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Marcella Lorenzini • Cinzia Lorandini
Prof. D'Maris Coffman
Editors

Financing in Europe

Evolution, Coexistence and Complementarity of Lending Practices from the Middle Ages to Modern Times

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Editors
Marcella Lorenzini
Department of Economics and Management
University of Trento
Trento, Italy

Cinzia Lorandini
Department of Economics and Management
University of Trento
Trento, Italy

Prof. D'Maris Coffman
University College London
London, United Kingdom

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Part I

Informal, Non-institutional and Professional Credit in Preindustrial Europe

When Things Go Wrong. Credit, Defaults and Institutions in Early Modern Venice

Isabella Cecchini

A few days before the end of October 1621, Margherita Gagini, the widow of a dealer in dyestuffs, left a written statement at the desk of the notary Giacomo Profetini in Venice. The sheet was sealed: it could have been opened, provided that later, unspecified events had occurred—but in fact they didn't, and the sheet has arrived undisclosed until today. The practice of presenting a sealed declaration (*protesto segreto*) to a notary was common in Venice: usually, *protesti* contained complaints or accusations that could be made public if necessity arose, and they had to be officially filed, provided they didn't contain anything immoral (Pedani 1996: 93). The widow denounced the bad faith in doing business which had become widespread: 'from this disorder many abuses and briberies are born, with great damage of merchants and their affairs'. Worst of all was the abuse of failures, since many refused to follow the legal procedure and withdrew abruptly from business, 'so that creditors, and especially those who bring

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I. Cecchini (✉)
Università Ca' Foscari Venezia, Venice, Italy

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a criminal case, are almost reduced to despair to recover their debts, and trying to reduce their damage they are convinced to sign agreements which are monstruous, with which they only recover a small part of what they deserve'. It was Margherita to administer his husband's affair after his death in 1615; she hadn't been able to recover nearly 2000 ducats from one of these merchants in bad faith, notwithstanding her legal action against him.[1]

The protection of commercial credit was a crucial condition for the well-being of a trading place. The fact that Margherita's statement remained untouched could indicate that Venetian law, eventually, helped the widow reach a fair agreement with her debtor; however, there existed a widespread feeling of weakness, against a system of laws that was perceived no longer as effective as in the past in protecting credit rights. It depended of course on the changing environment of international trade, which increasingly turned Venice away from the centre of Mediterranean routes; but some doubts arose even from government officials, about laws which were devised for substantially different period and type of companies.

This essay focuses on commercial credit and on its formal and informal protection, using early modern Venice as a case study. The period this analysis considers stretches approximately from 1550 to 1700, marking for the city the shift from a position of pre-eminence in international trade to one of marginalization. After introducing the institutional context in which commercial credit effectively took place in early modern Venice, forms of and laws about business credit are examined mainly recurring to Venetian notarial archives, which offer important pieces of evidence since most commercial trials are actually lost.

The Framework of Early Modern Venetian Trade

The Venetian republic is usually considered one of the most encouraging environments for pre-industrial commerce and business. Its advantages traditionally lay in a fusion between political and trading institutions: until the late sixteenth century, the patrician ruling class identified itself

with a group of merchants actively engaged in international trade, especially in the maritime trade in the eastern Mediterranean. The government, that by the late fourteenth century consisted of a closed group of patrician families, was hence committed to guide, manage and protect commercial relations and streams spreading from the lagoon and resulting in an array of duties which formed the major part of Venetian state revenue; this aspect was universally recognized as a distinct feature of the city (Cecchini and Pezzolo 2012, with earlier literature; the idea is in Lane 1944: 48).

Such a favourable environment, which rewarded its citizens by protecting their trades and the rights attached to them, helped to shape commercial institutions whose key role in the city's growth as a primary commercial centre had been crucial. Formal and informal tools and protections for a good business conduct were developed to support Venetian merchants in redistributing goods between East and West, and therefore sustain the myriad relationships between these merchants and the merchants of many other nationalities who conducted business with the city: it is believed that late-medieval Venice had already built public-order and reputation-based institutions (in the broad sense). These institutions merged coercion and reputation by resorting to legal sanctions and to the possible exclusion from the benefits the Venetian citizenship assured especially in the Levant trade; at the same time, the network of Venetian consulates ensured a constant flow of information about merchants' reputation, with the effect of identifying and suspending cheaters (Gonzales De Lara 2008).

These elements remained in place in later periods as well, when the political and economic position of Venice in the European and Mediterranean scenario progressively began to scale down from the early seventeenth century on. The Venetian judiciary system was deemed capable to appease disputes between merchants from different countries, while formal institutions helped to facilitate the practice of trade in a changing environment—for instance, setting up a public bank in 1587 after a long series of failures of private banks. In early modern Venice, the mixture of private-order (in the form of networks, customs and commercial practices) and public-order institutions that served to strengthen and to ease the same practices for every trader was still there.

One of the distinctive features of the Venetian commercial environment, in fact, was identified in its provision of specialized (banking, insurance, brokerage) services that the flows of international trade required. A meeting place for merchants developed soon around the church of San Giacomo di Rialto (tenth and eleventh centuries), when the city began to take form and to expand; whereas in Rialto, public and private services for merchants quickly settled to ease the several operations that the dealing activities required. All the services that were required to carry out commerce inside and outside the city were gradually gathered together: the desks of bankers, moneychangers and insurers were set within open loggias that still surround the space in front of the church and that provided shelter and border to the operators.

Even after the devastating fire that destroyed the entire area and the wooden Rialto bridge in 1514, banking and insurance services and public offices in charge of fiscal and commercial matters remained around the old church of San Giacomo (Cessi and Alberti 1934; Calabi and Morachiello 1987). Such a concentration of services and economic knowledge allowed to reduce information asymmetries and transaction costs between operators, and facilitated trade. In the fifteenth and sixteenth centuries, for instance, bank transfers were made by means of oral orders, in contrast to what happened in contemporary Florence where the same operations needed a written order: 'the few principal transfer banks at Venice were situated only a few steps apart on Campo San Giacomo di Rialto, where most commercial transactions, large and small, were negotiated. In short, to pass by one's bank was no hardship, and written orders would have provided little advantage […] It was easy for a client to compare his record of accounts with that of his banker' (Mueller 1997: 7). Furthermore, being economic information concentrated in a single area that merchants or their employees needed to attend daily, traders' personal reputation formed an imperative element to be safeguarded at all costs: every rumour, every inference about the financial instability of a merchant or his returns would have rapidly spread in Rialto, endangering one's future business.

Personal reputation was particularly important in credit supply because it was strictly related to the ability to repay debts in reasonable time, a crucial condition in commerce. Among the several assets offered by the

Venetian trading place, there were essential conditions for international merchants such as legal protection of contracts and fulfilment of credit commitment, resorting to formal mechanisms that obliged the parts involved to exercise their duties. These were certainly valuable tools for commercial operators, but not unique: strengthening mechanisms for contracts that adopted pledges, or guarantees from third parties, or notary services and their legal force in trials, were already widespread in Venice as well as in medieval Europe (Ogilvie and Carus 2014: 432–4). Merchants were regularly inclined to use a combination of different institutions to solve a particular problem; each of these in turn helped to solve multiple problems (Lane 1966: 412–28; Gelderblom and Grafe 2010: 478). Some institutions, however, were invested with a particular force emanating from a *super partes* authority, as was the case in Venice. Significantly, the author of perhaps the most important Italian trading manual—the Genoese Giovan Domenico Peri—identified (albeit rhetorically) the city with 'Justice [which] here so lords, that when representing Venice Justice is portrayed', and more so since Venice was 'so abundant in all sort of trades to let many merchants from every nation rush, and so much for the merchandise, as well as for financial gains, [that] here there is the convenience to exchange for many places'[2] (Peri 1672–3, II: 116, 118–9). But which justice did Peri have in mind?

As any other important trading centre, Venice developed its own system to manage conflicts, failures and bankruptcies. In the early Middle Ages, bankruptcy proceedings were among the many tasks of the Minor Consiglio, a government council; then, in 1244, they were assigned to a civil tribunal, the Giudici di Petizion, which received all the powers indicated by the term *iustitia*. Contemporary statutes distinguished two categories of insolvent debtors, full debtors and fugitives: the former category referred to those unable to repay a debt, while the latter were people who refused to honour their obligation. This distinction, however, was in a later period transformed into a lower or higher capacity to satisfy creditors. In 1301, the authority over failures was given to the Sopraconsoli dei Mercanti, a public office already existing in the twelfth century. Sopraconsoli had to manage failure procedures, conceding *affide* (or *fide*)—that is, safe-conducts—to fugitives, gathering the necessary credit records, assigning privileged credits, excluding dowries and other

revenues from the massive debts, favouring agreements with creditors and in general holding competence over credit and pledges (Cassandro 1938: 94–102; Guida generale 1994: 980). However, the legal procedure to manage failures was complex and lengthy because of two main reasons: first, the collection of evidence in trials proved often arduous with commercial matters; second, and most important, the legal system in Venice was peculiar, having escaped both the Roman law and the *ius commune* in affirming the city's original independence from imperial and ecclesiastical power. A poor documentation remains of this important judiciary office, and it is impossible to analyse whether this office was efficient or not when solving disputes between merchants.

All public posts were held by patricians, who were elected every year or every year and half, and a general distrust was generally felt towards their operations in courts (though the patricians themselves were traditionally led to distrust lawmen educated in Roman law): patrician judges conducted trials mostly keeping public interest in mind, and judging according to statutes and customs, in analogy with other judgements, or according to their opinion. Along the sixteenth century, some timid reform allowed non-patrician lawyers—an increasing number of whom studied at the prestigious university in Padua—to attend trials, and their quantity grew considerably in the seventeenth century; however, cases continued to be debated in crowded courtrooms accessible to any indiscreet curiosity, and to be debated orally without resorting to complex legal citations (Bellabarba 1994: 806–7). No mystery that Venetian judges were considered as *amateurs*: a 'further peculiarity of Venetian justice compared to standard Italian practice was the fact that the parties and their advocates presented their case orally at the final hearing, a tradition celebrated by Carlo Goldoni' in the mid-eighteenth century (Shaw 2006: 13). This was probably one of the reasons why merchants in Venice kept themselves away from tribunals and their open ears, preferring instead to solve conflicts through the arbitration procedure, a well-known institute which had a wide circulation in Venice and in the territories of the Venetian state as a form of solving disputes. The Venetian law was very accurate: it publicly credited the judicial nature of arbitrators' pronunciations and

predicted the intervention of ordinary judges in case of obstacles (Bellabarba 1994: 816–7). All merchants in Venice, hence, preferably chose arbitrations to solve conflicts.

Things, however, were getting more complicated with the wide diffusion of bills of exchange from the late sixteenth century onwards. The credit obtained via a bill of exchange had existed well before, but received an important impulse from the initiative of Genoese bankers. They traded the credits they received in silver from the King of Spain with foreign bills of exchange that Tuscan, Lombard and Venetian merchants provided in gold. Venice was particularly influential, being one of the most important markets redistributing silver towards the Levant—a region that traditionally exchanged silver with gold at high rates (Pezzolo and Tattara 2008: 1101). Trading took place in financial fairs held in Piacenza as from 1579 (and in Novi Ligure as from 1622) under the powerful control of the Genoese financiers; these fairs worked as a periodic credit market and were named after the toponymal *Bisenzone*, which recalled the financial fairs established in 1534 in Besançon to serve Lyon and its relevant merchandise fairs. In the heyday between late sixteenth and early seventeenth centuries, in their regular meetings (every three months) a panel of selected bankers was able to manage large sums of money, steering the European financial market and the international payment system (Mandich 1939; Marsilio 2008).

The trading of bills at *Bisenzone* revolutionized the world of urban credit in late sixteenth-century Italy. In its simplest form, a bill implied 'an exchange of currencies, a transfer of assets across space, and a loan, in the sense that one party advanced money that would be repaid after maturity' (Pezzolo and Tattara 2008: 1103); however, it also involved bankers who worked for the lender and for the borrower. 'The bill of exchange was made out by the lender's bank (the drawer), who got the money in local currency from an investor who wanted to lend money abroad. The rechange transaction simply repeated the exchange transaction in reverse. The receiver of the original bill was now the lender, the original lender became the receiver, and the bill matured at the next fair'. The price of rechange included a return for the lender, and the Genoese law permitted to apply a *pactum de ricorsa*, allowing a bill drawn at one

fair to be redrawn automatically at rates that were established by the fair's chancellor. Exchange and rechange involved different fairs and different currencies, hence interest payments were not subject to laws against usury. This practice became widespread for anyone with some cash to invest, though he or she had to rely on big banking societies (Pezzolo and Tattara 2008: 1103–4).

As a vital commercial centre, Venice was also one of the many gathering points for savers and investors. Florentine merchant-bankers, who were actively engaged in *Bisenzone* fairs, had the function to collect liquidity using bills of exchange, and indeed in Venice theirs seemed to be a nearly monopolistic role: a sample of Venetian notarial deeds between 1590 and 1596 shows their exclusive activity in collecting credit and issuing bills (Cecchini 2006). The mechanism at *Bisenzone* permitted a widespread use of exchange as a way to invest money securing high return rates in the long period—8–10 per cent according to Peri, who was writing in the late 1630s and early 1640s (Peri 1672–3, I: 49). Bills were used as a short-term credit instrument, their duration corresponding to the interval between one exchange fair and the following one, but could also operate as medium- and long-term facilities if the sum was rechanged for another fair; in some places or circumstances, exchange letters could even be sold before maturity at a discount (Mandich 1953). Of course, usury prescriptions limited pure financial speculation; however, in the 1560s, the constraints the Church imposed on each form of loan at interest were in great part removed (Felloni 2008: 112).

The bill, as it is defined in the course of the sixteenth century, contains in itself guarantees against the default of one of the actors involved. In daily practice, however, where failures were frequent, it is unclear what happened, and which protections both the government and the traders' community (i.e. the creators and users of formal and informal institutions) applied. Since many trials are lost, any attempt to analyse credit defaults from a quantitative point of view is impossible or extremely difficult. The archives of the judiciary offices of Consoli dei Mercanti and of Sopraconsoli, that were in charge of any trouble between traders, suffered from severe losses after the end of the Venetian republic in 1797. However, several bankruptcy trials left track in other Venetian courts (mainly in the middle court of appeal, the Avogaria di Comun), and in the paperwork

of the 66 notaries who were officially active from 1514 every year in the city. Hence, a qualitative analysis might shed some light on the side effects of failures and bankruptcies due to credit defaults.

Financing Companies and Business in Early Modern Venice

Until the end of the sixteenth century, the traditional and most exploited form of commercial organization for long-distance trade was a family society called *fraterna* (brotherhood), which did not distinguish between its own capital and that of its members. The participants to the *fraterna* shared the same roof and the same property, and acted jointly as a single operator; according to Venetian law, it was even unnecessary to be registered as a formal member. All family possessions were registered in the accounting books of the *fraterna*, along with the family palace and the living expenses (Lane 1966: 37). In the highly uncertain long-distance trade, the involvement of all the male heirs in the family business was a risk-diversification strategy, since different affairs could be pursued at the same time, and as well a risk-sharing approach. Furthermore, family wealth could be kept intact into a *fraterna* and managed by the householder and his sons according to their personal talents. Joint management finally allowed one of the sons to carry out a political career, or to follow a particular business abroad, without affecting the family company (Pezzolo 2014: 277). Family partnerships did not prevent other forms of societies: in late-medieval Venice, joint partnerships were set up for specific deals requiring high capital and risk sharing, and at least from the twelfth century on, there were forms of temporary partnerships (as the *colleganza*) that enabled to finance the risky long-distance routes with the contribution of purely financial associates (even a *fraterna* could finance a temporary partnership to diversify its investments), and with the active participation of managers bearing the burdens of the journey and the administration of funds. Temporary partnerships had become increasingly important for the Venetian economy, since they were a more flexible form of company than a *fraterna*, and their limited duration could be extended if necessary. 'Senatorial initiative and regulation,

changing slightly from year to year, rich family partnerships of relative permanence, and joint ventures of a few years' duration – all three together formed the structure of Venetian business. It was a very flexible structure. Under it, Venetian mercantile capital was kept liquid and could be moved rapidly from one branch of trade to another' (Lane 1966: 52–3).

In periods of economic growth, the *fraterna* shaped the common trading partnership of Venetian patriciate, which enjoyed several incentives for maritime commerce. However, during the sixteenth century, the patriciate was to gradually withdraw from the active practice of trade to shift its investments towards real estate and to increasingly adopt an inheritance pattern that constrained most of the assets to their strict maintenance, depriving heirs of their disposal (*fedecommesso*) and making the system of trading management obsolete. The abandonment of any direct involvement in commerce from the patrician group was a subject of historiographical debate, though the institutional aspects did not receive a proper attention (Pullan 1973; Gullino 1985; Trebbi 1994: 162; Bellavitis 2013: 328–32; Tucci 2014: 237–48). In the context of remarkable economic change that occurred between the sixteenth and seventeenth centuries, however, any partnership of a too static and durable character proved inappropriate anyway, since it did not allow sufficient adaptability to the risks and changes that were now scattered in trade especially in the eastern Mediterranean. In the span of time that separates the war of Cyprus (1569–73) and the conclusion of the first phase of war in the Peloponnese (war of Morea) in 1699, after a significant erosion of its rule in the Levant, the Venetian government had to face military expenditure and protection for almost 50 years, largely as the only opponent to the Ottoman empire (Parker 2013: 202); meanwhile, it watched almost helplessly the massive penetration of foreign competitors and the closure of several of its consulates in its traditional space of trade. Even western commercial routes, which were the other crucial pole of Venetian commerce, were now taken over by a myriad of different companies, often foreign, active both internationally and locally; foreign companies were to be found in all Italian trading centres (Sella 1994; Fusaro 2007: 369–95, 2015: 254–68; Van Gelder 2013). In the transition of the Venetian urban economy from long-distance commerce to 'a system

based on landed revenues and consumption' (Pezzolo 2013: 255), the basic, flexible structure of temporary business as it took form in late medieval Venice (companies that were to last usually for three or five years before being renewed or closed) remained in place even later, and became a privileged form of partnership.

In a temporary society, partners provided shares (a 'credit to be registered as participation', or 'credito in conto di participatione', to be paid off only at the closing of the company) to start trading in commodities and exchanges (Peri 1672–3, I: 48); this form of business association knew few variations in Italy and became extremely common in early modern Venice. Usually, partners pooled money, assets and practical skills, partaking of the eventual losses and involving an unlimited liability. A specific form of partnership that reduced the associates' obligation to repay losses was also known throughout Italy and was very common among Florentine merchants; limited partnerships (*accomandite*) 'brought the investor as a silent partner with limited liability: he shared profits as a partner but risked only his capital in the event of losses or eventual failure' (Goldthwaite 2009: 467). *Accomandite* permitted an investment with a minimal risk and a return on capital without being involved in the company's management, and above all avoiding the unlimited liability which instead was a side, implicit effect of other forms of temporary company. Precisely for this purpose, following a period of financial distress, limited partnerships were admitted, for instance, in Bologna in 1583 in order to encourage the mobilization of capital (Carboni and Fornasari 2014: 128). However, limited partnerships had been already in use as *commende* or *colleganze* (in Venice and Ragusa) for financing a sea trade in the thirteenth and fourteenth centuries (Lane 1966: 58–63).

As Cinzia Lorandini recalls in this volume, identifying partnership agreements is often problematic, since the private and public forms of contracts make implicit assumptions on partners' liability. In Venice, unlimited liability was usually the norm even if shares were highly imbalanced, though specific agreements could of course form an exception which sometimes surviving documents disclose; however, the recourse to limited partnerships seems minimal in Venice, even in the eighteenth century (Panciera 2001: 36–38). Forms of partnerships that are similar to *accomandite* certainly appear, here and there: in 1659, for instance, the

newly appointed patrician Giovan Battista Mora entered in a company with Simone Giogalli and Guglielmo Samueli as a sleeping partner (Tucci 2008: 21)—but Mora had been a rich and successful merchant before entering the Venetian patriciate with a substantial sum of money, and anyway his new condition as a patrician formally prevented him from trading in his own name: appearing as a sleeping partner can be considered a necessary condition for him to keep trading. According to the existing documentation (mostly official registration of company contracts in front of a notary), therefore, *accomandite* in Venice seem all but exceptional.

It was perhaps the lively financial market to prevent forms of limited partnerships—and even of corporate market shares—to spread. The lack of forms of joint-stock companies with marketable corporate shares as were issued in the Netherlands and in London (Gelderblom and Jonker 2004; Carlos 2013) lies undoubtedly in the now less international size of Venetian business as compared to Dutch, English, French competitors and probably in a deep-rooted know-how in conducting business in Venice: 'unlimited liability was inherent in the Venetian family company, or *fraterna*; the only defense against it was the formal division among brothers and the emancipation of son by father' (Mueller 1997: 96). But it is also important to note that in early modern Venice there existed several easy ways to invest a sum of money with a low risk. There were the shares of public debt, whose character in Italy certainly plays the role of a real 'financial revolution' (Pezzolo 1995); shares gave back an interest that was paid on time (14 per cent for life annuities and 6–7 per cent on long-term loans in the sixteenth century) and could be sold on the market (Pezzolo 2013: 270–2). There were forms of temporary loans secured through a mortgage on real properties, a form of income known as *livello* which even guilds and hospitals were authorized to resort to (Corazzol 1979: 15–21; Alonzi 2008); there were exchanges, which were sufficiently diffused that even people of modest wealth could afford to put a sum on them—such as the domestics of a Florentine branch in Venice, who consigned their annual wage to their masters, 'to be kept over exchanges' ('da tener sopra cambij') in 1620[3]; and finally, there were all the other forms of lending and borrowing which were common in an early modern urban context—the pawnshops at the Ghetto substituting Monti di Pietà.

Financial innovations as corporate shares, or the diffusion of other forms of partnerships with limited responsibility, were considered unnecessary, since non-professional investors who wanted to receive an interest from their capital could find alternative arrangements to invest in, while professionals had instead a century-long experience in more standard forms of companies. It was also a matter of jurisdiction: Florentine branches in Venice, for instance, were part of limited partnerships whose partners could avail their own rights at the Tribunale di Mercanzia in Florence; however, any business dispute could be handled according to Venetian customs and law whatever the form of participation.

In the Florentine *accomandite,* the names of partners, the shares, the places of activity and the general commercial scope at the origin of the society had to be registered on official lists, often held by specific commercial courts as the Tribunale di Mercanzia in Florence, thus receiving protection rights in case of claim (Carmona 1964; Tognetti 1999: 15–6). No official registration was mandatory on the other hand in Venice for any kind of partnership, though from 1535 an office of three (patrician) supervisors over banks (Provveditori sopra Banchi) began to collect the names of partners and companies which were active on the Rialto (Panciera 2001: 17, 184–186). The function of these lists, which today survive in pieces mostly relating to the eighteenth century (Guida generale 1994: 946–7; Panciera 2001), was clearly to avoid frauds at the private banks: the decree declared that 'those who doesn't participate in any company cannot make use of the names of companies, and can be investigated and sued'.[4]

The office of Provveditori sopra Banchi was created in 1524, after repeated bank failures during the fourteenth and fifteenth centuries; it had to inspect private banks and their accounting, but soon it was endowed with judicial power in case of trouble between bankers and merchants. When the government established a public bank in 1587, this office was entrusted to draw up a list of companies that were authorized to keep accounts: the Banco della Piazza and later the Banco del Giro in 1619 were in fact *giro* banks, where money was disposed with orders between accounts following a preferred system in Venice (Luzzatto 1934). Initially, the lists of companies probably helped the employees of the Banco to sort out which companies had real access to current accounts. In 1619, when the second bank (Banco del Giro) was created,

commissions and powers of attorney registered at the Banco della Piazza were automatically issued for the Giro, waiting for merchants to produce the correct orders and approvals of what had been transferred until then.[5] Both banks, in fact, continued to operate as usual with transfers between accounts (the *giro*) that were issued with a simple oral order. The entries in the account books of the previous private banks had the force of law, and with certified transcriptions, they had to be included in the court records in case of trials. The same happened with the two public banks; therefore, any transfer order had to be accomplished by an authorized person to be reliable (Mueller 1997: 44–5; Tucci 1981: 232–4). The decree of 1535 required the person in charge of bookkeeping (the *quadernier*) of the Provveditori sopra Banchi to take note of the companies 'according [to the time] they will be listed'[6] and to distribute copies of these lists to the officers both at the banks in Rialto and at the public custom offices. Any partner quitting the company was obliged to declare it, and officials were obliged to announce it publicly 'at the usual time of banks' (Panciera 2001: 184–6).

Provveditori's lists can be considered a public record issued with the purpose of offering a form of legal disclosure: in 1598 it was publicly—that is, with officials declaring it aloud in Rialto 'at the usual time' when people and merchants mostly gathered—announced that anyone involved in any partnership not included in Provveditori's lists had to register within eight days' time, even if the company did not exist anymore. In case of disobedience, a penalty was due, amounting to the quite huge sum of 100 *ducati* of which one third was for the accuser, who had to be kept secret (an usual Venetian practice to discover irregularities). According to the existing records, this function seems to have functioned at least in the eighteenth century: for instance, societies that were not renewed or were closed before their natural end received a public announcement (*strida*) at Rialto and San Marco.[7]

Most companies appearing in the surviving fragments in the seventeenth century declare foreign (i.e. non-Venetian) partners: the lists themselves are too short to work as samples; however, it is debatable whether the registration was mandatory for Venetian merchants, too, or if Venetian partnerships were simply a minority in the number of societies operating in early modern Venice.

In early modern Venice, company contracts that were registered at a notary desk often referred to private deeds, which were logged at the time the company was renewed, or for other unstated reasons which could have occurred at some point in the life of the company. Of course, notaries offered a precious service: their acts were preserved in public archives, hence they could be officially copied and duplicated, and their content could be used in trials, even outside state borders. Many statements of any kind could receive the force of truth at the notary's desk—powers of attorney, *fides* to attest someone's good health and wallet, credit transfers, bills of lading and so on. Registration was not a matter of form, since early modern contracts already followed the same structure in private as in official deeds; but private acts could get lost, hence it could have been better to register them if they bore something relevant (Lorenzoni 1786: 31–5).

The crucial problem in any credit relationship is to assign responsibility and to protect the lenders' right to receive back their capital and interests, particularly in a business relationship. Contracts of temporary societies carefully described rights and duties for each partner, as the practice, experience and even commercial literature prescribed, and tried to anticipate any possible event (Peri 1672–3, I: 36). In 1639, a partnership between three brokers who were authorized to do business with Turkish merchants (brokerage was officially controlled by the Venetian government because any agreement had to pay a percentage tax to the office of Messettaria) mentioned that the three had decided to go directly for a notary looking for a 'greater force and validity' than in a private agreement. They included sanctions (50 ducats) for the member who violated the rule of working only for the company's benefit.[8]

Notarial registration offered the possibility of having copies of documents, whose validity was extended outside Venice and the Venetian state with legal power in trials, as it happened—and it had been a crucial tool—in the commercial revolution of the Middle Age (Ogilvie 2011: 290–6). Private contracts were common, but according to archival documentation that survives in State Archive in Venice, as the most generous source for investigating Venetian contracts apart from the scant and fragmentary pieces of private archives, it seems that very often an official form through a notary's was sought, at least in the period from 1550 to

1700 approximately which is the period that this essay analyses. It is impossible, however, to ascertain how many contracts were registered at a notary's desk: inside the Serenissima, from 1514, every year 66 notaries were entitled to offer legal force to private parties with their records, and each of their protocols contains countless deeds (Pedani 1996: 16–7). In 1560 it was even proposed to appoint an officer to probe all notaries' records looking for trades that were gone unreported to the Messettaria.[9] It is unclear if the officer was ever appointed: it would have been an enormously time-consuming task. Contracts that were drew up between parts without resorting to a notary, and that remained in private form, kept their legal soundness anyway, though it is hard to assume that these contracts, sooner or later, would not have ended up to an official desk.

The partners' shares of profits and losses usually received most of the attention. Shares were divided according to the partners' contributions to the company's capital. In 1602, at the desk of one of the most prestigious Venetian notaries, a patrician, a Florentine merchant-banker in Venice and a wool manufacturer registered the prosecution of their company to produce and sell cloths of Spanish wool, with a capital of nearly 60,000 ducats. The profits, and in the same proportion the participation in eventual losses, belonged for three eighths each to the first two members, who contributed 48,200 ducats, and for two eighths to the manufacturer who figured as a factor, or manager (Peri, I: 107), and who followed closely the production and sale of cloths, receiving as a salary 150 ducats a year taken from the company's assets. Fifteen points regulated the relations between the silent partners and the manager's responsibility. In this contract, no financial penalties were considered for breaking the rules: it seems that the partners knew each other well and that there had already been a previous business experience, but it was explicitly declared that any disagreement had to be solved resorting to arbitrators.[10] No rule refers to the partners' liability, which implicitly had to be assumed as unlimited for all.

The contracts of temporary partnership tried to regulate the effect of unexpected events, and dictated rules of conduct and requirements in case of conflict. However, in the unsteady conditions of early modern commerce, conflicts arose anyway, and failures were frequent. At the end of 1680, a non-patrician family company, the Roversi brothers,

which traded in merchandise and exchange between Venice and Lyon, presented its claims against its creditors to the tribunal of the Avogaria di Comun. In 1672, the company had suffered the loss of a shipment to the value of 20,000 ducats from Constantinople: the ship wrecked at Malamocco, just before arriving in Venice, and lawsuits were issued against the insurers with little result. In 1672 and 1673, it lost 36,000 ducats of stock already sent to Constantinople and the Levant because the affairs 'were badly directed there, and their agents made, with their capitals, contracts that moved to tears' ('negotij, che fan da piangere'), as a Milanese merchant in Venice, who had worked with them, testified. In 1674, it sent to France 52 chests with mirrors to the value of 15,000 ducats, but they were confiscated in Marseille. In the same year, it freighted a ship to Hamburg, and a storm badly damaged it in Genoa. In Venice, it received some harm from other merchants' failures. Finally, a Genoese company did not repay their debts in Lyon. The claims added up to 138,000 ducats, 'unfortunately, things that all the Place (*Piazza*) knew'.[11] The allegation of the Roversi declared they needed an official registration, because witnesses were increasingly less willing, or less able, to remember the events as the time passed by, and witnesses were fundamental elements in any trial. However, it was clear that in eight years the Roversi still had not been able to satisfy all their debts, hence arrived the decision to appeal to the Avogaria to make things clear and to protect their rights and their own credits; the allegations served to secure the bad financial state of the Roversi company and to delay the repayment of debts to their own creditors, whose credits amounted to nearly 300,000 ducats between 1672 and 1683. The Avogaria was an intermediate tribunal, and we do not know if the Roversi were finally able to settle all their debts. But it seems that they had avoided a burdensome failure.

Credits were often 'left to age, keeping them alive long before resigning to consider them lost' (Tucci 2008: 272). Merchants used their credits to cover debts, and currently accepted and sold them at various conditions; notaries usually registered credit transfers that were accepted in any form—in 1591, for instance, a merchant declared to receive nearly 2000 ducats in bills of the lottery issued after the crash of the private Pisani and Tiepolo bank in 1584, and he received the bills in exchange

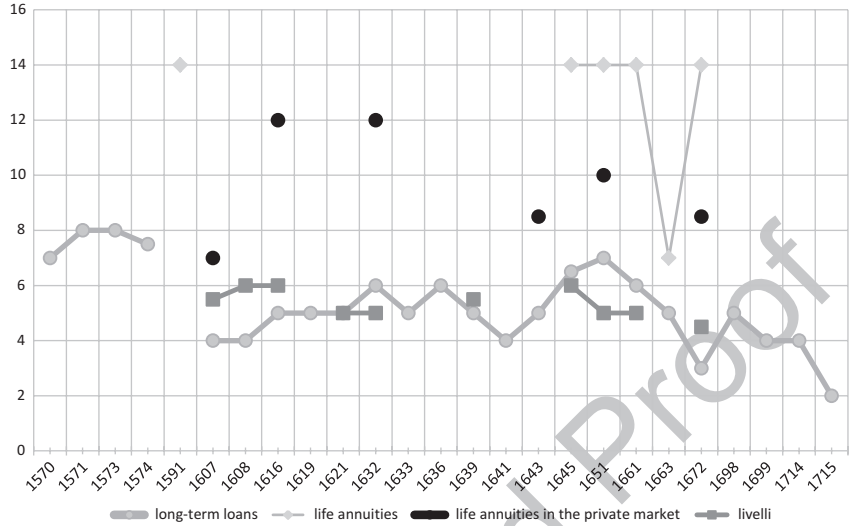

Fig. 1 Interest rates for long-term annuities, life annuities and livelli in Venice, 1570–1715 (Sources: Long-term loans: Pezzolo (2006: 90–1). Life annuities in the private market and livelli: personal dataset of the author)

for several debt repayments, while in 1614 goods (in this case sugar) can be valued and paid in cash or with 'good' ('boni') debts to be approved by the beneficiary.[12]

Moreover, a long-period decline of interest rates in public debt shares (as in Fig. 1), which offered the basic and reliable level for any investment (2–3 per cent in 1670s), and a relative stability in other forms of interest surely help to explain the widespread use of credit transfers among merchants and traders (Tucci 2008: 272–3). Hence, if long-term and irrecoverable credits were not necessarily the cause of failures, why did merchants fail?

Coping with Conflicts. The Protection of Credit Rights

In 1683, the renowned merchant Simone Giogalli avoided his failure by a whisker; he declared a severe loss in one of his most profitable affairs, providing silver to the Venetian mint. Giogalli was old and experienced,

and his name had a very good reputation in Venice; he managed to patiently settle his debts without issuing claims at any public office, and none of his creditors requested to open the bankruptcy proceedings at the Avogaria (Tucci 2008: 274–5). In 1621, a Florentine merchant-banker averted a possible run of creditors adding 70,000–80,000 ducats on his account at the Banco del Giro within a few days, thus silencing rumours about his possible lack of credit (Cecchini 2015: 695). In both cases, the merchant's reputation and the capacity to manage the information flow of the *Piazza* at his advantage proved to be successful ingredients to avoid a crash. The claims opposed at the Avogaria di Comun, instead, reveal frequent frauds. In 1652, a merchant of Dutch origin denounced the dangerous daily practice of many merchants who declare bankruptcy in bad faith, and having closed agreements on credit they took advantage of the adjustments the law permitted—to repay one's debts at a percentage of their real value.[13]

As noted by Gelderblom (2013) in Bruges, Antwerp and Amsterdam, the available evidence on commercial litigation demonstrates 'that merchants used a combination of peer pressure, arbitration, local court proceedings, and, occasionally, appeals to central courts to end their disputes, albeit with an overwhelming preference for amicable settlement', showing also 'the willingness of urban magistrates to adapt local court proceedings to the merchants' private efforts to enforce contracts' and mostly the impact of local and foreign traders on institutional change (Gelderblom 2013: 17). That regional states have had a significant role in supplying legal, military and fiscal support for the complex problems of commerce was an achievement of late medieval states (Epstein 2000: 82). This is even more so for a city, which was on the edge of medieval commercial expansion. In Venice, commercial practice and jurisdiction mingled without creating a real *ius mercatorum* (Nehlsen-Von Stryk and Nörr 1985); however, the several judiciary offices in Venice could help—but also block, or indefinitely stretch over time—the protection of credit rights.

Contracts legally bound partners to respect the pacts and the prescribed conduct, and could be used in courts and claims. As it has been said, illicit actions on behalf of partners were usually sanctioned in two ways: occasionally, issuing sanctions, which however required to detect

the infringement and to impose the penalty on behalf of the partners; and nearly always, in case of conflict having recourse to the judgement of arbitrators to be elected by each part. The arbitration agreement (*compromissum*) was perceived as an effective and recommended alternative to the courts to solve the disputes, because it allowed for 'brevity of time in deciding disputes' and 'saving costs that would have occurred in tribunals'.[14] And it avoided the crowded rooms of Venetian courts of justice. The institute extended in Europe during the sixteenth century, but it was already widespread in several European legal systems in the eleventh century (Ogilvie 2011: 296–300; Gelderblom 2013: 105–6). The compromissum merchants resorted to in Venice had a long tradition as a juridical institute that distinguished arbitrators chosen by the judges (usually in case of familiar disputes), and arbitrators chosen by the parts (*ex consensu partium*), usually preferred by merchants. The sentence was a voluntary obligation for partners and not appealable. These elements were recognized as being specific of Venice, *more Veneto* (Bellabarba 1994: 816–7). Both Venetian and foreign merchants resorted normally to sentences *more Veneto*: in 1635, for instance, a dispute between two Portuguese Jews about money kept on exchanges was solved with the sentence of 'common friends'.[15]

Arbitrators were entitled to study the account books, and to receive claims the parties issued in defence of their interests, often to be recorded by notaries with the final sentence. In 1639, for example, the failed business between an innkeeper and a haberdasher finished by allegations where each partner accused the other.[16] However, the sentence—and in case of disagreement a second sentence that the law permitted—usually put an end to the case.

The default procedures, on the other hand, involved several complications. When the young director of an important Florentine firm in Venice fled to Ravenna, after rumours denounced him of smuggling silk and of financial troubles, his mobile properties were immediately seized, at night, from an empty palace abandoned even by the firm clerks. Four offices claimed authority on this case: some creditors opened a common procedure via the civil jurisdiction; others denounced him and instituted a criminal trial; others were pending between the four offices. On 19 May 1622, the Florentine was denounced by three of his big creditors at the

Consoli dei Mercanti; that night the Signori di Notte confiscated all his properties. One year later, after a safe-conduct for him to come back to Venice to the palace of the Spanish ambassador (an exclave) and a deal to repay 70 per cent of his debts which was refused, the offices claiming some authority on this case were seven. On 10 March 1623, the Quarantia Criminal (the supreme criminal court) officially issued a sentence of banishment; on 31 May 1624, another sentence followed. The repayment of the firm's debts (for which the young merchant, as a member of the family that expressed the branch in Venice, was considered personally liable) was further blocked by crossed groups of creditors; the proceedings at the Avogaria were still going on in 1628, and the surviving accounts of one creditor show that he probably had not been repaid at all (Cecchini 2015: 695–6).

This case was particularly delicate; the total value of the default summed up to 500,000 ducats, and many patricians were involved. Furthermore, the surviving documentation is small and incomplete. However, it is debatable whether the legal framework and its practical application worked.

A Tentative Conclusion

Whether the legal mechanism worked or not, the puzzling solution of the latter case depended mainly on the conflict between separate groups of creditors, lacking a collective action and instead pursuing their own interests. The protection of credit rights in case of defaults in Venice was mainly in charge of the Sopraconsoli, the judges who 'know the defaults of merchants, and what concerns pawnbroking; they provide safe-conducts [*fide*] to debtors, that is the certainty to escape prison. They herald who is a failed fugitive, and sell his properties to repay creditors' (Sansovino 1606: 31v). However, the lengthy practice worked better for honest merchants than for dishonest traders: 'if the bankrupt looks for an agreement with his creditors, he must present his arrangement to the creditors who have to subscribe it, and then present it to the Sopraconsoli; then the Sopraconsoli go to the Quarantia Criminale to have the arrangement approved. If it is approved, each creditor needs to register his claim

at the Sopraconsoli, otherwise it is impossible to calculate the total debt' (Nani 1694: 257). Instead, what the board of trade (the office of Cinque Savi alla Mercanzia) reported to the Senate in 1610 was the necessity of a more stringent regulation for failures, emerging from the bad faith of extemporary merchants, and of course from difficult times, but also from the increasing opportunities that the changing world of trade was providing in Venice.[17]

Both private agreements and government regulation can be considered formal institutions that structure markets, that is, 'explicit rules enforceable by law'; markets include also informal institutions as 'rules that are either implicit, of if explicit, not enforceable by law' (Hoffman et al. 2000: 12). Reputation was an important informal institution: it had to be conserved at all costs, especially in an area (Rialto) where all trading services were concentrated, where the most important offices and courts devoted to solve merchants' problems took place, and where all the traders, brokers, insurers, agents regularly meet every day—that is, where information and transaction costs were perhaps lower than in any other part of the city. As long as the possible exclusion from the benefits of trade under the public protection worked as a contract-enforcement sanction, reputation was the other part of the scales, and permitted to hire agents that keep themselves honest in conducting affairs overseas. According to Greif (2006: 269–304), the patterns of agency relations and wealth distribution in two medieval trading communities are related to 'cultural beliefs', that is, 'shared ideas and thoughts that govern interactions among individuals and between them'. In a 'collectivist' commercial, culture traders are informed about the past behaviour of any other trader, and expect that they 'will not retaliate against an agent who cheats a merchant who has cheated any other merchant'. Greif infers that this model caused a horizontal agency structure, where merchants hire other merchants as agents (he refers to the Maghribi traders). This model can be applied to medieval and Renaissance Venetian commerce, led by patrician merchants that relied on horizontal business relationships (albeit secured by the state). On the other hand, an individualistic cultural belief leads to 'a vertical social structure, in which merchants find it optimal to hire and therefore employ only agents', and in which past cheaters do not reduce 'the rate of return on a merchant's capital' (Greif 2006: 296,

282–4). It could be inferred that the commercial community in early modern Venice was approaching more individualistic agency relationships, according to the increasing number of defaults both merchants and public authorities declare. Greif's model refers to agency relations in overseas trade; but in a more fluid commercial context, where it was perhaps easier to set up a temporary society compared with the past, this model could be applied to business credit relations.

In a changing economic and political environment, and in a commercial context where family companies were giving way to more flexible and short-time societies, the exclusion from those benefits no longer acted as a threat, and cheaters started to have less to lose in keep cheating, until the claims on irrecoverable debts make a failure explode. Here, the precise and protective legal system that managed merchants' failures in early modern Venice, a piece of the renowned legal framework that celebrated the righteousness of Venice, was starting to fade too.

List of Abbreviations for Archival Sources

ASVe: Archivio di Stato, Venice.
AC: Avogaria di Comun.
CSM: Cinque Savi alla Mercanzia.
NA: Notarile, Atti.
PB: Provveditori sopra Banchi.
SDB: Senato, Deliberazioni, Banco Giro.

Notes

1. ASVe, NA, b. 10,734, unnumbered folio, 28 October 1621.
2. 'Giustitia [che] qui talmente signoreggia, che per rapresentar Venetia la Giustitia si figura' and 'esser la Città tanto abbondante d'ogni sorte di Negotij [che] vi concorrono moltissimi Negotianti d'ogni Natione, e tanto per occasione delle Mercantie, quanto per arbitrii, vi sono negotii de cambii per molti luogi'; author's translation in the text.
3. ASVe, NA, b. 3399, cc. 294 r–v.

4. '[A]cciò che quelli, che non hanno compagnia non se possino servir de compagnia, et si possi per cadauno inquisir, et querelar al detto officio', quoted in Panciera (2001: 184). Author's translation.
5. ASVe, SDB, f. 1, 4 June 1619.
6. '[S]econdo saranno date in nota', quoted in Panciera (2001); author's translation.
7. ASVe, PB, b. 3, *Costituti*, c. 2r.
8. ASVe, NA, b. 10,902, cc. 1–3.
9. ASVe, CSM, serie II, *Epiloghi*, reg. 5, cc. 372–3.
10. ASVe, NA, b. 3374, cc. 177v–181r.
11. ASVe, AC, b. 9839, f. 2.
12. ASVe, NA, b. 10,685, c. 321v and 3393 c. 223.
13. ASVe, AC, b. 4160, f. 3.
14. ASVe, NA, b. 10,902, cc. 453v–454.
15. ASVe, NA, b. 10,792, cc. 158v–159r.
16. ASVe, NA, b. 3787, *Causa con Ventura Girardi.*
17. CSM, Risposte, b. 142, cc. 180v–181r, 189r–192r.

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