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Bolster strategy and performance with an ethical decision framework

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Ethical decision-making sounds like a simple thing; perhaps we think we inherently understand what is ethical and what is not, and so we don't need a framework. Or perhaps the organization proclaims basic ethical standards and considers the work done.

These approaches ignore two important factors: Ethics statements are typically nothing more than table stakes for being in business, and any framework for ethical decision-making needs to be specifically helpful to people facing challenging, real-life situations. We need to think more deeply if we're serious about helping guide behavior.

Here is how a global systemically important bank adopted a framework for ethical decision-making to strengthen client relationships.

Balancing principles and rules

Like many other financial services companies, the bank had no shortage of rules. Codified in more than 1,000 policies, standards, and procedures that were developed over time were rules written for everyone, from broker-dealers to administrative staff. These rules only grew as technologies and service offerings expanded and regulation evolved, and sometimes different jurisdictions developed rules in parallel, forcing the bank to think about whether it should adopt separate rules for each location. As a result, rules simply proliferated, creating an urgent need for a new approach.

Creating a chief ethics officer role was an important moment in the bank's approach because it brought a different perspective to the table. Compliance was focused on making sure rules were in place to meet all the regulatory requirements, which was itself an extensive task, given the breadth of topics covered by regulation. Legal, on the other hand, ensured that comprehensive sets of rules were clearly available to employees, not least because it would be important to demonstrate this in the event of having to defend the organization.

To these perspectives, the ethics office added the view that a principles-based ethical decision framework was essential. This framework would not displace the goals that were important to compliance and legal but would help managers in situations where several options were acceptable within the rules but choosing one option over another could lead to a very different ethical outcome. Additionally, the framework would provide a useful guide for employees facing a situation not clearly covered by the rules; this was increasingly important as new situations arose much faster than the rule-making process. Together, legal, compliance, and ethics agreed to add a set of principles to the rule book.

Grounding the framework in reality

Ethical decision frameworks are not new; you can find evidence of them in many codes of conduct—but they need to offer practical help to people in the business and not just act as marketing puffery for the benefit of outside stakeholders. It was important to the bank that the framework would not only guide decision-makers in the gray zone but also would become a tool to develop decision-making skills.

The bank started with four inherent conflicts of interest that can come into play in any situation. One such issue is the conflict that can arise when the larger community is affected by an act that benefits a small group. For example, a broker-dealer may be focused on the best execution responsibilities for clients, and perhaps on the priorities set out by the division in the bank, but the broker-dealer also needs to be alert to the responsibility to protect the fair operation of the market for other participants. Typically, these goals are aligned, but situations can arise where they come into conflict. The ethical decision framework reminds managers to think about the impact of a decision on the larger community and not just the smaller group.

This decision-making framework could be used if a client came to the bank with an unusual service request, or when the bank considered new products, services, or new approaches to the market. In fact, the bank encouraged use of the framework whenever a manager felt they needed another point of view.

Importantly, the ethical decision-making framework did not apply whenever there was a clear rule to follow—what is known as a "right-versus-wrong" decision—it was only intended for use in "right-versus-right" dilemmas. Having defined the framework in this way, the ethics office met with business leaders to discuss right-versus-right dilemmas that arise in their business. From this, an initial list of 13 specific dilemmas were created, which became useful in training.

Getting support for the framework

The framework needed broad buy-in if it was to be adopted organically. The ethics office took the business examples of right-versus-right dilemmas and tested the framework using these examples. Then, the conflicts were rewritten as four simple-to-remember questions; they were deliberately not written using the academic language that came from the underlying theory. Next, it was introduced to senior leaders in the organization in a test setting where feedback was solicited.

This not only promoted buy-in, but it also invited useful contributions. For example, leadership decided that both the visual layout of the framework and the order of the questions were important as they sent subliminal messages about what to prioritize. Based on this feedback, the framework changed from a step diagram to one that presented the questions more equally. By this time, a fifth question had been added to reinforce the point about following clear rules wherever they existed.

In substance, the five questions were:

1. Would you be willing to disclose?
2. Is it fair and honest?
3. Could everybody do this?
4. Does this support long-term relationships?
5. Does this comply with law, regulation, and policy?

When it was completed, the framework was introduced to all managers across the bank via in-person training.

The training used case studies drawn from the examples provided by the business, which went down well with the managers. It was carefully delivered in small group settings to make the experience more impactful and to allow individuals in each group to practice different challenges in a relatively safe setting.

The training began with a video that played out one of the scenarios that paused at the moment of dilemma, and the managers had to respond on the spot—just as they would in real time. This demonstrated the difficulty that seasoned managers can face when dealing with a sudden dilemma, which in this case came from an unexpected and awkward demand from a prospective client. It also allowed managers to realize how much consideration and support may be needed to think clearly about the options and respond carefully.

Importantly, the training was not delivered by the ethics office but by the senior leaders themselves, having first been trained by the ethics office. This both reinforced leadership buy-in and gave those leaders another training as they trained others.

The ethical decision framework became a feature of every annual training, but more importantly, the marketing group created an instantly recognizable diagram for the framework. This diagram featured in internal presentations, team manager meetings, and even some client presentations. Some people who used the framework most printed it out and posted it at their workstation as a visual reminder of the questions to help alert them to dilemmas and then think about how to respond.

Seeing the bigger picture

Some years later, sitting in a client due diligence meeting, I was asked by a client's CEO how seriously the bank was taking its responsibilities on culture and business conduct. I started to describe the ethical decision framework as part of the operating model, taking care to explain how much effort, input, and investment had been put in by the leadership of the bank, which was supported by the data on in-person training and feedback the ethics office had received from managers. Before getting very far in my explanation, I was cut off by the client: "You've no need to describe this—I've already learned about it from my service team." There could be no better validation.

More organizations will face this question from their own customers as more commitments are made on environmental, social, and governance (ESG) issues, such as directing their procurement programs to challenge the suppliers on their own ESG commitments. As organizations prepare to respond to these challenges, they will have to remember that ESG is about promoting sustainable reputable business conduct as much as managing a carbon footprint.

About the author

Anthony O'Reilly recently retired as the chief ethics officer at State Street Corporation, a global bank. Previously he served as head of professional practices at Siemens AG, and prior to this as a partner at PricewaterhouseCoopers.

Takeaways

- Without a tailored framework for ethical business decision-making, organizations are exposing themselves as lacking in sustainable business conduct as they are pressed on ESG standards.
- Ethical business decision-making frameworks require careful tailoring, vetting, and marketing if they are to be effective within an organization.

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