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BANGOR
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BANGOR BUSINESS SCHOOL - EXECUTIVE EDUCATION

Chartered Banker MBA

Professional Ethics and Regulation

UNIT 1

Ethics and the Professional Banker

Sample

Chartered Banker

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We regret that the authors are unable to enter directly into any correspondence relating to, or arising from this Study Guide. Any comments on this work would be welcome and should be addressed to:

The Chartered Banker MBA Office
The Management Centre
Bangor Business School
Bangor University
College Road
Bangor
Gwynedd LL57 2DG

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Personal Profile:

Mr Bob Souster

Member of Bangor University Adjunct Faculty

The module director is Robert Souster, Partner in Spruce Lodge Training, a consultancy based in Northampton. Bob has twenty years experience in the banking industry, initially with a professional institute and then as a divisional manager with a mutual mortgage bank in Dublin. He has worked with over eighty banking organisations in the UK and overseas, as well as numerous regulatory bodies and NGOs, including the Financial Services Authority and the British Know How Fund (a division of the Foreign and Commonwealth Office).

Bob has written numerous books for the Chartered Institute of Bankers in Scotland, including *Professionalism and Ethics*, *Financial Crime and Money Laundering*. He has also written textbooks for the ifs School of Finance on Mortgage Lending and Insurance. He has lectured on the bankers' professional course at London Guildhall University, Sheffield Hallam University and the College of Commerce, Dublin.

During the 1990s Bob worked with a joint Barclays Bank/Coopers and Lybrand team helping several newly privatised banks in Poland to introduce formal risk management processes, training systems and activity-based costing methodologies. In the same period he assisted a Singapore-based college to launch its online learning platform for students of professional accountancy qualifications.

Bob is a chief examiner for a major professional accountancy body and for the Chartered Institute of Bankers in Scotland. He lectures extensively on professional courses on ethics, corporate governance and law throughout Europe and Asia. He lectures on programmes for Shanghai Jiao Tong University and SUFE, China.

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1. Introduction

1.1 Aims

The aim of this module is to provide financial services professionals with an extensive, detailed and critical knowledge, and cognitive skills of critical thinking, analysis and synthesis, required to make informed ethical and professional judgements in their working life.

1.2 Learning Objectives

On completing the module, students are expected to be able to:

- Demonstrate an extensive, detailed and critical knowledge and understanding of ethics and professional behaviour.
- Demonstrate an advanced understanding of effective corporate governance of financial services organisations.
- Demonstrate an extensive, detailed and critical knowledge and understanding of the factors involved in making a professional judgement.
- Apply knowledge and understanding of key ethical principles
- Demonstrate an extensive, detailed and critical knowledge and understanding of the legal and regulatory framework involved in professional decision making.

1.3 Module Content

Ethical Concepts

Definition, Professional relationships, legal and fiduciary responsibilities, values, rights and virtues, consequences.

Ethical Behaviour

Ethics and the professional banker, Public interest, Core principles, Personal ethical stance and moral development.

The Professional Banker

The CIOBS Code, Dealing with customers and other stakeholders in the business, Specific responsibilities, Conflicts of interest, Ethical decision making. Ethical decision taking frameworks, Resolving ethical dilemmas.

Aims And Objectives Of Organisations

Open and closed systems, Strategic aims and objectives, Organisational boundaries - the law, regulation and compliance, voluntary codes of practice, policies, behaviours, Stakeholder analysis, Consensus theory, Theories of organisational behaviour, Ethical stance of organisations.

Corporate Governance And Responsibility

Definition of corporate governance, Underpinning principles, Rules / principles - based approaches, Development of corporate governance in practice.

Management And Administration

FCA requirements, high level principles, Senior Management Arrangements: Systems of Control (SYSC), approved persons, Duties of directors and functions of the board of directors, Executive and non- executive directors, Board committees, Issues relating to directors' remuneration

The rights and responsibilities of shareholders

Risk And Control

Obligations to stakeholders in respect of risk management, The risk control cycle, Risk responses, Controlling and monitoring risk, Internal control systems

Social And Environmental Responsibilities

The social and environmental effects of organisations, Social and environmental audit Corporate social responsibility.

1.4 Recommended Text And Further Reference Sources

The main recommended text, supplied by the Business School, is 'Professionalism, Ethics and Regulation' by Robert Souster. It provides a good overview of most syllabus areas, but it is necessary for participants to read more widely, particularly on ethics and regulation.

There are many books on ethics. Some of the most useful books are:

Crane, A. & Matten, D. (2003). 'Business Ethics' Oxford: OUP.

Jones C, Parker M, Ten Bos. R (2005) 'For Business Ethics: A Critical Approach.' Routledge

Freeman, R. E. (1984). 'Strategic management: A stakeholder approach'. Boston: Pitman.

Gray, R, Owen, D and Adams C (1996). 'Accounting and Accountability: changes and challenges in corporate social and environmental reporting'. Prentice Hall, London.

These four sources go beyond the scope of the module, so participants are best advised to consult these books for reference purposes rather than purchase them.

As regulation forms an integral part of the module, participants should use the websites of regulators. For example, the UK financial services regulator is the Financial Conduct Authority (FCA). Its website is www.fca.org.uk. However, it must be stressed that the module has an international focus, and questions will not be specific to the UK or any other jurisdiction.

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A very good resource is 'Chartered Banker', the magazine of the Chartered Banker Institute. When you enrol for the CBMBA you become a member of the Institute, but as a new member there may be a short time lag before you receive the magazine. For this reason, the Module Director has included some material from past issues in these notes, and may flag up useful articles on Blackboard. The magazine publishes at least one article on business ethics in each edition. Several of the case studies used in this study guide are taken from the magazine.

Other sources in the area of regulation include:

www.bis.org (the website of the Bank for International Settlements, useful in respect of the Basel Accords on capital adequacy regulations)

www.financial-ombudsman.org.uk

www.fscs.org.uk (the website of the Financial Services Compensation Scheme)

1.5 Study Approach

Your course of study should centre on the study guide, but this will not provide all of the information that you require, and cannot deal with all of the specific matters that you will encounter in the case studies used by way of assessment.

The materials suggested above are useful, but it is not necessary to read the entire content of any single source. Please be aware that some of the websites suggested as sources of reference are not especially user-friendly.

For 'quick fixes' of instant knowledge, many rely on the speed and convenience of Wikipedia. This source is useful for providing links to providers of primary information, but by its very nature cannot be relied upon to be 100% accurate.

The study guide includes periodic self-evaluation questions. These are extremely useful in turning knowledge into understanding. Although answer guidelines are given at the end of each unit, these are only guidelines. The answers are not always the only correct response, as it is often possible to take an alternative approach to a problem or issue.

Please remember that the module leader is there as a resource. The course encourages interaction throughout, and you should avail yourself of opportunities to cement your understanding by participating fully in the interactive facilities provided.

1.6 Assessment

The module will be assessed by:

1. A case study-based assignment covering several learning outcomes. The case study will be completed on an open book basis and the assignment should be around 2,500 words.
2. A final Examination of 3 hours duration, with one compulsory question for 50 marks and two optional questions (from three) for 25 marks each.

2. Ethical Concepts

2.1 Aim

The aims of this section are to define the nature of ethics, identify its significance to the banking profession and provide an introduction to three main branches of ethics.

2.2 Learning Objectives

After completing section 2 you will:

- be able to define ethics;
- know the role ethics has to play in professional relationships;
- be able to distinguish between legal and fiduciary responsibilities;
- understand the principles applicable to three branches of ethics: duty-based; consequences-based; virtues-based.

2.3 Definition of Ethics

Ethics considers what is right and wrong, and whether conduct by individuals and organisations is good or bad. Straight away, therefore, we see that there is an element of judgement in this. Most of our study of ethics is centred on human behaviour, either for individual or group benefit or by humans on behalf of organisations.

One consequence of the subjective nature of ethics is that you will sometimes be unable to conclude that a behaviour or outcome is absolutely right or wrong. Ethical issues are bound to arise in capitalist systems because enterprises are about wealth creation and adding value to the welfare of individuals and businesses.

Right or wrong to whom? This can be considered in terms of:

- ethics based on consequences;
- ethics based on duty;
- ethics based on virtues.

2.4 Ethics And Professional Relationships

To earn the right to be regarded as professionals, individuals and the organisations that employ them have to maintain generally accepted standards of behaviour. These standards change over time, and the boundaries of what is and is not acceptable are constantly being redefined. It is not long ago that professionals such as solicitors were not permitted to advertise their services, but many law firms now do so, and this is an accepted feature of the business environment in which they operate.

Some practices that were almost universally accepted in the past are now frowned upon, such as professional firms agreeing fixed scales of charges to avoid price competition (this practice only died out in the 1980s). In retail banking, it was once acceptable for branch managers to earn personal commissions on business referred to external firms, and for incoming branch managers to make goodwill payments to the previous incumbents.

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Some professionals belong to institutes that impose standards, with sanctions applied to those who transgress. One example of this is the Law Society, and the defined standards tend to be effective, as it is difficult to practice law without being a member of the Law Society. In banking, the Chartered Banker Institute has a Code of Professional Conduct that is binding on its members, but, unlike the legal profession, it is possible to practice in many fields of banking without being a member of any professional body at all.

Even where professional codes apply, it is impossible for their content to anticipate every single instance in which ethical principles can be challenged. For this and other reasons, it is necessary for individuals to decide their own ethical position when faced with dilemmas in their working lives

2.5 Legal And Fiduciary Duties

Ethical responsibility goes beyond the force of law. For example, those who consider the outcomes of the Enron and Parmalat scandals as being a matter of ethics are only partially right in that some of the actions revealed consequently were simply illegal. Ethical concerns go further than this. For example, the collapse of Maxwell Communications plc in 1990 was initially triggered by borrowing to prop up failing business units (this included borrowing from the pension fund of employees of the 'Daily Mirror' newspaper), which was perfectly legal at the time. But was it ethical?

An illustration of the misunderstanding relating to the fuzzy boundaries between legality and ethics arose during the expenses scandal surrounding British Members of Parliament in 2010. When confronted by a television reporter in relation to allegations about her behaviour, an MP commented that the matter was blown out of all proportion because she had 'done nothing illegal'. The public outrage triggered by the scandal was not about legality at all, but was concerned with public perceptions of right and wrong behaviours by those entrusted with public office.

Some distinguish between the letter of the law and the spirit of the law. The letter of the law is its literal meaning, while the spirit of the law suggests that people and organisations should behave in a manner that is consistent with the underlying intentions of the law, as well as what the law actually says.

One ongoing debate concerns the extent to which the fiduciary duty of the professional extends beyond the legal and contractual obligations of the job. Fiduciary duty is the duty of trust, owed by one person to another, and is considered in more detail shortly. The concept is recognised in common law in relation to officers of corporate bodies, but is extremely vague when applied to organisations themselves and those working for them. It is generally accepted, however, that organisations should pay due regard not only to their owners and those who govern, but also to the various stakeholders affected by the enterprise

Ethical problems facing contemporary managers: The primary duty of managers is often regarded as the pursuit of profit, consistent with corporate goals. The ethical standards expected of managers impose broader duties, such as guarding, preserving and enhancing the value of the enterprise for the benefit of its stakeholders.

Some of this broader responsibility arises from the more litigious climate in which businesses now operate. This has applied in the USA for many years and is now featuring strongly in the UK and Europe.

Some of the ethical issues facing contemporary managers and their organisations include the following:

Do the products and services that we sell add value to society? There has been much debate about the perceived and actual benefits of payment protection insurance policies, when many consumers are already protected by add on features of their current accounts. In the area of fast moving consumer goods, similar issues arise in respect of extended warranties

Is it necessary for an individual who works for an enterprise to actually believe in the products and services offered? If not, there is an ethical issue for non-drinkers working for alcohol companies, and for non-smokers working for tobacco companies.

Should bankers draw ethical boundaries around the scope of their business? Should they operate in countries that oppress civil rights, or do business with manufacturers of military weapons? At individual level, should a business adviser employed by a retail bank be expected to deal with a purveyor of pornography, even if he or she has personal moral objections to the business conducted by the owner?

When ethical boundaries are drawn, at what point should the line be drawn? During the late 1960s and early 1970s, students were urged by some of their leaders not to do business with Barclays Bank because they found some of the employment practices in South Africa objectionable. At the time, the government of South Africa maintained an apartheid regime. However, the same people were silent in respect of banks operating in other countries where similar regimes were maintained.

How far does the duty of the employee extend beyond the scope of the contract of employment? Should an organisation be judgemental about what the individual does in his or her personal life? If not, why were four young investment bankers dismissed following media reports of their extravagance in a restaurant in the evening, out of working hours, with food and drink paid for out of their own pockets?

How far does the duty of the employer extend to the employee, beyond the scope of the contract of employment? For example, should the employer support the worker through difficult personal circumstances?

How long does the duty of confidentiality extend after the contract of employment is dissolved? Obviously, the individual should keep his or her secrets, but new recruits are frequently offered jobs on the basis of the intellectual property they can bring to the new employer and experience gained elsewhere.

When there is a conflict between the duty of the employee to the company and the duty of the same employee to the professional body of which he or she is a member, what action should the individual take? For example, an individual working in the finance department may be asked to 'hush up' some doubtful information on provisions for bad debt, while his or her obligation as a professional is to be honest and transparent. This may seem an easy issue to resolve, but a young, ambitious person with an upward career path may be making a considerable personal sacrifice if the ethical course is taken.

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