

## Over regulation and other 'BS'

Written by David Eldon

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I know what some of you are thinking, now that lunch is over, I must be planning to supply dessert. Why else would I bring a banana along? (holding a banana) Actually, there is a good reason, which I'll get to later.

I intend to engage in a little story telling. Three stories to be precise. Three unrelated stories which offer some valuable lessons related to the financial crisis.

The first story I want to share actually comes from Roman times. It is said in ancient Rome, a general who had been victorious in battle was awarded a parade through the city. The general would ride in his chariot along the cobblestone streets, generously receiving the applause of the assembled crowds.

Standing on the back of his chariot, was a slave. This slave's job was to repeatedly whisper into the general's ear: "Memento mori. Memento mori. Memento mori."

A phrase which can be roughly translated as: "Remember, thou art mortal." A phrase which was meant to remind the victorious general that success can be very temporary. Or to put it another way — as one of my old teachers used to say — today's hero can just as quickly be tomorrow's zero.

The moral of this story is that everyone should be mindful of the fact that nothing lasts forever. Success — or lack of failure as the case may be — can be fleeting.

Banks in Asia, for the most part, have been largely successful in avoiding the worst of the American financial meltdown and its subsequent global fallout. As a result, there is some evidence of some conceit in some parts of the region.

For example, I recall hearing one prominent Asian academic say that it is now apparent that while Asia was hard at work implementing lessons it learned from the Asian crisis, America was "busy creating a financial house of cards".

I have heard regulators in the region making comments that seem to imply they are rather proud of themselves. Proud because what has happened under their supervision hasn't been as bad as what happened elsewhere. As one Asian regulator proclaimed recently: "It's been a pretty phenomenal period for us in the space we're in."



I have also heard corporate chieftains, policymakers and even normally modest bankers suggesting that the Asian model has now been proven "superior" to the so-called 'American model' of banking. Indeed, the prevailing view of some seems to be that Asian banks and the people who run them are in some way wiser than their Western peers. Such sentiments concern me.

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The reality is that banks here in Asia were largely less sophisticated. They were not yet involved in the provision of a wide range of exotic financial products SIVs and so forth. There was no need. No demand. The reality is that the industry here as a whole was also slower in terms of the pace of deregulation.

Also, I have yet to hear anyone precisely define this Asian banking model, partly because I assume there really isn't one. At least one that is consistent around the region.

That said, the other reality is that Asia did indeed learn and implement some important lessons from its own crisis a decade ago.

Financial systems here have been strengthened. Regulatory oversight has been enhanced. Transparency has been increased. Corporate governance has been improved. Capital markets have been developed further. In short, the financial sector within this region is considerably more robust now than then.

It is, however, I think rather naïve — even arrogant — for anyone to assume, as some seem to, that Asian banks and regulators are now somehow immune from making poor decisions. After all, if bankers here were now blessed with perfect judgment, there wouldn't be such a thing as NPLs would there?

The other other reality is this region did not learn at least one key lesson in the wake of the Asian crisis. That lesson being the need to wean ourselves off an over-dependency on export-led growth.

As we all know, after the Asian crisis subsided, the vast majority of countries in the region returned to doing what they knew best. To what had worked so well for them in the past. To being largely externally driven.

The reality is that for Asia to truly lead the world forward economically, it must become more internally driven. Not necessarily solely internally driven, but certainly a lot more internally driven than right now.

In fairness, I think most around the region recognise this reality. However, delivering on even a partial decoupling will take time.

With the widespread optimism out there about Asia leading the global recovery, about the accelerated shift in economic gravity from West to East, we would do well to remember to bring our own whispering slave along. Memento mori. Memento mori.

All of which brings me to the second lesson-laden story. This story is about a farmer many, many years ago. A farmer who was working very hard to try to support his family. At one point, this farmer took a break from toiling in the fields and spent an entire day building a small cart out of some extra wood he had lying around.

The next day, the farmer went to his father and explained that he didn't want to do what he was

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about to do, but he had to. As the elderly man was no longer able to help the family, he was only using precious resources.

As this story goes, this farmer then loaded his father into the newly built cart and started pulling the cart up a nearby mountain. When they reached the top, the farmer turned and aimed the cart back downhill. But before he let go, his father stopped him.

"Wait son," he said. "I fully understand what you are doing and even why you are doing it. But at least keep the cart, your son will need it."

Now, there are a couple possible morals to this story. For example, only do unto your parents what you want your children to do unto you. More applicable to my topic today, however, is the moral that past problems foreshadow future predicaments.

In other words, despite what many out there are saying that it is going to be different this time. I say no, it is not. I say so based on my 40-plus years of banking.

Of working through multiple economic downturns and upticks. Of seeing many lessons forgotten by bankers and others, often in amazingly short periods of time. Again, I have heard various people in various places at various stages of this crisis argue that it will be different this time.

Bankers who promise that this time they will take less risk and be more prudent. Boards of directors who maintain that this time they will pay closer attention and ask more questions.

Credit rating agencies who pledge that this time they will do better analysis and sound the alarm bells sooner. Economists who claim that this time their predictions are right despite the fact most failed earlier to forecast either the timing or the severity of the crisis.

Also regulators who vow that this time they will be more vigilant and adopt a "more intrusive" approach to supervision. Politicians who swear that this time they will implement the necessary rules and prevent such an economic mess from ever happening again.

Indeed, in a speech on the first anniversary of Lehman's demise, American President Barack Obama went so far as to boldly declare that the world of finance cannot "go back to the days of reckless behaviour and unchecked excess that was at the heart of the crisis."

"History cannot be allowed to repeat itself," he added. I have some bad news for the American President and for anyone else who thinks that things will be different this time. If you take a close look, history is already starting to repeat itself.

Some commercial banks — including some that required government support to be able just to lend another day — are now acting as if the crisis never happened.

Some investment bankers — including some who should have been forever humbled by their actions — are once again lining up for big bonuses.

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Some investment funds — which lost considerable sums on behalf of investors — are once again loading up on some of the very same high-risk assets that caused them so much pain.

Most of these examples are in the West, granted. However, if we all take the time to look a little closer around Asia there is plenty of evidence of overly optimistic behaviour near here.

The rapid increases in stock markets in China and India is one example. Rising property prices in Hong Kong are another. The second point I want to make is simply this. History tends to repeat itself. Repeatedly.

As a result, going forward, we can all expect to see more financial crises, with an emphasis on the plural. More economic bubbles forming, which policymakers and politicians will miss or mishandle. And more examples of banks and bankers straying once again from the basics of what constitutes good, prudent banking.

Just as an aside. For anyone here who doubts this last prediction, let me suggest some reading. In particular, this book. It is by a fellow Scot by the name of George Rae. He, like me, was a banker for more than 40 years.

Rae's book addresses many of the pitfalls that led to the American financial crisis that was felt around the world. For example, he talks about bankers needing to learn how to better "distinguish those transactions in banking which are safe and legitimate from those which are unsafe."

And about being "especially on your guard in sluggish times of business and low rates of interest for money as the temptation to depart from the lines of prudent banking is then at its worst." He also predicts future financial follies that will lead to "the ruin of some, the injury of many, and the wonderment of all."

In fact, if there was ever a book that should feature high on the reading lists of bankers and in the libraries of policymakers, it is this one. That said, it may not be that easy to get a copy as this book. It was, after all, written by Rae some 125 years ago. Back in the 1880s in the wake of two other financial crises.

But if you are looking for a good book — both for current reading and for future reference — then I'd recommend *The Country Banker* by Rae.

As for the third and final story, given the less-than-healthy state of the global financial sector, it is a story that also offers some timely lessons.

This third story is about a man who was admitted to hospital with two broken legs, a fractured pelvis and severe burns to his uh — how shall I say this? Burns to a rather sensitive area of his body.

It all started when this man's wife was trying to kill a cockroach in their flat. First, she tried to step on it. When that didn't work, she tried to flush it down the toilet. When that didn't work, she

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doused the pesky little bug with insecticide as it swam around inside the toilet bowl.

Enter the ill-fated man. He needs to go — badly. He rushes into the bathroom to urinate and while doing so, casually drops his cigarette butt into the toilet. The lingering insecticide fumes ignite, causing the aforementioned burns to the not-to-be mentioned parts.

The man's wife quickly calls 995. The ambulance arrives shortly thereafter and the paramedics gently load the injured man onto a stretcher. Then, as they are carrying him out of the house, the man's wife tells them what happened to cause his painful burns.

The paramedics start laughing so hard that they drop the stretcher, breaking the unfortunate man's legs and fracturing his pelvis.

It has a moral, relevant to today. Namely, that while unexpected events can cause considerable pain, so too can the follow-up treatment. It is a moral that all bankers and in particular all regulators and policymakers need to be mindful of.

History suggests that in the wake of a financial crisis comes reform. We've seen and experienced such here after the Asian crisis. History also suggests that the amount of reform is usually directly proportional to the severity of the crisis.

The Great Depression for example led to the creation of Glass-Steagall, the FDIC, the SEC and even social security in the US. History also suggests that post-crisis regulatory reforms traditionally reach well beyond the geographical source of the original problem.

Think Enron. Think Worldcom. Think Sarbanes-Oxley, which many corporates in and outside of the United States still regard as a royal pain in the financials.

We are clearly going to see even more new regulation introduced than we already have. That is a given. Whether those new regulation will actually reduce the risk of a future crisis is somewhat less certain.

Much depends on whether the new regulations are aimed at punishing past offenders or preventing future faux pas. Or perhaps both.

Clearly, here in Asia we are going to see more regulations as well. Some by local design. Some by global dictation. With calls for everything from so-called 'living wills' to forcing all big banks to break up because of the recklessness of a few, there is certainly no shortage of crazy ideas out there.

Amidst all this push for change, one key consideration for regulators and lawmakers is why is it that some banks and some jurisdictions fared better than others.

As others have noted: Was it good regulation? Or good management? Good foresight? Or just plain good luck? The answer from my perspective: a combination of all of the aforementioned.

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As for Asia, the third point I want to make is that here in this region the key will be not blindly following along. Not allowing the regulatory pendulum to swing too far. Also – and this is critical – not trying to regulate business cycles as some naïvely think they can.

Just on the topic of business cycles, I would actually argue that the creation of economic bubbles and their subsequent bursting is not only unavoidable, but even desirable.

Provided, of course, the bubbles don't get too large and the popping part too messy. Indeed, as painful as bursting bubbles can be, I would argue that they also result in a healthy cleansing of the economy. But I digress.

The title of my speech today is 'Over Regulation and Other BS'. By now, many of you have probably already guessed that the 'BS' in this title is a reference to this banana. Your assumptions are correct.

Every couple of years, the Centre for the Study of Financial Innovation – with the help of my colleagues back at PricewaterhouseCoopers – conduct a survey of people like you.

They survey bankers and regulators and others in the wide world of finance about their worries and their concerns. From this, they compile a comprehensive list of the perceived risks going forward. In other words, they compile a list of Banking Banana Skins.

Now, as you might expect the results of this survey tend to vary over time. Concerns change. Anxieties adjust. Risks get re-prioritised depending on the prevailing business climate.

Back in 2006, for example, the top ranked banana skin for banks was too much regulation. Bankers who were surveyed at the time, complained that regulation was "out of control". They questioned whether governments were really truly balancing the costs and the benefits of new regulations.

In the last Banking Banana Skins survey released back in 2008, the biggest single banana skin for banks was liquidity followed by credit risk and credit spreads.

Again, not surprisingly considering the economic uncertainties at that time. In fact, given the extreme pessimism expressed by respondents, the 2008 poll was generally regarded – no pun intended – as the "blackest" Banana Skins survey in more than a decade.

Most expect the underlying mood in the next survey, scheduled for release in early 2010, to be better. Partly because the sentiment couldn't get much worse. But partly because there are now signs of an economic recovery in the making, albeit a fragile one.

I brought this banana along to serve as a reminder to us all. A reminder to us all that while Asia's financial sector seems to be in good shape relatively speaking, we should avoid becoming too smug about the current crisis. Happy but humble. Happy but humble. Memento mori. Memento mori.

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I've focused my remarks today on just three potential risks here in Asia: over confidence, over optimism and over regulation. There are, however, many banana skins lurking out there globally and regionally. All of which suggests that we should all going forward watch where we step.

*Eldon is senior adviser, PwC. Eldon first presented this commentary at his luncheon talk entitled "Over Regulation and Other BS" in Kuala Lumpur on Oct 27, 2009 under Bank Negara Malaysia's and Malaysia Deposit Insurance Corporation's (PIDM) financial institutions directors' programme.*

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