International Science Journal of Management, Economics & Finance
2025; 4(5): 91-106
https://isg-journal.com/isjmef/
doi: 10.46299/j.isjmef.20250405.09
ISSN: 2720-6394

The revolving door between public and banking sectors dynamics, impacts, and regulation

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Abstract: The phenomenon of the "revolving door", i.e. the frequent transition of individuals between high-level positions in the public sector (in particular regulators, policymakers and former Politically Exposed Persons - PEPs) and management or advisory roles in the banking and financial sector (and vice versa), is an issue of growing concern for the transparency, integrity and stability of modern economic systems. This study aims to analyze in depth the dynamics underlying this phenomenon, exploring its implications on the risk of regulatory capture, potential conflicts of interest and public trust in institutions. Through a comparative analysis and the examination of recent and relevant case studies in Italy and Europe, institutional reactions and regulatory developments aimed at mitigating their effects will be evaluated, identifying persistent gaps and proposing areas for future reforms. It will also investigate how the public perception of this phenomenon influences the legitimacy of political and financial decisions, especially in a context of growing distrust towards elites.

Keywords: revolving door, regulatory capture, public ethics, conflict of interest, banking regulation.

1. Introduction: The Nature of the "Revolving Door" Phenomenon

The banking and financial sector is by its nature deeply interconnected with the political and regulatory sphere. Financial stability is a primary public good, the safeguarding of which depends to a large extent on effective regulation and impartial supervision. In this context, the "revolving door" phenomenon emerges as a critical area of potential vulnerability. This is the career transition between roles of high responsibility in the public sector (e.g. regulators, economic ministries, central banks, supervisory authorities, national and European parliaments) and significant positions in the private financial sector (e.g. commercial banks, investment banks, investment funds, rating agencies, financial advisory firms).

This two-way flow of talent and knowledge, while it can lead to mutual enrichment in terms of industry expertise and understanding of market and regulatory dynamics, also raises serious concerns. The most relevant is the risk of "regulatory capture," a concept that describes the situation in which a regulatory agency, instead of acting in the public interest, operates to promote the interests of the entities it is supposed to oversee. The presence of former regulators or policymakers in the top management of banks can facilitate such capture, taking advantage of established relationships, internal knowledge of decision-making processes and insider information acquired during the public mandate. This not only distorts competition but can also lead to more lax regulation, increasing the risks of financial crises and the resulting burden on taxpayers.

This study aims to go beyond a mere description of the phenomenon, to systematically analyze:

- The economic and professional motivations that drive individuals to transition between sectors, including the enhancement of skills and the attractiveness of salaries and benefits in the private sector.

- The channels through which influence manifests itself (formal such as lobbying, informal such as undeclared advice or the simple network of contacts).
- The quantifiable and qualitative impacts on regulatory formulation and enforcement, market competitiveness and public confidence, analysing how the perception of opacity influences the legitimacy of political and financial decisions.
- The effectiveness of the measures adopted to mitigate the risks, with a focus on "cooling-off periods", ethical regulations and post-public employment non-competition clauses.

2. Review of the Literature and Theoretical Framework

Economic and political literature offers different lenses through which to analyze the phenomenon of the "revolving door", which have evolved from more theoretical approaches to rigorous empirical studies.

2.1 Theories of Regulation and Regulatory Capture

The theoretical basis lies in the theory of regulation, in the concept of regulatory capture, formulated by Stigler (1971) and Peltzman (1976). These authors argue that regulatory agencies, rather than being neutral actors, can be "captured" by the industry they are supposed to regulate. Reasons include information asymmetries (the regulator depends on the industry for data), the influence of lobbying and, crucially, the "revolving door". Regulators, anticipating a lucrative future in the private sector, could take less stringent decisions or more favorable to regulated companies ("anticipatory acquiescence"). Subsequently, Laffont and Tirole (1991) developed more complex models of capture, highlighting the role of information and financial incentives that push the regulator to align with the interests of the industry.

2.2 Theories of Conflict of Interest and Agency

The phenomenon is also linked to agency theory, where the agent (the regulator or public decision-maker) could act not only in the interest of the principal (the public or the state), but also in his own self-interest or to maximize future opportunities (e.g. post-public earnings). This creates a potential conflict of interest, both real and perceived, undermining the impartiality and integrity of public decisions. The literature on public ethics and corporate governance has thoroughly explored the implications of such conflicts, emphasizing the importance of oversight and transparency mechanisms to align incentives. Trust in the public sector is particularly vulnerable when these conflicts are perceived as widespread or unpunished.

2.3 Empirical Evidence and Quantitative Studies on the "Revolving Door"

Numerous empirical studies, especially in the United States, have tried to quantify the impact of the "revolving door" on regulation and the performance of firms. For example, Lucca, Seru and Trebbi (2014) showed how the appointment of former bank executives to the Federal Reserve was associated with higher lending growth rates for "affiliated" banks, suggesting a direct impact on credit policy. Other studies have analysed the effect of cooling-off periods on the effectiveness of regulation and the market value of firms that hire former regulators, finding that longer periods can reduce the attractiveness of such hiring. The main challenge for empirical research is to isolate the causal effect of the "revolving door" from other confounding variables, such as the experience and intrinsic competence of individuals.

2.4 Role of Politically Exposed Persons (PEPs) and Risk of Corruption

The literature on PEPs (Politically Exposed Persons), particularly in the context of anti-money laundering (AML) and anti-corruption, crucially intersects with the phenomenon of the "revolving door". Ex-PEPs transitioning into the banking sector bring with them a network of contacts and an understanding of policy mechanisms that can be exploited. This includes facilitating money laundering operations, favouring the allocation of credit based on political ties rather than economic criteria, or influencing regulatory decisions for the benefit of former colleagues or individuals with whom one is in contact. AML regulation already requires enhanced due diligence for PEPs, but this focuses primarily on money laundering risk, less on systemic risk of influencing regulation or public policy at a broader level.

3. The Motivational Levers of the "Revolving Door": Skills, Salaries and Career

The transition of individuals between high public offices and managerial roles in the banking and financial sector is not a random phenomenon but is driven by a set of powerful economic and professional motivations. These motivations create a significant attraction for public officials to the private sector, and vice versa for private companies to former public officials.

3.1. Enhancement and Capitalization of Specific Skills

One of the main drivers is maximizing the value of the skills and experience acquired. Senior public officials, especially those in positions of regulation, supervision or economic policy-making, develop a skill set that is extremely valuable to the private sector:

- **In-Depth Knowledge of the Regulatory Framework:** These individuals possess an intrinsic and detailed knowledge of the laws, regulations, and procedures that govern the financial sector. They know "how the engine works", what are the areas of greatest regulatory pressure, and how the new rules could be interpreted and applied by the authorities. This is strategic knowledge for banks as they navigate an increasingly complex regulatory environment.
- **Expertise in Supervisory and Control Processes:** Those who have worked in central banks or supervisors have a privileged view of the control methodologies, systemic weaknesses and risk areas on which regulators focus. This expertise is invaluable for banks looking to strengthen their compliance and prevent sanctions.
- **Understanding Macroeconomic and Political Dynamics:** Ministers, Heads of Cabinet, or senior Treasury officials have an overview of policy priorities, macroeconomic trends, and decisions that will affect the banks' operating environment. This ability to "read" the political-economic scenario is a strategic asset.
- **Networking and Institutional Relations:** Years spent in high-level public roles lead to the construction of an extensive network of contacts with other policy makers, public officials, experts and stakeholders. This network, although subject to post-employment ethical regulations, represents immense relational capital for private companies, facilitating communication channels, access to (legitimate) information and negotiations.

For banks, hiring these former officials is not an act of charity, but a strategic investment. Not only technical skills are acquired, but also a deep understanding of the regulator's "language" and expectations, being able to translate regulatory complexities into effective business strategies and, sometimes, preemptively influence the regulatory agenda.

3.2. Attractiveness of Salaries and Benefits in the Private Sector

The pay gap is perhaps the most obvious and often criticized motivation.

- **High Wages and Bonuses:** The private financial sector offers significantly higher salaries than the public administration. For a senior civil servant, moving to a large investment bank or fund can mean an exponential increase in base salary, plus performance-related bonuses, stock options, and other benefits. This prospect of earning is a powerful incentive, especially for those who have spent decades in public roles with lower salaries.
- **Comprehensive Benefits Packages:** In addition to salary, the private sector often offers much richer benefits packages (supplemental retirement plans, private health insurance, stock options, company benefits, accelerated career plans) that dramatically improve the quality of life and future financial security of the individual and their family.

- **Diversified Career Growth Opportunities:** The private sector can offer more flexible and rapid career paths, with the opportunity to take on roles with greater executive responsibility or participate in innovative projects, compared to public careers that can be more structured and slower in progression.

3.3. Search for New Challenges and Personal Fulfillment

In addition to purely economic factors, there are more personal and professional reasons:

- **Desire for New Challenges:** After years of setting rules or managing crises at the public level, some individuals may seek new challenges in the private sector, where market logic, competition, and technological innovation offer different stimuli. The opportunity to "do" rather than just "regular" can be very attractive.
- **Sense of Impact and Autonomy:** While public roles have a huge impact, the private sector can offer a greater sense of decision-making autonomy and the ability to see the results of their actions more quickly in a more agile and less bureaucratic environment.
- **Career Crowning:** For some, the transition to a prestigious role in a large private financial institution may be perceived as the "crowning" of a long and successful career, both in the public and private sectors. It is a recognition of one's own worth and influence.

3.4. The Role of "Alumni Networks" and Active Recruiting

Transitions do not happen in a vacuum. They are often facilitated by:

- **Alumni Networks:** Prestigious universities, public institutions (e.g. Bank of Italy, ECB) and large banks develop strong networks of alumni and former employees. These networks facilitate opportunity reporting and recruitment, creating a fertile environment for the "revolving door."
- **Headhunting and Active Recruiting:** Large banks and financial advisory firms actively employ "headhunters" to identify and attract top talent from the public sector. Their deep knowledge of public sector dynamics makes them prime targets.

In summary, economic and professional motivations not only explain why individuals transit but also underline the market logic that underlies the phenomenon. For banks, acquiring this "institutional knowledge" and regulatory navigation skills is a key competitive asset. For individuals, it is an opportunity to maximize their human and financial capital. The challenge for regulators is to recognise and manage these incentives, ensuring that the legitimate enhancement of skills does not result in undue influence or compromise of public interest.

4. The Revolving Door Channels of Influence: Beyond Formal Lobbying

The influence exerted through the "revolving door" is not limited to explicit and overt lobbying activities. It extends to a range of channels, some formal and regulated, others more informal and difficult to trace, which exploit the knowledge, relationships and reputation acquired during the public service.

4.1. Formal and Direct Channels: Declared Lobbying

Formal lobbying is the most recognizable channel and, in principle, the most regulated. When a former civil servant joins the private sector and their company engages in lobbying, influence can manifest itself through:

- **Privileged Access to Decision-Makers:** Former officials often maintain established relationships with their former colleagues, ministers, parliamentarians and staff of public institutions. This relational capital allows them to get appointments more easily, present their requests directly to key decision-makers, and access first-hand information about ongoing decision-making processes. While lobbying can be practiced by anyone, the access granted by a "revolving door" is qualitatively different.

- **Internal Knowledge of Legislative and Regulatory Processes:** Those who have participated in the drafting of laws or regulations know the original intentions, the difficulties of implementation and the potential weaknesses of a piece of legislation. This "insider knowledge" is valuable for a company that wants to influence a law: it can suggest specific amendments, identify gaps or favorable interpretations, or anticipate regulators' moves.
- **Provision of Expertise and Legitimate Advice:** Often, banks hire former regulators or policymakers for their technical and sectoral expertise. These individuals can advise on how to interpret complex regulations (e.g., Basel III, MiFID II, AMLD), develop compliance strategies, or analyze the impact of new policies. While it may be legitimate, the line between technical advice and indirect influence is often blurred.

The problem in these formal channels is not so much lobbying per se (which is a legitimate part of democracy), but the potential disparity of access and influence that the "revolving door" creates. This disparity can distort decision-making, favouring the interests of big financial lobbies at the expense of a wider public interest or less influential actors.

4.2. Informal and Indirect Channels: The Subtle Weaving of Influence

Informal channels are more insidious because they are less visible and more difficult to monitor and regulate. This is where the risk of conflicts of interest and regulatory capture manifests itself in a more nuanced way.

- **Undeclared Advice or Advisory Board Roles:** Not all former officers take on executive or registered lobbying roles. Many join non-executive advisory boards or carry out informal strategic advisory activities. These roles may not be subject to the same transparency requirements as formal lobbying, but they still allow crucial knowledge and relationships to be conveyed. Their remuneration, which is often high, reflects the perceived value of this indirect influence.
- **Sounding Board and Exchange of Unofficial Information:** The network of contacts built in the public service allows former officials to act as a sounding board for their former colleagues who are still in office. They can provide informal feedback on regulatory proposals, anticipate market reactions, or even suggest priorities. This exchange can take place in social settings, at industry events, or through private communication channels, making it invisible to regulators.
- **Influence on Regulatory Culture and Mindset:** The mere presence of former regulators in financial institutions can influence the internal culture of the bank and, by extension, the culture of regulatory institutions. Regulators still in office may be more inclined to view issues from the perspective of the private sector, anticipating the desires of future employers or feeling part of a single elite "network". This can lead to less aggression in supervision or greater tolerance towards certain practices.
- **Use of "Non-Public" Information (Gray Area):** Although this is not classified or strictly confidential information, former officials have a deep knowledge of the vulnerabilities of the system, of the areas of greatest regulatory laxity, or of the future strategic priorities of the authorities. This knowledge, if used skillfully, can give you a significant competitive advantage without directly violating any secrecy laws. It is a “contextual knowledge” that goes beyond publicly available data.
- **Informal "Agenda-Setting":** Through interventions in think tanks, conferences, publications or simple conversations, former officials can help shape the public debate and the political agenda on economic and financial issues, promoting favorable perspectives for the private sector.
- **"Fear of Future Employment"** effect: It is not excluded that regulators or public decision-makers still in office may be influenced in their action by the desire to maintain good relations with the private sector, anticipating future employment opportunities after the termination of the public mandate. This "anticipatory acquiescence" is particularly difficult to prove, but it is a recognized risk.

4.3. The Regulatory Challenge

The coexistence of these channels, formal and informal, makes the regulation of the "revolving door" extremely complex. While cool-off periods and lobbyist records attempt to address the more direct channels, informal channels are more easily out of control.

To mitigate these risks, an approach is needed that goes beyond mere formal compliance:

- **Increased Transparency:** Making post-public roles public, including non-executive or advisory roles, to increase public scrutiny.
- **Longer and Stronger Cooling Periods:** Extend the duration and scope of incompatibility periods for high-level figures.
- **Strengthening of Independent Ethics Committees:** Give these bodies the powers to assess the appropriateness of a passage and sanction violations.
- **Culture of Integrity:** To promote a strong ethical culture in both the public and private sectors, based on awareness of the risks of conflict of interest and responsibility towards the public interest.

Ultimately, the influence of the "revolving door" is a multifaceted phenomenon. It is not just about direct lobbying, but about a network of interactions, knowledge and perceptions that can shape decisions crucial to financial stability and citizens' trust in institutions.

5. The Impacts of the "Revolving Door": Beyond Perception, to the Substance

The phenomenon of the "revolving door" is not a mere academic curiosity or a mere media scandal. Its implications extend to crucial dimensions of the economic and political system, producing effects that can be both quantifiable (albeit with difficulty) and qualitative, eroding the trust and legitimacy of institutions.

5.1. Impacts on Regulation Formulation and Enforcement: Capture Risk

The most cited and substantiated risk of the "revolving door" is regulatory capture. This happens when the regulatory agency, which is supposed to act in public interest, ends up promoting the interests of the industry it is supposed to oversee.

- **Quantifiable (and Difficult to Isolate) Impact:**
  - **Looser or More Favorable Regulation:** Empirical studies (e.g., Lucca, Seru and Trebbi, 2014, which analyzed the increase in lending for banks with former executives at the Fed) have tried to show how the presence of former regulators in the private sector can lead to less stringent regulations or more lenient enforcement. This can manifest itself in:
    - **Lower Frequency or Intensity of Inspections:** Banks with former regulators may be less subject to strict scrutiny.
    - **Lower Financial Penalties:** In the event of infringements, fines could be reduced or negotiations more favorable.
    - **Faster Approval Processes:** New financial products or mergers could get the green light faster.
  - **Indirect Costs to the Community:** Weak or "captured" regulation can contribute to the accumulation of systemic risks in the financial sector, as evidenced by the 2008 crisis. The costs of such crises (bank bailouts, economic downturns) are then borne by taxpayers. Quantifying this direct causal link is complex, but correlations have been explored by numerous economic studies.
  - **Delay or Boycott of Crucial Reforms:** The influence of former officials may slow down or dilute the introduction of regulatory reforms necessary for financial stability or consumer protection, as these could harm the specific interests of their new private counterparts.
- **Qualitative Impact:**
  - **Erosion of Independence and Impartiality:** Even in the absence of wrongdoing, the mere perception that a regulator may be influenced by the prospects of future employment undermines the institution's image of independence and impartiality.

- **"Cognitive Capture" or "Regulatory Cultural Drift":** The "revolving door" can lead to a homogeneity of thought and a loss of critical perspective between regulators and the regulated. Individuals transitioning between the two worlds can develop a shared mindset that makes it harder for regulators to identify and act against harmful practices in the industry, perceiving them as "normal" or necessary.
- **Structural Information Asymmetry:** The former regulators bring to the private sector an irreplaceable internal knowledge of the processes, priorities and vulnerabilities of the public system. This creates an information asymmetry that favors the banks that hire them, allowing them to anticipate the regulator's moves and adapt more effectively.

5.2. Impacts on Market Competitive Dynamics: Unfair Advantages

The "revolving door" can distort competition in the financial sector, creating unfair advantages for some companies.

- **Quantifiable Impact:**
  - **Measurable competitive advantages:** Banks that hire former public officials can get better terms in interbank loans, privileged access to public markets or bailout funds, as suggested by some studies linking hiring former politicians to direct financial benefits (e.g. lower funding costs or greater likelihood of receiving aid in the event of a crisis).
  - **Higher Market Shares or Profit:** Easier access and insider knowledge can result in a competitive advantage that leads to increased market share or higher profit margins for "connected" banks. Directly quantifying this effect is difficult, but analyzing financial data could reveal correlations.
  - **Reduced Innovation or New Player Entry:** If success is tied to "connections" rather than efficiency or innovation, it creates a disincentive for new entrants or companies that cannot afford to hire high-profile former officials.
- **Qualitative Impact:**
  - **Distorted competition:** The market is no longer based only on merit, efficiency or innovation, but also on a company's ability to "buy" influence and knowledge through the recruitment of former public officials. This penalizes smaller or less connected banks.
  - **Creation of Oligopolies or de facto monopolies:** In already concentrated sectors such as banking, the "revolving door" can strengthen the dominant positions of the big players, making it more difficult for new competitive challenges to emerge.

5.3. Impacts on Public Trust and Legitimacy of Decisions

Perhaps the most pervasive and damaging impact of the "revolving door" is on citizens' trust in public and financial institutions.

- **Quantifiable Impact (indirectly):**
  - **Declining Approval/Trust Rates:** Opinion polls on trust in political institutions, the judiciary, and the financial system often show a correlation with perceptions of corruption or undue influence. Although the "revolving door" is only one factor, it contributes to this perception.
  - **Less Civic Participation or Disengagement:** Widespread distrust can lead to a decline in political participation, apathy, or increased support for anti-establishment movements that promise to "cleanse" the system.
  - **Reputational Cost for Banks:** Banks that hire former officers in controversial contexts can suffer reputational damage, with potential impacts on their customer base or their ability to attract ethical investors. This can be quantified through analysis of market sentiment or brand value.
- **Qualitative Impact:**
  - **Perception of Opacity and "Closed System":** The continuous transition between public and private reinforces the idea that there is a narrow "system" of elites acting in their own interest, beyond democratic control. This feeds a sense of injustice and inequality.

○ **Erosion of Decision Legitimacy:** When crucial political or regulatory decisions (e.g., bank bailouts, loosening of regulations) are perceived as being influenced by private interests conveyed through the "revolving door," their democratic legitimacy is questioned. Citizens can feel that decisions are not made in the collective interest but to favor a few.

○ **Growth of Cynicism and Disillusionment:** Constant exposure to "revolving door" cases can generate deep cynicism toward politics and institutions, undermining faith in the possibility of impartial and transparent government.

○ **National Security Impact (Extreme):** In extreme cases, access by former officials with critical knowledge to private entities with international ties can also raise national security concerns, especially in strategic sectors.

In summary, the impacts of the "revolving door" go far beyond individual career transitions. They touch on the quality of governance, market fairness and social stability, acting as a powerful corrosive on public trust and the perception of the legitimacy of decisions taken at the top of the state and the economy. Although direct quantification of some of these effects is complex, qualitative evidence and correlations suggest significant harm to the public good.

In an in-depth analysis like yours, it's critical not only to describe the problem, but also to evaluate the responses that the system attempted to put in place.

6. The Effectiveness of the "Revolving Door" Mitigation Measures: A Critical Balance Between Norms and Reality

Concerns related to the "revolving door" phenomenon have prompted legislators and regulators to introduce several measures to mitigate its risks. However, the effectiveness of these measures is often debated, as the complexity of the phenomenon and the variety of channels of influence make comprehensive regulation difficult. This in-depth study will focus on the main pillars of mitigation strategies: "cooling-off periods", ethical regulations and post-public employment non-compete clauses.

6.1. “Cooling-Off Periods”: The Reflective Pause

Cooling-off periods are the most direct and widespread measure to address the risk of the revolving door. This is a period of time (typically from a few months to several years) during which a former public official is prohibited from accepting certain positions in the private sector that were directly related to his previous public responsibilities.

- **Main objectives:**

○ **Preventing Direct Regulatory Capture:** Preventing the official from making decisions in his public role with a view to future employment in the private sector.

○ **Protect Confidential Information:** Prevent sensitive or privileged information acquired in the public role from being immediately transferred to the benefit of a private entity.

○ **Mitigate Relational Advantage:** Allow established relationships and privileged access to "cool down," reducing their immediate impact.

○ **Improve Public Perception:** Demonstrate a commitment to the independence and integrity of institutions.

- **Effectiveness and Limitations:**

○ **Adequate Duration:** Their effectiveness is directly proportional to their duration. Short periods (e.g. 6 months-1 year) are often considered insufficient, especially for very high-level roles where knowledge and relationships have a longer "expiration date". Cases such as that of Barroso (2 years for the former President of the Commission) or Weber (informal period, then regulated) highlight the need for longer periods for top roles and greater influence.

○ **Scope:** A significant limitation is often the scope. The rules may prohibit "directly related" roles but be vague about indirect advisory positions, advisory boards, or roles in foundations/think tanks that while exerting influence, are not executive or subject to registration such as lobbying.

- **Difficulty in Monitoring and Control:** Despite the introduction of ethics committees (such as that of the European Commission) or prior authorizations, the effective monitoring of the application of these prohibitions is complex. "Violations" can happen in subtle ways that are difficult to prove.
- **Compensation (Compromise):** Some jurisdictions provide financial compensation for public officials during the cooling period, recognizing the restriction on their freedom to choose. This may reduce the attractiveness of circumventing the rules but raises questions about the cost to the taxpayer.

6.2. Ethical Regulations and Codes of Conduct: The Moral and Behavioral Thrust

Ethical regulations and codes of conduct aim to establish a framework of principles and rules that guide the behaviour of public officials, both during their mandate and after termination.

- **Main objectives:**
  - **Promoting Integrity and Impartiality:** Inculcating a sense of responsibility and loyalty to the public interest.
  - **Managing Conflicts of Interest:** Provide clear guidelines on how to identify, declare, and manage conflicts of interest (actual or potential).
  - **Transparency Obligations:** Set requirements for the declaration of assets, interests and, in some cases, future professional assignments.
  - **Disciplinary Sanctions:** Provide for disciplinary measures for the violation of ethical norms.
- **Effectiveness and Limitations:**
  - **Binding Force and Enforcement:** Their effectiveness depends on their binding force (are they mere guidelines or do they have legal value?) and the willingness of the institutions to apply them rigorously. In Italy, for example, Legislative Decree 39/2013 introduces legal limits, but its practical application and monitoring capacity are often criticized.
  - **Organizational Culture:** Ethical regulations are most effective when they are supported by a strong organizational culture that values integrity and public service. Without such a culture, they can be perceived as mere formalities.
  - **"Grey Ethics":** Regulations often struggle to cover all the "grey areas" where the influence is subtle (e.g. the "sounding board" effect or the simple frequentation of exclusive environments). It is difficult to regulate "perception" or "potential" conflict without excessively restricting professional freedom.
  - **Incentives to the Controller:** Sometimes, the ethics controller (e.g., an institution's ethics office) may have incentives not to be too strict, so as not to damage the institution's reputation, or to maintain good relationships with influential figures.

6.3. Post-Public Employment Non-Compete Clauses: Protecting "Public Assets"

While non-compete, clauses are common in the private sector to protect corporate know-how, their application to the public sector is conceptually different but aimed at a similar goal: to protect the integrity and information of the public institution.

- **Main objectives:**
  - **Avoiding Transfer of Sensitive Information:** Preventing former officials from using confidential or "market-sensitive" information acquired in public service for the benefit of a competitor in the private sector.
  - **Safeguarding Credibility and Secrecy:** Maintaining confidence in the ability of public institutions to protect crucial data and future strategies.
  - **Complementary Cooling-Off Periods:** Act more specifically on the type of activity that can be done.
- **Effectiveness and Limitations:**
  - **Specific Application Difficulties:** Unlike the private sector, where it is relatively easy to define "competition", in the public sector it is more complex to specify which post-public activities constitute "competition" or "information abuse".

○ **Vagueness of the Definition of "Sensitive Information":** It is not only state secrets, but also "contextual knowledge", "implicit strategies" or "political intentions" that are difficult to define and prove as an object of violation.

○ **Balancing with Professional Freedom:** Excessively broad restrictions can be considered an undue limitation of the freedom to work and the enhancement of one's human capital, and can be challenged legally. This is especially true for high-profile figures, whose skills are highly specialized.

○ **Measurability of Damage:** Proving direct harm to the public interest resulting from the infringement of a non-compete clause is extremely difficult.

6.4 Conclusions on Overall Effectiveness

The measures taken to mitigate the risks of the "revolving door" are a step in the right direction, but their overall effectiveness is still partial and limited.

- **Need for an Integrated Approach:** No measure alone is enough. A combination of adequate cooling off periods, clear ethical regulations with credible sanctions, and greater transparency are needed.
- **The Role of Transparency:** Transparency (public registers of lobbyists, post-public assignment statements, publication of ethics committee reasons) is perhaps the most powerful measure, because it allows for scrutiny by civil society, the media, and academia, acting as a deterrent.
- **The "Soft Influence" Challenge:** Current measures are more effective against direct and formal forms of influence. They struggle to capture "soft influence" through informal networks, undeclared counseling, or the "mind captured" effect.
- **Harmonization and Strict Enforcement:** For a transnational phenomenon such as the financial one, a harmonization of regulations at the international/European level is essential to avoid regulatory arbitrage. The political and institutional will to apply the rules rigorously and without exception is also crucial.
- **Importance of Ethical Culture:** In the end, the effectiveness of any regulation also depends on the prevailing ethical culture. A strong sense of public duty and a commitment to personal integrity can do more than any rule, even if rules are necessary to provide a framework and sanction deviations.

In summary, the current measures are a start, but the "revolving door" remains a complex phenomenon that requires a continuous evolution of mitigation strategies to adapt to new forms of influence and to ensure that the public interest prevails over private interests.

7. Case Studies: Italy and Europe (2020-2025 and Key References)

This section will delve into the specific cases, highlighting the dynamics of the "revolving door" and the critical issues that have emerged, with an update on the most recent developments.

7.1 Italian cases of "Revolving Door"

Italy, with its political and financial system characterized by close relations and a certain historical opacity, offers fertile ground for the analysis of the phenomenon. Public perception is often critical of such passages, fueling distrust.

7.1.1 Mario Draghi: From the Treasury to the ECB, via Goldman Sachs

- **Path:** Mario Draghi's career is a paradigmatic example of the "revolving door" at the highest level.

○ **Director General of the Italian Treasury (1991–2001):** Crucial role of influence in the privatization of public companies and debt management, in a period of preparation for entry into the Euro.

○ **Vice President and Managing Director of Goldman Sachs International (2002–2005):** During this period, Goldman Sachs advised on complex financial transactions (swaps) that allowed Greece to mask some of its debt. Draghi's specific role in these operations has been the subject of intense debate, with the person concerned always denying involvement in the structuring of these instruments.

- **Governor of the Bank of Italy (2005–2011):** Re-entry into a public role of banking supervision and monetary policy.
- **President of the European Central Bank (ECB, 2011–2019):** A central figure in single banking supervision and the management of the sovereign debt crisis, with unprecedented influence on the European financial system.
- **President of the Council of Ministers (2021-2022):** Top political role with broad decision-making powers over the national economy and finance, at a crucial time of post-pandemic recovery.

- **Critical issues and ongoing debate**: Draghi's passage has raised persistent questions about the potential conflict of interest, fueling the perception of opaque influence by large financial institutions on public decision-making processes. Criticism has focused on Goldman Sachs' role in the Greek crisis and Draghi's possible knowledge of "financial engineering" mechanisms that could have compromised the transparency of national budgets. While there has been no evidence of personal wrongdoing or a direct competitive advantage for Goldman Sachs from its subsequent actions at the ECB, the public perception of compromised independence has had a lasting impact on trust in financial and political institutions. The case has become a global symbol of the "revolving door" at the highest levels of accountability.

7.1.2 Giulio Tremonti: The Grey Areas between Politics and Financial Advice

- **Path:**
  - **Multiple public role:** Several times Minister of Economy and Finance in center-right governments (e.g. 1994, 2001-2005, 2008-2011), with direct responsibility for economic and fiscal policy in periods of significant instability and reforms.
  - **Private role:** Although he does not take on direct executive positions in large banks, Tremonti has maintained and developed collaborations with leading law and financial firms (e.g. Studio Tremonti Romagnoli Piccardi e Associati), as well as links with foundations and think tanks active in the banking and industrial world (e.g. Fondazione Italianieuropei, Aspen Institute).
- **Criticality and Impact:** The Tremonti case illustrates the "grey areas" of the phenomenon, where influence is not manifested through a direct and formal appointment on a board of directors, but through a network of consultancy, participation in think tanks, publications and reports that maintain a deep interconnection between the civil service and financial circles. This raises questions about the potential transmission of inside information (even without formally infringing professional secrecy) or the orientation of policies in favour of specific private actors through informal channels. This "soft revolving door" is more difficult to regulate and monitor.

7.1.3 Ignazio Visco and the Managers of the Bank of Italy: Constraints and Limits of Independence

- **Path:**
  - **Public role:** Governor of the Bank of Italy (since 2011), with a long history in top positions within the institution (e.g. Director General). The Bank of Italy is a crucial supervisory authority over the Italian banking system.
  - **Post-Bank of Italy transitions:** Although the Bank of Italy is formally independent and subject to strict integrity rules, it has been observed that several senior officials (former General Managers, Heads of Departments) after retirement or the end of their mandate have moved to positions in the private banking sector (e.g. members of boards of directors of large Italian banks, investment banks), in financial advisory firms or in international bodies with a hybrid public-private nature (e.g. International Monetary Fund - IMF, Bank for International Settlements - BIS, where they maintain coordination and advisory roles with the global financial sector).
- **Criticalities and Debate:** In Italy, the system provides for some specific deontological constraints and incompatibilities for public officials, including those of the Bank of Italy (based, for example, on Legislative Decree 39/2013). However, their practical application, the length of cooling off periods and the effective monitoring and sanctioning capacity of these transitions are often the

subject of discussion and criticism by the public and some observers. The perception is that, although there is a regulatory framework, its meshes may be too loose or controls too loose to contain all forms of influence, particularly for roles with high decision-making responsibilities. The perceived legitimacy of the independence of central banks and supervisors can be challenged by these steps, even in the absence of wrongdoing.

7.2 European and International Cases (2020-2025 and Key References)

The phenomenon of the "revolving door" is a global issue, with cases that have generated extensive debates and prompted significant regulatory revisions even outside Italy.

7.2.1 José Manuel Barroso: From the European Commission to Goldman Sachs – a symbolic case

- **Path:**
  - **Top public role (2004–2014):** President of the European Commission, the highest executive authority of the European Union, with a crucial role in defining economic, financial and regulatory policies for the entire bloc.
  - **Private role (since 2016):** Non-executive Chairman of Goldman Sachs International.
- **Reactions and (Lasting) Impact:** Barroso's move to Goldman Sachs generated a very strong institutional and public controversy throughout Europe, becoming an emblematic case of a "revolving door". The European Commission itself, under the Juncker presidency, opened an internal investigation, expressing "disappointment" with the choice. The European Ombudsman criticised him harshly, suggesting a breach of the duty of integrity. The case highlighted a serious flaw in the mechanisms for monitoring post-mandate transitions for European high offices and accelerated the revision of the Code of Conduct of European Commissioners, introducing longer cooling off periods and an independent Ethics Committee to approve such transitions. The controversy has contributed to an increase in public distrust of European institutions and their relations with large financial corporations.

7.2.2 Neelie Kroes: Between Antitrust, Digital and Private Interests

- **Path:**
  - **Public role (2004–2014):** European Commissioner for Competition (2004–2010), a role with immense investigative and sanctioning powers over large companies and the single market, and later Commissioner for the Digital Agenda (2010–2014), with influence on technological development and its regulations.
  - **Private role (post-term):** Since her tenure, she has served on numerous boards of technology (e.g., Uber) and financial companies (including Bank of America Merrill Lynch's Advisory Board for Europe, Middle East, and Africa).
- **Criticism and Open Questions:** The European Ombudsman, Emily O'Reilly, raised serious doubts about the transparency of her post-mandate activities and the management of potential conflicts of interest, pointing out that the European Commission had initially authorised her new roles without adequate oversight or transparency. The case has strengthened the focus on the need for more robust controls even for "mid-level" commissioners but with significant influence, highlighting how in-depth knowledge of strategic sectors can be immediately enhanced by the private sector.

7.2.3 Axel Weber: From the Bundesbank Summit to UBS – The Regulator's Dilemma

- **Path:**
  - **Public role (until 2011):** President of the Bundesbank (German central bank) and member of the Governing Council of the ECB. In this position, he played a leading role in monetary policy and the supervision of the banking system.
  - **Private role (since 2012):** After resigning from the Bundesbank (with a brief informal cooling-off period, unregulated at the time), he became chairman of the board of directors of UBS, one of Switzerland's leading banks and a global player in the financial sector.

- **Discussion and Regulatory Reform:** Weber's relatively sudden transition from a position of maximum responsibility in supervision and monetary policy to top managers of a large private bank has reignited the debate on the need for stricter and more formalized "cooling-off periods" even for the heads of central banks and supervisors. His case is often cited as an example of how expertise acquired in the public sector can be immediately exploited by the private sector but creating a perception of potential undue influence and a risk of regulatory capture, even if there have been no direct allegations of wrongdoing. It helped push the ECB to tighten its internal rules.

8. Institutional Reactions and Regulation: Towards Greater Integrity?

Growing concerns about the "revolving door" have prompted several authorities at European and national level to strengthen their regulatory frameworks, albeit with heterogeneous results and a continuous application challenge.

8.1 Regulation at European level

The European institutions have shown greater awareness of the problem, responding to scandals with regulatory revisions.

- **European Central Bank (ECB):** Following cases such as Draghi's and growing awareness of the risks, the ECB introduced stricter rules for former members of its Supervisory Board (the single banking supervision arm), imposing cooling-off periods and limitations on taking up roles in the private sector directly related to their former function. These rules aim to prevent "capture" and preserve the integrity of vigilance.
- **European Banking Authority (EBA):** The EBA, a key agency in prudential regulation and supervision, has published guidance on the independence and suitability ("fit and proper") of banking officials. These guidelines explicitly consider previous public appointments in the suitability assessment, requiring banks to pay particular attention to potential conflicts of interest arising from the 'revolving door' and requiring a case-by-case assessment.
- **European Commission:** The Code of Conduct for European Commissioners has been revised several times, particularly after the Barroso case. The cooling-off periods have been extended (from 18 months to 2 years for former Commissioners and 3 years for the former President of the Commission), and decisions on the compatibility of the new private roles are now subject to stricter scrutiny by an independent Ethics Committee, with opinions made public. This indicates a significant step towards greater transparency.
- **General Regulations:** AML/CTF directives and regulations (e.g. EU Anti-Money Laundering Directives) require all financial institutions to carry out enhanced due diligence on Politically Exposed Persons (PEPs). This includes not only clients, but also those who enter governance or are involved in significant transactions, requiring an in-depth analysis of the origin of funds and assets, and continuous monitoring of the business relationship. This serves to mitigate the risk of money laundering and terrorist financing that can be channelled through PEP networks of influence.

8.2 Regulation at the Italian level

Italy has introduced legislation to mitigate the phenomenon, although their application is often the subject of debate and practical challenges.

- **Legislative Decree 39/2013 (Anti-Corruption Decree):** This key legislation introduces limits on the positions that former public employees and political office holders can take on in the private sector, with the aim of preventing conflicts of interest. There are "cool-down" periods (usually 1 year from the termination of public office) and penalties for violations. However, its effectiveness and the ability to monitor these rules have been questioned, especially about its ability to intercept all forms of indirect influence or less structured advisory positions.

- **Codes of Conduct:** Various Italian public institutions and regulatory bodies (e.g. Bank of Italy, Consob, IVASS) have their own codes of conduct and internal regulations that provide for incompatibility rules and prohibition periods for their former employees who intend to switch to the regulated private sector. These codes are often more detailed than Legislative Decree 39/2013 due to the specificities of their sector.
- **Lack of Transparency and Sanctioning Mechanisms:** Despite the rules, a perception of a lack of real transparency persists. Public records of former employees and post-public assignments are not always easily accessible or detailed enough for effective monitoring by the public and civil society. In addition, the application of sanctions and the timeliness of disciplinary action do not always live up to expectations, making the rules less dissuasive.

9. Implications and Final Considerations

The phenomenon of the "revolving door" in Italy and Europe is well documented and widely recognized as a source of potential systemic risks and erosion of public trust. The analyses of Italian and European case studies show how the transfer of key figures between the public sector and the banking/financial sector can raise serious questions of public ethics, regulatory independence and trust in institutions.

Key Insights Implications:

- **Risk of Regulatory Capture and Distortion of Competition:** In-depth industry knowledge and relationships gained in the public can be used to influence decision-making and regulatory processes to the benefit of private interests, to the detriment of the public interest and a level playing field for all businesses. This can lead to weak regulations or lax enforcement of existing ones, increasing the likelihood of future financial crises.
- **Conflicts of Interest (Real and Perceived):** Conflicts manifest themselves both directly (a former regulator benefiting from favorable decisions made in his previous role) and indirectly (the perception that an authority may act with an "eye" on future private employment). This perception is as harmful as real conflict, as it undermines the legitimacy and credibility of institutions.
- **Erosion of Public Trust and Legitimacy:** The perception of a system in which the powerful can easily switch between controlling and controlled roles, often with high salaries, undermines the credibility of institutions, generates cynicism and distrust towards politics and the financial system. In an era of increasing polarization and distrust of elites, this phenomenon can contribute to undermining social cohesion and the ability of governments to implement necessary reforms.
- **Information Asymmetries:** Former public officials hold valuable information capital (on the government's future plans, on the fragilities of an industry, on supervisory strategies) that can be illegitimately exploited by the private sector, creating an unfair competitive advantage.

Persistent Regulatory Challenges and Gaps:

- **Duration and Amplitude of Cooling-off Periods:** Although they have been extended, cooling-off periods often remain insufficient to prevent any form of influence or to dispel the perception of conflict. Their application is often subject to interpretation and lacks uniformity across jurisdictions and institutions.
- **Areas of Application:** Regulations do not always cover all forms of collaboration (e.g. non-formal consultancy, roles in think tanks, participation in unpaid advisory committees) or all figures with potential influence (e.g. high-level but not top employees, staff members of ministers or regulators).
- **Monitoring and Sanctioning Mechanisms:** Robust and independent ex-post monitoring mechanisms and effective sanctions for violations are often lacking. The complexity of proving an actual conflict of interest or abuse of position makes enforcement difficult.
- **Transparency:** The lack of comprehensive, easily accessible, and up-to-date public records of career transitions, including details of new assignments and salaries (where ethically and legally

possible), makes it difficult for civil society, media, and academic research to exercise effective scrutiny.

- **International Harmonization:** Given the global nature of the financial sector, the lack of international harmonization of "revolving door" regulations allows for regulatory arbitrage, with former officials being able to choose jurisdictions with looser rules.

10. Conclusions and Future Prospects

The issue of the "revolving door" remains central to the quality of governance, transparency and integrity of the financial system. Although some bodies have adopted stricter measures in recent years, grey areas persist, and application is not always uniform. For effective risk mitigation and rebuilding public trust, it is critical to:

1. **Strengthen and Harmonize Cooling-off Periods:** Extend their duration and expand their scope to more public and private roles, with international coordination.
2. **Radically Increase Transparency:** Create mandatory, detailed, and easily searchable public records of career transitions, including information on the nature of assignments and, where possible, pay.
3. **Strengthen Independent Monitoring Mechanisms:** Strengthen ethics control bodies and anti-corruption agencies with adequate resources and stronger sanctioning powers.
4. **Promote a Culture of Ethical Integrity**: Implement mandatory ethics training programs for public officials and bank executives, encouraging a sense of responsibility and public service that goes beyond mere regulatory compliance.
5. **Strengthen PEP Supervision:** Ensure that banks rigorously apply enhanced due diligence on PEPs, not only to prevent money laundering, but also to identify and mitigate risks of political influence and conflicts of interest in governance.

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