



Symposium on Financial Crisis  
Management & Bank Resolution

# **Legal, Institutional, and Regulatory Framework for Bank Insolvency: Key Issues**

Maike B. Luedersen

April 17, 2009

The views expressed herein are those of the author and should not be attributed to the IMF,  
its Executive Board, or its management.

# Framework for Bank Insolvency

- Framework for bank insolvency is built upon an effective banking supervision regime
- Bank insolvency is different from corporate insolvency
- No uniform approach
- International sound practices

# Official Administration

- Officially-appointed person assumes direct managerial control of the bank
- Purposes
  - Asset protection
  - Assessment of financial condition
  - Bank restructuring
- Timetable - temporary and short

# Liquidation

- Bank no longer a going concern
- Automatic moratorium or suspension of all collection activity against the bank
- Realization of assets and distribution of proceeds
- Scope of the liquidator's powers

# Challenges in Designing a Framework

- Administrative *vs.* judicial proceedings
- Mandatory *vs.* discretionary systems
- Thresholds for the commencement of insolvency proceedings
- Judicial review

# Commencement of Insolvency Proceedings

- Balance-sheet threshold
- Illiquidity threshold
- Regulatory threshold
  - Quantitative (e.g., percentage of CAR)
  - Qualitative (e.g., severe operational stress)

A light blue world map is visible in the background of the slide, centered behind the text.

# Judicial Review

- Available after the fact
- Applicable standard for review
- Insolvency proceedings should not be stayed
- Available remedies

# Systemic Crises

- Difficult to predict systemic instability
- Phases
  - Crisis containment, urgent phase to limit depositor runs
  - Restructuring of viable banks, private sector/ publicly-assisted solutions
  - Asset management, medium-term time horizon



# The Way Forward



- Study discussed by the IMF Executive Board in March 2009
- Discussion ongoing, particularly on systemic crises – lessons learned from the current financial market turmoil