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UNCITRAL

WARWICK
THE UNIVERSITY OF WARWICK

Fourth International Colloquium on Secured Transactions

**Secured Transactions Law and Capital Requirements
Enhancing Access to Credit and Financial Stability**

Giuliano G. Castellano, PhD, PhD
*Assistant Professor, Warwick Law School
Research Associate, Ecole Polytechnique (Paris, i3-CRG)*



Outline

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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

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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 -

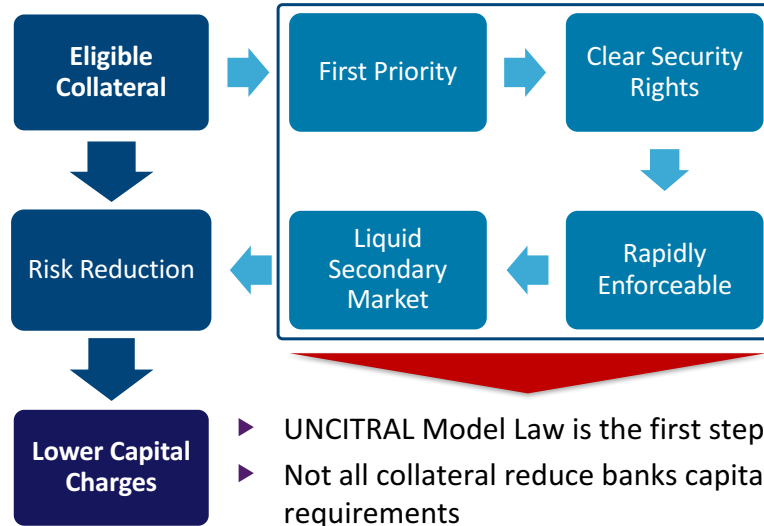
- ▶ Financial stability
- ▶ Concerning **only** regulated credit institutions (banks)
- ▶ Soundness of banks and the banking system
- ▶ Risk-based approach
- ▶ Regulating banks from 'within'

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



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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

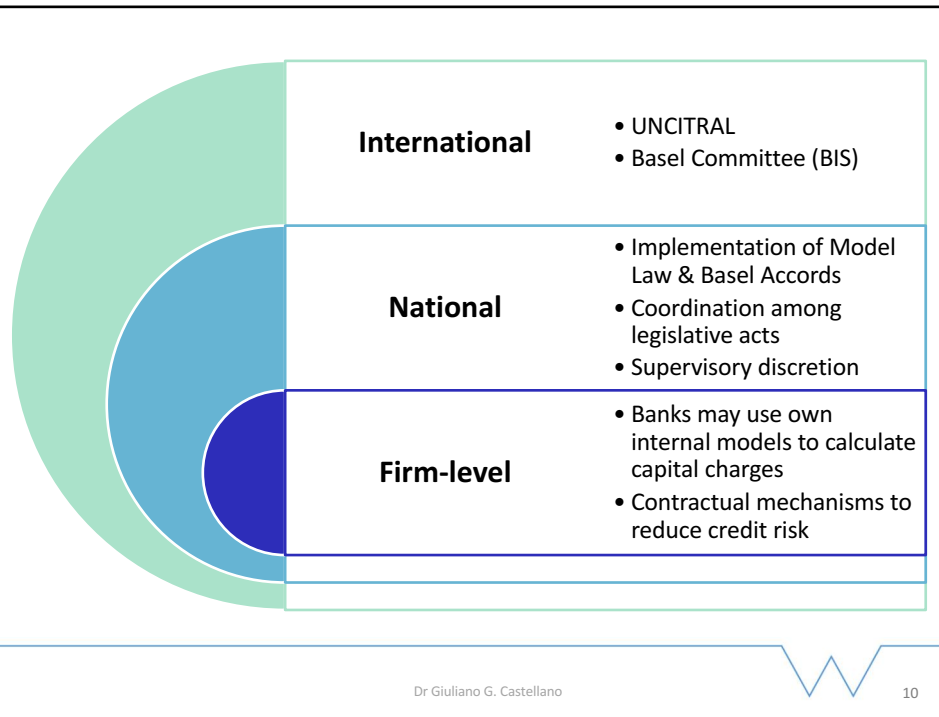
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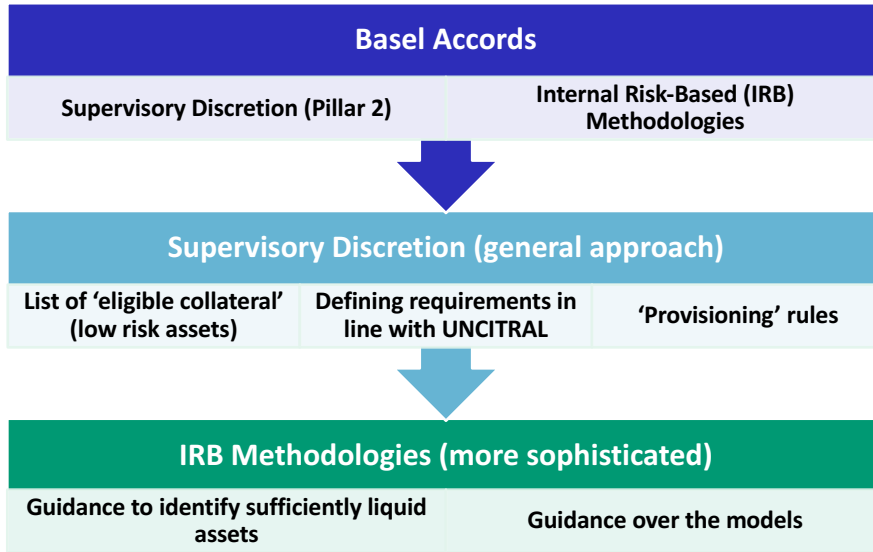
Building Legal Capacity

III. COORDINATION MECHANISMS

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Building Legal Capacity at the National Level



Dr Giuliano G. Castellano

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Thank you!

Dr Giuliano G. Castellano
g.g.f.castellano(at)warwick.ac.uk