專 載

「金融危機處理及國際合作」座談會會議紀實

林 筱 雯

壹、前言

近來，我國發生歷年來規模最大的中華商業銀行擠兌風暴，成為國際金融關心焦點。經過此一事件，國內各界重新檢討存款保險機制權限受限、國內問題金融機構處理機制之速度及成效。中央存款保險公司（Central Deposit Insurance Corporation，CDIC，以下簡稱本公司）為我國存款保險機制之唯一專責單位，並肩負處理問題金融機構之政策性任務，為善盡己任及協助強化金融安全網合作效能，特別邀請國際存款保險機構協會（International Association of Deposit Insurers,以下簡稱IADI）主席Mr. Jean Pierre Sabourin專程來台，以國際觀點為國內金融監理機制提出建言。

本次IADI主席專程來台，實為難得之殊榮，為充分與聞其寶貴經驗，本公司特別於2007年4月27日上午假12樓大禮堂舉辦座談會，邀請渠進行專題演講，會中並邀請我國金融監督管理委員會及中央銀行等金融安全網成員共同參加，與會人數共約80人。本次會中針對問題金融機構之處理、金融安全網成員間之合作及聯繫、及未來如何因應國際金融發展趨勢防範跨國金融危機等議題，進行深入探討，另並安排綜合座談，與我國金融安全網成員進行面對面交流，反應熱烈。

Mr. Jean Pierre Sabourin目前擔任IADI主席、曾擔任加拿大存款保險公司總經理，擁有近乎30年存款保險及金融監理的經驗，為業界公認之資深人士，曾應馬來西亞中央銀行邀請，為其設計存款保險制度，亦曾應許多國家邀請為其存保制度提供建

本文作者為本公司國際關係暨研究室副科長。

言。Mr. Jean Pierre Sabourin自加拿大存款保險公司（Canada Deposit Insurance Corporation, CDIC）退休後，受聘至新成立的馬來西亞存款保險公司（Malaysia Deposit Insurance Corporation, MDIC），擔任第一任執行長，此行並率同該公司官員代表至本公司訪問，就我國金融預警系統、存款保險條例修正重點及存款保險風險差別費率制度等進行研討。

本公司於1985年成立迄今，戮力建制存款保險機制，2001年起受行政院金融重建基金之委託，協助我國建立問題金融機構退出市場機制，2002年加入國際存款保險機構協會（IADI），成為其創始會員，積極與國內外存款保險與金融監理機關交流並建立資訊共享機制，以及協助國內金融機構與國際接軌。本公司總經理陳戰勝目前並擔任該協會執行理事及研究準則委員會主席，領導及推動多項國際準則之制定。本次特別透過IADI平台，為我國金融安全網建立與國際溝通聯繫之管道。為期經驗分享與交流，特將座談會紀實彙整公布，俾利各界參閱。

貳、座談會議程

時　　間	議　　程
09：40～10：00	報到
10：00～10：10	開幕致辭 中央存保公司董事長董瑞斌
10：10～11：00	專題演講 主講人：國際存款保險機構協會主席 Mr.Jean Pierre Sabourin 演講主題：金融危機處理及經驗教訓
11：00～11：40	綜合座談 主持人：中央存保公司董事長董瑞斌 與會來賓：Mr. Jean Pierre Sabourin 中央存保公司總經理陳戰勝
11:40	閉幕

參、會議紀實

一、中央存保公司董事長董瑞斌致開幕辭

各位貴賓，大家好，很高興各位共聚一堂，參加本日之座談會。今天談論的主題

是「金融危機處理及國際合作」，很榮幸邀請到國際存款保險機構協會主席 Mr.Jean Pierre Sabourin 專程來台，分享金融監理機關共同關心之議題。

Mr. Jean Pierre Sabourin 為國際存款保險界及金融監理界極負聲望者，過去曾擔任加拿大存款保險公司總經理，其退休後受敦聘設立馬來西亞存款保險公司。IADI 於其領導下，會員數由創設時之 35 個，目前已超過 60 個。IADI 成立目的係為維繫全球金融穩定、促進各國經驗交流，為達成此一目的，IADI 積極進行相關工作、研討制定準則計畫及發布國際準則，俾落實理念彰顯成效。另會員國間透過 IADI 之協助下加強訓練、增加多元合作管道，促進交流。

我國存款保險機制與 Mr. Jean Pierre Sabourin 前帶領之加拿大存款保險公司制度上有諸多相近之處，本次係本人與渠首次見面，惟在想法及作法而言，可謂一見如故。今天探討議題包括問題金融機構處理最適準則（OPTIMAL）、金融安全網成員橫向聯繫等，相信各位必定獲益良多。

二、IADI 主席 Mr. Jean Pierre Sabourin 專題演講

各位早安，很榮幸能獲邀參加本日之座談會。我於 14 年前第一次來到臺灣，其後多次訪台，每次訪台均可以感受到台灣人民之誠懇勤勉。台灣的經濟奇蹟舉世共睹，為一美麗的寶島，勞動人口教育程度高、基礎競爭力強、科技進步。2006 年全球競爭力排名報告，台灣為第 13 名，今天台灣是東亞最富裕的國家之一，每人 GDP 為 15,600 美元，馬來西亞每人 GDP 為 5,388 美元，台灣約為馬來西亞之三倍。為因應未來經濟之需，台灣累積龐大的外匯存底，目前為 2,660 億美元，約當於 13.6 個月之進口值。

台灣自 2001 年起進行金融改革，過去幾年，壞帳下降，2004 年逾放比率為 5%，2007 年倘不納入無擔保消費性貸款部分，逾放比率已降至 2.2%。另在政府鼓勵金融機構合併之趨勢下，2000 年銀行家數為 48 家，截至 2007 年已降為 39 家。

中央存保公司係以存款人之角度維持金融體系之安定，亦為 IADI 重要創始會員，多年來的努力，獲國際各界肯定及支持，自 2004 年 8 月起領導最重要的「研究與準則委員會」，目前由總經理陳戰勝擔任主席，該委員會主要工作為領導研究計畫及頒布國際準則，最近發布的是「問題銀行清理處理機制」、「金融安全網成員合作機制」等國際準則，近期即將發布「有效存保機構之職權」、「存保資金之籌措」、「存保理賠與回收」、「存保機構之治理」等四項國際準則草案報告。

此外，中央存保公司於 2005 年舉辦第 4 屆全球年會，會議圓滿成功、其後 2006

年年會於巴西舉行，在此特別預作廣告， 2007年年會即將於馬來西亞舉辦，歡迎各位前往吉隆坡參加。

2005年IADI首次推出「年度最佳存款保險機構」獎項，其目的表彰於國內及國際貢獻卓著的會員機構，強調會員機構之整體表現。中央存保公司獲IADI頒頒第1屆獎項，主要係因其於國內方面，協助政府從全額保障回復為限額保障，穩定金融秩序，順利完成金融重建基金交付任務；在國際方面，則因該公司擔任IADI執行理事會理事並主持研究與準則委員會，主導多項國際存款保險與金融安全網議題之研究與相關準則之制定，表現獲得國際存款保險界之肯定與激賞。第2屆「年度最佳存款保險機構」係由加拿大存款保險公司獲得， 2007年（本年度）評審委員刻正審查中，參選者必須經過評審委員會推薦，或自我（他人）推薦，且得到同業之認同方能獲獎。

自1970年代以來無論是開發中國家或是已開發國家都發生過金融危機，截至目前共計發生117起系統性金融危機及51起非系統性危機，危機結束後對經濟體系均會持續引發負面影響，亞洲金融危機便是如此。觀之各國經驗，金融危機損失造成的代價甚高，而且會持續影響金融體系獲利，估計對GDP之影響超過10%。此外，銀行放款及銀行獲利率在金融危機結束後都積弱不振。

過去幾個月，台灣發生規模不是很大的金融危機，這是中央存保公司責無旁貸之任務，也可藉此機會檢視台灣過去之企業特質與文化。在此，今天的報告分成以下四部分向各位介紹本人看法。

(一) 第一部分、探討主管機關處理問題金融機構機制及保護措施

此一議題重點不在於主管機關不解決（cannot manage）問題金融機構或無解決之道，而是因為某種原因該等方法無法執行。金融危機的發生原因有時難以解釋，當發生金融危機時，主管機關常被挑戰，遇到很大壓力，為何會發生金融問題？當金融危機發生時，主管機關應如何處理？

主管機關常無法儘速處理問題金融機構，其延遲處理的原因之一，係為讓金融機構之現有放款得以存續並繼續流通，以維護經濟發展。主管機關也需要時間去評估金融機構的財務狀況，俾尋求最佳解決方案。上開程序耗時甚久，往往導致最後無法及時獲得解決。

問題金融機構需要資金挹注，惟延遲處理之結果為最後無人願意再挹注資金，使得狀況更形惡化，最後導致破產，主管機關機關亦會擔心關閉問題金融機構，將招致金融監理執行不力之責難及批評。

許多問題累積後，便會引起大眾對主管機關公信力之質疑，此對經濟體系傷害甚鉅，故許多國家把問題金融機構之處理明列於法規，要求一旦金融機構

安全監控指標出現警訊，主管機關必須依法處理。金融機構之問題並不能完全歸屬於主管機關之無能，主管機關真正之無能係指當金融體系出現問題時，無法以金融體系為重，以最適切之方式進行處理。

(二) 第二部分、金融集團的監理

最近台灣金融危機肇因於同時具有銀行及非銀行之企業集團問題，該集團對關係企業有大量放款。從加拿大經驗觀之，集團企業旗下包括金融、保險、投資等，監控難度更鉅，有關風險適足、集團內交易、多種企業活動所造成之企業風險，必須有效監控，防止其擴散及傳染。

金融機構之健全與否與其金融控股公司有極大之關聯，金融集團之健全與否與其子公司整體健全度亦有密切關聯。有效監控金融集團之措施分述如下：

1. 進行合併監理（consolidated supervision）並正確評估風險的種類及集團內的風險程度。
2. 瞭解各事業項目之結構及交叉程度、內控及風險控管如何執行。
3. 蓄意犯罪難以防範，交叉程度越高的子公司常以空殼公司及複雜之交易造假，立法時應加強防止，而非僅偵查惡意之詐欺蓄意犯罪。

台灣最近的金融擠兌由力霸集團弊案引起，集團間關係錯綜複雜交叉持股，旗下成員涵蓋銀行、投資、保險、非金融機構等事業，每種業務風險不同，彼此間又有借貸往來。下列二點必須強化：

1. 加強偵查，找出問題癥結

1999年巴塞爾針對金融集團監理召開之國際研討會中，提出主管機關必須以合併監理原則檢視其資本適足性，對於集團內交易、利益輸送、具傳染性的潛在風險等，規定更嚴格的風險管理措施。有效的監視可減少潛在的風險蔓延至金融體系。

2. 加強公司治理等預防性措施

本案中尚需探討相關專業人士如律師、會計師是否善盡本份。台灣法律並未立法禁止銀行借款給董事或集團內之公司，參酌馬來西亞金融機構法第62條規定，禁止集團向關係人貸款，避免集團內錯綜複雜之關係及潛在風險進一步蔓延。因此本人建議應立法禁止集團持有金融機構股份，倘集團與金融機構董事間有利害關係時，亦應禁止銀行借款給有利害關係的公司成員或董事。

(三) 第三部分、銀行危機之處理

鑑於上開不安定因素將影響銀行業經營，本人曾於2005年IADI第4屆全球年會暨國際研討會時，就問題金融機構之處理提出“OPTIMAL”方法。

所謂OPTIMAL包括：明定問題金融機構處理目標（Objectives）、處理程序（Process）、處理時機（Timing）、賦予主管機關及早介入處理權限（Intervention）、維持市場紀律（Market Discipline）、審慎評估（Assessment）及完善法制架構（Legislative Framework）等要素。這個方法得以有效進行銀行之清理，並清楚界定進行清理作業時重要之參數及清理重要之問題，礙於時間限制，今天著重於目標及法律架構之介紹。

處理問題金融機構，決策者必須要有明確的政策與重要的目標，考量重點如后：

1.如何讓民間產業繼續獲得融資。

2.降低道德風險。

3.降低存款保險基金之損失。

4.避免民眾對於金融體系失去信心及支付系統受損。

5.降低處理問題金融機構所衍生之國家財政整體成本。

在進行問題金融機構處理時，有時所設定之目標間會產生矛盾，針對不同型態之金融危機，目標設定也有所不同。倘發生之金融危機不會蔓延，則一般均設定前開所述之1~3項目標。而系統性危機之處理，目標設定更為重要，首要為金融體系之穩定，降低銀行金融體系所帶來之國家財政及道德風險成本，其中部分重點為整體制度之檢討。對存款保險機構而言，目標間需與自身權限互相配合，其次才考量問題金融機構重建之問題。

本人於2005年進行專題演講時，曾敘述存款保險機制倘擔任賠付者（Pay-box）的角色，在金融危機中所應發揮之功能。存款保險機構應明確瞭解自身角色定位及責任，俾保護消費者、維護金融安定或防範系統性危機。再者，方能釐訂正確作法，有效處理問題金融機構。

有些賠付者之機制被要求對問題金融機構提供資金，或購買不良債權，惟未必賦予相對之職權。觀之此類型之國家，存款保險機構常因授權不足，未具備充分的資源（資金、人力、政治及監理支援等）來處理問題金融機構，導致執行其任務時捉襟見肘，各種問題一一浮現。IADI會員機構間有許多成功的問題金融機構處理經驗，均基於法律賦予足夠權限，得以評估風險，並在銀行破產前介入處理。問題金融機構處理過程中難以避免政治壓力。觀之美國聯邦

存款保險公司（Federal Deposit Insurance Corporation, FDIC）與加拿大存款保險公司成功經驗顯示，法律賦予渠等機構極大之權限，得以獨立評估風險、及早介入處理、目標明確及措施正確，只要其善盡管理之責，維繫存款保險機制，採取行動時便可受到法律明文之保護，降低政治干預及影響。

在目標之外，各金融監理機關間均有自身角色，因此需予以釐清，方能權責相符。倘負責清理問題金融機構係監理機關之權責而非存保機構，則基於存保機構需向國會報告存款保險基金運用情形之前提，亦應瞭解清理之整體過程及清理之成本，以免因存保基金運用不當遭致批評，影響存款保險機構之公信力。以馬來西亞為例，由中央銀行進行監理，一旦決定某一金融機構不具繼續經營（non-viable）價值，即依法移交存保機構全權處理該機構，而何時需賠付予存款大眾及如何處理該問題金融機構，則由MDIC全權負責。 MDIC被賦予極大的清理問題金融機構之權力，甚至與中央銀行相當，包括接管問題金融機構、解雇問題金融機構董事及高階主管、扮演資產管理公司及購買銀行資產等。馬來西亞法律規定， MDIC有權核發資產移轉證明書予承購者，俾加速房地產之移轉及處理效率，且MDIC有權不經過股東同意依照合理價格自行處分，並經內部審議委員會之決議是否決定對股東進行補償，為使MDIC有效清理銀行，其具備停止金融機構要保資格之權力。

再者，探討法律架構。現行法律架構必須提高所有權移轉之效率。完善之法律架構需具備有效快速達成清理目標之三大要件：

1. 具備執行合約的能力。
2. 具備沒收擔保品之權限。
3. 可對問題銀行快速展開破產程序。

(四) 第四部分、橫向聯繫

台灣金融體系之安定由金融監督管理委員會、中央銀行、財政部及中央存保公司等共同負責，此種作業方式較為複雜，因此橫向聯繫顯得特別重要。

不同主管機關間是否能有效共同處理問題金融機構，受到大家質疑。每個主管機關彼此要能協調、交流資訊，負起自身責任，權責相符，清楚瞭解自身角色及制衡機制。以馬來西亞為例，中央銀行與MDIC間簽署「策略聯盟協定（Strategic Alliance Agreement ， SAA）」，除分享資源與資訊外，彼此之間並界定扮演的責任與角色，共同的目標為促進金融的穩定。在此提出四點準則可提供主管機關合作參考，一是透明公開、二是尊重彼此獨立性、三是即時溝通及提供資訊、四是尊重並接受對方的經驗與能力。不同主管機關間之工作有時會

重複，但是並不衝突，例如中央銀行與MDIC均會定期進行風險評估，每個月會定期討論風險評估資料與監察報告，分享資訊，將金融危機發生之機率降到最低。此外，並建議財政部也需納入合作關係中。

各獨立機構間除分享資訊外，應加強協調合作，拿出最大的決心，並避免多頭馬車或疊床架屋，否則會「事倍功半」，如同跳方塊舞（line dancing），成員間倘無法同心協力，就無法跳好。（英文演講稿刊登於本文之後）

三、綜合座談

(一) 本公司董事長董瑞斌

金融機構經營不善其問題來在自身，而非主管機關的錯。Mr. Jean Pierre Sabourin呼應上開說法，銀行出現問題並非主管機關無能，真正顯示的是沒有辦法以最佳的保護機制、好的誘因，維持金融體系安定。

金融機構經營不善其問題來自本身，係公司董監事的責任，當有問題發生時，不能光靠主管機關來解決，亦不能把所有問題都推到主管機關身上，然後採取「被動」的態度，完全等待主管機關的行動。

問題金融機構具有無法於短期內迅速處理之特性，以馬來西亞為例，已將問題金融機構之處理納入法律規範中，中央銀行會將問題金融機構目前之處理進度發函通知MDIC。

問題金融機構之處理措施需十分明確，明（2008）年起MDIC將於法規中明定，何者金融機構可自動成為要保機構，另研擬訂定存款保險風險差別費率。差別費率亦可作為支持政府監理金融機構之輔助措施，對促進金融機構改善經營狀況係一良好誘因，例如對於財務經營狀況未改善之金融機構提高保費，便可同時結合主管機關及存保機構之權限。

(二) 本公司總經理陳戰勝

加拿大存款保險公司與本公司有相同之英文簡稱，均為CDIC。Mr. Jean Pierre Sabourin為前任總經理，長期領導該公司，成為全球最佳存款保險機構之一，且於2001年催生IADI之成立，本公司為該協會之創始會員，與Mr. Jean Pierre Sabourin建立多年情誼，其目前擔任馬來西亞存款保險公司第一任執行長，是我們的好鄰居。

去年底力霸集團風暴牽扯出台灣有史以來最嚴重的銀行違法貸放問題，由於金融監理上的漏洞，也加速存保條例在立法院三讀通過。

各位深知，金融機構因具社會公益性，故需由主管機關高度監理。我國採行金融監理一元化制度，對金融控股公司之子公司或關聯企業充分執行監理，並於其間設置防火牆，降低危機擴散效果。

然而，在台灣無純粹的銀行資本家，集團企業多綜合經營金融業及非金融關聯企業。倘非金融業關聯企業於經濟不景氣時經營發生困難，易轉向金融關聯企業，以不法手段取得資金，由於此一部門之管理標準一般較為寬鬆，且金融監理之觸角常難以延伸至此，道德風險與法律漏洞便因此產生。

此次中華商業銀行風暴，便是力霸集團下同時具有金融業及非金融企業，負責人不法利用資金所衍生道德風險與利益衝突，而牽連銀行體系及社會秩序。力霸集團對中華銀行案之引爆點主要分為6項：

1. 集團下虛設子公司（人頭公司），以不實投資、借貸及關係企業不實交易、關係人非常規交易等方式，進行掏空。
2. 子公司發行公司債，並由力霸集團與子公司進行假交易，或要求中華銀行借款戶購買該等公司債之方式，移轉資金。
3. 財務報表不實。
4. 內部人交易。
5. 操控股價。
6. 子公司與人頭公司違法票貼、詐貸、或以鑑價不實之擔保品向銀行借貸。

上開諸多因素最終導致中華銀行被政府接管。

上述情形並非台灣所獨有，故本人特別藉此一機會提醒各位注意，以避免此一事件再次發生或在其他國家重演。

此外，亞洲各國存款保險機制已漸由傳統單純的賠付者（Pay box）轉化為風險管控者（Risk Manager），台灣亦然。中央存款保險公司（CDIC Taiwan）建基於準則基礎及衡酌新修正之存款保險條例，未來將朝下列方向繼續努力：

1. 強化存保機制風險管控功能

(1)「及時偵測，監控風險」

運用CDIC Taiwan與金融機構網際網路連線傳輸作業系統，及時發現要保機構異常經營警訊，建議相關主管機關督促其改善，降低承保風險。

(2)「職權獨立、合作不孤立」

強化金融安全網成員間聯繫及協調功能，建置資訊共享機制，共同

掌握要保機構營運狀況。

(3) 好的防火牆創造好鄰居

針對大型企業集團及金融控股公司之跨業投資，建置與非金融業關聯企業之有效圍籬，防範金融機構受到關聯企業風險控管失當影響，而牽連銀行體系及社會秩序。

(4) 強化規範揭露金融控股公司之經營資訊

引入外部的市場監督力量，充分掌握子銀行之承保風險。

2. 降低處理問題金融機構之處理成本及提昇效率

(1)「時間是處理問題金融機構之關鍵」

建立問題金融機構明確退場指標，避免延遲處理，營造中、長期穩健之金融環境。

(2)「完善配套，部署作業」

目前本公司刻正配合問題金融機構之處理機制研訂如過渡銀行、對要保機構提供財務協助、墊付...等相關子法及作業辦法，預為演練，建置整體配套措施。

四、現場問與答

(一) 馬來西亞存款保險公司（MDIC）與中央銀行間訂有策略聯盟協議，韓國存款保險公司與中央銀行間亦簽有備忘錄，加拿大亦然，惟為何政府機關間彼此尚需簽署協議，其運作方式為何？

答：加拿大係第一個政府機構間簽署合作協議者。策略聯盟協議係籃球術語，所謂策略聯盟，分開來解釋，策略係指權責釐清，聯盟係指地位對等的二機構，合併來看需發揮1+1大於2的效果，透過積極之合作來達成效益。

當金融機構監督不力時，卻是由存款保險機構負擔成本，馬來西亞存款保險公司定期與中央銀行聯繫進行風險評估，自身亦有風險評估機制，聯繫充分但卻不會與金融主管機關權限重疊，發生疊床架屋之情形，以資訊之加值共同掌控問題金融機構。另有關係委員會（亦稱為危機處理委員會），定期與所有最高主管機關之負責人會晤，合作關係良好。

(二) 許多國際監理機構簽訂MOU，請問其是否納入存款保險及金融機構清理之內涵？倘未納入，則存款保險機構應如何參與及介入？

答：金融危機之成本係由大眾負擔。IADI成立之主要目標之一即是強化存款保險

機構在金融危機時如何透過備忘錄所規範之合作方式來增進處理效率。目前國際間監理機構尚未與存款保險機構簽訂金融危機處理合作備忘錄之前例。加拿大存款保險公司（CDIC）及美國聯邦存款保險公司（FDIC）刻正討論此一議題，屆時可透過其簽訂之範本，供國際存款保險機構間作為參考。

主管機關所簽署之備忘錄涵蓋項目較廣，國際清算銀行並制定相關標準，供大家參考，惟IADI為業界合作組織，不具強制性，並非制定標準之機構，爰目前尚未制定相關標準。另因應國際金融發展趨勢，跨國金融機構產生之金融危機錯綜複雜，各方應預為研議。

(三) 加拿大存款保險公司（CDIC）和美國聯邦存款保險公司（FDIC）均為國際間權限較大、地位較高之存款保險機構，而對權限較小之存款保險機構，應如何推動與他國主管機關間之合作與溝通？

答：簽訂國際合作案，主管機關一定要參加。上開兩個存保機構是全球存保機構中權限最大、地位最崇高及業務量最大者，甚至自行進行風險評估，同樣都可以取代部分主管機關的權力，且這兩個機構彼此為鄰，貿易及各方關係向極密切。另美國聯邦存款保險公司不僅為該國存款保險機構，亦具有主管機關之權限，加拿大藉此機會可同時與美國存保機構與主管機關合作。

對於權限較小之存款保險機構，可能無法適用上開合作模式，但可參考其資訊交流及人員訓練之部分。

(四) 以台灣目前的情況，存款保險基金及金融重建基金的經費並不多，面對此一問題，解決問題銀行，除了靠錢，有沒有其它方法？

答：處理問題銀行一定會有損失發生，但重點是未來要防範損失之發生，所以存款保險機構的權限必須擴大，而且在危機發生時要有明確的處理準則。

1997年前加拿大存款保險公司（CDIC）僅具付款箱之功能，損失率高達50%。其後政府擴充為風險控管者角色。以1997年加拿大CDIC的經驗為例，當時CDIC要清理一家分行達200多家、損失達到120億美元的大型銀行，但因為CDIC在銀行發生問題前，就對銀行進行風險分析、敏感性評估，並採取相關之限制措施，例如維持營運但限制收受超過最高保額之大額存款，之後CDIC接管清理後，僅損失6億美元，不到原本評估可能損失金額的十分之一。這家問題銀行周五遭接管後，到下周一就順利換上新招牌，也沒有發生任何擠兌的情況。

銀行設立時需灌輸其必要之經營理念，強化各項事前防範之功能。倘不及

時採取行動，等到銀行破產再來處理，可能會面臨銀行標售不成的窘境。

(五) 倘存保機構為風險控管者之角色，則處理問題金融機構時還需關注那些重點？

答：存款保險機構接管問題金融機構有許多可採用的限制措施，如限制銀行不得再以高利率吸引大眾，否則等於把成本都轉嫁至存款保險機構，造成存款保險機構之損失。

(六) 對問題銀行愈有興趣的買家越多，政府賠付的機率就愈小，請問如何增加市場上買家的數目？

答：如果一家銀行已經失去獲利能力和價值，根本不會有買家想買，失去清償能力之銀行也需面臨直接關閉的命運，故需防範上開情事之發生。

存款保險機構可採用差別費率機制，對風險較高的金融機構收取較高保費。部分銀行認為自身經營不佳，無法具足夠能力繳交差別費率訂定之較高保費，換角度而言，如果連保費都無力繳交，這家銀行根本不應該在市場上營運。

銀行業是特許行業，係因吸收大眾的存款來作生意再放款出去的，而主要不是由股東自行掏錢，故應訂定明確的規範，保障存款大眾權益。一旦資本適足率低於巴塞爾資本協定法定標準8%，就應馬上補充資本才行。以台灣目前規定，實為不合理，建議依據巴塞爾資本協定，一旦資本適足率不足8%，則應立即介入處理。

(七) 存保機構係扮演救火員的角色，中央存保公司希望妥善扮演該角色，卻會面臨救火沒有水，即沒有經費的困境，要如何解決這個問題？

答：回歸金融安全網之架構原則，首要者為目標之確認。問題金融機構處理亦然，首要設立明確目標，把金融體系之整體傷害降至最低。這些目標確立後，就得嚴格執行，沒有例外及妥協。

(八) 處理問題金融機構，可否完全排除政治力之干預？

答：每個國家的金融監理單位都可能面臨這種問題，以加拿大為例，財政部長負責維持金融穩定，存保公司需每月向財政部報告市場情況，只要有明確的立法，金融安全網內的機構角色明確，即可依據法律授權行使權力，盡量避免政治力介入。惟處理前必需評估關閉問題金融機構是否會對整體金融體系造成系統性影響。

Central Deposit Insurance Corporation Internal Seminar
Taipei, Taiwan
27 April 2007

"Issues of Interest to Supervisors and Deposit Insurers"

Special Address
By
Jean Pierre Sabourin
Chair of Executive Council and President of the
International Association of Deposit Insurers (IADI) and
Chief Executive Officer of the
Malaysia Deposit Insurance Corporation

Good morning, Mr. Ray-Beam Dawn, Chairman of the Central Deposit Insurance Corporation, Taiwan, Distinguished Guests, Ladies and Gentlemen.

I am delighted and deeply honoured to be invited by the Central Deposit Insurance Corporation, Taiwan to participate at this internal seminar. I visited Taipei in mid-1990s and the last visit in September 2005. Each time I am inspired by the industrious attitude of the Taiwanese. A well-educated workforce, is indeed Taiwan's greatest competitive strength. This has equipped the nation with high levels of technological readiness and innovative capacity, as reflected in widespread university and industry research collaboration, high per-capita utility patents, and the government high procurement of advanced technology products. As a consequence, Taiwan is ranked the world's thirteenth most competitive nation by the World Competitiveness Report (2006/2007). Today, Taiwan is one of the richest nations in East Asia with per capita GDP of US$15,600, almost three times the size of Malaysia's US$5,388. To build a buffer against future crises, Taiwan has an accumulated foreign exchange reserves level of US$266 billion, able to cover 13.6 months of imports.

Taiwan's government has initiated reform of it's financial sector since year 2001. Over these years, the non-performing loans (NPLs) ratio has gradually

declined. From 5 per cent in 2004, the NPL has declined to only 2.2 per cent in Jan 2007, despite problems with unsecured consumer loans last year. Also, under Taiwan government's policy of encouraging mergers, the number of domestic banks have declined from 48 entities in July 2000 to 39 as at the end of Feb 2007. As a whole, Taiwan's achievement in financial reform can be said to be remarkable.

I am also immensely proud to be a friend of CDIC, Taiwan. Our friendship started while I was CEO of CDIC, Canada. Our friendship spans a period of 15 years. I value this friendship as CDIC Taiwan has shown itself to be a good friend, not only in good times, but in bad times too. Since its establishment, CDIC has been entrusted by the Taiwan government to handle problem financial institutions, enabling a smooth transition. Such efforts have earned CDIC widespread recognition for its contribution in bringing about major improvements to the overall operation of the financial institutions, protecting the interest of depositors, and enhancing public confidence in the financial system.

CDIC is also a valued member of the International Association of Deposit Insurers (IADI). It joined the IADI as a founding member in May 2002 and has remained a member of the Executive Council since October 2003. CDIC has been the Chair of the Research and Guidance Committee of IADI since August 2004. This Committee is responsible for producing research articles and issue guidance for deposit insurers. Under the CDIC's leadership, IADI has produced many excellent papers, the latest being the guidance paper on the Resolution of Bank Failures. And there are four guidance papers to be issued in May this year, covering issues such as Effective Deposit Insurance Mandates, Funding, Claims and Recoveries, and Governance. CDIC also hosted the IADI 4th Annual Meeting and International Conference in Taipei in September 2005 which were highly successful. During the same year, CDIC won the first-ever Deposit Insurance Organisation of the Year Award, in recognition of it's contribution to Taiwan's financial stability and IADI's activities.

Let me now move to issues that are of interest to supervisors and deposit insurers.

Over the last 20 years, there have been many large bank failures around the world.1 Since the late 1970s, almost 117 episodes of systemic crises and 51 cases of borderline or non-systemic crises were documented by academicians in developed and emerging market countries. The cost of such crises can be substantial and the dampening effect on economies may last long after the crisis is over. Cross-country estimates suggest that output losses during banking crises have been, on average, over 10% of annual GDP. In addition, bank lending and bank profitability have in many cases remained low and cautious for several years after the crisis.

I note that Taiwan has undergone a minor banking crisis during the last few months. I am also aware that it is part and parcel of CDIC, Taiwan's corporate culture to undertake a review of past challenges and take such lessons to further improve its future response. Therefore, I thought it would be appropriate for me to share some thoughts with CDIC in the area of management of problem banks and bank resolution contingency planning.

Presentation Outline

My presentation on the issues is organised as follows. Section 1 looks briefly at the strategic approach and protection needed for supervisors to manage problem banks. Section II covers supervision of financial conglomerates. Section III discusses the OPTIMAL approach to bank resolution focusing on the objectives and legislative framework for bank resolutions. Section IV is on interrelationship. Section V concludes.

I. Supervision of problem financial institutions

Let me first share some thoughts on supervision of problem financial institutions. Supervisors with a portfolio of one or more problem financial institutions have my fullest sympathies. It is not that supervisors cannot manage or that there are no management solutions. It is that the solutions cannot be applied for some reason or other. In many instances, these reasons cannot be articulated. I understand the pressures faced by supervisors when these banks fail as there is a tendency, at that time, to find the when, what, how and why associated with that problem.

In many cases, supervisors are requested to delay bank restructuring while allowing forbearance since there is pressure for bank loans to continue circulating in the economy. This also gives time for the supervisor to assess information on the bank's financial position and to develop an acceptable resolution strategy. Often, this is not the case. Banks do not return to profitability without assistance. They require new private or public investors to inject much needed capital. By this time, it is often difficult to get investors and the problem bank slides further into insolvency. But there is often reluctance to close a bank as such action may be seen as a failure on the part of the supervisors or the country's governing authority. Overtime, this perception and the build up of unresolved problem banks can and have endangered the position and credibility of the supervisors, especially when the problem banks are unearthed during a financial crisis.

Learning from experience and I can say, sometimes very painful experience to their economies, and to protect supervisors, many countries have legislated prescriptive rules into their banking acts. These rules require supervisors to implement prompt corrective actions upon the occurrence of specific deterioration of certain safety and soundness benchmarks. I will not discuss these prompt corrective actions in detail as I am sure you are familiar with them. The failure of a bank is not the failure of the supervisor. The real failure is in our supervisory and legal framework when it does not provide the protection and incentives for supervisors to act in the best interest of the financial system.

II. Supervision of Financial Conglomerates

I am aware that the recent crisis was triggered by the failure of a financial conglomerate that had banking and non-banking businesses. From newspaper reports of the crisis, I understand the conglomerate had made substantial loans to its related companies. Financial conglomerates pose additional challenges to supervisors as these heterogeneous financial groups unite a broad range of banking, investment, insurance, and non-financial operations, each subject to quite different types of risks. The key areas which supervisors need to focus on when supervising financial conglomerate include capital adequacy, intra-group

transactions, and risk concentrations resulting from various fields of business activities in the financial conglomerate. The effective monitoring of these sources of risk would minimize the potential contagion effects emanating from a problem in one part of the financial conglomerate spreading to the other parts of the financial conglomerate which may eventually have an effect on the overall stability and confidence of the financial system.

The strength of a financial conglomerate is largely derived from the availability of financial support of the parent or holding company to the subsidiaries. In assessing the financial strength of the conglomerate, a key area of focus should be placed on the capital adequacy of the individual banking institutions both on solo and consolidated basis (if the institution maintains subsidiaries), as well as on the capital adequacy at the group or the holding company level. Effective supervision and monitoring of financial conglomerates requires consolidated supervision of the conglomerates and an accurate assessment of the type of risks and intragroup exposures they are exposed to. This necessitates identification and understanding of their specific group structure, degree of complexity, risk management structure and system of internal control mechanisms of the financial conglomerate. Their relative importance in the financial system in terms of asset size and their role in the payments system should be taken into consideration when deciding on the level of monitoring of intragroup exposures.

I understand that malicious and intentional frauds are sometimes difficult to be detected, especially when the structure of a large conglomerate is very complicated involving the entanglement of personnel, capital, businesses and management decisions, with fake transactions of dummies and shell companies and false financial statements. Legislation should not be established reactively and solely in response to a particular fraud incident as we have to bear in mind that legislation is not drafted to detect collaborated and intentional fraud. But learning from the lessons of the Rebar incident, there are a few legislative areas that may need enhancement or review and these can be grouped as follows:

1. **Enhancement of detective controls.** Among others, tools that could assist regulators and supervisors to detect deficiencies in controls

include quantitative and qualitative tools that can be found in the February 1999a Basel Joint Forum "*Supervision of Financial Conglomerates*", imposition of capital adequacy rules that extend to the group level, stricter risk management controls that encompass intragroup transactions, conflict of interest and potential risk of contagion within the financial conglomerates.

2. **Enhancement of preventive controls.** The emphasis here is on sound corporate governance, integrity and strong risk management practices at group level. There should also be strict and punitive repercussions on professionals like lawyers, accountants and auditors, if there is proof of collaboration. It might be useful to disallow shareholders of such bank holding group from obtaining a bank licence or hold shares in financial institutions.

I understand that Taiwan does not have legislative provisions to prohibit banks from lending to its directors or group companies. Therefore, I would suggest that efforts be made to legislate prohibitions on banks to lend to its directors, any firm which its director is an interested party, and any corporation in the shares of which the director has any interest, directly or indirectly. Such powers of the Central Bank of Malaysia are embodied in section 62 of the Banking and Financial Institutions Act and these are effective in ensuring that banks could better manage their lending exposure to other related corporations within the group and therefore, minimizing the risk of contagion due to weaknesses in the other parts of the group.

I also understand that in Taiwan, the oversight of a conglomerate is undertaken by different competent authorities. An important point that I would like to emphasise here is that operational complexities do surface under a regime of multiple authorities. More often than not, the collaborative efficiency and effectiveness between the various authorities have been questioned in the post-mortem of failure resolutions. And time and again, it is the interrelationship issue that needs to be addressed. The various authorities need to deliberate and agree on the philosophy, guiding principles, parameters for collaboration as well as the mechanism to effect such coordination of actions and sharing of information. Such interrelationship should also be

extended beyond the shores of Taiwan to regulators and supervisors outside the country, for the sharing and exchanging of information on internationally active conglomerates to manage cross border issues.

Interrelationship is indeed an important area that I will speak further, right after bank crisis resolution.

III. Objectives of bank crisis resolution

In 2005, I spoke on the issue of bank resolution in Taiwan in 2005 and proposed the OPTIMAL approach to bank resolution. I have requested that a copy of my 2005 speech that was given in Taipei and the recent speech that I delivered in Hanoi be given to you before today's meeting.

OPTIMAL is the acronym for Objectives, Process, Timing, Intervention, Market Discipline, Assessment and Legislative framework. I have developed this approach as a practitioner's guide to meeting best practices in bank resolution. The Optimal approach also scopes out the key parameters and issues that deposit insurers should address in designing deposit insurance systems or in the design of a resolution framework. However, for today's discussion, I shall focus on the relevance of the approach for managing a banking crisis. Given the time constraint, I will however speak in some depth on the first and last areas, namely Objectives and Legislative Framework.

It is important that the objectives of a bank failure management be clearly spelt out and understood by all parties involved in maintaining financial safety. Objectives set the goals for all subsequent policy directions of the resolution process. For example, policy makers must decide what the goals of crisis resolution are.

Here, I would highlight 5 common objectives. These are:

- Ensure consistent and continuous supply of credit to the private sector;
- Minimise the perception of moral hazard;
- Minimise the costs to the deposit insurance funds;
- Reduce disruption to the payments system and damage to confidence in the financial system as a whole; and
- Minimise the fiscal costs to the country arising from resolution of the failure.

My view is that the identification of objectives is the first step in the process for implementing best practices in any bank failure. But as you can see, these objectives appear conflicting. If the primary objective is to, first of all, prevent damage to public confidence in the safety of the financial system, then safety net players would use all available tools at its disposal to avert possible erosion of public confidence and the selection of policy options would be geared entirely towards this objective.

In practice, however, the above objectives need not apply simultaneously and may be applicable to different levels of bank crises. At its easiest application, where only a single bank is involved and there is no danger of wide spread contagion, then the first three objectives are applicable. Here the focus is to maintain the activities of the problem bank, or failing this, to unwind it in an orderly fashion so as to limit the impact on other financial institutions and markets.

During a system-wide crisis, the objectives are even more critical. And the immediate and most critical goal of the safety net players is to stabilise the financial system as a whole at minimum fiscal and moral hazard cost before focusing on restructuring the failed banks. In many circumstances, the bank supervisor would also focus on restructuring the financial system as a whole to address weaknesses in the system that had caused the systemic crisis.

Objectives for the deposit insurer

For the deposit insurer, the objectives of bank resolutions are important for two reasons:

1. **The objectives must be consistent with its mandate.**
   There are many examples of deposit insurers that have paybox mandates which are requested to handle bank resolution for single banks, a wave of bank failures as well as systemic crisis resolution. As I mentioned in my 2005 Taipei Speech, there exist a number of risks inherent in mandates. In my experience, the resolution role is not always clearly apparent from the mandate. Where the role of a deposit insurer is expanded in practice, the risks are even greater - not just for the deposit insurer but also for the economy and financial system. My

experience has shown time and again that the safety net mechanisms function more efficiently and effectively when roles and responsibilities are clearly defined in legislation. Each financial player must know its role and responsibility so that there is greater accountability. These practical realities have to be properly reviewed such that the gaps in the perceived and permissible powers of the deposit insurer are correctly ascertained.

Furthermore, a deposit insurer must also be clear whether any resolution to be undertaken would be subject to least cost principles or consumer protection or systemic prevention criteria. This pre-determination is necessary for the deposit insurer to dictate the priority of resolution options and necessary actions, including the selection of strategies and approaches to failure resolutions.

2. The objectives will determine the type of powers given to the deposit insurer

There are many examples where "payboxes" have been required to fund recapitalization of failed or troubled banks, purchase NPLs or fund resolutions, notwithstanding their limited mandates. While this would mean a larger role for deposit insurers, it may not contribute to the efficiency of the deposit insurer. This bigger role would not be well managed unless there are appropriate powers to deal with the expanded role. There are many examples of how deposit insurers with limited powers, limited funding, limited manpower and resources and limited political and supervisory support have scrambled to resolve bank resolution problems that seem to grow larger as more and more issues begin to surface.

History has made it clear that the FDIC and CDIC of Canada have many success stories on bank resolutions. This is because they have very defined mandates which are legislated and the powers to do their job. They are given the operational independence to mitigate their insurance risk and to intervene and resolve troubled banks before they are hopelessly insolvent. Each resolution process is then shaped and managed based on very clear resolution objectives.

Based on my experience, we would be naive to think that there will never be political pressure to provide forbearance. The difference is that FDIC and CDIC Canada manage political pressure by deflecting these pressures using the legislated objectives of their Acts. Their prescriptive prompt corrective actions also protect FDIC and CDIC of Canada. In addition, their Acts provide legal indemnification and immunity for deposit insurers and supervisors for actions taken in the course of their work provided such actions were taken in good faith. These are some of the protective shields available to supervisors and deposit insurers.

Roles and responsibilities

Apart from objectives, the various authorities involved in bank failure management, the central bank, supervisory body, the deposit insurer and the Treasury (Ministry of Finance) should each have well-defined responsibilities in a bank failure and also processes in place to coordinate policy action. Clear responsibilities lead to clear accountabilities. Accountability of actions and results is a great incentive for safety net players to perform. Accountability must also commensurate with the defined role and responsibilities. So if the resolution of a problem bank is vested solely with the supervisor, then the deposit insurer should be kept informed of the status of the bank in anticipation of the deposit insurer being called to meet its obligations to depositors. Until then, the deposit insurer should take no responsibility or accountability for the bank.

This is necessary so that the cost of a bank resolution to the deposit insurance fund can be fully assessed from the day of handing over. This is a governance issue for the deposit insurer which must account to Parliament and the public for its management of the deposit insurance funds. As you would be aware, delays in resolving a troubled bank results in larger losses for the deposit insurer. And the deposit insurer often gets blamed for these losses even by other safety net players. In many countries, such losses have led to the loss of credibility of the deposit insurer in the eyes of the public. This is dangerous and undermines public confidence in the capability and integrity of the deposit insurer. Without public confidence, future actions of the deposit insurer to stabilize bank runs or calm depositor fears would not be effective.

The deposit insurer is often the last safety net option tool available to policy makers. Therefore, it is important from the stability perspective, to protect the image and credibility of the deposit insurer.

In Malaysia, when the supervisor determines a bank to be non-viable, MDIC is then responsible for its resolution. MDIC becomes entirely responsible and accountable for the manner in which it resolves the troubled bank. The Central Bank remains responsible for the supervision of the bank but does not dictate the resolution actions of MDIC, such as when to make a payment to depositors or select the resolution options that MDIC may consider.

Consistent with this segregation of roles, MDIC has been given extensive resolution powers. Some of these powers are similar to those of the Central Bank's. These include powers to assume control of the bank, remove directors and senior officers, sell off part or all of the assets of the bank. MDIC is also empowered to act as an asset management company and can purchase assets from the non-viable bank. As an asset management company, we are given special powers to restructure borrowers. More importantly, to expedite the transfer of real estate, MDIC is given a special power to transfer title to the new owners by way of a statutory vesting power. Under this simple process, MDIC need only issue a vesting certificate stating that the asset has been vested in the purchaser. Under the normal process, MDIC would need to apply to the Registrar of Land to transfer title to the new purchaser which could take between 3 to 12 months.

MDIC also has the power to sell substantial assets of the failing bank at a price MDIC deems fit, without having to obtain the consent of the shareholders. It can also apply for the liquidation of a bank through a court process. Shareholders may dispute the transacted price and may be compensated for the difference in price, as determined by an Assessor Committee, established by MDIC.

To enable MDIC to manage the resolution process efficiently and effectively, MDIC has also been given the power to determine the date of closure of the affected bank by determining the date of termination of deposit insurance membership. When membership is terminated, the affected member institution can no longer operate as a bank. This power is necessary for

administrative purposes so that deposit insurance payments may be properly made before closure is announced.

Legislative framework

Having talked at length on accountability, I shall now discuss the importance of a good legislative framework for facilitating bank resolutions.

No two countries are exactly alike in their financial or legal framework. Nor will their methods of bank resolution be quite the same. But there are certain key features that characterize good supportive legal frameworks. Since bank resolution is directly linked to maximization of non-performing loans held by insolvent banks or asset management corporations, the legal framework must provide the means for the deposit insurer to carry out its bank resolution objectives effectively and efficiently.

A thorough review of the legal structure is necessary for this purpose. At the very least, the legal system should facilitate the efficient and transparent transfer of ownership that clearly sets out the legal structure and liability of borrowers including their lien on assets. This should also include accurate and up-to-date title registries for all categories of properties used as loan collateral, including access to information on lien holders and their ranking. The insolvency framework should also be reviewed. An effective insolvency regime is one that comprises four major elements - capacity to enforce contracts, collateral foreclosure, the ranking of creditor claims and the provision for clear criteria for initiating insolvency proceedings against troubled banks.

For Malaysia, we have crafted new laws to manage resolution processes efficiently. As mentioned earlier, MDIC may transfer collateralized assets from bank borrowers by way of a statutory vesting. MDIC can complete the sale and transfer of bank assets to the new owners in one day. By stepping into the shoes of the failed bank almost immediately, MDIC can then quickly negotiate sale of these assets to third parties. Costs are minimized for all creditors, including the deposit insurer. Asset values are preserved and this translates into larger returns.

IV. Interrelationship between financial safety net players

Last but not least, I shall speak on interrelationships between financial safety net players.

Protecting stability in the financial system is a common objective of financial safety net participants to achieve, however, when the safety net functions are assigned to different organizations, it is highly desirable to establish good interrelationships among the financial safety net participants in order to smoothly resolve potential tensions and coordinate actions among the different safety net functions.

In Malaysia, MDIC has executed a Strategic Alliance Agreement (SAA) with the Central Bank that sets out the roles and responsibilities of both agencies, arrangements for sharing of information[1] and resources as well as the coordination of actions. The SAA recognizes that although MDIC and the Central Bank have distinct and separate mandates and responsibilities, both of them are integral regulatory agencies that have a common primary objective of promoting financial system stability. Both agencies are confident that this objective is best achieved if they work closely in the spirit of cooperation and goodwill.

Under the SAA, both agencies agree to support, complement and work together, having mutual respect to their roles, responsibilities and accountabilities since a collaborative working relationship promotes and enhances the stability of the financial system. MDIC and the regulator and supervisor (our Central Bank) have adopted four guiding principles aimed at supporting long-term and sustainable cooperation:

1) Transparency and openness in dealing with issues;
2) Respect for the independence and accountability of each agency's scope of work within their mandates;
3) Timely and up-to-date communication and unfettered exchange of information; and
4) Mutual respect and acceptance of the diversity of experience and skills of each agency when addressing issues raised by either agency.

The SAA also provides both MDIC and the regulator and supervisor (Central Bank) with mechanisms to minimize conflicts through regular

meetings and assessment reviews of employees responsible for implementing the SAA.

To further build on the interrelationship between financial safety net players, it may also be worthwhile to consider including the Ministry of Finance and the Central Bank in the agreement, in addition to the supervisor and the deposit insurer. Reason being - the coordination of actions go beyond that of the supervisor and deposit insurer. The government needs to be aware that any bank failure can have adverse implications on, not only the stability of the financial system but also on public confidence, the savings rate and potentially, the economic well-being of a country. Therefore, it would be important to note that a problem bank resolution does not rest with certain financial safety net players. The coordination of actions commitment of all agencies - be it the Ministry of Finance, the Central Bank, the supervisor and the deposit insurer- in promoting the stability of the financial system goes beyond sharing of information - the commitment of all agencies is crucial.

Let me stress an important point here - **the strength of any Strategic Alliance Agreement is only as solid as the commitment put in by its people!** And this commitment must be demonstrated by the top management of all the financial safety net players. The Directing Minds of each organization must demonstrate commitment to interrelationship otherwise it will not work. Interrelationship is like line dancing. If the lead dancers are not in harmony, the line of dancers will break down.

V. Concluding Remarks

Defined role and responsibilities can avoid unproductive duplication of functions and minimize regulatory costs to the financial system. Of importance are also the requisite powers for the deposit insurer and each safety net player to carry out their respective mandate and responsibilities within the financial safety net. Ultimately, a deposit insurer that is effective in carrying out its role, complements and supports the other financial safety net players in driving towards their common goals of promoting financial stability and enhancing public confidence.

Thank you and I would be pleased to answer questions.