

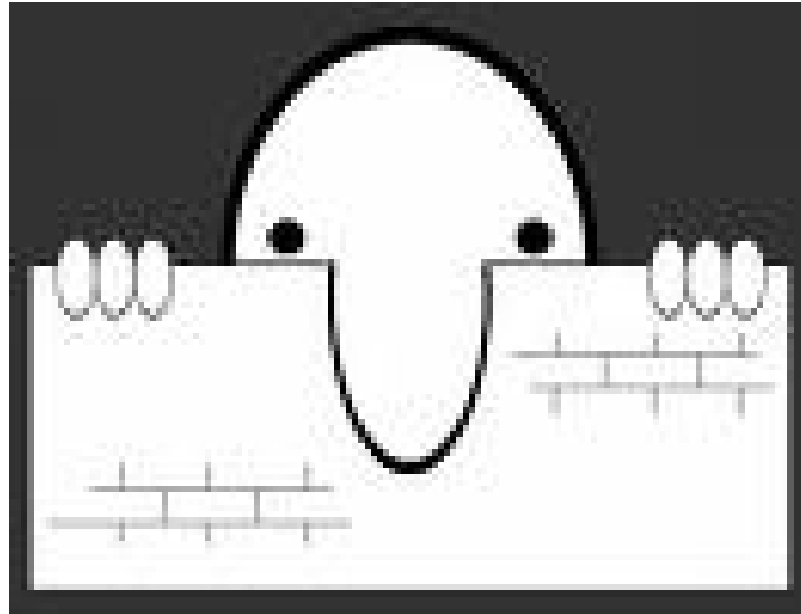
Legal and regulatory risks facing FIs

John Thirlwell

C5, London, 26 November 2008

Some current regulatory issues for banks

- Boiler room fraud
- MiFID – conflicts of interest
- TCF (Treating customers fairly)
- Retail banking – conduct of business
- Mortgage intermediaries
- Credit rating agency processes
- Credit write-backs
- Financial reporting
- Liquidity risk management
- Market risk revisions
- 3L3
- G20 et al



Wot – no Basel?

Basel II – some current issues

- Pillar 1
 - Credit risk
 - Guarantees and C&P
 - Market risk
 - Operational risk
 - Soc Gen
 - AMA
 - use test
 - insurance
- Pillar 2
- Pillar 3
 - Financial reporting; fair value

Guarantees and C&P

- constitute a direct claim on the provider
- reference specific exposure (i.e. relate to a specific loan or facility)
- are irrevocable
- are unconditional
- no circumstances exist which are outside the bank's control and which preclude payment
- payment will occur "in a timely manner" or "may be liquidated promptly".

Basel II – some current issues

- Pillar 1 – regulatory capital
 - Credit risk
 - Guarantees and C&P
 - Market risk
 - Operational risk
 - Soc Gen
 - AMA
 - use test
 - insurance
- Pillar 2 – supervisory review
- Pillar 3 – market disclosure
 - Financial reporting; fair value

AMA and insurance

- Is Basel an FI issue?
- Who's on the AMA?
- Is insurance worth the candle for banks?
- The credit crunch - correlation on the downside
- Basel criteria
 - Insurer rating
 - Mapping and scenarios
 - Certainty and timeliness – and ICAS
- Insurance and risk management
 - are they by any chance related?
 - Internal risk management information

Is Basel an FI issue?

Policy coverage	Type of Cover
1. Bankers Blanket Bond	Losses discovered
2. Business Interruption Policy	Losses occurring
3. Computer Crime Policy	Losses discovered
4. Commercial General Liability Policy	Claims made
5. Credit Card Policy	Losses discovered
6. Directors & Officers Liability Policy (Corporate Reimbursement only)	Claims made
7. Employment Practices Liability Policy	Claims made
8. Key Man Policy	Losses occurring
9. Kidnap and Ransom Policy	Losses occurring
10. Property Insurance Policy	Losses occurring
11. Professional Indemnity [Civil Liability] Policy	Claims made
12. Unauthorised Trading Policy	Losses discovered
13. Terrorism Policy	Losses occurring
14. Pension Trustee Liability Policy	Claims made
15. Registrars Liability Policy	Claims made

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Who's on the AMA?

(2008 unless stated)

UK

LloydsTSB/HBOS

Barclays (partial; full 2011)

US/Canada (1.1.09)

Bank of America (2012)

Bank of New York Mellon

Citibank (?)

JPMorganChase (?)/Washington

Mutual (2008)

Wells Fargo/Wachovia (?)

CIBC

RBC

Asia Pacific

ANZ

Commonwealth Bank

Hana Bank

Kookmin (2009)

NAB

Sumitomo Mitsui

Westpac

South America

Itaú Bank

Who's on the AMA? (2)

Europe (non-UK)

Dexia

Fortis

ING

Rabobank

BNP Paribas

Crédit Agricole

Crédit Mutuel

Société Générale

Commerzbank

Deutsche Bank

Dresdner

Monte dei Paschi

Unicredito

BBVA

SEBanken

Credit Suisse

UBS

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Comments on Basel criteria

- Insurer rating
- Mapping
 - Events
 - Causes
 - Scenarios
- Certainty and timeliness – and ICAS

Basel II Loss event categories

LEVEL 1

Internal Fraud

External fraud

Employment practices and workplace safety

Clients, products and business practices

Damage to physical assets

Business disruption and systems failures

Execution, delivery and process management

LEVEL 2

Unauthorised activity

Theft and fraud

Theft and fraud

Systems security

Employee relations

Safe environment

Diversity and discrimination

Suitability, disclosure and fiduciary

Improper business or market practices

Product flaws

Selection, sponsorship and exposure

Advisory activities

Disasters and other events

Systems

Transaction capture, execution and maintenance

Monitoring and reporting

Customer intake and documentation

Customer/client account management

Trade counterparties

Vendors and suppliers

Insurance and operational risk



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