulatory relationships

Paper type Research paper

1. Introduction

In 2004, the USA Senate Permanent Subcommittee on Investigations (2012) published a report on Money Laundering and Foreign Corruption Enforcement and Effectiveness of the PATRIOT Act Case Study involving Riggs Bank (Riggs Bank Case Study, 2004). The report set out the anti-money laundering (AML) failings at Riggs Bank, with particular focus on the

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bank's relationship with certain politically exposed persons (Riggs Bank Case Study, 2004, at 2). Eight years later, the Subcommittee would examine the AML problems within HSBC, including its USA division (HSBC Case Study 2012). One intriguing aspect in both of these case studies is the interaction between the institutions and their primary AML regulator, which in both cases remains the Office of the Comptroller of the Currency (hereinafter the OCC) (Riggs Bank was subsequently acquired by the PNC financial services group).

The relationship between supervisory authorities and market actors has been subject to comment and critique by various experts over the years. How a regulator communicates with a corporation under its remit may affect positively or negatively the response of the latter. This paper does not delve into the exact minute of what was communicated between the relevant institution and the OCC. Instead, a broader approach is utilised whereby the overall interaction between a financial institution and a regulator is assessed through the prism of existing commentary on regulatory relationships. Certain commentators have sought to characterise different regulatory relationships in terms of what could be described as control and comply; the regulator ultimately orders the regulated undertaking to perform a certain task and the latter complies. However, in other cases, a more resistant stance may be adopted by the regulated entity and instead of conforming to regulatory standards, it may instead seek to circumvent them. In these cases, the underlying motivation for the regulated party may be either to avoid the costs associated with ensuring compliance or to maintain lucrative business lines that conflict with compliance.

Thus, the aim of this paper is to compare the regulatory relationship between the OCC and Riggs Bank and compare this to the different regulatory relationships as described by commentators. This also entails examining the underlying incentives for institutions when weighing up the positives and negatives of non-compliance. The role of the regulator is also examined so as to ascertain whether the OCC adopted an aggressive or passive stance when supervising Riggs Bank and whether a similar position was also evident when supervising HSBC USA eight years on. The paper then concludes by proposing certain steps regulators could take to resolve compliance failings in the banking sector. First though, a brief summary of the examination process both Riggs Bank and HSBC USA were subject to will be recounted.

2. Office of the Comptroller of the Currency

The OCC ensures that financial institutions in the USA that have a national charter are compliant with US AML statutes, such as the Bank Secrecy Act. Although there are various facets to the AML domain, the two most important strands remain suspicious activity reporting, informing the regulator of any transactions which may point to possible money laundering, and customer due diligence, the process whereby an institution records and assesses the financial profile of the customer to determine the money laundering risk they pose. To ensure compliance with AML regulations, the OCC undertakes AML examinations at financial institutions located in the USA. The examination process entails the OCC issuing a "Request Letter" to the relevant institution setting out the particular records or information the OCC examiners may need to review (HSBC Case Study at 295). After the examination is concluded, the OCC examiners must then inform the Examiner in Chief of their findings.

From these findings, the Examiner in Chief will then issue the institution in question with a Supervisory Letter; in certain cases, this letter may "cite a violation of the law" or a "Matter Requiring Attention (MRA)", in effect written warnings that the bank must resolve any adverse findings (at 292). Alternatively, the Supervisory Letter may simply

"recommend" a certain course of action on the part of the institution. However, in cases where the institution fails to resolve an "MRA", then the OCC may decide to respond with an informal sanction. Under this approach, the institution agrees to resolve the problems in question by a certain date as part of a memorandum of understanding or other similar agreement (at 292).

Where the underlying problems are still not resolved, the OCC may decide to adopt a formal enforcement sanction after consultation with the Large Bank Supervision Department. A proposal is then submitted to the Washington Supervision Review Committee (at 292). A formal enforcement sanction may take the form of either of a cease and desist order, whereby the institution agrees to desist from certain practices, or, in very acute circumstances, the institution's charter may be revoked (at 293). A monetary fine is also usually imposed in conjunction with these formal enforcement actions.

3. OCC and Riggs Bank

According to the Subcommittee's Report into Riggs Bank, the OCC had become "tolerant of the bank's weak anti-money laundering program" (Riggs Case Study, at 73). The regulator became reliant on a series of commitments provided by Riggs management that the underlying problems associated with this AML program would be resolved (at 73). In addition to this particular failing, the Report also notes how the OCC was unwilling to utilise formal enforcement tools (at 91). Therefore, the relationship between the OCC and Riggs Bank can best be described as "unbalanced". While the regulator in this case was willing to provide the Bank with some discretion to resolve the issues raised, the Bank did not necessarily use this support to address these issues, but merely to continue on as before.

4. Business costs versus compliance incentives

To resolve the failings detected by the regulator in question, a bank may have to invest considerable resources and time. The Bank for International Settlements recommends that an institution's compliance function should have the required resources in place "to carry out its responsibilities effectively" (Bank for International Settlements at 13) (Bank for International Settlements, 2005). But for certain institutions, investing in the compliance function may divert resources from more profitable business operations. There may also be additional indirect costs associated with compliance. For instance, a bank may decide to exit certain markets or decide to terminate a proposed new business line to reflect the requirements of a new regulation (Pierce *et al.*, 2014 at 12-13).

An obvious area of contention in any regulatory relationship is the actual cost of either maintaining compliance or resolving compliance shortfalls. Where these costs are deemed excessive on the part of the regulated entity, then efforts may be made to either circumvent compliance or divert resources to more profitable areas within the institution. An institution may exercise discretion in respect of certain industry standards and regulations to mitigate costs. A regulator in contrast will aim to limit this "discretion" as much as possible.

Thus, the interest of both the regulator and the regulated must be aligned in some way in which both parties find satisfaction.

5. Relationship between regulator and financial institution

Different commentators have examined how relationships develop between regulators and regulated entities. In most cases, the primary motivation of the regulator remains clear, to ensure that the institution in question adheres to the standards established by law. However, different institutions, be they in the financial services or other sectors, may adopt a more nuanced approach to regulation. An institution may view their interactions with the

regulator through a prism of "gains and losses", where the key principle is "focused on maximizing their self-interest" (Etienne at 4). Yet another institution may consider that their "duty is to obey the law", where the regulatory relationship is not viewed through a "loss-gain" perspective but rather through a "conform-or non-conform" prism (at 4). In the former case, an institution is likely to equate compliance with a "loss" rather than a gain, particularly if "complying" entails the revocation of profitable business lines. For the latter category, the main objective is to address the regulator's concerns.

Baldwin notes when discussing "rational deterrence" how a firm "will balance the costs and benefits of compliance with the expected costs and benefits of non-compliance" (Baldwin at 371) (Baldwin, 2004). Thus, in some cases, an institution may consider that the "benefits of non-compliance" outweigh the costs of compliance. This becomes particularly evident in the banking sector, where a regulator may be unwilling to impose a fine, which may undermine the financial position of the bank and so trigger wider market instability. Further, in most cases where an institution is sanctioned for AML failings, the associated reputational damage remains limited in practice. Long-standing clients of the institution in question are unlikely to transfer their business to a new bank, particularly if the pre-existing relationship with the institution proves beneficial. Additionally, in certain cases, the institution may have a unique business line or provide an exclusive service which competing institutions may not be able to meet. Baumeister and Heatherton (1996) submit that in order for "self-regulation" to be effective, the self-regulated must "transcend the immediate situation by considering longer-term consequences and implications" (Baumister and Heatherton at 5). Yet internally, a financial institution remains unlikely to enforce aggressive "self-regulation" when the consequences for failing to meet the demands of an external regulator fail to constitute an effective deterrence.

6. Regulatory relationships

Before the financial crisis, certain financial regulators were tasked with performing two contradictory roles, one related to the actual process of supervising and monitoring financial institutions, and the second role, entailed promotion of the banking sector as spur for further economic growth. Baxter (2012) notes the OCC is one such financial regulator charged with not only supervision of the banking sector but also responsible "implicitly" for promoting "the growth and prosperity of the national banking system" (Baxter at 33). In the pre-subprime crisis environment, financial regulators adopted a non-intrusive approach to supervising financial institutions. For instance, Di Lorenzo (2012) comments how no regulatory deterrent existed to control the levels of real estate lending in the USA before the financial crisis and how "the Office of the Comptroller of the Currency (OCC) rescinded earlier regulations that imposed such limitations" (Di Lorenzo at 253). This particular example illustrates how prior to the crisis, certain banking regulators sought to alter the regulatory "burden" on the banking sector rather than try to alter the behaviour of financial institutions via regulation.

Thus, at a macro level, financial regulators may remain hesitant to impose limitations on the financial sector's business objectives. Yet at a micro level, a similar stance appears evident where a regulator may also seem unwilling to engage in an aggressive manner with an institution falling under its supervisory remit. Both Baldwin and Etienne have examined the different ways in which regulators may interact with organisations and both suggest that a cooperative stance on the regulator's part may prove more beneficial than a more confrontational approach. According to Baldwin, compliance may become "impeded" in cases where the relationship between the regulators and regulated entities becomes "more distant,

more confrontational and less conducive to cooperative methods of reconciling corporate and regulatory objectives" (Baldwin at 383). While Etienne (2012) suggests that "[r]egulatory relief conceded by the regulator in exchanges for efforts from the regulatee is a positive signal in a relationship built on self-interest, yet also in one built on trust" (Etienne at 9).

If one can determine the nature of the regulatory relationship between a regulator and an organisation, then this should, to some degree, also provide an insight into how the latter responds after engaging with the former. For instance, Di Lorenzo states that "[t]he frequency and severity of sanctions imposed for non-compliance" in addition with other factors, "strongly influence corporate compliance with legal mandates" (Di Lorenzo at 89). Although a cooperative approach to regulation may ensure that both sides are willing to engage in a compromise, there are circumstances where such an approach may not yield the required results. Where a regulator does apply some form of "regulatory relief", this may adversely affect an organisation's incentive to ensure compliance. In the financial sector, an institution may consider "regulatory relief" as a form of regulatory weakness. If a financial institution concludes that a regulator remains unlikely to adopt formal sanctions, then this further erodes any incentive for compliance within this institution.

It seems that US financial regulators preferred to adopt a policy of "regulatory relief" rather than develop an "authority relationship" with financial institutions. Etienne describes an "authority relationship" as one "built on status, and put regulator and regulate in positions of superior and inferior" (Etienne, at 8). Presumably one way for a regulator to adopt the role of "superior" in an authority relationship would be by way of sanctioning non-compliance rather than invoking regulatory discretion. Yet when supervising Riggs Bank, the OCC appears to have embraced a form of regulatory relief. But this "relief" appears to have been conceded on the basis of commitments provided by the institution rather than due to any substantial efforts to remedy these problems on the institution's part.

7. HSBC United States and the OCC: lessons learned from Riggs?

With a national charter, HSBC USA (hereinafter HBUS) fell under the joint regulatory remit of both the Federal Reserve and the New York State Banking Department. Both primary regulators "cited fundamental, wide-ranging problems, including ineffective monitoring of wire transfers and monetary instruments, ineffective recordkeeping and reporting of currency transactions, inadequate customer due diligence and enhanced due diligence, and a failure to report suspicious activities" (HSBC Case Study Report at 301). To address these problems, HBUS entered into a formal agreement with both the Federal Reserve and New York State Banking Department. Under this agreement, HBUS was legally required to bolster "its AML internal controls" with particular focus in the customer due diligence and suspicious transaction domains (at 301).

After HBUS fell under the supervisory remit of the OCC, a number of the provisions under the pre-existing agreement between the institution and the previous regulators were deemed to have been resolved (OCC Report of Examination, 31 March 2005, at 10-11, cited to at 301). Thus, the Report on Examination undertaken by the OCC in 2004 suggested that the formal agreement enacted in 2003 could possibly be terminated "following targeted examinations of certain high risk areas" (at 302). This position was adopted by the OCC despite the wide-ranging AML failings in HBUS just detected a year earlier by both the Federal Reserve and the New York Banking Department. Dupre *et al.* (2007) suggest that a regulator may prefer to foster "dialogue" while also "sharing" information so that continued interaction develops "in an informal, sanction-less way" (Dupre *et al.* at 3). In these cases, "persuasion comes up as a central regulatory strategy (on both sides)" (at 3). Therefore, as the institution's new regulator for AML, the OCC may have decided that regulatory "persuasion" rather than confrontation

was a better way to maintain an effective relationship with HBUS. Such a position would also tie in with the findings of the Subcommittee Report that the OCC's reluctance "to use even informal enforcement actions" represented "a cultural preference" on the part of the regulator (HSBC Case Study Report at 329).

Thus, the OCC repeatedly deferred from undertaking formal enforcement actions against HBUS. A parallel may be drawn between the regulatory relationship that developed between the OCC and Riggs Bank, and the former with HBUS. When regulating Riggs Bank, the OCC adopted a passive supervisory stance; discrepancies in the institution's AML framework were not subject to immediate censure but to regulatory relief. Similarly, when supervising HBUS, the OCC arguably promoted what could be termed a "dialogue"-led form of supervision over a sanction-led one.

8. Promoting more robust regulation in the financial industry

The above examples provide only a snapshot of the wider regulatory relationship between the OCC and both financial institutions. But from these an obvious pattern can be deduced of the OCC failing to appreciate the incentives underlying the actions of both Riggs and HBUS. Instead of Riggs and HBUS interpreting the lax approach of the OCC as a form of quid pro quo, minimal if any formal enforcement action in exchange for substantive remedial efforts, an opposite interpretation was formed. Both institutions weighed up the position of the OCC in respect of AML failings and ultimately considered the chances of formal sanction remote. Thus, for both institutions, there were no sufficient incentives proffered by the OCC to remedy the AML failings in each bank. The possible costs of non-compliance, at least in the short to medium term, trumped the costs of compliance.

If one follows this summation, then one may also conclude that in cases where a regulator provides a form of "regulatory relief" to an organisation, then the latter will most likely abuse this "relief". The same conclusion may also be drawn in cases where a regulator seeks to engage the regulated entity in dialogue rather than initiate immediate sanctions. Instead of the regulator and the regulated developing a mutually beneficial relationship, where both parties ultimately achieve their objectives, the latter may abuse this discretion so as to minimise the costs associated with actual tangible remedial efforts.

Yet adopting a "confrontational" relationship with a regulated entity may also prove redundant in incentivising an institution to remain compliant. If a regulator applies a strict form of supervision, then this may frustrate relations with the industry in question and may actually indirectly foster regulatory arbitrage on the part of market participants. A compromise position between both strands of regulation may be pursued. For instance, Braithwaite (2011) refers to the "pyramidal presumption of persuasion", a form of regulation whereby "the cheaper, more respectful option [is given] a chance to work first" (Braithwaite at 484). If this approach does not meet the necessary objectives, then formal penalties will then be exercised by the regulator (at 484).

The problem with this "pyramidal presumption of persuasion" is that it essentially mirrors the approach already adopted by the OCC when supervising both Riggs and HBUS. In both cases, the OCC provided some form of discretion to these institutions as part of its regulatory strategy. But this failed to elicit the required response on the part of Riggs and HBUS. Ultimately, the "persuasive" power of the OCC did not suffice without an additional sanction, namely, opening enforcement proceedings. Therefore, the question must be asked what type of regulatory relationship a financial supervisor should seek to establish with financial institutions under its remit. If an aggressive relationship results in friction between the regulator and the institution, then this may not necessarily improve the compliance culture within the latter. The institution may instead seek to counter this aggressive

posturing with an equalling aggressive response, challenging rather than complying with the regulator's orders.

8.1 Ex ante penalty scheme

Perhaps one way to alter the relationship between the bank and the regulator would be to provide some form of financial incentive for compliance in addition to the prevention of routine non-compliance costs. One possible model, which could be tailored for enforcing compliance on the part of banks, is what could be termed an *ex ante* penalty scheme. Under this scheme, each financial institution would at the start of an every five-year cycle, pay a substantial fee into a fund established by the relevant regulator, in this case the OCC. The financial institution could recover this fee but only if during the five-year period, it has not breached any regulations or being subject to any fines. Thus, the institution would have an added incentive to ensure compliance. However, there are problems with this proposed scheme.

First, the level of the initial fee would have to be sufficient to warrant a positive response in the long term by the institution's management. If the *ex ante* fee remains too low, then the institution has no additional incentive to ensure and enforce compliance. Second, it remains to be seen whether such an approach would add any real enforcement weight to the regulator in question if even blockbuster fines fail to adversely impact an institution's financial position. For instance, in the case of HSBC, a $1.9bn fine imposed in 2012 could easily be absorbed by the institution's profits for the same year, which after this sanction were still $15.334bn (HSBC Annual Report 2012 at 372). An organisation's reputation may be damaged after a fine, as long-standing clients or possible future business partners decide to withdraw from this business relationship owing to possible industry or societal pressure. Yet in the case of HSBC, it is hard to conclude that the reputational damage from the 2012 fine actually had any underlying adverse impact on the institution's business. One year after the publication of the Subcommittee report, HSBC's profits were still $22.6bn. A World Check Report has also examined the adverse effects on Riggs Bank after the imposition of a $25m fine for AML breaches (World Check Report at 5) (World-Check, 2006). In addition to this fine, there were a number of shareholder class actions against the institution, and the purchase price of the institution also decreased from $24 a share to $20 a share when acquired by PNC (at 8).

In contrast, the share price of HSBC did not experience any great depreciation in value after the 2012 fine; at the end of 2012, the share price was $646, while at the end of 2013, this increased to $662 on the London Stock Exchange (London Stock Exchange as of 31 December 2012 and 2013) (London Stock Exchange, 2016). Therefore, this *ex ante* penalty may have a perverse effect whereby an institution simply forgoes the opportunity to receive a penalty refund, as increasing profits will more than make up for the sum already paid.

8.2 Liability of management

Notwithstanding these possible failings with an *ex ante* penalty scheme, this approach could still prove effective, provided that additional enforcement steps are also taken. These would include imposing substantial fines on individuals within institutions charged with responsibility for AML compliance and also introducing a new form of corporate liability for Board Members. For instance, in the USA, the Financial Crime Enforcement Network fined MoneyGram's Chief Compliance Officer Thomas Haider $1m, as he failed in his responsibility to ensure that MoneyGram maintained effective AML controls in line with the Bank Secrecy Act (FinCEN, at 5) (Financial Crime Enforcement Network, 2014). Similarly, the Financial Services Authority also fined and banned a Money Laundering Reporting

Officer working for Alpari in the UK for failing to ensure that the firm had adequate policies and procedures in place for AML compliance (FSA, at 2) (Financial Services Authority, 2010). Both of these examples illustrate how the US and UK regulators are not slow to impose personal liability on compliance officers. However, more stringent enforcement measures should be in place to penalise those higher up in the chain of corporate responsibility.

8.3 Threefold penalty approach

In future, regulators should adopt a threefold approach to sanctioning an institution for AML or other breaches. First, the institution should be sanctioned by either having an *ex ante* penalty refund revoked, as discussed above, or by imposing a dividend ban on the errant institution. For example, in the field of European State aid law, financial institutions that avail of State support must also impose losses on shareholders via dividend bans and a claw-back mechanism also applies to the aid provided in certain cases (European Commission, Banking Communication 2013, at para. 47(a) and para. 96). Depending on the severity of the conduct in question, both these measures could be adopted. A dividend ban would not only result in penalising directly the parties who directly benefit from the institution's high-risk activity but should also lower the trading value of the institution's shares, thereby constituting an additional financial sanction against the institution. Second, the sanction should entail a remedial component so that the institution in question agrees to resolve the issues in question by explicitly setting out a plan of action for the regulator. Third, and arguably the most important strand of the proposed threefold approach, any penalty should address the failings at both Senior Management and Board of Director level.

A condition of any regulatory penalty should encompass a direct financial or professional sanction of those with responsibility for the institution as a whole. Claw-back mechanisms should be established by both internal procedures within an institution and the regulator, so that in the event of the corporation breaching AML or other legislative provisions, management must forgo pre-existing share-options and refund past bonuses. Already regulators such as the FCA are adopting rules which allow for the claw-back of senior management bonuses due to misconduct or risk management failings in line with Prudential Regulatory Authority's rules (FCA, June 2015 at 6). Directors should also be banned from serving on both the institution's and other corporate boards, while senior management should be subject to at the very least a temporary ban from holding a position of import within a financial or other institution.

In cases of more egregious behaviour, criminal proceedings should be pursued by the regulator. But imposing both financial and professional fetters on individuals with responsibility within the institution should at the very least alter the underlying incentives for management and directors when it comes to discussing and overseeing AML controls. By personalising the form of censure rather than applying an institution-wide sanction, specific members of management or directors become directly accountable for their actions or inactions. The problem with fining or penalising an institution is the "corporate" nature of the organisation in question. Individuals within an organisation can become immune from accountability or regulatory notice, as chains of command and communication seek to shield the individual from the institutional conduct in question. Yet it is the individuals within the organisation which ultimately affect how the institution behaves towards other market participates, be they customers or regulators.

8.4 Threefold approach and regulatory relationships

The above proposed threefold approach to regulatory sanctions should, to some degree, influence the relationship that evolves between a supervisor and a financial institution. If management within an institution realise that there is a strong possibility of personal censure or financial consequences for their behaviour, then this is likely to alter their interactions with the supervisory authority in question. In place of commentators labelling a relationship between a regulator and an organisation as either amicable or confrontational, more effective incentives for management to comply should result in the emergence of new relationship between individuals within, and with the entity, in question. If a manager or director views their own position within a bank or financial services firm as one as a position of "sanction-exposure", then this should alter the way in which they perform their day-to-day duties. In effect, this should also positively affect the relationship that develops between the institution and the regulator. Instead of a regulator having to make concessions to a financial institution to engender some form of response from the latter, a more proactive stance should be adopted where institutional compliance becomes personally beneficial for those in a position of authority within the firm.

Thus, the relationship between a financial regulator and financial institution should become more balanced in time as the relationship between a firm and its personnel becomes "symbiotic". While an institution as whole will always be dependent on the performance of its staff, personnel within the institution will also become dependent on the institution as a whole remaining compliant with the law. For the latter, this dependency arises as the individual will seek to avoid personal sanction for institutional failings.

9. Conclusion

The financial crisis has highlighted the problems that arise when financial regulators provide too much discretion to financial institution when it comes to complying with regulation. In most cases, the regulator may seek to adopt a passive approach to supervision, but this may only cede ground to the regulated entity without any appreciably gain for the regulator in question. The interactions between both the OCC and Riggs Bank, and the OCC and HBUS, illustrate this point best. Instead of adopting formal sanction proceedings after continuing compliance failings, the OCC still presumed that the institutions in question would resolve these issues in a timely manner. From the perspective of these institutions, the non-confrontational position of the OCC aligned with their own internal incentives to continue on as before rather than to invoke meaningful remedial action.

One way to alter the financial benefits of non-compliance is to introduce an *ex ante* sanction fund whereby an institution has scope to receive a refund of any sums paid into this scheme or greater focus by regulators on "personalising" institutional sanctions. The first proposal would at the very least correspond with a financial institution's incentive for monetary gain, while the second proposal would incentivise both senior management and directors to have a personal interest in ensuring compliance. In addition, both of these measures would further alter the relationship between a financial regulator and financial institutions. If personnel are mindful of possible individual fines or restrictions on their professional life, then this should in turn result in a mutually beneficial relationship developing between the regulator and the institution. The regulator should receive a positive and substantive response when raising issues of non-compliance and the institution and its personnel avoid censure by actually resolving these matters.

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