Banques centrales : peut-on vraiment dépasser le leader ?

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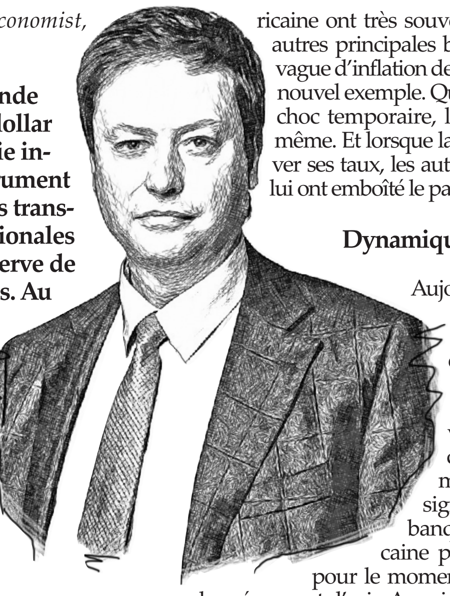

Depuis la fin de la Seconde Guerre Mondiale, le dollar joue le rôle de monnaie internationale, tant comme instrument de paiement de la majorité des transactions commerciales internationales que comme instrument de réserve de nombreuses banques centrales. Au fil du temps, cela a donné un rôle de leader à la banque centrale américaine en matière de taux d'intérêt. En d'autres termes, lorsque la Fed modifie ses taux, les autres banques centrales n'y sont pas insensibles, au travers des conséquences sur les taux de change notamment.

Sachant par ailleurs que l'économie américaine est plus flexible et ressent donc plus rapidement les chocs économiques que bien d'autres économies avancées, les mouvements de taux de la banque centrale américaine ont très souvent été suivis par les autres principales banques centrales. La vague d'inflation de 2021-2022 en a été un nouvel exemple. Quand la Fed pensait le choc temporaire, les autres ont fait de même. Et lorsque la Fed s'est mise à relever ses taux, les autres banques centrales lui ont emboîté le pas.

Dynamique divergente

Aujourd'hui, la situation est plus nuancée. Compte tenu d'une économie plus résiliente que prévu, d'un marché du travail toujours solide et d'une inflation qui montre quelques signes de rebond, la banque centrale américaine privilégie l'attentisme pour le moment. Il lui faut plus de données avant d'agir. Au mieux, elle pourrait procéder à une première baisse de taux en septembre. Mais à vrai dire, certains considèrent qu'elle pourrait ne pas bouger cette année. Par contre, des pays comme la Suisse et la Suède ont déjà réduit leurs taux d'intérêt en dépit de l'attitude de la Fed, tandis que la Banque d'Angleterre et la Banque centrale européenne indiquent qu'elles pourraient réduire leurs taux d'ici l'été.

En bref, l'inflation dans ces pays/zones s'étant rapprochée de l'objectif - et s'avérant également un peu plus prévisible - les banques centrales européennes semblent plus à l'aise pour s'écarter de la Fed. Elles semblent également moins préoccupées par le risque de faiblesse des devises (pour l'instant).

Liberté limitée

Toutefois, il faut avouer que cette divergence a ses limites. D'une part, étant donné que la dynamique de l'inflation américaine a précédé celle de la zone euro au cours des dernières années, les Européens seraient bien avisés de ne pas ignorer catégoriquement les signes timides de retour de l'inflation de l'autre côté de l'Atlantique, même si pour le moment, la situation est différente en zone euro.

Il ne s'agit pas de copier les États-Unis, mais plutôt de comprendre les mécanismes de l'inflation là-bas, pour éventuellement en tirer les conclusions nécessaires. D'ailleurs, on constate déjà un changement de communication chez certains responsables de la BCE, qui craignent que la récente rigidité de l'inflation aux États-Unis ne se répète en Europe dans le courant de l'année. Le risque d'un "moment Trichet inversé" - une référence aux deux fameuses hausses de taux de 2011 qui ont été rapidement annulées - où la BCE serait forcée de mettre un terme à un cycle d'assouplissement naissant semble inquiéter certains «faucons» influents de la BCE.

D'autre part, imaginons malgré tout que la dynamique d'inflation reste divergente et qu'aucune nouvelle tension inflationniste n'apparaisse en Europe. Considérons par ailleurs que la première baisse des taux de la BCE et, dans une moindre mesure, de la BoE, soit acquise d'ici l'été. Même dans ce scénario, si la Fed ne réduisait ses taux qu'une seule fois - ou pas du tout - cette année, la BCE et la Banque d'Angleterre devraient inévitablement revoir à la baisse leurs ambitions d'assouplissement plus tard dans l'année.

En effet, elles ne pourraient ignorer les effets sur les taux de change générés par la divergence de taux d'intérêt et donc sur leur propre inflation. C'est en partie la raison pour laquelle les banques centrales européennes signalent qu'elles ne sont pas enclines à réduire leurs taux lors de chaque réunion consécutive. Elles peuvent certes dépasser temporairement le leader, mais ne peuvent certainement pas s'en affranchir.

"Quo Vadis de-risking?"

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"Quo Vadis de-risking?". This core question compels financial institutions to reassess the trajectory of their de-risking strategies.

With the growing complexity of financial criminal activities, the regulatory implications and the compliance costs of dealing with high-risk clients, the following question arises: are these strategies successfully safeguarding financial institutions from potential threats, or are they excluding legitimate customers from essential financial services?

The past decade has witnessed a considerable increase in occurrences of unexpected closures of both individual and company bank accounts, a phenomenon known as "de-risking" or "debanking."

De-risking refers to decisions made by credit and financial institutions to "refuse to enter into or to terminate business relationships with individual customers or categories of customers associated with higher money laundering and terrorist financing (ML/TF) risk (…)" as per the European Banking Authority (EBA).

On a supranational level, the Financial Action Task Force (FATF) characterizes de-risking as the phenomenon of financial institutions terminating or restricting business relationships with clients or categories of clients to avoid, rather than manage, risk in line with the FATF's risk-based approach.

A focal point for the regulators

It has become quite clear in recent times that the topic of de-risking has come on the scene, as a primary point of scrutiny for regulatory bodies globally, driven by the necessity to protect financial services accessibility, particularly for those classified as vulnerable users.

In 2023, the EBA made a concerted effort to confront these issues head-on, and issued two sets of comprehensive guidelines to challenge any unwarranted de-risking activity, with the primary objective to safeguard rightful access to financial services for vulnerable customers. On a national level, the Commission de Surveillance du Secteur Financier (CSSF) has integrated these guidelines into its administrative practice and regulatory approach in CSSF Circulars 23/842 and 23/843.

This view is echoed by other key players in the global financial regulatory scene. Following suit, the United States Department of Treasury (DOT) launched its initiative in April 2023 and presented their maiden strategy report on de-risking. The 54-page document laid down a wholesome analysis of the de-risking problem and illustrated a thorough roadmap of recommended steps aimed at addressing and solving this issue.

Similarly, the UK was not far behind in the quest to regulate this pertinent matter. The UK Financial Conduct Authority (FCA) had issued a pre-emptive warning three months prior, geared toward its regulated entities. The regulatory body emphasized the need for circumspectly managing money-laundering risks, warning that it should not automatically culminate in exhaustive de-risking initiatives. The authority further cautioned that during its Anti-Money Laundering (AML) compliance reviews, it would examine de-risking strategies that may lead to potential issues relating to consumer protection or competition problems.

The multifaceted approach by these regulatory authorities in promoting controlled de-risking strategies presents a new phase in the world of financial regulation, one that places the customer first while maintaining vigilance on potential financial threats.

While decisions not to establish or to end a business relationship, or to refrain from carrying out a transaction, may align with the provisions of Directive (EU) 2015/849 as amended (AMLD), de-risking entire categories of customers without due consideration of individual customers risk profiles can be unwarranted and a sign of ineffective ML/TF risk management, ultimately affecting wholesale categories of customers.

The unfortunate victims caught in the crossfire of de-risking

EBA reached out to external stakeholders through a public "Call for Input" launched in June 2020 to better understand the scale and impact of de-risking in the EU. The EBA found that de-risking is widespread in the EU, impacting numerous customers groups including certain geographies, such as LATAM, Russia and Central Europe. Moreover, it affects specific segments of the financial sector, encompassing credit and payment institutions, as well as electronic money institutions, FinTech firms handling virtual currencies, fund managers, trust providers, not-for-profit organizations, individuals or entities that can be associated with higher ML/TF risks. It also includes Politically/Media Exposed Persons, dealers in precious stones, and customers with complex business models, or ones which business models are linked to higher ML/TF risk or those involving complex legal structures.

Several participants in this "Call for Input" reported experiencing issues, such as the unexpected termination of banking services, restrictions on online banking features, and denied access to various types of accounts including savings and business accounts. Many attributed these changes to what they perceived as the banking sector's overarching de-risking strategy. Particularly affected Payment Institutions, who were among the respondents, alleged that these actions were part of the banks sector-wide policies, referring to them as "blanket exit strategies."

Respondents also claimed that correspondence with banks concerning these de-risking decisions often lacked clarity and detail. Additionally, the majority of respondents revealed that they couldn't appeal these decisions. Even in cases where a review was possible, continuing the business relationship entailed significantly higher fees, thereby exposing banks that abruptly close high-risk accounts to potential litigation risks, legal, financial, and reputational challenges.

De-risking can exclude certain clients, particularly those from developing countries or engaged in international transactions, from crucial financial services. This practice might unintentionally increase risk by paring customers down to smaller banks with less capacity to manage risky portfolios. As a senior AML officer at Wells Fargo put it, de-risking can ironically lead to "re-risking."

Balancing compliance costs, profits, financial penalties and reputational risks

Financial institutions are afraid of elevated costs linked to AML/CTF compliance. The Organization for Economic Co-operation (OECD) and Development and the International Federation of Accountants (IFAC) revealed that worldwide, in the financial sector, inconsistencies in regulation are leading to substantial and rising expenses, on average consuming 5-10% of an organization's annual turnover.

The rising penalties for inadequate AML controls have led to an increasingly common de-risking strategy to avoid fines. This is exemplified nationally, with the CSSF raising administrative fines to over €5.8 million in 2022, up from €4.3 million in 2021. These situations intensify the reputational damage risk, forcing institutions to reassess their compliance strategies.

The customer base's relatively low profitability is often underlined as a crucial impetus behind de-risking initiatives. Issues of public image and reputation do influence the decision-making of financial institutions, but at the core lies a comprehensive cost-profit analysis. Conversely, banks appear to be more willing to maintain relationships with clients deemed higher risk, provided these clients continue to generate profits.

What can be done to mitigate the risks of de-risking?

Financial institutions must adopt a well-rounded approach integrating both stringent control measures and continuous improvement practices to effectively address de-risking as a dynamic matter. The following steps provide a comprehensive guideline to manage this:

- Establish a strong resolution from the senior management, which should include specific declarations in one's **risk appetite statement.** These declarations should address the dealings with high-risk clients, outline the relationships that are deemed prohibited, and explicitly state the extent of risk the financial institution is willing to engage with. This firm commitment provides much-needed direction in defining risk priorities and ensures a mature risk management culture.
- Adopt **risk assessment practices**, indeed promote the **application of a risk-based approach** rather than a wholesale de-risking strategy targeting at severing ties with entire customer categories. Put in place systems and controls to identify emerging ML/TF risks and assess these risks on a timely basis. Do not overlook distinct client risk categories. An institution that fails to conduct thorough risk assessments of its clientele and neglects to monitor ongoing business relationship will inevitably opt for de-risking, leading to a dead end.
- Apply an **enhanced due diligence (EDD)** model. This can mean establishing relationships even with clients situated in high-risk third countries, provided risks are mitigated through EDD measures. Professionals must consider the importance of differentiated EDD to address the various risks for each clients.
- Continuously **monitor client activities** to quickly identify any changes in risk profiles. Conduct analytical assessment procedures on transactions as an overall part of your **Know your Transactions** to spot activity that is inconsistent with the registered profile of the customer. Implement systems and controls that allow for constant monitoring and prompt action aimed at mitigating potential risks.
- Plan remedial projects, such as an **update of Know Your Customer files**, to address and correct identified deficiencies using regulation as a guidance.
- Organize **internal operations** with clear leadership and oversight, ensuring that policies, procedures, and controls are optimally designed and effective. Establish strong AML/CTF governance structures, implement reporting protocols, and conduct regular AML/CTF training. Regular reviews of AML/CTF framework must be conducted and should focus on both policy and procedural adherence and effectiveness.
- **Engage with clients** regularly about AML/CTF requirements and clearly explain reasons for enhanced investigations.

De-risking sweeps onto the stage, but let's hope its encore is brief considering the adverse effects that lurk in its shadow.