



EUROPEAN COMMISSION: FECIF CONCERNS ABOUT UPCOMING RETAIL INVESTMENT STRATEGY



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LES GFI et leur 'Fiduciary Duty'

Cosima F. Barone, Membre du Conseil du GSCGI

En reportant dans la rubrique **InGlobo** (pages 19&20) certaines de mes lectures quotidiennes, je n'ai pas pu éviter de penser que, de nos jours, parfois la connaissance du passé est souvent absente, ce qui mène à des grandes confusions.

Prenez par exemple le cas des Eurobonds. Si vous interrogez un *trader* de nos temps de vous définir ce qu'est un Eurobond, très probablement il fera référence aux obligations émises par la Commission Européenne afin de venir en aide de certains pays membres de l'UE suite aux conséquences économiques causées par le fort endettement que ces États ont assumé, durant la période COVID-19, malgré leur niveau d'endettement d'avant la crise pandémique déjà trop élevé. Or, traditionnellement un Eurobond est une obligation émise par un État souverain hors de ses frontières, dans la même monnaie nationale ou dans d'autres monnaies, rendant ainsi ce type d'obligation subordonné à celles émises dans son pays. Incidemment, les Eurobonds modernes traitent sur les marchés financiers à des prix inférieurs de ceux des obligations émises directement par des États (souverains) membres du système monétaire européen.

Un autre domaine de la finance internationale où il a été créé, sur le plan international, une énorme confusion, durant la dernière décennie, est celui du 'Fiduciary Duty'.

Plusieurs articles dans le média ont relaté récemment de la décision du CEO de Vanguard, Tim Buckley, de se retirer de l'initiative de "\$59-trillion Net Zero Managers" **en affirmant son 'devoir fiduciaire' envers ses clients.** Cette initiative fait partie de la '\$150-trillion Glasgow Financial Alliance for Net Zero' sous l'égide des Nations Unies. Tim Buckley défend énergiquement le devoir fiduciaire du gestionnaire envers ses clients.

Cela me rappelle un des multiples cours dans des universités et d'autres institutions professionnelles de Wall Street, qui ont occupé presque 100% de

mes soirées, après des longues et très intéressantes journées de travail (1981 & 1982). Pendant un de ces cours, le professeur a posé à toute la classe cette question: en tant que gestionnaire de l'épargne d'un client, que ferez-vous face au choix d'investir par exemple dans l'industrie du tabac ou de la défense dont la perspective de gain est très probable, ou de ne pas le faire en vertu du principe que le tabac et les armes tuent? De mon souvenir, toute la classe a opté pour le dernier choix, moi aussi. Réponse fausse. C'est ainsi que le professeur nous a appris le concept du 'Fiduciary Duty' envers les clients.

A présent, si vous faites des recherches sur Google à ce sujet, la toute grande majorité des articles et sites web qui en parlent vous démontre que le 'fiduciary duty' à respecter est celui lié à l'E.S.G. Voici quelques exemples:

UNEP FI

<https://www.unepfi.org/investment/history/fiduciary-duty/>

UNPRI

<https://www.unpri.org/fiduciary-duty/what-is-fiduciary-duty-and-why-is-it-important/247.article>

...et d'autres comme 'Institute of Sustainable Finance' et 'Impact Investing Institute'.

Indéniablement, Tim Buckley, ce PDG de 54 ans remet en question l'orthodoxie environnementale, sociale et de gouvernance du secteur de la gestion d'actifs. De plus, au niveau global régulateurs et banques centrales, à l'exception de la Federal Reserve, se sont alignés à l'urgence de sauver la planète et le climat.

Alors que pour les investisseurs se positionner comme '**socially responsible**' n'est que du bon sens, la question devient politique, économique et stratégique pour tous les autres acteurs. De plus, n'oublions pas que ce sujet n'inspire pas encore la clarté qu'il devrait et est une source supplémentaire de risques auxquels sont aussi confrontés les GFI.

Cosima F. Barone

European Commission: FECIF Concerns about upcoming Retail Investment Strategy

Martin Klein—President of FECIF—www.fecif.eu

Le Groupement vous propose ci-après, en version française, la lettre que Martin Klein, Président de FECIF, à adressée à la Commission Européenne le 6 février 2023. Ces commentaires ont été adressés à **Valdis Dombrovskis** (executive vice president of the European Commission), **Mairead McGuinness** (Commissioner for Financial Services, financial stability and Capital Markets Union) et **John Berrigan** (Director General of DG FISMA). Vous trouvez la version originale anglaise en PDF en page 7.

* * *

En tant que président de la Fédération Européenne des Conseils et Intermédiaires Financiers (FECIF), dont les associations membres représentent plus de 450 000 conseillers et intermédiaires en assurance et en finance, je vous écris pour vous faire part de nos préoccupations concernant la prochaine stratégie d'investissement **'retail'** (**Retail Investment Strategy - RIS**), et plus particulièrement certaines questions relatives au conseil en investissement.

L'objectif principal de la RIS est d'accroître la participation des investisseurs **'retail'** aux marchés financiers. Les conseillers financiers jouent un rôle clé dans la réalisation de cet objectif. Selon la très importante étude de la Commission européenne intitulée **"Disclosure, inducements, and suitability rules for retail investors study"** (ci-après, l'"étude CE"), **les conseillers sont le principal moteur des décisions des investisseurs 'retail'**. Leur rôle, différent de celui des institutions financières, a été renforcé ces dernières années, grâce à un engagement total dans la formation professionnelle, le développement professionnel continu et l'éducation financière.

Dans ce contexte, nous souhaitons exprimer nos préoccupations concernant le débat en cours sur la possibilité d'interdire les commissions.

Un grand nombre d'études réalisées ces dernières années ont montré que les conseils qualifiés sont très

appréciés des investisseurs **'retail'**, la source d'information la plus importante pour les décisions financières étant dans chaque cas les recommandations personnelles des conseillers financiers. Un accès rapide, simple et transparent à ce conseil qualifié contribue également de manière significative à l'un des principaux objectifs de la Commission: la participation du plus grand nombre possible de petits investisseurs au marché des capitaux.

Même s'il y a certainement encore une marge d'amélioration, au vu de l'expérience de l'interdiction des commissions dans des pays comme le Royaume-Uni, il est évident que cette mesure atteint exactement le contraire: le déficit de conseil s'accroît massivement, surtout parmi les groupes à faibles revenus, et les petits investisseurs en particulier se voient refuser cet accès simple, transparent et surtout qualifié au marché des capitaux.

Le danger d'une telle lacune en matière de conseil, que représente l'interdiction des commissions dans les pays où prévaut un modèle de commission, devrait donc être l'une des principales préoccupations de la Commission. Sur la base de l'expérience des pays où une interdiction des commissions a été introduite, il existe un risque réaliste que les groupes mêmes d'investisseurs **'retail'** qui bénéficieraient le plus de conseils, et dont la fourniture a jusqu'à présent été rendue possible par le modèle de commissions, se voient refuser l'accès à ces conseils.

L'expérience du Royaume-Uni montre qu'une interdiction des commissions élargit considérablement le **"fossé du conseil"**, ce qui - selon la conclusion de l'étude de la CE - serait totalement contraire à l'un des principaux objectifs visés par la RIS.

En outre, dans l'environnement de marché actuel, il est clair que la qualité du conseil financier ne dépend pas de la forme de rémunération. MiFID II et IDD ont introduit des garanties strictes et complètes et des normes de haute qualité pour les produits d'assurance et d'investissement et les conseils qualifiés qui y

European Commission: FECIF Concerns about upcoming Retail Investment Strategy

Martin Klein—President of FECIF—www.fecif.eu

sont associés. L'application de ces deux directives est actuellement encore en cours et les statistiques annuelles de l'ESMA et de l'EIOPA montrent qu'il existe encore un potentiel d'amélioration à cet égard.

Il est important de noter que les conseillers financiers, les sociétés et les assureurs s'efforcent de répondre aux besoins et aux attentes élevées de leurs clients sur un marché hautement concurrentiel. Cela signifie que la rémunération perçue par le conseiller équivaut à la fourniture d'un bon service, et que tout gain monétaire pour le conseiller est clairement et entièrement compensé par la nécessité de fournir des conseils qui entraînent des avantages économiques à long terme pour le client. Pour conserver la loyauté d'un client et éviter toute atteinte à sa réputation, la priorité absolue d'un conseiller est de recommander des produits qui correspondent à la situation, aux objectifs et aux préférences uniques du client et qui offrent des rendements financiers à long terme. Cette démarche est au cœur du modèle économique du secteur des services financiers.

C'est pourquoi, la coexistence de modèles de conseil basés sur des honoraires et des commissions doit être l'un des piliers centraux d'une stratégie d'investissement de détail réussie.

En outre, nous demandons instamment à la Commission d'établir une distinction claire entre le profil d'investissement des investisseurs 'retail' et celui des investisseurs institutionnels. Dans le cas des investisseurs institutionnels, il est courant que les produits d'investissement soient achetés sans aucun conseil. Pour cette raison, des services essentiels qui doivent être fournis aux investisseurs 'retail' - par exemple, une vérification complète de l'adéquation des produits en tenant compte des préférences de l'investisseur en matière de durabilité - sont omis. Les coûts auxquels les investisseurs institutionnels acquièrent les produits d'investissement ne sont donc pas comparables aux coûts payés par les investisseurs 'retail'. La stratégie d'investissement 'retail' ne doit en

aucun cas viser à ce que les investisseurs 'retail' sans éducation financière suffisante n'achètent à l'avenir que des produits d'investissement dans le cadre d'opérations commerciales sans conseil. Les risques associés dépasseraient clairement tout avantage potentiel en termes de coûts.

Pour ces raisons, la FECIF souhaite proposer une approche différente pour traiter cette question.

Du point de vue de la transparence, l'information sur le statut d'indépendance ou de non-indépendance du conseiller ou sur les incitations (un concept que les investisseurs 'retail' ne comprennent pas entièrement) n'est pas perçue comme pertinente par les investisseurs 'retail', comme le conclut l'étude de la CE.

Ce que les investisseurs 'retail' exigent en fait, c'est des conseils de qualité qui leur permettent d'obtenir de bons résultats pour leur présent et leur avenir. Cet objectif peut être atteint en renforçant les exigences en matière de connaissances et de compétences (abordées dans l'amendement 38 de l'ECON relatif à la MiFID II) et en exigeant des conseillers qu'ils prennent l'engagement éthique d'agir dans le meilleur intérêt du client (conformément à l'article 24, paragraphe 1, de la MiFID II).

En outre, les investisseurs 'retail' exigent des informations claires et précises ("à la virgule près") sur les coûts du conseil, parmi lesquels figurent les incitations, et sur la portée du conseil, c'est-à-dire s'il comprend tous les produits disponibles sur le marché ou seulement ceux disponibles dans le portefeuille d'une entreprise financière.

Nous pensons que cette approche serait un modèle de réglementation plus cohérent et plus efficace pour lutter contre la suspicion qui entoure les conseils (en particulier autour des conseils non indépendants), et pour créer une Union des marchés de capitaux (**Capital Markets Union**) qui garantit l'accès à tous les services financiers pour tous les clients 'retail' et toutes les entreprises.

European Commission: FECIF Concerns about upcoming Retail Investment Strategy

Martin Klein—President of FECIF—www.fecif.eu



Brussels, 6 February 2023

To:
Mr Valdis Dombrovskis – Executive Vice-President of the European Commission
Ms Mairead McGuinness – Commissioner for Financial Services, Financial Stability and CMU
Mr John Beringan – Director-General for Financial Stability, Financial Services and CMU
Cc:
Ms Tatyana Pavlova – Head of Unit, DG FISMA D.1
Mr Eric Gueron – Head of Unit, DG FISMA D.2
Mr Thomas Lander – Head of Unit, DG FISMA D.3
Mr Alan Driessens – Head of Unit, DG FISMA C.4
Mr Didier Milard – Head of Unit, DG FISMA D.4

Subject: Concerns about upcoming Retail Investment Strategy

Dear Commissioner McGuinness,
Dear Executive Vice-President Dombrovskis,
Dear Director-General Beringan,
Dear ladies and gentlemen,

As Chairman of the European Federation of Financial Advisers and Financial Intermediaries ("Fédération Européenne des Conseils et Intermédiaires Financiers" - FECIF), whose member associations represent more than 450,000 insurance and financial advisers and intermediaries, I am writing to raise our concerns about the upcoming Retail Investment Strategy (RIS), specifically some issues regarding investment advice.

The main objective of the RIS is to increase the participation of retail investors in financial markets. Financial advisers play a key role for the achievement of this objective. According to the very important European Commission's "Disclosure, inducements, and suitability rules for retail investors study" (hereafter, the TEC Study), **advisers are the most important driver of retail investors' decisions**. Their role, different from the role of financial institutions, has been enhanced in recent years, thanks to a full commitment with **professional training, continuous professional development, and financial education**.

In this context, we would like to pose our concerns regarding the ongoing debate on the possibility of banning commissions.

A large number of studies in recent years have shown that qualified advice is highly valued by retail investors, with the most important source of information for financial decisions in each case being the personal recommendations of financial advisers. Fast, simple and transparent access to precisely this qualified advice also makes a significant contribution to one of the Commission's main objectives: the participation of as many retail investors as possible in the capital market.

Even if there is certainly still room for improvement, in view of the experience with the commission ban in countries such as the United Kingdom, it is evident that this measure achieves exactly the opposite: the advice gap is growing massively, especially among low income groups, and small investors in particular are being denied this simple, transparent and, above all, qualified access to the capital market.

The danger of such an advisory gap, which the ban on commissions in countries where a commission model prevails, should therefore be one of the Commission's main concerns. Based on the experience in countries where a commission ban has been introduced, there is a realistic risk that the very groups of retail investors who would benefit most from advice, and whose provision has so far been enabled by the commission model, will be denied access to such advice.

The experience in the UK shows that a ban on commissions widens the "advice gap" substantially, which - according to the conclusion of the EC Study - would be entirely contrary to one of the main intended objectives of the RIS.

Furthermore, in the current market environment it is clear that the quality of advice is not dependent on the form of remuneration. MiFID II and IDD have introduced strict and comprehensive safeguards and high-quality standards for insurance and investment products and the related qualified advice. Enforcement of these two Directives is currently still in full progress and the annual statistics from ESMA and EIOPA show that there is still potential for improvement in this respect.

Importantly, financial advisers, companies and insurers are striving to meet the needs and high expectations of their clients in a highly competitive market. This means that the remuneration



received by the adviser is the equivalent of providing a good service, and that any monetary gain for the adviser is clearly and fully outweighed by the need to provide advice that leads to long-term economic benefits for the client. To maintain a client's loyalty and avoid reputational damage, an adviser's top priority is to recommend products that fit the client's unique situation, goals and preferences and provide long-term financial returns. This is at the core of the financial services industry's business model.

For this reason, the co-existence of fee-based and commission-based advisory models must be one of the central pillars of a successful retail investment strategy.

Furthermore, we would urge that the Commission clearly distinguishes between the investment profile of retail investors and institutional investors. In the case of institutional investors, it is standard practice for investment products to be purchased without any advice. For this reason, crucial services that have to be provided to retail investors - for example, a full suitability check taking into account the investor's sustainability preferences - are omitted. The costs at which institutional investors acquire investment products are therefore not comparable with the costs paid by retail investors. Under no circumstances should the Retail Investment Strategy aim to ensure that retail investors without sufficient financial education in future only purchase investment products in advisory-free business transactions. The associated risks would clearly exceed any potential cost benefits.

For these reasons, FECIF would like to propose a different approach to address this matter:

From the transparency point of view, informing on the status of the independence or non-independence of the adviser or on inducements (a concept that retail investors do not fully understand) is not perceived as relevant by retail investors, as concluded in the EC Study.

What retail investors indeed demand is good advice to deliver good outcomes for their present and future. This can be achieved by enhancing knowledge and competence requirements (addressed in ECON's Amendment 38 of MiFID II) and requiring advisers to make an **ethic commitment to act in the client's best interest** (see Art. 24.1 MiFID II).

Moreover, retail investors demand clear and precise ("to the point") information on the costs of the advice, among which are inducements; and **the scope of the advice**, that is, if it comprises all the products available in the market or only the ones available in the portfolio of a financial firm.

We think that this approach would be a more consistent and efficient model of regulation to tackle the suspicion that surrounds advice (especially around non-independent advice), and to create a Capital Markets Union that ensures access to all financial services for all retail clients and companies.

Yours sincerely,

Martin Klein

Chairman, FECIF Fédération Européenne des Conseils et Intermédiaires Financiers
Managing Director, VÖRUM Verband Unabhängiger Finanzdienstleistungsfachleute in Europa e.V.





Le Groupement apprécie beaucoup la fidélité des ses Membres Partenaires et tient à les remercier de leur précieuse collaboration et de leur contribution (sponsorship et articles) au succès du WealthGram.

Retrouvez ici, dans la prochaine édition, les Membres Hermès-Elite du GSCGI.

UN RALLYE – BALADE DE VOITURES ANCIENNES EXCLUSIF

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Dear Members,

A&T Alpha-Credit is delighted to support Z Trophy (www.z-trophy.be) for the first Classic car rally-ride of the year that will take place in Switzerland from May 24th to 28th, 2023, and will allow the participants to explore the magnificent cantons of Valais and Vaud.

We will be based in the stunning resorts of Gstaad and Crans-Montana during the 4-day trip. The route will take the participants along mythical roads; the

filming location of the James Bond film, Goldfinger, many passes (Grimsel, Furka, Nufenen, Gotthard, ...) lakes, plains, valleys, vineyards - all with breathtaking views.

If you are interested in this project, please send an e-mail to charles-henri.tkint@kms-events.be — seats are limited. www.z-trophy.be

With kind regards

Marc de Hennin, A&T ALPHA-CREDIT

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FECIF INFORMS...

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FECIF—NewsFlash—40/2023—ECON Committee: Adoption MiFIR/MiFID II

EXECUTIVE SUMMARY—Today (1 March 2023), the Committee on economic and monetary affairs (ECON) of the European Parliament adopted the two reports regarding the partial revision of MIFID II and MIFIR.

ANALYSIS—The rapporteur for both files is Danuta Maria Hubner (EPP, PL):

- The report on the proposal for a Regulation amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders (MiFIR) was adopted with 45 votes in favor, 5 against and 9 abstained. The mandate for the interinstitutional negotiations was approved with 50 votes in favor, 4 against and 5 abstained. All compromise amendments were approved. The draft report is available [here](#), the amendments are available [here](#) and [here](#).
- The report regarding the Proposal for a Directive amending Directive 2014/65/EU (MiFID) was adopted with 52 votes in favor, 6 against and 1 abstained. The mandate for the interinstitutional negotiations was approved with 51 votes in favor, 5 against and 2 abstained. All compromise amendments were approved. The draft report is available [here](#), the amendments are available [here](#).

In the latest version of the compromise amendments of MiFID, amendments 37 and 39 which modified articles 24 and 27 were not included in the compromises between the political groups. Therefore, they will not be part of the text the ECON Committee approved.

As regards as **next steps**, the European Parliament has to approve the reports during the Plenary. Then, the interinstitutional negotiations with the Council can start. The Council reached its **general approaches** on 20 December.

SOURCES—The webstreaming of the vote is available [here](#).

* * *

FECIF—NewsFlash—38/2023—ESMA: SMSG advice to ESMA on ESG names consultation

EXECUTIVE SUMMARY—Today (21 Feb. 2023), the Securities and markets stakeholders group (SMSG) presented its advice to ESMA on ESMA's consultation on Guidelines on funds' names using ESG or sustainability-related terms ("naming" consultation).

ANALYSIS—In the wake of the ESAs' consultation on greenwashing, ESMA consults on future Guidelines on funds' names using ESG or sustainability related terms. The SMSG finds that the two consultations are closely related while timelines as well as scope are different. The greenwashing consultation involves all three ESAs working on a 2-year timeline, while the "naming" consultation applies to funds only and have a timeline of less than one year. There is also a difference in mandate, the ESAs having received a formal mandate from the EC on the greenwashing theme while the funds' naming consultation is not based on such a formal mandate. That said the SMSG finds that many of the topics looked at in the greenwashing discussion fit very well also in the funds' naming discussion.

SOURCES—The text is available [here](#).

* * *

FECIF INFORMS...

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FECIF—NewsFlash—36/2023—European Commission: study on the EU's retail investor protection framework, covering disclosure, inducements and suitability rules (re-published)

EXECUTIVE SUMMARY—The European Commission has just re-published the Kantar study on the EU's retail investor protection framework, covering disclosure, inducements and suitability rules.

ANALYSIS—The outsourced 350-pages retail market study meant to inform the technical works on the Retail Investment Strategy. Following a request from the European Commission for further details regarding the study's findings as regards the costs of inducements, Kantar acknowledged an error in a previous version of the study.

Kantar confirmed that for the sample analysed, which covered 176 financial products, costs for products that carry inducements are 24-26% higher than those products which do not carry inducements, and not 35% as previously reported. Other research, including from the industry, consumer organizations and the European Securities and Markets Authority (ESMA), confirms the significance of inducements in the total costs charged to investors. The new data (hence: 24-26% can be found on Page 23 of 333 of the report.

Yesterday, VOTUM released a press statement which has already gained significant awareness in the German speaking press environment. Please find it attached with the FECIF's logo.

SOURCES—The study is available [here](#). Attached (on right) Fecif's press statement.



Press release

Discussion about inducements: Calculation error in study deprives commissioners McGuinness' fundamentals of her policy approach

Brussels, February 15th, 2023: The gross calculation error in the large-scale "Kantar Retail Investor Study" by the European commission, which has so far served as fundamental base for political decision makers destroys the Commissioner McGuinness' argument on inducements ban.

"The Kantar Institute, mandated by the European commission has now been forced to admit a gross error in the calculation of marginal cost ratios in its retail investor study published in 2022. Originally, the institute since came to the questionable conclusion that the cost for financial product sold through commission-based advice are 35% higher than for product without commission compensation. This result now turns out to be simply wrong. Recently, the commission has stated that this figure had to be corrected downwards to 24 - 26%. Even this value appears more than dubious!", argues FECIF chairman of the board Martin Klein in his initial assessment.

"As commissioner in charge Mairead McGuinness had created a shambles. After all, in all her public statements – also toward EPP MEP Markus Ferber and during the hearing before the ECON Committee of the EU Parliament on January 24th – she has repeatedly cited these erroneous values. These figures were her main argument towards the alleged misaligned incentives in investment brokerage.", Klein continues.

The demand of FECIF in direction of Brussels is clear: "The flat Kantar study cannot be a basis for such a landmark policy discussion. The commissioner must admit the error publicly. It cannot be that we discuss the future of hundreds of thousands of financial advisors based on false calculation.", said Klein.

Klein also criticizes the continuing lack of transparency in the results of the study: "It is unacceptable that the associations of the professional financial advisors, such as FECIF have not yet been given insight into the raw data base of the study. Where this transparency leads, we all witness now on public stage. This is embarrassing. The commissioner should stand by this mistake and derive the appropriate consequences."

"The impression that the study is comparing apples and oranges is growing stronger and stronger. The purchase of a financial product for which a professional financial advisor receives an inducement is always based on professional investment advice which is given prior to the investment to the customer. If no inducement is paid it is either because a direct transaction is done by an investor without any advice, or the investor is charged for some advice with an extra fee. Both should have been included in the valuation. A broad-based study is not needed to answer the question if an advice-free investment is more cost efficient.", concludes Klein.



CIFA INFORMS...



THE (EVEN-STRONGER-THAN-WE-THOUGHT) RELATIONSHIP BETWEEN ECONOMIC LIBERTY AND NATIONAL PROSPERITY

Dan Mitchell—Member of CIFA's Advisory Board—www.cifango.org

URL Link: <https://danieljmitchell.wordpress.com/2023/02/24/the-even-stronger-than-we-thought-relationship-between-economic-liberty-and-national-prosperity/>

I frequently call attention to the “**anti-convergence club**” because of the many real-world examples showing that nations with **free markets and limited governments** enjoy **much better economic performance**.

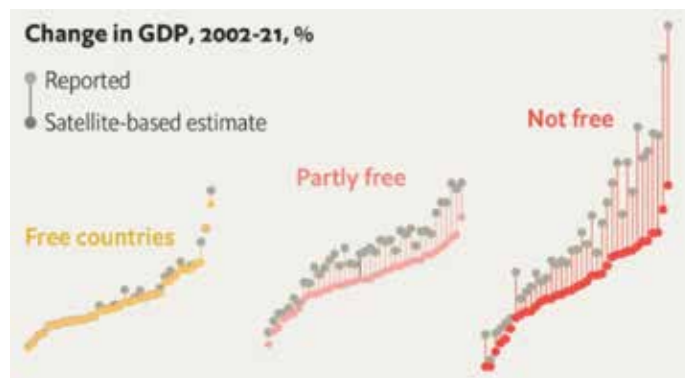
Here are just a few case studies:

- North Korea vs South Korea
- Botswana vs neighbors
- Chile vs Cuba
- West Germany vs East Germany

All this seems like a strong argument for smaller government. And it is.

But all this data I've been sharing may understate the case for economic liberty.

I wrote last October about how satellite-based measures of nighttime light (a proxy for economic vitality) show that nations with less political freedom have a tendency to exaggerate economic performance.



So what happens if we measure the relationship between economic liberty and economic performance using this more-accurate satellite-based data?

Sean P. Alvarez, Vincent Geloso, and Macy Scheck answered that question. Here are some excerpts from their new study.

...the well-documented proclivity of dictators to fudge GDP numbers biases our estimations of the effects of economic freedom on economic development. Since dictatorships are generally also countries with low economic freedom, overstated GDP numbers can fool us into finding more modest effects of economic freedom. To test our argument, we employed newly generated adjustments to

Economic Freedom Matters A Lot More for Economic Development Than You Think!

GDP numbers based on artificial nighttime light intensity that corrected for the overstatements that dictators made... Swapping unadjusted and adjusted GDP numbers as dependent variables in similar econometric setups allowed us to estimate how large is the bias. For income levels between 1992 and 2013, we find that the true effect of economic freedom is between 1.1 and 1.33 times larger than estimations based on manipulated GDP numbers. For income growth, we find smaller effect for the economic freedom index as a whole but some signs that some components (size of government and the security of property rights) have underestimated positive effects that should not be neglected.

Wonky readers may be interested in the results contained in Table 2 (on next page) from the study:

CIFA INFORMS...



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Table 2: Ratio of the Effects of Economic Freedom on Adjusted and Unadjusted Log of Income per Capita Across Multiple Panel Specifications

	EFW	Size of Government	Legal System and Property Rights	Sound Money	Freedom to Trade	Regulation
No Controls	1.13	1.13	1.15	1.13	1.13	1.10
Country-Fixed Effects	1.12	1.13	1.16	1.13	1.13	1.11
All Fixed Effects	1.25	1.23	1.33	1.29	1.21	1.19
Limited Controls + All Fixed Effects	1.24	1.24	1.36	1.28	1.20	1.19
Full Controls + All Fixed Effects	1.23	1.23	1.33	1.28	1.17	1.19

And here's some of the text discussing those results:

...the use of adjusted GDP figures suggests that the effect of economic freedom (i.e., the aggregate index) is roughly 25% larger than estimated with unadjusted GDP figures. For the different components of the index, the use of adjusted GDP figures has an uneven effect. For example, regulation and freedom to trade suggest that the true effects are roughly 20% larger than when using the unadjusted GDP figures. In contrast, the true effects for the component that speaks to the protection of property rights are more than 33% stronger. These are economically significant results that speak to a large bias against finding a pro-development effect of economic freedom.

The bottom line is that economic liberty apparently matters even more than we thought – about 25% more.

So if you want to know why I've been so critical of **Bush**, **Obama**, **Trump**, and **Biden**, that's part of the answer.

Dan Mitchell
Founder & Chairman
Center for Freedom and Prosperity

TRUSTING 2020-2021 is available here:

https://cifango.org/welcome/cifa_magazine_details/15



TF 4A_603/2020 DU 16 NOVEMBRE 2022 - L'ART. 305BIS CP COMME NORME DE PROTECTION (EN DROIT CIVIL), DES PRÉCISIONS BIENVENUES DU TRIBUNAL FÉDÉRAL

Entre 1999 et 2004, un dénommé A a ouvert deux comptes auprès d'une banque suisse en se présentant comme gérant de fortune. À chaque fois, il a indiqué que les comptes serviraient à recueillir les commissions issues de son activité de gérant.

En réalité pendant plusieurs années, le gérant a trompé ses clients en finançant les intérêts dus aux premiers par les investissements de nouveaux clients selon un système dit de «boule de neige». De fait, entre 2003 et 2007, il a réalisé près de 1'300 opérations totalisant plus de CHF 50 millions depuis ses deux comptes.

Malgré le système de surveillance de la banque, aucune alerte n'a été générée (la relation avait été catégorisée comme relation à risque faible).

Le décès de A en 2007 a mis un terme aux poursuites pénales qui étaient dirigées à son encontre. 68 anciens clients de A ont alors ouvert action, entre 2015 et 2017, contre l'établissement bancaire en réclamant le paiement de dommages-intérêts et indemnités pour tort moral.

Selon l'art. 55 CO, la responsabilité civile de la banque suppose qu'un de ses employés ait commis un acte illicite dans l'accomplissement de son travail, à moins que la personne morale ne prouve qu'elle avait pris toutes les mesures pour éviter le dommage.

En l'occurrence, la Cour doit apprécier la commission d'une infraction de blanchiment d'argent au sens

de l'art. 305bis CP, dans la mesure où cette norme protège le patrimoine des lésés de l'infraction préalable au blanchiment. Le Tribunal fédéral relève qu'il est toujours fait mention de «la banque» plutôt que d'une ou de plusieurs personnes physiques déterminées. Or, il considère que seul le comportement intentionnel d'un employé déterminé serait susceptible d'engager la banque.

Dans le cas d'espèce, deux problèmes se dessinent. En premier lieu, il faudrait pouvoir reprocher à une personne physique d'avoir contrevenu aux obligations juridiques instaurées par la LBA. Or, la qualité d'intermédiaire financier appartient à la banque elle-même et non à ses collaborateurs. En ce sens, seule une norme d'imputation permettrait de surmonter ce premier obstacle. Toutefois sur la base des faits établis par la Cour cantonale, on ignore tout des employés qui composaient le service compliance, de la manière dont la banque était organisée pour lutter contre le blanchiment ou de qui en son sein était chargé d'aviser le MROS au sens de l'art. 9 LBA.

En outre, il conviendrait également d'être en mesure d'imputer une intention délictueuse à un ou plusieurs employés déterminés. Or, les juges cantonaux n'ont prêté aucune intention délictueuse à une ou plusieurs personnes déterminées. En définitive, aucun acte illicite susceptible d'engager une responsabilité de la banque selon l'art. 55 CO ne peut être établi.

L'arrêt 4A_603/2020 est disponible via ce [lien](#).

FAUX DANS LES TITRES DANS L'IDENTIFICATION DE L'AYANT DROIT ÉCONOMIQUE DANS UN TRUST: QUAND LE DOUTE PROFITE À L'ACCUSÉ AARP/308/2022

L'administrateur d'une banque a, à tort, mentionné dans le formulaire A qu'en sa qualité de trustee, il était l'ayant droit économique (ADE) du compte ouvert au nom d'une société détenant des fonds placés dans un trust.

Il aurait en réalité dû utiliser le formulaire T et mentionner le settlor en tant qu'ADE, car il s'agissait d'un trust révocable.

Le Tribunal de police de Genève l'a par conséquent condamné pour faux dans les titres au sens de l'art. 251 ch. 1 CP.

L'administrateur saisit la Cour de justice, qui confirme que le formulaire A est un titre, de sorte qu'il doit être conforme à la vérité.

Elle retient néanmoins que l'administrateur de la banque n'avait pas l'intention de tromper un tiers en utilisant le mauvais formulaire et en indiquant le mauvais ADE. Il s'agirait ici d'un faux intellectuel. La Cour relève que l'administrateur n'avait pas eu de formation particulière ni reçu d'instruction de la banque et que le formulaire T était disponible depuis peu. Il avait en outre transmis toutes les informations pertinentes en lien avec la relation bancaire au service compliance de la banque, ainsi qu'aux chargés de relation.

En appliquant le principe *in dubio pro reo*, la Cour conclut à ce qu'il existe un doute raisonnable quant à l'intention de l'administrateur de tromper autrui.

Elle retient qu'il a agi par négligence et que, le faux dans les titres étant une infraction intentionnelle, l'administrateur de la banque doit par conséquent être acquitté.

L'arrêt 4A_603/2020 est disponible via ce [lien](#).

NEMO TENETUR: PAS DE CONTRAINTE LORS DE LA PRODUCTION DE DOCUMENTS BANCAIRES

Article de Célian Hirsch—Centre de droit bancaire et financier—<https://cdbf.ch/1269/>

Le droit de ne pas s'auto-incriminer permet-il de ne pas produire des documents bancaires spécifiquement requis par une autorité administrative sous la menace d'une sanction pénale? Non, répond la CourEDH à l'unanimité dans l'affaire *De Legé* du 4 octobre 2022, n° 58342/15.

L'histoire commence avec un vol de données bancaires concernant des avoirs de résidents néerlandais déposés auprès d'une banque luxembourgeoise. Grâce à une procédure pénale, les autorités belges obtiennent ces données et les transmettent ensuite à l'autorité fiscale néerlandaise. Cette dernière ordonne à un contribuable de lui communiquer tous les comptes qu'il détient auprès de banques étrangères, en particulier son compte auprès de la banque luxembourgeoise. Le contribuable invoque l'art. 6 CEDH qui permet à un suspect de ne pas s'auto-incriminer (*nemo tenetur se ipsum accusare*).

Malgré ce refus, l'autorité estime l'impôt dû à l'aide des documents en sa possession et lui impose en plus une amende pour n'avoir pas coopéré. Elle saisit par ailleurs la juridiction compétente afin qu'il lui soit ordonné de produire les documents bancaires avec menace de sanction pénale. Le contribuable se soumet à la décision judiciaire et communique à l'autorité fiscale les documents requis, à savoir des relevés bancaires et résumés de portefeuille de son compte au Luxembourg.

Dans la procédure d'opposition à la taxation, qui a été reprise après la production des documents, les

tribunaux néerlandais considèrent que le principe *nemo tenetur* ne permet pas au contribuable de s'opposer à l'exploitabilité des documents remis à l'autorité. En effet, les documents qui existent indépendamment de la volonté du suspect (*pre-existing documents*) ne sont pas protégés par l'art. 6 CEDH. Or, les documents bancaires *in casu* existent indépendamment de la volonté du contribuable. Ce dernier ne peut donc pas invoquer le principe *nemo tenetur*.

Saisie par le contribuable, la CourEDH en profite pour rappeler tant sa jurisprudence que celle de la Cour de justice de l'Union européenne relative au principe *nemo tenetur* (cf. not. cdbf.ch/1176/). Ce principe s'applique premièrement à la condition qu'une personne ait été soumise à une forme quelconque de contrainte par l'autorité. Deuxièmement, soit cette contrainte doit avoir été exercée dans le but d'obtenir des informations susceptibles d'incriminer la personne concernée dans le cadre d'une procédure pénale pendante ou prévue à son encontre, soit l'affaire doit concerner l'utilisation, dans le cadre de poursuites pénales, d'informations incriminantes qui ont obtenues par contrainte en dehors d'une procédure pénale.

Cela étant, le principe *nemo tenetur* ne s'étend pas à l'utilisation de matériel qui peut être obtenu du suspect par l'utilisation de pouvoirs coercitifs, mais qui a une existence indépendante de sa volonté (exception des *pre-existing documents*). Afin de déterminer si cette exception s'applique, la CourEDH



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NEMO TENETUR: PAS DE CONTRAINTE LORS DE LA PRODUCTION DE DOCUMENTS BANCAIRES

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déduit de sa jurisprudence une nouvelle distinction. Si l'autorité ordonne la production de documents spécifiques, l'exception s'applique et l'art. 6 CEDH n'est d'aucun secours pour s'opposer à la production des documents requis. Au contraire, si l'autorité contraint une personne à fournir des documents dont elle pense qu'ils doivent exister, bien qu'elle n'en soit pas certaine, il s'agit d'une *fishing expedition*. Celle-ci tombe dans le champ d'application du principe *nemo tenetur* et est en principe interdite.

En l'espèce, les documents bancaires (des relevés et résumés de portefeuille) ont effectivement été obtenus par une mesure de contrainte, ce qui rend en principe l'art. 6 CEDH applicable. Cependant, ces documents constituent des *pre-existing documents*. En effet, l'autorité fiscale était consciente de leur existence. Elle n'a donc pas procédé à une *fishing expedition*. Partant, ces documents sortent du champ d'application du principe *nemo tenetur*. La Cour conclut à l'unanimité qu'il n'y a pas eu violation de l'art. 6 CEDH.

La demande de renvoi auprès de la Grande Chambre ayant été refusée, cette décision est définitive.

Pour rappel, la Cour a condamné à deux reprises la Suisse pour avoir contraint un contribuable à fournir des documents dans une procédure fiscale (J.B. c. Suisse, n°31827/96 et *Chambaz c. Suisse*, n°11663/04; cf. désormais l'art. 183 al. 1bis LIFD). Pour sa part, le Conseil fédéral a publié en 2022 un rapport sur les sanctions administratives pécuniaires, dans lequel il

examine diverses solutions législatives pour régler le conflit entre l'obligation de collaborer en procédure administrative et le droit de ne pas s'auto-incriminer issu du droit pénal, sans pour autant préconiser une solution générale.

Cet arrêt a le mérite d'apporter un peu de clarté dans un domaine où l'incertitude règne encore. Désormais, l'autorité administrative qui connaît l'existence d'un document peut ordonner sa production sous menace d'une peine, sans que le principe *nemo tenetur* s'applique. Au contraire, la *fishing expedition* n'est pas admise. Cette distinction, qui n'était à notre connaissance ni appliquée par le Tribunal fédéral ni préconisée par la doctrine suisse, pourrait modifier la pratique si elle est bien invoquée par les juristes. Affaire à suivre.

Célian Hirsch, *Nemo tenetur: Pas de contrainte lors de la production de documents bancaires*, publié le 02 février 2023 par le Centre de droit bancaire et financier, <https://cdbf.ch/1269/>



CENTRE DE DROIT
BANCAIRE ET FINANCIER

PLAN-CADRE D'ASSURANCE RESPONSABILITÉ CIVILE PROFESSIONNELLE

... POUR LES MEMBRES DU GSCGI

Le GSCGI offre à ses membres une couverture cadre d'assurance exclusive, négociée avec les assureurs ZURICH et LIBERTY. Ces deux assureurs sont nos partenaires exclusifs autorisés à présenter les couvertures des risques (ci-après) aux conditions préférentielles pour les Membres du GSCGI.

Ces couvertures étendues et complètes — Responsabilité civile professionnelle (RCPI) couvrant également les cas de médiation; Responsabilité des dirigeants (D&O); Assurance Fraude (FR); Assurance Cyber (AC) — offrent une sécurité accrue aux Gestionnaires de fortune et Conseillers financiers dans leur activité quotidienne. L'assurance professionnelle met les professionnels

à l'abri de situations inattendues et génératrices de conséquences financières parfois dévastatrices.

Pratiquement, les Membres pourront s'adresser au Secrétariat du GSCGI, ou à la Commission Assurances, pour obtenir tous les renseignements. Un formulaire/questionnaire spécifique du GSCGI a été édité pour obtenir les offres des assureurs, il figure sur le site web du Groupement et est donc à disposition des Membres. Il devra être complété par le gestionnaire de fortune et le Conseiller financier pour demander les offres avec la preuve de sa qualité de Membre et envoyé confidentiellement au courtier Patrimigest.

Le GSCGI n'a pas accès à ces informations.

COUVERTURES D'ASSURANCES

Responsabilité civile professionnelle (RCPI)

Elle couvre les actes fautifs commis par la société du gérant indépendant ou l'un de ses représentants en cas d'erreur, d'omission dans le cadre de l'activité professionnelle qui entraînerait un préjudice financier d'un tiers.

Les fautes les plus courantes sont:

- Mauvaise exécution d'un ordre
- Oubli d'un délai
- Non respect de la stratégie convenue
- Rupture abusive d'un crédit
- Défaut de conseil
- Délit de fraude fiscale

Qui est assuré?

- 1 L'institution financière et/ou ses filiales
2. Toutes les personnes physiques agissant dans l'exercice de leur fonction dans la société (salarié, stagiaire, dirigeant, administrateur)

Quelle est la couverture? L'assureur va payer:

- Les frais de médiation
- Les frais engagés pour la défense des assurés
- Les dommages et intérêts dus au lésé après jugement et condamnation
- Les réparations résultant d'un accord amiable (après acceptation de l'assureur)

Responsabilité des dirigeants (D&O)

En tant que dirigeant de votre entreprise, vous n'êtes pas à l'abri de revendications à titre personnel même s'il s'agit d'une erreur d'un employé. En effet, un lésé peut aller chercher une responsabilité personnelle vers le directeur ou l'administrateur de la société pour obtenir réparation du préjudice sur les biens propres du dirigeant.

Il peut vous être reproché une mauvaise décision ou de ne pas avoir pris une décision, d'avoir fait un choix stratégique contraire au but social, d'avoir effectué des investissements hasardeux, communication financière insuffisante ou erronée, manque de surveillance des dirigeants ou

d'une filiale. Font aussi partie les conflits du travail: licenciement abusif, discrimination, harcèlement.

Qui est assuré? Tous les dirigeants exécutifs et les administrateurs ainsi que leur famille directe.

Quelle est la couverture?

- Les frais engagés pour la défense des assurés à titre privé
- Les dommages et intérêts dus au lésé après jugement et condamnation
- Les réparations résultant d'un accord amiable (après acceptation de l'assureur)

Assurance Fraude (FR)

L'évolution technologique et économique des sociétés financières a beaucoup évolué et les risques au sein de ces entreprises aussi. Le risque de fraude devient élevé dans les services financiers surtout en fonction de l'importance croissante des équipements informatiques. L'infidélité et la malhonnêteté des employés sont aussi une source de fraude. L'usage intensif d'Internet fragilise les services en terme de risques de sabotage ou de terrorisme cybernétique. Des fraudes peuvent aussi être commises sur les marchés ou sur l'octroi des crédits.

Qui est assuré? L'entreprise

Couverture d'assurance: Une telle assurance a pour but de garantir les pertes subies par la société suite à la fraude:

1. Commise par un ou plusieurs employés y compris la fraude informatique et le transfert de fonds
2. Fraude informatique interne ou externe (hacking)
3. Frais de procédure et honoraires d'avocat

Assurance Cyber (AC)

Le risque cyber peut affecter l'activité des Gestionnaires de fortune indépendants et des Conseillers financiers.

Couvertures: Cyber-RC, restauration des données et des systèmes, gestion des crises & perte d'exploitation.

WALL STREET TITANS CONFRONT ESG BACKLASH AS NEW FINANCIAL RISK

[...] A dozen big US financial companies including BlackRock, Blackstone, KKR and T Rowe Price added language to annual reports filed in the past month cautioning that pressures such as “divergent views” or “competing demands” on environmental, social and governance (ESG) investing could hurt financial performance. [...]

[...] Officials in Republican-led US states have launched investigations into BlackRock and State Street over their votes on shareholder proposals. [...]

[...] Anti-ESG sentiment has “gained momentum” across the US. Risks from ESG pushback extend beyond investment managers. The fight is now moving to the federal level. [...]

Financial Times—March 1, 2023—<https://www.ft.com/content/f5fe15f8-3703-4df9-b203-b5d1dd01e3bc>

SENATE VOTES 50-46 TO REVERSE ESG RULE FOR RETIREMENT FUNDS

[...] The Senate voted Wednesday to overturn a new Biden administration regulation that would allow retirement-plan managers to consider climate change and other factors when they make investment decisions, setting up what could be President Biden’s first veto. [...]

[...] “That is government in overdrive,” said Republican Sen. Mike Braun of Indiana, speaking to reporters ahead of the vote. The Senate action, with 50 in favor and 46 against, comes a day after the House voted to toss the regulation on environmental, social and corporate governance guidelines, or ESG, by a vote of 216-204. [...]

[...] The measure now heads to President Biden’s desk. The White House has said that Mr. Biden would veto it. [...]

The Wall Street Journal—March 1, 2023—https://www.wsj.com/articles/senate-is-set-to-vote-to-reverse-esg-rule-for-retirement-funds-41e9f194?mod=lead_feature_below_a_pos1

VANGUARD CHIEF DEFENDS DECISION TO PULL ASSET MANAGER OUT OF CLIMATE ALLIANCE

[...] Champion of low-cost trackers warns against expecting superior returns from ESG funds and alternative strategies. [...]

[...] In December, Vanguard resigned from the Net Zero Asset Managers initiative, a coalition of 301 asset managers committed to reducing greenhouse gas emissions. [...]

[...] “We don’t believe that we should dictate company strategy,” he said, in his first public comments about the decision. “It would be hubris to presume that we know the right strategy for the thousands of companies that Vanguard invests with. We just want to make sure that risks are being appropriately disclosed and that every company is playing by the rules.” [...]

[...] Owned by the investors in its funds, Vanguard does not pay dividends to external shareholders. This structure has helped it become the investment industry’s most aggressive price competitor with continual reductions in its fund fees since it was founded in 1975. [...]

Financial Times—Feb. 21, 2023—<https://www.ft.com/content/9dab65dd-64c8-40c0-ae6e-fac4689dcc77>

BIDEN’S FIRST VETO IS REVEALING

[...] He says he’ll block a bipartisan resolution that protects worker savings from political ESG investing. The Senate and House this week voted to overturn a Labor Department rule that lets retirement fund managers use worker savings for political causes. [...]

[...] The Biden rule protects fiduciaries from lawsuits for considering ESG factors that could be “relevant” to investment performance such as a company’s greenhouse-gas emissions or workforce diversity. This broad standard would essentially let managers invest retirement savings however they want. [...]

The Wall Street Journal—March 2, 2023—https://www.wsj.com/articles/president-biden-veto-esg-labor-department-rule-84e59966?mod=opinion_lead_pos3

THE E.S.G. FIGHT HAS COME TO THIS: BANKERS SUING LAWYERS

[...] Kentucky passed a law targeting banks and their climate policies. Bankers sued the attorney general. Whose definition of investment risk should prevail? [...]



Robert Neubecker

[...] Like a growing number of states, Kentucky has a new type of law on the books targeting financial institutions that “boycott” companies that don’t get past some kind of an E.S.G. screening. [...]

[...] To act and invest in a state’s best interest ought to mean taking every risk into account, including climate change. And lawsuits like the one in Kentucky are a reminder of the fact that few of us have a good grip on how to properly define risk. [...]

[...] So what is E.S.G., anyway? As investors rename their firms and their funds in a race to ride the E.S.G. wave, cynics see the debate over the term’s definition as degenerating into everyone seeing gibberish. Because funds can define E.S.G. nearly any way they want, they have come to resemble an extra-strange goulash. Sometimes, these new or newly rebranded operations are just elegantly simple greenwashing and nothing more. [...]

[...] On Feb. 1, legislators took a vote. They rejected the bill, 90 to 3. [...]

The New York Times—Feb. 24, 2023—<https://www.nytimes.com/2023/02/24/your-money/anti-esg-investing-kentucky.html>

VANGUARD’S CEO BUCKS THE ESG ORTHODOXY

[...] Vanguard’s Tim Buckley is having a Copernican moment. Tim Buckley pulls out of the Net Zero Managers initiative and affirms his fiduciary duty to clients. [...]

[...] The 54-year-old CEO is challenging the asset-management industry’s environmental, social and governance orthodoxy ... he had withdrawn his firm from the \$59 trillion Net Zero Asset Managers initiative, an organization that is part of the \$150 trillion United Nations-affiliated Glasgow Financial Alliance for Net Zero. Both alliances are committed to restricting their investments over time to companies that are compliant with the Paris Agreement’s objective of net-zero greenhouse gas emissions by 2050. Signatories to such initiatives effectively commit to reducing their volume of investments in companies not aligned to the Paris Agreement. [...]

[...] Most important, Mr. Buckley understands that progress toward net-zero emissions doesn’t depend on how people invest: “Politicians and regulators have a central role to play in setting the ground rules to achieve a just transition.” Betting his clients’ money on politicians and regulators consistently doing the “right” thing would be irresponsible. [...]

[...] Depending on how and when you measure, Vanguard is the largest or second-largest asset manager in the world. Pulling his firm out of the world’s largest association of financial institutions dedicated to net-zero goals should have seismic implications. If Mr. Buckley is right, then hundreds of other financial institutions with trillions of assets under management are wrong. [...]

[...] It took some 360 years before the Vatican formally acknowledged its error in rejecting Copernicus’s theory of heliocentrism. Let’s hope Mr. Buckley’s critics won’t wait three centuries before admitting he was right. [...]

The Wall Street Journal—Feb. 26, 2023—https://www.wsj.com/articles/vanguards-ceo-bucks-the-esg-orthodoxy-tim-buckley-net-zero-emissions-united-nations-initiative-nzam-f6ae910d?mod=opinion_lead_pos5

FROM BEAR TO BULL: CRYPTO'S RESURGENCE

Yves Longchamp—Head of Research—SEBA Bank AG—Membre Partenaire du GSCGI

Executive Summary

- ▶ Risk-on sentiment has pushed the cryptocurrency market cap above USD 1 trillion for the first time since the November 2022 FTX collapse
- ▶ BTC sentiment indicator Fear and Greed Index recently turned to 'Greed.' This means token holders are in profit
- ▶ Bitcoins hash rate is at an all-time high, while miner revenues have increased by 50%
- ▶ Ethereum shanghai upgrade that unlocks the staked Ethereum in Beacon chain worth 26 billion dollars is on the horizon. This unlock will be via a waiting queue, and all Ether will not be unlocked at once
- ▶ Cardano recently launched EVM sidechain toolkit on its testnet and will soon launch on the mainnet
- ▶ Polkadot launched its cross-chain communication V3. Web3 foundation recently reiterated that Polkadot is a software and not a security. We suspect regulation may be around the corner
- ▶ Aave recently launched V3 on Ethereum. The community waits in anticipation for the launch of its stablecoin that might share real yield with Aave stakers
- ▶ Ava Labs, the company behind the development of Avalanche, has partnered with AWS to promote blockchain adoption and Shopify to facilitate NFT trades on the network

* * *

The beginning of 2023 has been positive for risk assets, including stocks and cryptocurrencies. This is due to a convergence of factors, such as decelerating inflation and oversold conditions in these markets. Additionally, many investors had taken short positions in these assets, leading to a short squeeze that further fueled the upward momentum.

Coin Performance			
Table 1: Coin Performance			
	30 Days	60 Days	365 Days
BTC	40%	37%	+39%
ETH	33%	25%	+39%
ADA	58%	23%	+63%
LTC	35%	22%	+13%
XLM	28%	4%	+53%
LINK	27%	+9%	+60%
UNI	28%	12%	+39%
SNX	62%	36%	+56%
YFI	43%	9%	+70%
DOT	46%	17%	+66%
AAVE	60%	30%	+45%
XTZ	49%	7%	+67%
SOL	143%	79%	+74%
AVAX	84%	56%	+71%
MATIC	48%	23%	+30%
MANA	151%	86%	+71%
ENJIN	87%	47%	+75%

Source: SEBA Bank

In the realm of cryptocurrencies, the best performers since the beginning of the year have been Decentraland (MANA), Solana (SOL), and Enjin (ENJ). This trend is particularly noteworthy because it demonstrates that the recent rally in the crypto market has gone beyond just Bitcoin and has encompassed a wider range of digital assets.

One possible explanation for this surge in cryptocurrency prices is the anticipation surrounding the upcoming meeting of the Federal Reserve. Traders may be cautiously waiting on the sidelines, hoping to see which way the winds will blow after the meeting. The expected minutes from the Federal Open Market Committee (FOMC) could provide a boost to the market, but any surprises could potentially cause it to give up its recent gains.

Macro

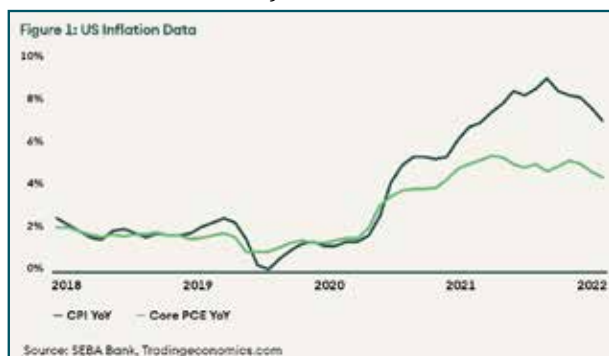
The cryptocurrency market capitalization has risen by over 25% this year, growing from USD 800 billion to USD 1.04 trillion. This upward trend can be attributed to several macroeconomic factors,

FROM BEAR TO BULL: CRYPTO'S RESURGENCE

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including slowing inflation and a weakening dollar, as well as a slow decline in liquidity conditions. Our analysis concludes that bitcoin was in an oversold territory and the macro incentives led to a short squeeze, which further led to the recent price rise.

Looking into the details, the December Consumer Price Index (CPI) data, which was published on 12 January 2023, indicates a disinflationary trend. Year-over-year CPI slowed from 7.1% to 6.5%. This deceleration is mainly due to the broader energy category, which saw a 4.5% seasonally adjusted drop from the prior month. Furthermore, the stabilization of the unemployment rate combined with a softening of inflation, comfort investors' view that the Fed may be close to the end of this hiking cycle. Notice that China's abandonment of the zero-covid policy early last month also helped spur economic growth in 2023 and beyond.



The Consumer Price Index (CPI) fell 0.1% from the previous month and reached its lowest level since October 2021, despite still being near a multi-decade high. The core measure of CPI and PCE inflation, excluding volatile food and energy prices, is considered a more accurate indicator of inflation's trajectory. This measure also decreased by 0.3% from the previous month, at an annual pace of 4.4%. Many believe that the peak of inflation is behind, and the Federal Reserve has effectively controlled it.

However, the main risk to our scenario is a severe economic downturn or a higher for longer inflation.

With the Federal Open Market Committee (FOMC) meeting notes released on 1 February 2023, the market is pricing in a nearly 100% probability rate hike in February and an 89% chance of another 25 basis points in March.

Bitcoin

For the first time since last year, the BTC Fear and Greed Index' turned to Greed' in January 2023, as reflected by the price rally that reached the tips of USD 23k. This is due to the coping mechanism to deal with the current inflationary crisis, which may further aid the rally.

Bitcoins mean difficulty is at an all-time high, with miner revenue jumping approximately 50% in the last three months and the hash rate reaching an all-time high of 300 exahashes/second in January 2023, representing the strength of Bitcoins security as more computational power is required to solve the hashes.

According to Goldman Sachs, BTC is the best-performing asset class this year with a Sharpe ratio of 3:1, better than all other asset classes covered in their report on 23 January. (refer to the link [here](#)).



Ethereum

Ethereum, the second largest cryptocurrency by market capitalization, has demonstrated its strength during the recent crypto crisis. Significant

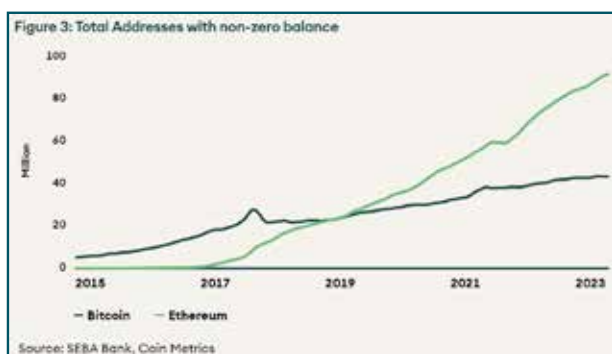
FROM BEAR TO BULL: CRYPTO'S RESURGENCE

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developments have taken place in the ecosystem, with the Shanghai Upgrade being the latest and most important one at the moment.

Implementation is expected in March 2023 and is a top priority according to the majority of developers according to All Core Developers Execution (ACDE) call and ACD meeting. Proposals range from basic changes, such as adjusting the unit of account in the execution layer to match the consensus layer for withdrawal harmonization, to delaying important proposals such as the Ethereum Object Format (EOF) implementation for faster execution of the Shanghai Upgrade.

As of writing, Ethereum is on track to reach another milestone of having 100 million addresses with a non-zero balance, currently standing at approximately 92 million. In comparison, Bitcoin has over 43 million total addresses on its network.



Litecoin

Litecoin recently surpassed Ethereum in total addresses, indicating an accelerating adoption rate. Although the price has been increasing consistently and outperforming various other cryptocurrencies in the market, the price action shows inconsistency.

After the recent and long-pending MumbleWimble upgrade, Litecoin has shown promising adoption. The higher number of addresses may be associated with the upgrade. However, due to this privacy-

preserving upgrade, LTC was delisted from the two largest Korean exchanges in the past six months.

According to Bitpay, Litecoin is the second-highest payment medium after Bitcoin, capturing roughly 27% of the payments. It is the most prominent in North America, followed by EMEA. Sentiments may be bullish for the currency, as seen in the past during the time of halving, which is expected to happen in August 2023.

Stellar Lumens

Banks such as Tascombank in Ukraine and ABN Amro in the Netherlands have selected Stellar as the platform for their Central Bank Digital Currency (CBDCs). Despite this, there are several drawbacks to consider, including decreasing developer activity and on-chain transactions, and a bearish outlook according to technical analysis. Furthermore, Coinbase's self-custody wallet has discontinued support for Stellar, Ripple, Ethereum Classic, and Bitcoin Cash due to low demand.

Cardano

The EVM Sidechain toolkit has recently been launched on Cardano testnet and is set to be launched on the mainnet on 14 February. This launch will improve interoperability as sidechains will be able to build Dapps using Cardano's security and decentralisation. The team said that this would be ideal for building blockchains for specific use cases.

Additionally, the upgrade from Elliptic Curve Digital Signature Algorithm (ECDSA) and Schnorr signatures will facilitate further cross-chain applications using its smart contract language Plutus. This will make it more convenient for Cardano developers to work with other blockchain networks. The other major development within the Cardano ecosystem is the upcoming launch of the Djed stablecoin. The stablecoin and its governance token Shen will soon be listed on Cardano-based DEXs after their issuance next week. The stablecoin

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has been jointly developed by IOG and Coti (another layer one blockchain).

Polkadot

Polkadots cross chain messaging (XCM) version 3 has been merged after 15 months of development, bringing new features like bridges, cross-chain locking, exchanges, NFTs, conditionals, and context-tracking. Web3 foundation, company behind development on Polkadot, is promoting new wallets with improved user experience (UX) and has announced the transformation of the native token 'DOT' from a security to a software. This is in conjunction with U. S. Securities and Exchange Commission (SEC) guidelines. Read more [here](#). The foundation has also released an [in-depth blog](#) about Decentralized Finance (DeFi), showcasing the successful parachain auction winners.

Tezos

After the LIMA upgrade, Tezos is planning for the 13th upgrade, which is expected to go live in H1 2023. The upgrade will introduce three significant enhancements to the ecosystem, Smart rollup activation, Validity rollups on testnet and a reduction in block time to 15-30 seconds.

However, Tezos is seeing a consistent decrease in active developers for the last six months, and code commits, i.e., commits to the public GitHub repositories, have also declined since last october'22.

Solana

Solana has made significant progress in addressing its outage narrative, achieving 99% uptime since April 2022. Gaming and Decentralised Finance (GameFi), supported by funding from Solana Ventures and Magic Ventures, is bringing development to the ecosystem. Solana is also poised to roll out support for Move language developers. DeFi markets, including Solend and Mango Markets, need to be rebuilt after suffering from the USD 6.5 million bad

debt resulting from a whale liquidation. With most of its competition rising back up post the FTX collapse and the bear market, Solana will need to step up their game if they are to attract liquidity into their ecosystem anytime soon.

Avalanche

Avalanche has been one of the best performing layer one blockchains year to date. This has mostly been due to developments on its business side through partnerships. Ava Labs and Amazon Web Services have partnered to increase enterprise, institutional, and government adoption of blockchain. Avalanche has also partnered with Shopify to enable NFT creation and sales on the network. However, there have been decreases in transactions and daily active developers on the network.

Polygon

Polygon made significant partnerships with Nike, Meta, and Warner Music last year and made progress on scaling solutions, including the zero knowledge technology based Ethereum Virtual Machine (zkEVM). The Polygon ecosystem is seeing rising adoption, and this is reflecting in the MATIC token price. The zkEVM testnet for Polygon has already produced 80,000 block proofs and is set for mainnet deployment in less than 3 months. The Polygon zkEVM is proving costs are low, at USD 0.0019 for a Uniswap trade. This puts Polygon in the prime position for the upcoming and significant layer two war on Ethereum.

Aave

On the ecosystem development side, Aave Grants DAO (Decentralized Autonomous Organisation) has received an additional USD 3.25 million from the ecosystems reserve fund to be used for funding projects that will benefit AAVE in the next two quarters. Usage of the Dapp on Optimism can also be expected to increase in the coming months now that the OP token has been added as a collateral asset

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on the rollup. Aave's current development efforts are directed towards two key products – the Lens protocol and its GHO stablecoin. The Lens protocol has launched token-gated publications, a feature that is expected to bring new benefits to users. Aave has also acquired Sonar, a voice and text platform, to integrate with the Lens ecosystem. Aave V3 claims to do a better job at protecting Aave from attacks like the one made by Avi Eisenberg (the Mango Markets hacker) which left Aave with bad debt in CRV that amounted to USD 3.1 million. Now that, Aave V3 has been launched on Ethereum, it is to be seen if this claim holds up. While the exact details concerning the launch of the GHO stablecoin have not been disclosed, Aave founder Stani Kuchelov in a recent interview said that the market can anticipate it in a few weeks once V3 is launched on Ethereum.

Uniswap

Earlier this month, Uniswap and Circle came out with a research paper that said that DeFi and blockchain technology could reduce cross-border remittance costs by about USD 30 billion per year. According to the paper, on-chain foreign exchange can offer faster and more affordable transactions with greater liquidity and stability. Uniswap has been working to make it easier for institutions and individuals to enter DeFi. In fact, it recently announced on-ramp support through MoonPay. This would reduce the friction for users to participate in defi through the leading blue-chip DEX. However, with the myriad of hacks and attacks that happen in crypto, this will not be an easy transition. Just a few weeks ago, a vulnerability was flagged which would have allowed reentrancy attacks to happen on Uniswap. Being a major player in DeFi, such flaws in code might prove to be a serious threat to their credibility and if they continue to prop up, may in fact dissuade further adoption of DeFi.

Syntheticx

Syntheticx has recently launched Syntheticx Perps V2,

reducing fees to a level competitive with centralized perp platforms (5-10 bps) and allowing users to trade through Kwenta and Decentrex. Feedback on V3 minor code changes is expected in the coming week. However, there has been a drop in development activity (-10%) and code commits (-29.7%) which may impact the platforms progress.

Yearn Finance

The big announcement from Yearn for the month of January was its feature called the Permissionless Vault Factory. In this, users of Yearn are no longer limited to the vault strategies built by app contributors and developers. Anyone can now develop their own strategies and deploy the vault on Yearn where other interested users can deposit their tokens and earn yields. On these permissionless vault deposits, Yearn charges 10% as performance fee. In the long run, this would increase Yearn's user base and attract more liquidity. Also recently, Maker DAO voted to deploy USD 100 million in USDC from its treasury onto Yearn Finance. This will soon be executed and Maker is expected to earn a 2% yield on its stablecoin deposits. On the community side, Yearn has taken steps to build trust among its users, such as educating them on the risks of their vault strategy through case studies. Additionally, Yearn has been supported by Ledger, allowing users to interact with the platform directly through their hardware wallets. However, the one hurdle for users of Yearn is the friction associated with finding vault fees, as they are currently not easily accessible through the main website user interface. There is a proposal to improve this, however.

Chainlink

Chainlink has secured dominant chains including Ethereum, Solana, Avalanche, Polygon, and BNB chain, with 26 integrations added across its different services this month alone. The platform is the leading decentralised data oracle, with close to 60% dominance in the market. Additionally, Chainlink

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plans to introduce fee distribution to LINK stakers in 2023. However, there is a negative aspect to consider, as subsequent staking rounds will increase sell pressure due to token inflation.

Decentraland

The metaverse coins saw rallies and have been one of the biggest narratives entering the new year. The 2023 manifesto of the platform is specific to the platform and creators. The platform has entered the alpha phase of SDK7 (Software Development Kit), providing a wider variety of options under development. However, there is a high dependence on business development and partnerships, and a need for a quicker transition towards platform development use cases for the Dapp.

The Sandbox

The Sandbox saw significant progress in 2022 with the launch of Alpha Season 3 in August, which resulted in 17 million visits and saw over 360,000 users participate in various brand experiences, some of which had over 500,000 visits. A recent highlight for the company was the land raffle in November, which saw 14 brands and celebrities participate. Looking ahead to 2023, it will be interesting to see how The Sandbox continues to engage and attract users to its platform.

Enjin

Enjin saw an uncommon price rally in the month of January. This can be associated with recent

simultaneous developments on the Enjin platform. According to the latest bi-weekly developer update, there have been some developments on NFT marketplace, Wallet, and on Enjin Tooling.

The developments are mostly related to the user experience tangent. On the tooling side, simple but required development updates are seen, such as cross-game collaboration of tokens.

CONCLUSION

The recent surge in cryptocurrency marketcap has surpassed multiple barriers in a short period. This upward movement can be linked to various economic elements such as slowing inflation, a declining dollar and a general risk on sentiment in the market. Our experts believe that bitcoin was undervalued, and the combination of economic factors triggered a significant short squeeze, resulting in the recent price increase. Ultimately, bitcoins growth is closely connected to central bank monetary policies and the overall global economy, especially the rise in monetary degradation and heightened liquidity. In summary, although the present cryptocurrency boom is influenced by macroeconomic variables and increasing worldwide liquidity, it is crucial to keep an eye on regulations and proceed with caution in the near future. We anticipate getting a clearer perspective on the dollars direction after future Federal Reserve meetings which will shed light on market liquidity conditions.



GOLD – Too EARLY TO BE A BUYER

Bruno Estier Strategic Technicals—<http://bruno.estier.net/>—bruno.estier@bluewin.ch

Gold's daily chart displays a gradual down-drift after the two sharp down days, which broke the rising channel near 1900 at the beginning of February 2023. The decline has been gradual after Gold broke below 1877, the Fibo 38% retracement, which often signals a change in trend. Below 1847, the Fibo 50% retracement, Gold entered into the Cloud, which extended between 1800-1780 at the end of February, where it could find some support and rebound toward 1847. This may correlate with the US\$ Index (*dotted green line*) on the upper panel finding some resistance near 105 – the former support level of last November.

However, this rebound of Gold toward 1847 would be a rebound within a neutral zone as the Cloud defined itself, or a Bear market rally later leading to lower lows. Indeed if Gold is drifting below 1800 during March, i.e. drifting below the daily Cloud, it would confirm the bearish trend along a negative MACD allowing Gold to drift toward 1719, the former major low in November 2022. Therefore, right now near 1817, it is too early to consider buying Gold along oversold Stochastics as a rebound may be too short-lived. It would be better to wait for price action near 1719. Indeed, Patience is a virtue in the domain of Investing.

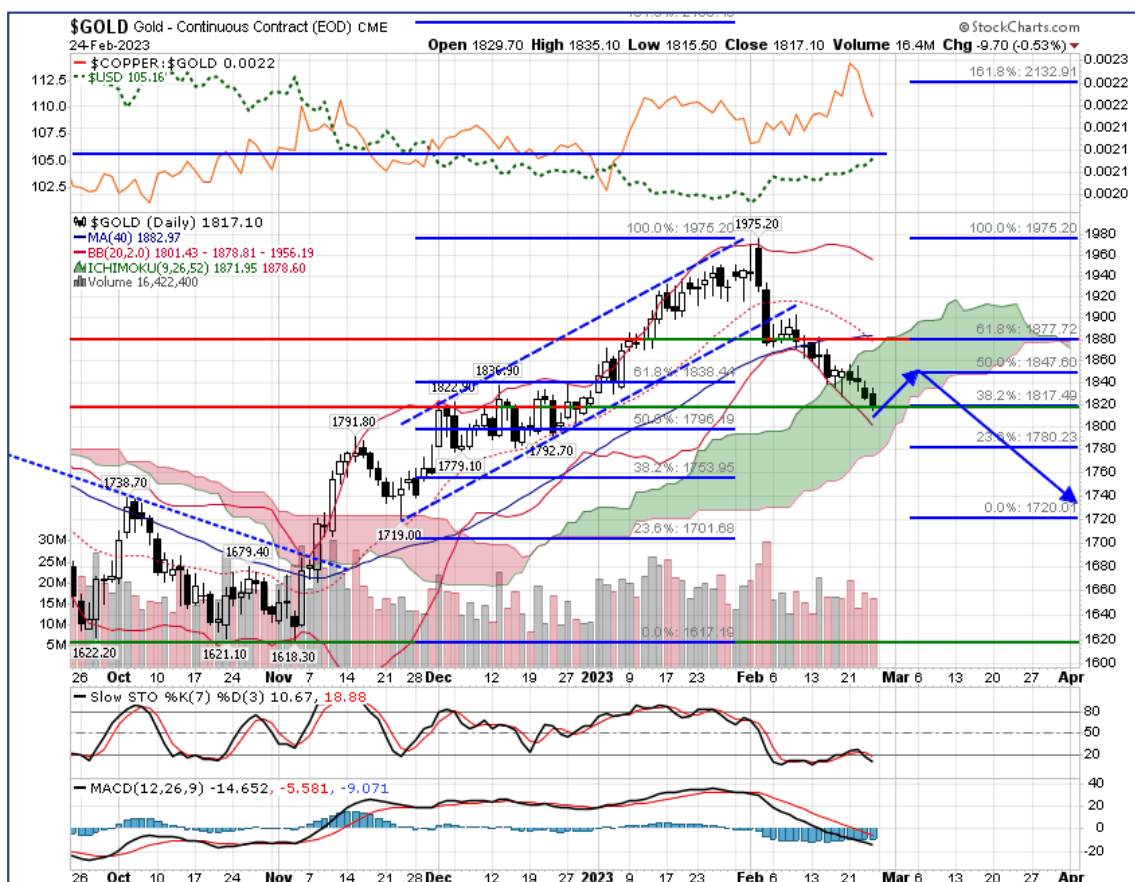
Gold Continuous Contract CME in daily Candlesticks with 40-day MA and 20-day MA surrounded by two Bollinger Bands. Also, the Ichimoku Cloud is in neutral mode. The declining Bollinger Bands have been widening as Gold's decline broke below its 40-day MA. Upper Panel: Ratio of Copper versus Gold (*solid orange line*) declining sharply and the US\$ Index (*dotted green line*) is rising toward its former high of 105.

Lower Panel Momentum Indicators: Slow Stochastic is declining again below 20%, and the MACD is declining into a negative area.

Source of data:

Stockcharts.com.

Supports line & parameters are provided by BEST.



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Le but de notre démarche est de vous accompagner vers des solutions optimisées pour investir dans un monde en profonde mutation.

La rencontre se terminera par un moment d'échanges entre tous les participants autour d'une dégustation œnologique commentée, des plus belles réussites à découvrir en 2023.

Alors n'attendez plus et inscrivez-vous à cette rencontre.

Au plaisir d'échanger avec vous.

PROGRAMME

- 16h45 Accueil
- 17h00 Situation et perspectives
Inflation et taux : un couple infernal
Sabahudin Softic, Conseiller institutionnel
- 17h20 Investissements durables : mythes ou réalités ?
Leila Khammari, CAIA, Analyste produits financiers
- 17h40 Changement de taux : quels impacts sur votre immobilier
Michael Butty, Conseiller institutionnel
- 18h00 Échanges autour d'une dégustation œnologique :
les plus belles réussites à découvrir en 2023

DATES

GENÈVE Mercredi 8 mars 2023
LAUSANNE Jeudi 9 mars 2023

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is pleased to welcome you to the EFF23, the Luxembourg reference conference on sustainable finance.

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Dedicated sessions to the regenerative finance and its potential impact on the way we invest will bring new and fresh discussions.

Among our guest speakers, the CSSF, UN-PRI and UNEP-Fi will lead the discussions.

EFF23 distinguishes as a unique opportunity to get to know the major regulatory updates, legal framework and best practices examples from Luxembourg and International top players.

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Agenda

- 8h30 Registration
- 9h00 Sustainability – State of practices
Asset Management and fund industry
- 11h30 Regenerative Finance
How to rethink an economy?
- 13h00 Charity walking lunch
- 14h00 Sustainability – State of practices
Bank and Insurance involvements

More details [here](#)

Venue

European Convention Center
4 Place de l'Europe, L-1499 Luxembourg

Date & Time

23rd March 2023
8h30 – 16h30

Registration

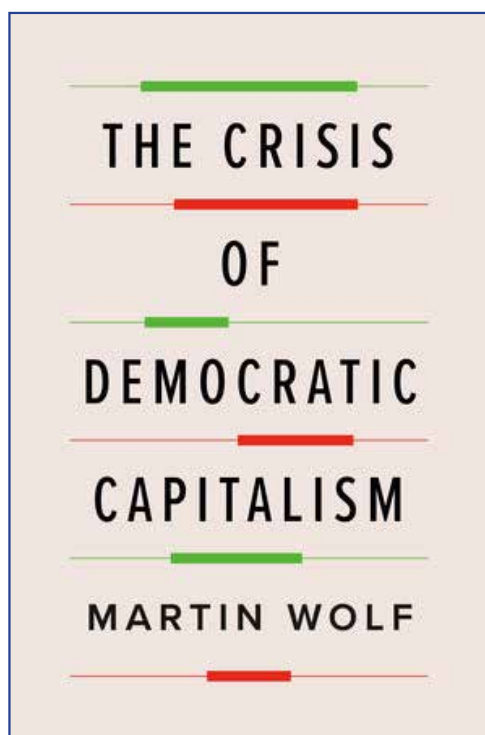
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The Crisis of Democratic Capitalism

by Martin Wolf



Martin Wolf shines a light on the doom loop of democratic capitalism

The economics commentator appeals for a renewed concept of citizenship to save democracy.

When Karl Marx was forecasting revolution in the British Museum Reading Room in the 1860s, he relished the idea that capitalism was prone to recurrent crises that would ultimately bring down the state. What he did not anticipate was how the growth of democracy over the next century and a half would manage and mitigate those crises, developing a symbiotic relationship in which capitalism provided the prosperity while democracy set the rules and created a shared interest in the outcome.

In Martin Wolf's new book, *The Crisis of Democratic Capitalism*, his principal concern is with democracy rather than capitalism. There is nothing new in worrying about democracy, nor about capitalism. But, to borrow a phrase from the 2011-12 euro sovereign debt crisis,

Wolf's fear is that this once productive pairing might now have trapped itself in a kind of doom loop.

He thinks democratic capitalism can be saved, and closes with an appeal for a renewed concept of citizenship to make this possible.

<https://www.ft.com/content/0cca6054-6fc9-4a94-b2e2-890c50d956d5>

* * *

'The Crisis of Democratic Capitalism' Review: The End of the World as He Knows It

A British pundit's crystal ball predicts calamity for democratic order, and spies familiar villains.

The book's thesis, and its much-repeated warning, is that the "difficult, but precious, marriage" between liberal democracy and free-market capitalism is heading for divorce—unless we do something to stop it.

Financial instability, rising inequality and slowing economic growth—especially after the Great Recession of 2008—have led to the rise of illiberal democracy or "demagogic autocracy" (his preferred phrase).

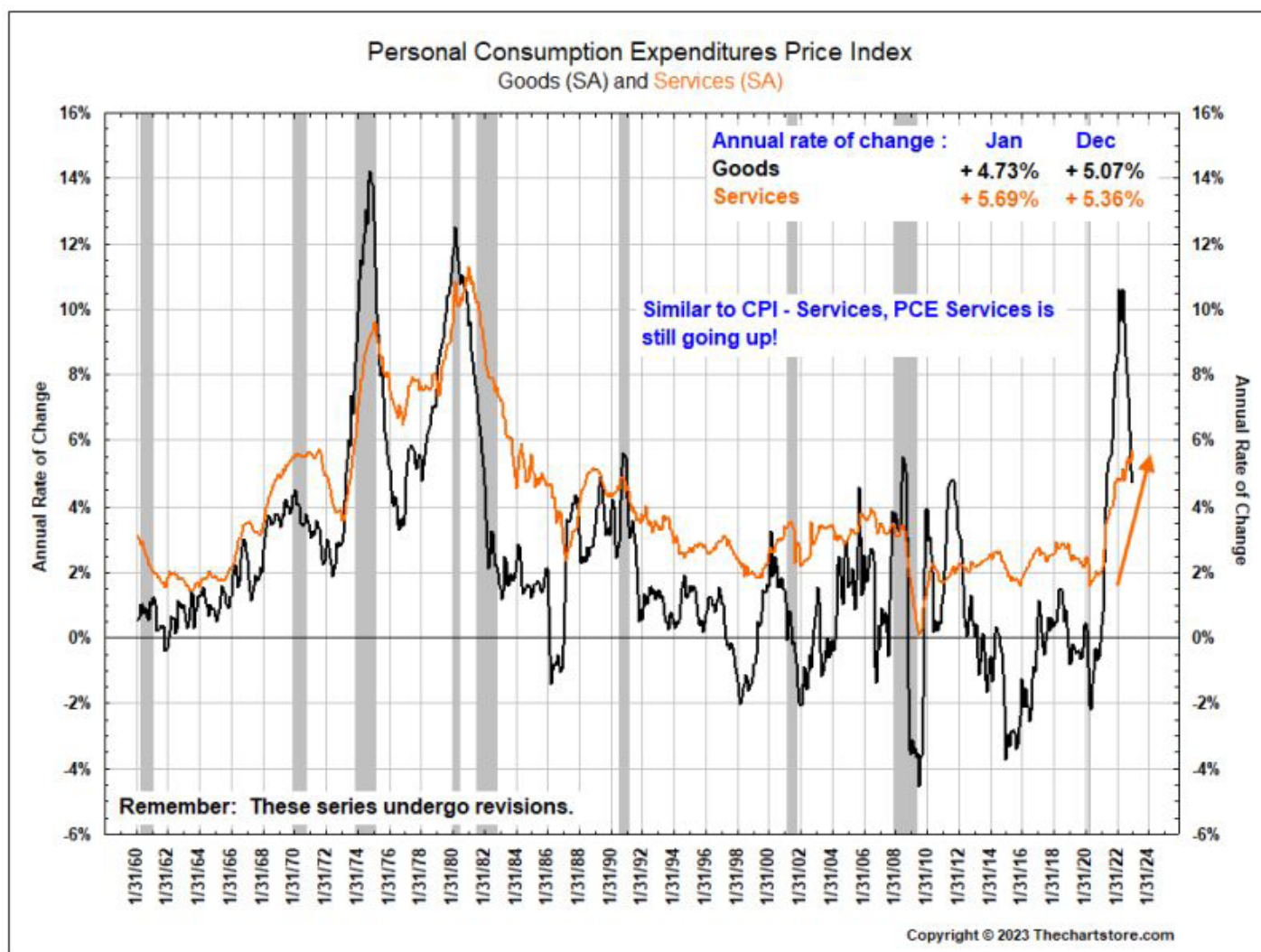
The biggest calamity, in Mr. Wolf's view, is "the hollowing out of the middle classes," who in the West have fallen prey to demagogues. He calls Mr. Trump's politics "pluto-populism"—that is, "the exploitation of populist themes for plutocratic ends."

The descent into political Hades is fueled, in Mr. Wolf's telling, by widening inequality and the "rise of rentier capitalism." Mr. Wolf shows no sign of having read *The Myth of American Inequality* (2022)—by Phil Gramm, Robert Ekelund and John Early—which points out that conventional U.S. inequality numbers are nearly worthless since government statistical reports exclude "noncash" sources of income, a large category for those in lower percentiles who receive benefits from social programs.

<https://www.wsj.com/articles/the-crisis-of-democratic-capitalism-book-review-the-end-of-the-world-as-he-knows-it-858a0897>

Fed's favored gauge, PCE, might lead to higher interest rates.

Cosima F. BARONE—FINARC SA—www.finarc.ch



Generally, over long periods, the CPI, supposed to help track the out-of-pocket costs of living for the average American and published by the Bureau of Labor Statistics, moves in line with the PCE deflator, which is supposed to track the prices of everything consumed by households and published by the Bureau of Economic Analysis.

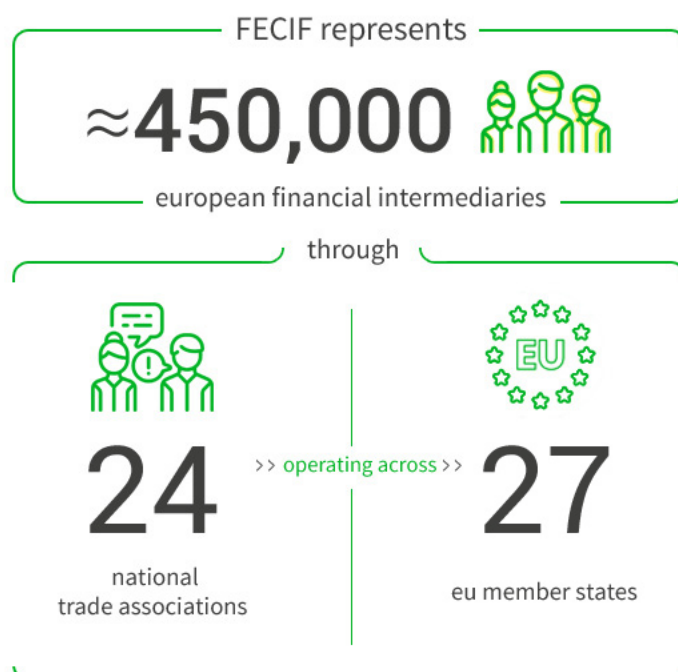
Currently is one of those special periods. However, large gaps between the two inflation measures can emerge especially during periods of economic volatility.

The Federal Reserve (Fed) tends to target more the PCE deflator than the CPI with its monetary policy decisions. Should the wedge between the CPI and the PCE expand concurrently with persisting economic volatility during 2023, the Fed might struggle to reconcile the resulting dynamics and explain continued hikes in interest rates.

* * *

Historical Graph (1960 to present) is courtesy of:
www.thechartstore.com

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