由銀行之特性論銀行業公司治理中之風險管理機制

－兼評我國相關法規

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關鍵詞：風險管理、公司治理、風險治理、金融危機、風險委員會
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摘 要

2007 至 2008 年金融危機發生後，對金融危機之成因有諸多檢討。而其中含美國政府金融危機調查委員會發佈之「金融危機調查報告」在內之各類檢討報告中，均直指銀行之公司治理尤其風險管理機能之失敗，乃肇致金融危機主要原因之一。上開風險管理機能之不彰，其實為董事會及經理人二層次於風險管理職能上全面失靈之結果。就董事會之層次而言，董事會對銀行之風險認識錯誤與對風險管理政策之形成與執行欠缺專業，而就經理人層次以觀，高階經理人未採取可對公司風險有效發現、管理及報告之系統，甚或忽視風險之存在，致風險快速發生、累積並惡化。針對銀行公司治理尤其風險管理機能於金融危機時展現之脆弱性，巴賽爾銀行監理委員會於 2010 年發佈之「強化公司治理原則」，英國於 2009 年提出之「英國銀行與其他金融機構公司治理檢驗報告與最終建議」及美國於金融危機後由聯準會經多德法蘭克法案授權訂定之規則 YY 均聚焦於上開問題之解決並形成具體之指引或法規。本文基於銀行公司治理之特殊性及風險管理於銀行公司治理之首要性，擬探討巴賽爾委員會、英國及美國關於銀行公司治理中風險管理機制之設計，並對照檢驗我國相關法規對銀行公司治理及風險管理規範之不足，最末提出改革之淺見。

A Study on the Risk Management Mechanism in Banks' Corporate Governance in Accordance with the Unique Features of Banking Institutions

-- A Critical Analysis on the Present Laws and Regulations in Taiwan

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Abstract

The malfunction of the risk management mechanism in financial institutions has been recognized by various researches including the Financial Crisis Inquiry Report issued by the U.S. Government as one of the primary causes of the 2007 to 2008 financial crisis. Such collapse of the risk management function incurred both from the level of the board of directors as well as the managerial one. As to the former, the board members' in sufficient knowledge with regard to risk management resulted in their incapability to establish and oversee the risk management policy and procedure. The later, on the other hand, failed to adopt effective measure to identify, assess and report risks, or even neglect them so that risks accumulated and exacerbated but had never been taken care. Owing to the apparent fragility of the risk management function in banks' corporate governance system, the Principles for Enhancing Corporate Governance issued by the Basel Committee, the Walker Report issued inU.K and Regulation YY promulgated by the U.S.Board of the Federal Reserve System all addressed this issue. This article attempts to study the contexts of these three documents while conduct critical analyses on current laws and regulations providing for the banks' risk management system in Taiwan.