Firms with a mission
as a vector of the long term

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Abstract:
Since short-termism has come under criticism, how can a firm's strategic choices take account of long-term interests? Can long-term shareholding be fostered, and would it suffice? To answer these questions, this article examines how we apprehend the long term. Instead of defining it in relation to the investment horizon of a firm's plans, innovation forces us to see the long term as a firm's capacity for "regeneration", *i.e.*, for recurrently renewing not just its product line but also its fields of innovation. From this perspective, the issue has less to do with shareholders keeping their stake in the firm during a cycle of product development than with their adherence to a "logic of regeneration". Two concepts recently introduced by the PACTE Act (*raison d'être* and *société à mission*) offer important means for making finance compatible with the long term. Corporate engagements on innovations for a desirable future can thus be entrenched in bylaws, beyond eventual changes of shareholders.

"*As we enter 2019, commitment to a long-term approach is more important than ever. The global landscape is increasingly fragile and, as a result, susceptible to short-term behavior by corporations and governments alike*": the words that Larry Fink (2019), chairman and CEO of BlackRock, the biggest asset manager in the world, used in the introduction of his letter to CEOs of the firms in BlackRock's portfolio. This shift toward the long term, which now seems to be affecting the core of finance, is a reaction against the short-termism that has been widely criticized since the 2008 meltdown.[1]

Short-termism refers, first of all, to a massive trend for shortening the period of time during which securities are held. On the NYSE, this holding period fell from six years after WW II to eleven months in 2017 (SENNETT 2011). If we include high-frequency trading, which accounts for 60% of the volume of transactions, it drops down to a few dozen seconds (GOMEZ 2018). A similar tendency has been observed on private markets where the holding period fell from 5.7 to 5.3 years between 2015 and 2018 (MCKINSEY 2019). Besides being faster, stock transactions are also out of proportion with the prices of public offerings, whether on the stock market, in capital-investment or stock repurchases (AUVRAY *et al*. 2016, OXFAM & BASIC 2018, WILDER 2018).

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[1] This article, including quotations from French sources, has been translated from French by Noal Mellott (Omaha Beach, France). The translation into English has, with the editor's approval, completed a few bibliographical references. All websites were consulted in June 2020.

Short-termism fundamentally refers to investors' expectations for high profits in the short run. On stock exchanges, the growing force of "quarterly capitalism" has stimulated a quest for short-term profits and a maximization of a share's market price, both of these being incompatible with the creation of long-term value (FREEMAN 1984). Criticisms of short-termism have grown louder since they were first expressed during the 1980s. They have focused on the disconnection between firms and finance as shareholders want the value of their securities to rise faster and do not want to wait for the profits coming from a long-term strategy. As several studies have shown, short-termism is very detrimental to innovation — what has been called "*myopic R&D investment behavior*" (BUSHEE 1998). On the contrary, a longer investment horizon has been said to favor innovation (BARTON & WISEMAN 2014). By not investing in certain projects, short-term shareholders negatively affect a firm's long-term value and even "*social welfare*", which reaches a maximum when all firms maximize their value (JENSEN 2002).

How can firms reconnect with the long term? Legislators have proposed procedures for making investment horizons longer (*i.e.*, the length of time that an investor is engaged with a firm). Security transactions that are automated or take place too fast are increasingly being regulated. Evidence of this are the AMF's sanction against Virtu Financial Europe for manipulation of securities of CAC 40 firms in 2015 and the initial intent of the Brokaw Act in the United States. Likewise, loyalty is being rewarded by compensating shareholders for the loss of liquidity associated with their investment. For example, the Florange Act in France provides for the possibility of doubling the voting rights of the shares — "loyalty shares" — held by investors for more than two years (BOLTON & SAMAMA 2013). Public investment banks like Bpifrance have appropriated this long-term investment requirement for "*adapting to the pace of firms*".[2]

But is it necessary to make shareholding longer in order to favor the long term? After all, what is the "long term"? Even though it has drawn the attention of the public, media and academics, this phrase, oddly enough, refers to a notion that has hardly been conceptualized. By reviewing the literature in finance to see how it has understood the short term, we notice that it has mainly focused on the coupling of the investor's investment horizon with the firm's strategic horizon. However the issues arising out of the intensive innovation that prevails in contemporary economies have motivated efforts to redefine the long term on a basis different from the shareholding period. The long term is less a matter of attracting shareholders who invest for a long time than of obtaining a commitment to a process of "regeneration". For this, the PACTE Act has recently introduced in French law the concepts of "mission statement" and "firm with a mission". These concepts are major vectors for a convergence between finance and the long term. They serve both to describe the future toward which a firm is projecting itself and to anchor this future in the firm's bylaws, thus beyond the question of shareholder turnover.

[2] In the words of a bill of law: "Projet de loi relatif à la création de la banque publique d'investissement. Étude d'impact", October 2012, 70p. available via https://www.legifrance.gouv.fr/content/download/3454/64004/version/1/file/ei_bpi_cm_17.10.2012.pdf.

Is the long term related to the shareholding period?

Studies in economics, management and finance recurrently mention the “long term”, most of them as a negation of the short term: “*I characterize economic short termism as representing decisions and outcomes that pursue a course of action that is best for the short term but suboptimal over the long run*” (LAVERTY 1996). Scientifically, this usually brings up the question of “intertemporal choice” and related risks (LOEWENSTEIN & THALER 1989). Accordingly, when the costs and benefits of a decision are distributed over time, the short term implies depreciating later effects in relation to earlier ones.

From this perspective, short-termism might have several causes. Broadly speaking, two main sets of factors have been mentioned: on the one hand, the techniques used for pricing and controls and, on the other hand, the holding period.

Investments and pricing techniques

In traditional economics for pricing assets in relation to their future instead of their past (FISCHER 1911, JENSEN 2002), the classical techniques for setting a value take account of all of an investment’s future cash inflows. For a company investment plan, the formula for the net present value (NPV) is used; and on another scale, that of the discounted cash-flow (DCF), which, derived from the former, is a theoretical benchmark for calculating a firm’s value. In perfect markets, the stock market price always equals the firm’s intrinsic value (FAMA 1965) and fully reflects all available information (FAMA 1970). Since all information is reflected in the value of shares, the investor can sell before actually receiving the return on investment. In other words, the firm’s strategy is independent of the length of the shareholding period (MODIGLIANI & MILLER 1958, DERRIEN *et al*. 2013).

Obviously however, these strong assumptions are seldom fulfilled. The aforementioned techniques tend to underprice not only all intangibles, which are hard to measure, but also all returns on investment that are uncertain or difficult to formulate in terms of probability. Since future cash flows are hard to quantify, they are underestimated; and techniques for managing investment thus shift toward favoring the short term (HAYES & ABERNATHY 1980). In general, the fastest returns on investment are preferred, since they allow, if need be, for reinvesting (later) in the firm in order to maximize profits.

Investments and the shareholding period

The other determinant of short-termism in finance is based on differentiating financial assets as a function of their time horizons. Maximizing the stock market price does not imply consideration for the long-term. In general, the liquidity of capital tends toward a short-termism, since investment opportunities are evaluated in a very short term. When a firm’s securities and their value are disconnected from its strategies and from the long term, the risk of a “commoditization of ownership” has been pointed out (LAVERTY 1996). So, the idea has been frequently advanced that the access to long-term capital investments is conducive to a company’s lasting growth (CAPRIO & DEMIRGUC-KUNT 1998). Thanks to this “patient capital”, optimal financial strategies (*i.e.*, the coincidence between the maturity of assets and of liabilities) can be drafted: and long-term plans, funded without the liquidity risks related to the turnover of loans or shareholders (JAILLET 2012).

The long term is thus generally associated with the farthest horizon for a firm’s investment plans; and short-termism comes from either a bias in the evaluation of managerial decisions (discounts, stock market prices, etc.) or short-term investors’ actions (related to the liquidity of securities).

From investment plans to regeneration

Before broaching the topic of the comportment of shareholders, we are forced, given the current situation in industry, to ask questions about how the relation between the long term and a firm’s investment plans. Competition due to innovation is a basic fact of contemporary capitalism. Of course, some industries innovate over a long period of time (*e.g.*, deep tech and pharmaceutics); but for most industries, the question that springs up has to do less with the pursuit of a (single) project than with the emergence of innovations subsequent to this project. The pace for generating projects that foster innovation is potentially much faster than imagined by the general public (given the stability of the products it perceives). For example, underlying the apparent stability of consumer goods (refrigerators, irons, mobile phones, etc.) is an ongoing process of innovation that steadily creates new features (EL QAOUMI 2016). In an innovation-intensive system, a firm that places its stakes on a single product or technique is highly vulnerable. Many an academic study has insisted that the capacity for “regeneration” is important for a firm’s sustainability (CHRISTENSEN 1997, LE MASSON *et al*. 2010, PARPALEIX 2019).

Regeneration is to be understood as the process that “*creates new objects with desired properties (not only free ideas) and provides the new knowledge necessary to warrant their existence*” (HATCHUEL *et al*. 2011:13, LE MASSON & WEIL 2013). This process means designing new alternatives by making strategic choices among a set of known options. Design theories have made a major contribution to inventing these alternatives, by building models for exploring the unknown and designing strategies for steering the generation of new objects. In the literature on the management of innovations, the exploration of these generative processes entails not only the expansion and creation of knowledge (learning, optimization, absorption of outside knowledge) but also a regeneration of the associated “imaginary”, *i.e.*, the spaces of conception in which the desired properties of future objects are designed (AGOGUÉ 2013, LE DU 2017).

Recent studies, which have linked the logics of regeneration and of finance (PARPALEIX 2019), have brought to light cases in which the shareholding period was stable but the strategic orientations of investors and of the firm in relation to innovation differed strongly. To illustrate this regeneration, Parpaleix has cited a firm in the chemical industry, now a specialist in surface coatings. This story started in the 1990s when a new owner chose to orient the development of a flailing small company toward technological products with a high added value. The company grew fast thanks to a deliberate strategy sustained by organic growth and a series of buyouts. Toward 2010, it became a medium-sized firm with local and family roots that was thriving. This innovative, technological firm recurrently organized partnerships to explore fields (*e.g.*, biosources or the process of instantaneous hardening). As this in-depth analysis of the firm's growth has shown, these partnerships were central to fostering a mentality that enabled the firm to regenerate its activities, not only its know-how but also its imagination. For instance, the firm explored the concept of a fireproof plastic with a manufacturer of cooking equipment. This project did not simply enable it to benefit from the income generated by a new product (the new value opportunities owing to fireproof coatings). In addition, this partnership for exploration enabled the firm to codesign products with other organizations (technology clusters, equity investments in private R&D centers, research programs cofinanced with universities). This strategy did not just drive the firm's growth but also opened new fields of business (such as coatings that repair themselves), which have attracted attention from the automobile industry and building trades.

What is even more noteworthy about this case is that shareholding was always long-term. To finance growth, the capital was opened twice to investment funds. In 2010, when two of these funds withdrew after having reached the term of their investment, the so-called "patient investors" injected capital. Though having made a durable commitment based on the firm's strategy and product development, the new shareholders would, for a while, call for a change in the firm's strategic orientation, because they wanted to rationalize the company's business activities, which they deemed too dispersed. This orientation would later come back under question. What this shows us however is that, beyond the shareholding period (in this case, nine years), the real issue had to do with this firm's strategic orientation and the deliberate effort to invest in regenerating the firm's fields of innovation. This example suggests that a commitment to strategic orientations might be separate from the shareholding period.

The "mission", a method for grounding development in the long term?

Grounding a firm's development on the long term is now possible since the introduction of the concepts of "mission" and "mission "statement". In early 2019, following up on the recommendations of a report (NOTAT *et al*. 2018) and earlier research studies (SEGRESTIN *et al*. 2015, LEVILLAIN 2017), the PACTE Act introduced these concepts with several options.

First of all, a firm, regardless of its legal formula (corporation, cooperative, etc.), may define a mission (its "*reason of being*" or purpose) and state it in its bylaws. According to the act, this mission is "*constituted by the principles that the firm assigns itself for which it intends to allot means in the accomplishment of its activity*".

Secondly, the act allows any firm to become a "*firm with a mission*" once its bylaws state a mission and "*one or more social and environmental objectives that the firm has given itself as a mission to be pursued in the context of its activity*". The bylaws also have to state the methods for monitoring execution through an *ad hoc* or standing committee distinct from the board of directors and, too, for having the execution of the objectives verified by an independent third party (under conditions to be formulated by decree).

Excerpts from the PACTE Act,
Act n°2019-486 of 22 May 2019
on the growth and transformation of firms

Article 169

I. Chapter I of Section IX of Book III of the Civil Code is modified as follows:

1° Article 1833 is completed as follows: "The firm is managed in its social interest, by taking under consideration the social and environmental issues of its activity";

2° Article 1835 is completed with the phrase: "Bylaws may state the mission, constituted by the principles that the firm assigns itself and for which it intends to allot means in the accomplishment of its activity";

Article 176

I. Section I of Book II of the Code of Commerce is completed with articles L. 210-10 to L. 210-12 as follows:

— Art. L. 210-10. A firm may publicize its quality as a firm with a mission when the following conditions are filled:

- 1° Its bylaws state a reason of being in the sense of Article 1835 of the Civil Code;
- 2° Its bylaws state one or more social and environmental objectives that the firm has set for itself as a mission to be pursued in the context of its activity;
- 3° Its bylaws state the modalities for monitoring the execution of the mission mentioned in 2°. These modalities provide for a mission committee, distinct from the organizational forms foreseen in the present book and having to include at least one wage-earner, that is exclusively assigned with this monitoring and presents a yearly report to be joined to the report of management, mentioned in Article L. 232-1 of the present code, to the assembly responsible for approving the firm's accounts. This committee proceeds to undertake any verification that it judges fit and asks for the communication of any document necessary for monitoring the execution of the firm's mission;
- 4° The execution of the social and environmental objectives mentioned in 2° is to be verified by an independent third-party organization, in accordance with the modalities and conditions of public notification set by decree in Council of State. This verification takes the form of an opinion joined to the report mentioned in 3°;
- 5° The firm declares its quality of being "with a mission" to the clerk of the tribunal of commerce, which published it, subject to the compliance of its bylaws with the conditions mentioned in 1° to 3°, to the officer of the register of commerce and companies, under the conditions stated by decree in Council of State.

— Art. L. 210-11. When one of the conditions mentioned in Article L. 210-10 is not met, or when the opinion of the independent third-party organization concludes that one or more of the social and environmental objectives that the firm has set for itself in application of 2° of the same Article L. 210-10 have not been upheld, the examining magistrate or any other interested person may refer the matter for an emergency hearing to the president of the tribunal examining it for the purpose of enjoining, if need be with a sanction, the firm's legal representative to delete any mention of "firm with a mission" from all the acts, documents or electronic media originating in the firm. […]"

For the text of the PACTE Act: Loi n° 2019-486 du 22 mai 2019 relative à la croissance et la transformation des entreprises available via

https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000038496102&dateTexte=&categorieLien=id.

The Pacte Act opens important prospects for making finance compatible with the long term. Let us mention a few of them as well as the possible effects of these firms with a mission.

A firm with a mission can state its strategic orientations in its bylaws, thus placing it at the core of governance and thereby committing itself to a process of regeneration. By doing so, such firms effectively separate the question of the stability of shareholders from the question of the long term for the firm.

The mission can set a time horizon that is not restricted just to the firm's investment plans but will characterize the firm's relation with its future. Till now, a firm is legally defined mainly in relation to its share capital and through its objects clause. In other words, its field of business at a given time has delimited the field of possibilities figuring in its bylaws. However the objects clause states neither the purpose for which its managers have to organize the firm's activities nor for whom this is to be done. This silence justifies, in practice, a focalization on shareholders' interests alone and, too, on shortening the time horizon (LEVILLAIN *et al*. 2018). The mission as an "*extended objects clause*" provides for escaping from this trap and stating how the firm, through its activities, intends to contribute in the future — specifically, to describe the future it wants and to realize its engagement for building this future. The mission is for the expression of a desirable future to be built collectively (LEVILLAIN 2017).

Interestingly, many a mission has been formulated in relation to not only what is known (a field of activity, etc.) but also what is a "*desirable unknown*" (HATCHUEL 2014). For instance, the firm Karl Zeiss has, since 1896, a "constitution" that states its mission for contributing to the progress of optics (GLATZEE 1913, SEGRESTIN 2016). Its leaders have made a commitment to research and innovation for the development of optical products (such as low-cost microscopes) while also making a contribution to the well-being of the local area and providing for job security and quality jobs by supporting the education of citizens. At the time, this commitment to an innovative mission involved transferring all share capital to a shareholder foundation. Given this stabilization of the shareholding entity, this firm's mission was irreversible.

Under the legal formula of a "*firm with a mission*" (or "profit-with-purpose corporations"), the liquidity of capital and the stability of a mission of innovation can be combined. Atos, for instance, has recently placed in its bylaws the mission of enabling the most people possible to "*work and progress permanently in full confidence in an informational space*". According to Thierry Breton, its CEO, this provides for supporting academic research and working out R&D partnerships for exploration (such as the one with Google on artificial intelligence) that are likely to regenerate the firm's activities in the coming years.[3]

In conclusion, to reconnect with the long term, the academic literature and public policy circles have often preferred connecting the shareholding period with the firm's investment plans. However long the shareholding period might be, it does not suffice to ensure the long term of the firm, mainly because it has nothing to say about the firm's ability to envision its

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[3] *Les Échos*, 30 April 2019, https://business.lesechos.fr/directions-generales/0601162806113-les-actionnaires-approuvent-la-strategie-et-la-raison-d-etre-d-atos-328941.php.

future and regenerate its activities. In an innovation-intensive economy, this is the issue to be addressed by firms with a mission: restore the firm as an actor of collective creation and protect its potential for innovation, which is the grounds for its survival and for the creation of shared values. Another issue is to concretely define the long term, *i.e.*, the future that the firm intends building — for and with whom? — while seeing to it that the firm is responsible and that its activities are sustainable for everyone.

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