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Outline

I. Objectives, scopes and approaches
   – Secured Transactions Law Reforms (UNCITRAL Model Law)
   – International Capital Requirements (Basel Accords)

II. The regulatory treatment of collateral
   – Collateral as eligible credit protection
   – Dissonances with modern secured transactions law

III. Coordination mechanisms
   – International, national, and firm-level
   – Building legal capacity at the national level
Secured Transactions Law Reforms and International Capital Requirements

I. OBJECTIVES, SCOPES AND APPROACHES

- Secured Transactions Law - UNCITRAL Model Law -
  - Access to credit
  - Concerning any individual or entity
  - Legal certainty
  - Transparency
  - Rights and obligations through consensual arrangements

- Capital Requirements - Basel Accords -
  - Financial stability
  - Concerning only regulated credit institutions (banks)
  - Soundness of banks and the banking system
  - Risk-based approach
  - Regulating banks from ‘within’
The Basel Framework

- Risk-Weighted Assets (RWA)
- To high risks correspond high levels of capital
- Collateral as credit protection
- Liquidity risk and operational risk (among others) to be assessed

II. THE REGULATORY TREATMENT OF COLLATERAL
Collateral As Eligible Credit Protection

- Eligible Collateral
- First Priority
- Clear Security Rights
- Liquid Secondary Market
- Rapidly Enforceable

- UNCITRAL Model Law is the first step
- Not all collateral reduce banks capital requirements

The Problem

- Suspicious attitude towards movables, due to:
  - Assumed limited liquidity
  - Assumed limited secondary markets
  - Fear of cyclical depreciation
- Regulation may establish different formalities
  - E.g., detailed description of encumbered assets
- Lack of coordination at the national level

Banks may not fully benefit from secured transactions law reforms
Policy Concerns
### III. COORDINATION MECHANISMS

#### Building Legal Capacity

**International**
- UNCITRAL
- Basel Committee (BIS)

**National**
- Implementation of Model Law & Basel Accords
- Coordination among legislative acts
- Supervisory discretion

**Firm-level**
- Banks may use own internal models to calculate capital charges
- Contractual mechanisms to reduce credit risk
### Building Legal Capacity at the National Level

**Basel Accords**

<table>
<thead>
<tr>
<th>Supervisory Discretion (Pillar 2)</th>
<th>Internal Risk-Based (IRB) Methodologies</th>
</tr>
</thead>
</table>

**Supervisory Discretion (general approach)**

<table>
<thead>
<tr>
<th>List of ‘eligible collateral’ (low risk assets)</th>
<th>Defining requirements in line with UNCITRAL</th>
<th>‘Provisioning’ rules</th>
</tr>
</thead>
</table>

**IRB Methodologies (more sophisticated)**

<table>
<thead>
<tr>
<th>Guidance to identify sufficiently liquid assets</th>
<th>Guidance over the models</th>
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Thank you!

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