The challenge of assessing and shaping bank conduct, ethics and culture: Insights from the social sciences

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Abstract Organisational culture is a notoriously difficult subject for financial institutions. This paper examines how approaches from a variety of different disciplines can be used to assess and shape an institution's culture. It goes on to look at one approach — the Theory of the Convention — in detail. This model is based on the observation that individuals coordinate with each other by invoking different standards of behaviour. These standards are based on shared expectations about how people should behave when carrying out roles such as family member, citizen, celebrity, technical expert or merchant. We learn about these expectations through experience, and invoke them through familiar symbols and conventions. Often it is unclear which set of expectations should be adhered to, and this ambiguity leads to rival cultures and subcultures. This paper applies the concepts contained in the Theory of the Convention to the case of the LIBOR rate manipulation scandal, to show how it is possible to break a process down to the constituent standards used by individuals to plot their actions and predict the actions of others. It goes on to identify which of those standards contribute to sustaining a healthy organisation, and the measures that can be taken to reinforce positive elements and address negative elements in an organisation's culture.

Keywords: *culture, convention, LIBOR, organisation, order of worth*

INTRODUCTION

Managing organisational culture is a huge challenge for both financial institutions and regulators. In its most recent Business Plan, the Financial Conduct Authority (FCA) stressed that 'poor culture and poor conduct are closely related'.[1] Yet when it comes to taking action, the culture of an organisation seems to melt away in a mist of subjectivity.

One example of how difficult it is to fit ideas about culture into traditional risk and audit activities is the recent thematic review by the FCA into banking culture. The FCA decided to break off its work on an industry-level review of culture because 'The idiosyncratic nature of each individual institution meant that issuing generalised good and poor practice guidance was unlikely to be of sufficient value to justify continuing …'.[2] The FCA may well have been correct to change its approach to regulating bank culture, but the mere fact that it decided to change its methods midway through a high profile review demonstrates that this is a new area of activity where institutions are still learning from a process of trial and error.

Perhaps one reason why financial regulators and institutions are still so tentative in their approach to organisation culture, is that it is a concept that draws heavily from the social sciences,[3] studies that exist a long way away from academic disciplines that have more traditionally been applied to financial services. Fortunately for risk managers, conceptual frameworks developed in the fields of anthropology, psychology and sociology can help build a practical, forward-looking picture of culture from the ground up.

EXPLAINING BEHAVIOUR AND CULTURE IN ORGANISATIONS

In an organisation with thousands of employees, it is impossible for senior managers to control and monitor behaviour at all times. As a result, managers use generalisations to predict responses to their actions. It is useful to relate these generalisations to academic models of behaviour, because these models help us to broaden the way in which we interpret and manage behaviour, and they alert us to the risks of relying on one set of generalisations too heavily.

One model that is widely used by organisations in an attempt to understand and shape culture comes from the world of classical economics. This sees individuals as fundamentally rational, self-interested individuals who respond to material incentives. An example of this approach is the 2014 FCA paper on staff remuneration and incentives, which opened with the following words:

> 'There is no doubt that the way sales staff are paid influences their behaviour — why else would an "incentive" scheme exist in the first place? ... However, we know this inducement can also have an undesirable effect if poorly designed.'[4]

The advantage of this approach is that it offers a clear model of behaviour, and a practical set of steps for modifying behaviour. However, one of its limitations is that individuals' behaviour is shaped not only by contractual agreements, but also by the social setting of the workplace. For example, a year later, the FCA followed up its paper on financial incentives in firms with another, which said:

> 'A key driver of culture is how people are rewarded and the behaviours that are valued and recognised by the firm … However, we have been made aware of intelligence from whistleblowers to the FCA and media articles suggesting that, in some cases, the changes to reward structures may not have been accompanied by a genuine shift away from a sales-focused culture. Instead, there are indications that in some cases the progress made on financial incentives may have led to an increase in pressure being placed on staff through other means, to achieve sales.'[5]

One of the first people to attempt to try to bring these other cultural and structural factors together in a workable model of behaviour was one of the founders of the study of sociology — Max Weber. He argued that large organisations operate effectively by adhering to several fundamental principles, including a hierarchy of authority, job specialisation, formal rules, and an impersonal and objective approach to decision-making including selection of staff on merit. Weber contrasted bureaucracies to organisations based on traditional, family lines, such as small, entrepreneurial firms. He stressed the impersonality of the bureaucratic organisation, the divisions between personal and professional life, and the interchangeability of its members.[6]

Elements of Weber's picture of a bureaucratic organisation appear frequently in thinking about organisational culture. The importance of hierarchy is underlined by frequent references to getting the right 'tone from the top', and the importance of clear rules and objective decision-making is underlined by commitments to good governance and professionalism.

Experience teaches us, however, that hierarchical, rule-based organisations are not as homogeneous as Weber described them. As a result, trying to introduce cultural change through traditional bureaucratic methods can prove futile. As Alvesson puts it, 'Some time ago there was great faith in the idea that whole organizations can have distinct cultures and that top management are central architects behind this; but this idea has lost its credibility.'[7]

One way of approaching subcultures in large institutions is through the use of organisational psychology. For example, a psychologist's view of a financial services firm may pick up elements such as the need to take part in certain types of 'ritual' activity, such as a demand on all workers, male and female, to exhibit and tolerate certain 'masculine' behaviours. It can also identify significant exchanges of information, and revealing aspects of office politics. A psychological view of behaviour in an organisation is better placed to see when individuals are subscribing to conflicting sets of beliefs at the same time — for example, conforming to organisational rules while making allowances for colleagues that do not.[8]

The discipline of behavioural economics attempts to combine some of the insights from psychology with the model of purely rational behaviour established by classical economics. Behavioural economists look at two kinds of decision-making — fast, intuitive decision-making (called System One thinking) and measured, organised thinking (called System Two thinking). System Two thinking is closer to the kind of behaviour that classical economics assumes from individuals, whereas System One thinking is more likely to be subject to behavioural biases. These include tendencies to place more importance on short-term consequences than long-term consequences, to make a decision based on the way it is framed rather than its own merits, and to place more importance on avoiding losses than making gains.[9,10]

It is possible to design processes in an organisation using behavioural economics, for example by slowing down important decisions to ensure they are made in a measured way, and which are less likely to be affected by bias. This can include the development of decision trees for professionals giving advice, to avoid lapses into System Two thinking.[11]

Although behavioural economics provides a way to combine psychological insights with a more traditional, economic model of behaviour, it does not give us a systematic conceptual framework beyond the categories of System One and System Two thinking. Its reliance on observable biases gives us a patchy vision of individual behaviour that gives a very strong explanation for some decisions but very little explanation for others.

THE THEORY OF THE CONVENTION

One approach that attempts to synthesise the insights of economics, psychology and anthropology is the 'Theory of the Convention' — a model of behaviour developed by two French sociologies, Laurent Thévenot and Luc Boltanski. The Theory of the Convention provides a conceptual framework that integrates these strands into a single method of analysing both the economic relationships identified by classical economics and the insights into rituals, symbols and subcultures that are uncovered through the application of psychology and anthropology. In doing so, it helps senior managers identify meaningful actions that can influence an organisation's culture in a way that helps it to build positive and sustainable relationships with its stakeholders.

Boltanski and Thévenot's model seeks to explain the way in which people use shared normative concepts to predict each other's behaviour, and in doing so coordinate action. Their argument begins with the assumption that almost every goal has to be achieved through coordination with others[12] — as one explanation of the theory puts it, 'action has a fundamentally collective character: most actions in this world can only be pragmatically effective if what one person does is met by mutually compatible actions by other persons upon whom s/he is dependent.'[13] Thévenot and Boltanski go on to argue that the difficult act of gaining the cooperation of others relies on predicting their behaviour, and that it is far easier to predict the behaviour of others if they are using a shared understanding of the 'right' thing to do from both a moral and practical standpoint.[12]

Through a detailed analysis of corporate training materials, Boltanski and Thévenot argue that people within modern organisations use six different systems of measuring the quality and appropriateness of behaviour in a given situation. Each system (referred to as an 'order of worth') is a kind of informal rulebook that individuals learn through experience and which they apply when choosing how to behave, and when predicting the behaviour of others. These orders of worth can be invoked by various symbols and familiar ways of communicating or acting.

Boltanski and Thévenot label the systems of justification, or 'orders of worth', as domestic, civic, market, industrial, inspiration and 'fame' (Table 1).[12]

Perhaps the most universal order of worth is the domestic order of worth, in which behaviour is measured against the norms associated with family members or close friends. By evoking the model

Table 1: The six components of the orders of worth

Order	Basis
Domestic	Family relationships, friendships, loyalty
Civic	Relationships between the citizen and the state
Market	Commercial relationships and contracts
Industrial (Technical)	Objective, scientific knowledge
Inspiration	Insight, closeness to a higher truth
Fame	Reputation, recognition, public opinion

of a family, people are expected to behave towards subordinates in a responsible and caring way, while a certain level of obedience is expected in return. Values such as loyalty, the familiarity of the local community and trust earned over time are very important in this order of worth.[12] Understandably, companies that want to express the importance of loyalty and commitment frequently invoke the domestic order of worth when describing their own culture, to the point that one recent contribution to the *Harvard Business Review* had to remind CEOs that 'Your company is not a family'.[14]

In the civic order of worth, behaviour is measured against an individual's relationship with the state — in terms of a citizen's rights and obligations. The institutions of the civic order are courts, councils, legislatures and the machinery of government, and coordination is invoked by an appeal to the greater civic good — for example, an appeal to a major bank to take over a struggling competitor in the interests of the national economy. The values of the civic order are invoked by symbols and language that refer to due process and good governance.[12]

In the market order of worth, behaviour is judged according to traditional expectations about what is expected from buyers and sellers. Although some views of the market see it as the product of a completely natural state that arises from the absence of laws and regulatory intervention, it is nevertheless true that the functioning of any market requires shared expectations around the duties of sellers to adopt a certain minimum standard of honesty and transparency around the goods and services that are being sold, and that buyers have to meet certain minimum standards of behaviour in terms of paying for goods and services and meeting other contractual agreements. The values of the market order are invoked by traditions that support contracts and competition, including conventions around disclosure of product information and the solemn conclusion of an important commercial agreement.[10]

Behaviour in the industrial order of worth is measured against technical, scientific criteria. Perhaps for this reason, it is more useful to think of it as a 'technical' order of worth. Coordination that is based on rigorous, tried and tested methods of producing reliable information is superior to more informal methods. The technical order is invoked by the restrained and unemotional language of science, and by the conventions of academic rigour and transparency.[12]

The values of the technical order of worth can be completely inverted in the inspirational order of worth, which judges legitimacy by the proximity of an individual or an idea to a source of truth. In this order, for example, the creation of an institution based on the emotional or spiritual experience of a guru or an artist is more valuable than the calculated decision of a professional. In the world of commerce, companies frequently use this order of worth to appeal to customers and employees by emphasising the moment of inspiration that led to the birth of its central business concept.[12]

Finally, the order of 'fame' or reputation is closely bound up with public opinion. The value of an individual or an institution is strongly connected to what they are known for, and how well they are known for it. In the commercial world, brands and the concept of brand strength are closely linked with this order of worth.[12]

The six systems of measuring behaviour are not exhaustive — there is the potential for new systems to be produced in the future. Furthermore, these systems do not encompass relationships with no element of reciprocity — for example, relationships

Table 2: Advantages of the Theory of the Convention

• Allows all interactions in an organisation to be seen as efforts to reduce uncertainty
• Helps to identify where power lies within an organisation
• Allows seemingly incompatible views to be treated with equal respect

that are based on violent exploitation. However, these six systems do inform most relationships involving 'give and take' in our own society.

There are three key advantages of the Theory of the Convention (Table 2). First, it allows us to view all interactions within an organisation through one lens — the need to reduce uncertainty. This means that we do not have to puzzle over whether hierarchy and rules are inherently more important in an organisation than informal processes; we simply have to look at which convention is most effective at reducing uncertainty and how it operates within an organisation.

Similarly, the Theory of the Convention does not require assumptions to be made about whether individuals within organisations are fundamentally rational or fundamentally irrational. Instead, we can use it to look at individuals as actors who are constantly faced with an overwhelming amount of information, and so who constantly must trust other actors using a shared, unwritten sense of ethical behaviour. As a result, it is legitimate to think of actors as generally self-interested and rational, as far as their ability to assimilate information will allow them to be, but that they are also constantly confounded by an overabundance of information, which forces them to look for intuitive shortcuts and help from others. In this way, the Theory of the Convention allows us to identify the boundary between rational and ritualistic behaviour.

Secondly, it allows us to identify where power lies within an organisation at any one time, because it is clear that actors that are able to choose which order of worth is applied to a situation are those that hold the most authority.

Thirdly, it allows us to understand why different actors, using different orders of worth, can be utterly convinced that their analysis is the only legitimate approach to the problem. In this way, by looking at a problem using different orders of worth, we can more easily understand why others may have a completely different point of view.

Applying the Theory of the Convention in practice

The Theory of the Convention allows for an analysis of an organisation that leads to practical actions, while retaining the richness of perspective needed to make these pragmatic interventions necessary. This analysis can be applied to organisations using a clear, three-stage process.

The first stage of the process is to ask how different parts of the organisation coordinate with internal and external actors, in order to build predictable patterns of behaviour. Each part of the organisation is expected to fulfil certain tasks, and in doing so faces uncertainty. It overcomes that uncertainty by relating to other groups of people using the shared behavioural 'rulebooks' of the orders of worth.

For example, a sales function in a financial institution might well find itself struggling to engage with customers if it uses the technical language of products and legal contracts. Instead, sales people may engage with customers by invoking the domestic order of worth, for example, by setting up a small office in their local high street, seeking referrals from existing customers to friends or relatives, or translating abstract concepts about how products work into simple diagrams that can be drawn on a scrap of paper.

This is a necessary process, but it can invoke orders of worth that challenge the culture and objectives of the institution. For example, in explaining products in 'layman's terms', sales people may gloss over the statutory disclosures that are required by regulators, opening them up for censure when judged against the civic order of worth, or a drawing on the back of an envelope might break an organisation's internal rules about branding, making salespeople fall short in the eyes of the reputational order of worth.

One output of the first stage can be a map, showing an organisation's major stakeholders, the way in which the organisation seeks to coordinate with those stakeholders, and the dominant 'order of worth' that is invoked. This picture has to be drawn up patiently, from the 'ground up', and must be based on interviews with individuals throughout the organisation, and a careful observation of the conventions that they use and the way they communicate with colleagues and those outside the organisation. The picture must be based on how uncertainty and coordination are achieved in reality, and cannot take a short cut by only looking at theoretical processes.

By drawing this map, senior managers in organisations can begin to understand not only material conflicts of interest, but conflicts between different expectations around 'good' behaviour. Developing this rich and detailed picture of an organisation helps to break down the 'accountability firewalls' that the Parliamentary Commission on Banking Standards identified when it said 'Those who should have been exercising supervisory or leadership roles [in the global banking crisis] … demonstrated poor, perhaps deliberately poor, understanding of the front line.'[15]

Once this map of coordination is established, the second stage is for the senior management of an institution to define what culture it wants to achieve. All too often, cultural work takes place in a silo, with 'regulatory culture' being dictated by a code of conduct that is solely focused on encouraging the kind of behaviour that responds to the civic order of worth — compliance with laws and avoidance of conflicts of interest. This approach ignores the other behavioural expectations with which staff have to comply – for example, an expectation to compete hard and strike strong bargains with market participants. This can result in a code of conduct that is too rooted in the civic order of worth, leaving it looking like a slightly naïve call for polite and obedient behaviour rather than a strong ethical guide that acknowledges the difficulty, at times, of taking the right path.

A strong statement of an organisation's desired culture should acknowledge the difficulty of balancing different, and, in their own way, entirely legitimate expectations of good behaviour, and stress the support and processes that are in place to overcome these challenges. A strong culture does not come from a silent telephone at the end of a dormant whistleblowing helpline — it is the result of a lively process of dialogue and debate between curious, well-informed senior managers and the institution's employees and other stakeholders.

Once the institution's patterns of coordination are understood, and a strong set cultural expectations has been articulated, its senior management can move on to the third step of the process — establishing a programme to address ongoing cultural challenges. This programme will be designed to ensure that individuals within the organisation are required to justify their actions according to the appropriate order of worth at the appropriate time. This is a complex and socially demanding exercise that involves senior managers successfully invoking the symbols and conventions of the order of worth that is most appropriate, given the coordination that is required between different players at any one time.

Three-stage process for applying the Theory of the Convention to cultural change

(1) Produce a map of the organisation, showing areas where uncertainty has to be overcome and order of worth used to overcome them
(2) Decide which order of worth is most appropriate to address each area of uncertainty
(3) Ensure that actions are always justified according to the most appropriate order of worth

Applying the social sciences to financial services: a case study

The LIBOR rigging scandal

One way of exploring the application of the Theory of the Convention is to apply it to one of the biggest crises of organisational culture in recent years, the London Interbank Offer Rate (LIBOR) rigging scandal.

The LIBOR rate was an interest rate benchmark administered by the British Bankers' Association (BBA). It was designed to reflect the rates at which banks lent money to each other in different currencies and at different periods to maturity, and it worked by filtering and averaging out a series of submissions from a range of banks. These submissions contained both actual and estimated rates on borrowing from other banks. LIBOR was a globally significant benchmark because it underpinned derivatives contracts worth hundreds of trillions of dollars.[16] In 2012–2014 a number of banks received substantial fines from various regulators for attempting to manipulate LIBOR rates, including Barclays Bank, UBS, The Royal Bank of Scotland, Deutsche Bank and Lloyds Bank.[16]

At the centre of the manipulation were derivatives traders, who were in a position to make significant gains if the LIBOR rates to which their deals were linked were kept artificially high or low, and 'submitters' — those members of bank staff who were responsible for making LIBOR submissions to the BBA.[16]

During the financial crisis, a new form of LIBOR manipulation emerged.[16,17] In this scenario, pressure was put on submitters from other parts of their institution to produce artificially low rates, in order to reduce speculation that the bank was financially weaker than its peers. In one case, according to the Financial Services Authority:

> 'Barclays believed that other banks were making LIBOR submissions that were too low and did not reflect market conditions. The media questioned whether Barclays' submissions indicated that it had a liquidity problem. Senior management at high levels within Barclays expressed concerns over this negative publicity.
>
> Senior management's concerns in turn resulted in instructions being given by less senior managers at Barclays to reduce LIBOR submissions in order to avoid negative media comment. The origin of these instructions is unclear.'[16]

In the case of the Bank of Scotland, according to the Financial Conduct Authority:

> '… in order to avoid negative media comment and market perception about its financial strength, Bank of Scotland manipulated its GBP and USD LIBOR submissions as a result of at least two management directives in September and October 2008.'[17]

Looking at the first kind of LIBOR manipulation, instigated by traders, it is easy to understand why the traders were tempted to engage in LIBOR rigging — their deals helped them to earn seven-figure annual bonuses.[18] It is equally easy to see why submissions would be biased in situations where the roles of derivatives trader and submitter were carried out by the same person, as was the case at UBS between January 2005 and September 2009.[19] However, what is less obvious is why submitters, who had a far smaller incentive to risk breaking the rules, colluded in the manipulation of rates.

Indeed, one of the most interesting features of the scandal is the way in which the cooperation of submitters was gained with the smallest of bribes. In one internal message at UBS a trader said: 'Just give the cash desk a Mars bar and they'll set wherever you want.'[20] This challenge of coordination for the traders had to go beyond simply offering rewards, and rely on a shared culture with the submitters, that allowed them to feel that they were protected from betrayal, despite knowing what they were doing was against the rules of the regulator and their own organisation.

The strength of the private bond that existed between traders and submitters can be seen in the messages between them, which were 'matey in tone',[20] and invoked a 'laddish' sense of belonging, with phrases such as 'Don't worry mate — there's bigger crooks in the market than us guys!'[21] and 'happy to ablige [sic] … rubbery jubbery'.[22] Clearly, the submitters recognised two sets of standards, the standard of loyalty to friends, and the standard of sticking to the rules, and when it came to action, loyalty to friends was stronger. As one study puts it, LIBOR fixing:

> '… illustrates the fact that there are multiple subcultures within every organization, especially large multinational banks … And, to be accepted, newcomers must adapt to and "learn" about the "values" or norms of the subculture that they are joining'.[23]

The managers of the banks missed the importance of these cultural issues because they thought the mechanics of the LIBOR setting mechanisms were strong enough in themselves. As Johnny Cameron, former Chairman of Global Banking and Markets, RBS Group put it:

> 'It just did not occur to anyone … that this was a rate that could be fiddled, but then it turns out that there was a cartel of people across a number of banks who felt they could fix it.'[24]

In the second type of LIBOR manipulation, prompted by media coverage of Barclays, it is clear that concern over reputation was a key factor. Of course, with hindsight it is easier to see that they did far more damage to their organisation's reputation by manipulating rates than they could have done by quoting high numbers, but at the time reputation was used as a reason for both quoting accurate and inaccurate numbers. For example, one submitter justified an unrealistically low rate by saying: 'going 4.98 for libor only because of the reputational risk … Basically the[re] is no money out there'.[24]

In contrast, another submitter expressed a fear of a different kind of reputational risk, when he said:

> 'My worry is that we (both Barclays and the contributor bank panel) are being seen to be contributing patently false rates. We are therefore being dishonest by definition and are at risk of damaging our reputation in the market and with the regulators.'[25]

Once the scandal had broken, the UK Government commissioned the incoming CEO of the FCA, Martin Wheatley, to recommend reforms to the operation of LIBOR. Many of the proposals were designed to prevent the LIBOR-setting process being unduly influenced by individuals using personal relationships to corrupt the rate — for example, a requirement for submitting firms to be audited regularly and an exhortation for a wide range of banks to submit to the LIBOR process, to dilute the small circles of friends and acquaintances who had previously produced the figures (p. 8).[25]

Another recommendation was designed to prevent media reports from turning LIBOR into a reputational tool. It proposed the introduction of a three-month delay in the publication of the individual LIBOR submissions, 'to reduce any potential interpretation of submissions as a signal of creditworthiness' (p. 64).[25]

Applying the social sciences to an analysis of the LIBOR rigging scandal

The Wheatley Report attempted to address the issues around the LIBOR rigging scandal using traditional methods such as aligning incentives to produce desired results (such as delaying the publication of individual LIBOR submissions), and strengthening the objective, impersonal culture associated with classic bureaucracies. If Wheatley had drawn on wider insights from the social sciences, however, he might have given greater priority to the part played by gender diversity. The documents published by the FCA refer to several submitters and managers as 'he', but never as 'she'; equally, the language used by the submitters clearly reflected a masculine work environment, in which trust was established by being 'one of the lads', and through a willingness to confidently discard impersonal, objective language. Had the banks taken steps to address gender issues in the workplace, they may have disrupted the environment that led to a closed, damaging subculture amongst the traders and submitters much earlier.

Even more significant than this omission is the difficulty that the FCA had in applying Wheatley's approach, which enjoyed the benefit of hindsight, to its forward-looking assessment of culture within banks. Without the beacon of a defining error in the banks' conduct, it is far harder to search through the myriad of relationships in a large organisation to discover where problems might lie.

Using the Theory of the Convention, it would be possible to build a picture of the strengths and weaknesses in the relationships between the key actors, by starting out with discovering where the uncertainty that led to the need for coordination was located and how it was being reduced. The LIBOR rate was used by participants in derivatives contracts, and its attraction was that its creation was close to the individuals who agreed inter-bank rates. In other words, the opinions of the rate setters ranked high in the market order of worth. However, the attractiveness of being close to the market was an illusion in areas where the market was too thin to provide data.

The BBA tried to address this by adding a pseudo-technical convention — the estimation process — to its work, but this was not close enough to the genuine market convention of striking deals with the banks' own money to prevent abuse. If, instead, the BBA had refused to cater for market participants who were looking for a free ride by using an estimated rate, those participants would have been more likely to invest in alternative ways of generating data in thin markets. For example, they could have appointed a panel of economists to estimate a rate. These alternative methods would have had a much better chance of meeting the high standards of technical professionalism than the BBA process, which mixed technical estimates with market deals.

CONCLUSION

Faced with a mass of subjective and complex relationships, understanding the culture of an organisation can be baffling, especially for senior managers of financial institutions who are compelled to understand the dynamics of that culture before a defining event has taken place, and not several years afterwards.

Tools produced by the social sciences, such as the Theory of the Convention, offer organisations an opportunity to categorise and map the cultures and subcultures within their organisations, by observing how individuals use orders of worth to overcome uncertainty and coordinate activity. Ultimately, the Theory of the Convention can guide senior managers to the kinds of conventions and communication that, if nurtured and promoted, will develop a positive organisational culture. In this way, the Theory of the Convention can help senior managers to build a more effective and resilient financial institution.

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