

Legal Accounting Tax Risk Management

Legal Risk

1. Legal Risk 的基本概念

(1) Legal Risk 的定義

Risk that contracts are not legally enforceable or documented correctly. More generally, legal risk is “the risk that a transaction cannot be consummated because of some legal barrier, such as inadequate documentation, a regulatory prohibition on a specific counterparty and non-enforceability of bilateral and multilateral close-out netting and collateral arrangement in bankruptcy.”

(2) Legal Risk 可能發生的原因

change of law, mistakes, liabilities of agents, and political risk

(3) Legal Risk 的特性

- legal risk 通常在交易對手“lose money”時較易發生
- legal risk 和 credit risk 有關，尤其在對手 default 時需要執行合約相關規定時

2. Legal Risk with Derivatives

(1) OTC 契約較 Exchange-traded 契約的 legal risk 高

- tailor-made contracts → customizing financial terms and legal documentation
- legal risk 通常和 market risk 及 credit risk 有關

<Example 1>

P&G lost \$157 million on swaps arranged by Bankers Trust.

P&G sued Bankers Trust and recovered its losses.

→ 藉著法律訴訟減少在衍生性商品上的損失

<Example 2>

(1) City council in Britain took a large position in interest rate swaps and turned out to produce large losses as British interest rates almost doubled from 1988 to 1989.

(2) British High Court decreed that city councils “did not have the authority to enter these transaction.”

→ **“ultra vires”, which means “beyond the power” for the city to enter contracts**

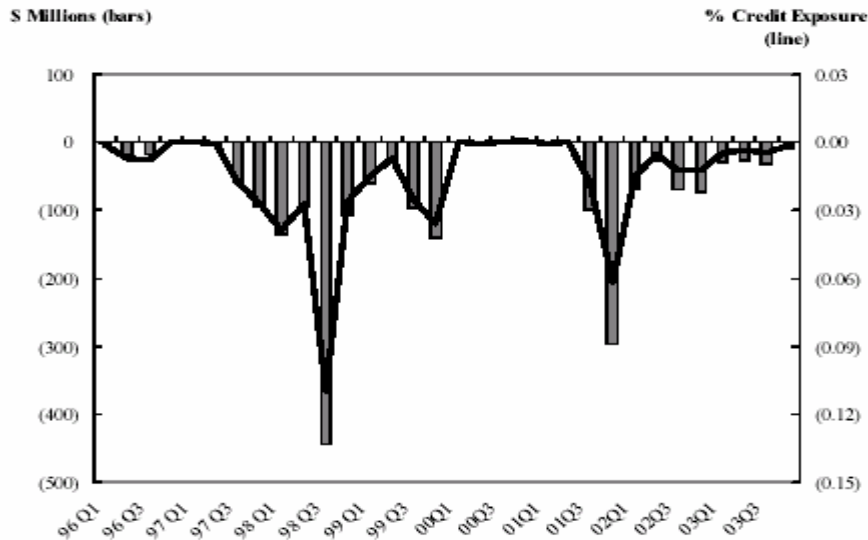
(3) All the contracts were deemed void and the cities were not responsible for the loss.

(4) Losses of \$178 million had to be absorbed by the counterparty bank.

→ 銀行要先確定交易對手是“有資格”進行交易的，以減低 legal risk

(2) Credit Losses from Derivatives

- Notional Value vs Credit Exposure
- 1998Q3 受亞洲金融風暴及俄羅斯暫停支付外債影響，credit loss(charge-offs) 達\$445 million，約總 Credit Exposure 的 0.11%。
- Derivatives credit loss 相對於整體市場雖小，但卻經常與法律訴訟有關



(3) Sources of Legal risk

- A failure in contracting
 - contract is not properly authorized or executed, as in example 2
- A failure in contract documentation
 - mistakes such as incorrect number entries
- Bankruptcy risks
 - bankruptcy process is fraught with uncertainties
 - ex : LTCM (Long Term Capital Management) is a Cayman Islands company
 - close-out netting agreement is a protection
- Changes in law and regulations
 - changes in regulatory environment may introduce changes of value of contracts
 - “gross-up clause” may provide protect bond holder from new tax regulation

3. Netting

(1) Netting 的目的

The purpose of netting is to offset transactions between 2 parties with settlement of the net difference in cash flows across all contracts covered by a netting agreement.

- 降低 credit exposure 及信用風險的機制
- Group of Thirty (G-30)認為”netting of contractual payments”是降低信用風險最

重要的方式，並建議各國在銀行監理法規中採用 netting 概念

- ISDA(International Swap and Derivatives Association)調查，大部份法制先進的國家均支持 netting
- 海洋法系國家可能會有疑慮，因可能沒有判例可循

(2)Basel Accord 中對於 netting 的處理

- 對 off-balance sheet 風險性資產，計算資本適足率要求時，有 netting 的在計算 credit exposure 時較低

定義

$$CRC(OBS) = 8\% \times \left(\sum_i RiskWeight_Counterparty \times CF_i \times CreditExposure_i \right)$$

where Credit Exposure = net replacement value + Add-on

where Add-on = Notional Amount x Add-on Factor

但實際上

$$Add-on = Notional Amount \times Add-on Factor \times (0.4 + 0.6 \times NGR)$$

NGR = Net to Gross Ratio

--如無 netting，則 Net = Gross，NGR = 1

--如有 netting，則 Net < Gross，NGR < 1

<Example>

Consider a \$100 million IRS with a domestic corporation. Assume a residual maturity of 4 years and current market value of \$1 million with no netting. What's the credit exposure?

Ans :

$$Add-on = \$100million \times 0.5\% \times (0.4+0.6 \times 1) = \$0.5 million$$

$$Credit Exposure = net replacement value + Add-on = \$1 million + \$ 0.5 million \\ = \$ 1.5 million$$

$$CRC = 8\% \times \$ 1.5 million = \$0.12million$$

➤Basel Committee 認可 netting under novation

- substitutes outstanding debt payments for new ones that provide for net payment obligations.
- any obligation bet a bank and counterparty to deliver a given currency on a given value date is automatically amalgamated with all other obligations for the same currency and value date, legally substituting one single amount for the previous gross obligation.

➤Basel Committee 亦認可 close-out netting agreement

- upon default, non-defaulting party nets gains and losses with the defaulting

counterparty to a single payment for all covered transaction.

--若無 close-out netting，即無法提前結束契約，在長達數年的破產程序中，只能看著手中契約的價值大幅縮水

➤Netting vs Walk-away clauses

--Walk-away Clauses：當有倒帳發生時，允許雙方結束契約

--有 Walk-away Clauses，則 netting 較不具吸引力，主要是 walk-away 可能造成未 default 的一方意外獲利

--Walk-away Clauses 可能造成金融市場不確定性

<Example>

1990 年 DBL Group 倒閉，造成負責安排 swap 交易子公司 DBL Products default

(a)對 DBL Products 是 out-of –the-money 的契約，交易對手對 DBL 有請求權

(b)對 DBL Products 是 in-of –the-money 的契約，DBL 對交易對手有請求權，但 Walk away clauses 允許對手結束契約，造成交易對手獲利

(c)交易對手還是支付了應付的部份，以免法律訴訟

--Basel 不認同 Walk-away Clauses，因此 Walk-away Clauses 的契約並無法降低資本適足的需求

(3) Netting vs Exchange Margin

➤Gross Margin：clearinghouse collects a separate margin for all client position.

-- CME and NYMEX

➤Net Margin：the broker can offset long and short positions by different customers.

➤Gross margin is safer than net margin.

4. ISDA Master Netting Agreement

(1)目的

➤過去：customized contract

➤develop standardized terms for swaps

➤期望能使 swap 契約間的 offset 更容易進行、增加流動性、降低法律不確定性

➤ISDA 於 1987 提出 Master Netting Agreement，1992 再修正，成為 template

➤另有 schedule to the master agreement 及 confirmation contract

➤特別條款(confirmation)優於一般條款(master)

➤參與者可以彈性選擇協議的部候或透過 schedule 來修正

(2)Master Netting Agreement 包含下列條款

➤List of obligations：償付債務的條款，詳述付款機制、償付債務的抵銷(netting of obligation)

➤List of credit provision：定義違約(events of default)、契約終結(termination of contract)、提前終結契約(early termination)、信用增強條款(credit support provision)。

--違約包括了(1998 年曾考)

- (a) Failure to pay 不支付
- (b) Breach of agreement 違反協定
- (c) Credit support default (如無法提供抵押品)
- (d) Misrepresentation
- (e) Default under specified transaction
- (f) Cross default
- (g) Acts pertaining to bankruptcy or liquidation

--契約終結包括了(1999 年曾考)

- (a) 因法律變動或管制，造成一方無法履行契約
- (b) 稅法的變動造成一方額外的支出
- (c) 因合併而發生的稅務問題
- (d) 合併後，存續公司的信用狀況遠低於前者

➤其他必須形諸於文字的硬性規定(contractual boilerplate statement)

(3)ISDA form 仍需要持續的改善

如：1998 年俄羅斯因無法支付盧布計價的債務時，同時宣佈延期償付外幣負債，並凍結遠期外匯契約交易 90 天→是否屬於 credit event 未被明確的定義

➤1999 年 ISDA 公佈信用衍生性商品的定義，並同時考慮國家與非國家組織
→影響：大部份的信用衍生性商品契約都是依據 ISDA Agreement

<Example>FRM Exam 1999

The ISDA Master Agreement and other similar agreements for derivative contracts address primarily

- (a) Legal and credit risk
- (b) Market and legal risk
- (c) Legal and operation risk
- (d) Liquidity and legal risk

5. 2002 Sarbanes-Oxley Act (SOA)

(1)原由：

Enron, WorldCom, Global Crossing 假帳事件造成重大損失

(2)目的

➤加強公司治理，以重建投資人對公開發行公司的信心

- 降低發生利益衝突的可能性
- 適用在美國掛牌的公司

(3) SOA 的三原則

- Spirit of Transparency：公司有義務要提供透明的資訊以便投資人作投資決定
- Culture of Accountability：必需對所揭露資訊的正確性負責
- People of Integrity：integrity→trust

(4)SOA 的主要內容

- 設立新的監管機關
 - 由 PCAOB(Public Company Accounting Oversight Board)來監管會計師事務所
 - PACOB 可對違規事項進行處罰
 - PACOB 由 SEC 監督
- 給予公司 CEO/CFO 更多的保證責任
 - 要求 CEO/CFO 在財務報表上簽名負責
 - 不實財報需受到處罰(包括罰款、坐牢)
 - 希望由公司高層開始向下要求正確的財務報表
 - CEO/CFO 實際上的作為包括了
 - (a) 已看過揭露的財報
 - (b) 揭露資料並無錯誤 or 忽略可能造成誤解的重大訊息(the best of knowledge)
- 禁止公司接受非稽核性質的諮詢服務
 - 避免 conflict of interest，如 Arthur Anderson 對 Enron 同時提供稽核及諮詢服務
- 成立獨立的審計委員會
 - all audit committee members be outside directors
 - 至少有一個成員要是財務專長
 - 將公司管理階層的影響力減到最低

(4)SOA 的缺點

- paper work 增加
- 稽核費用增加
- 法律責任增加，可能使有資格的人不願意成為公司董事
- 可能與外國法律衝突，故 SEC 規定外國公司可免適用於部份條款

6. 一些法律詞彙

(1) close out clause :

a provision that gives the right to terminate a contract upon certain **specified events**, and to calculate a termination amount due to or due from the defaulting party.

(2) cross-default clause :

A contractual provision, whereby default on a contract occurs whenever the counterparty **defaults on any other obligation**

(3) Negative pledge clause

A provision that prevents the subordination of a contract to secured creditors, by pledging assets for new debt, for instance

反面承諾擔保主要是限制借款人設定有擔保的債務之約定，以保障債權人

<example>

某營造公司董事長 A，向甲銀行貸款並出具反面承諾書，提供房地所有權五分之一作為擔保，依規定已不得再提供其他債權人設定抵押權或作其他擔保。但 A 又將房地提供給乙銀行設定抵押權。因某營造公司虧損嚴重，乙銀行將擔保品拍賣，造成甲銀行損害。

(4) Novation

The extinguishment of a party's obligation through an agreement between the old obligor, a new obligor, and the obligee to substitute the old obligor for a new one.

(5) Pari Passu

Equal ranking, meaning that all creditors within the same class will be treated equally.

(6) Ultra Vires

outside the power of a person or corporation. This is a contrast to intra vires.

Accounting Issues

1. Accounting vs risk management

- (1) 本質上不同—forward looking vs past performance
- (2) Accounting 分為 internal accounting 及 external accounting
 - internal：績效評估及資源分配
 - external：因應主管機關、股東、稅務機關等的需求
- (3) Accounting Risk
 - 定義：inappropriate accounting methods could cause losses
 - accounting risk 通常歸在 operation risk 中
 - 通常也跟 tax risk 有關，即不適當的稅的計算或稅賦規定改變造成損失的風險

2. Internal Reporting

(1) 基本概念

- 目的：衡量不同事業單位的績效
- 會計單位和事業單位的衝突
- Reporting Rule 會影響到經營決策的不同，甚至潛在損失的擴大

<Example>

日本會計原則允許交易員將遠期契約轉換成新的契約，且不需承認損失

- 理論上，交易(或部位)應該”true and fair view”來處理

(2) 風險資本及 RAROC

- 預期損失→reserve，不可預期的損失→risk capital
- RAROC 是屬於 risk adjusted performance measures，用來解決涉及不同業務風險的交易者評價的問題
- 衡量方法
 - (a) 風險衡量—風險曝露程度、波動性、風險因子相關性
 - (b) 資本分配—依 VAR 計算所需的風險資本
 - (c) 績效衡量—計算風險調整績效，如 EVA(economic value added)

(3) 內部報告中，如何揭露金融資產的價值

主要有 historical cost method、mark-to-market method、cash method 及 accrual method 等四種方法

- Historical cost method：
 - 以歷史成本記錄，並以折舊等加以調整
- mark-to-market method：
 - 市價是最公平的評量方式
 - FASB 定義 fair value as “the amount at which an asset could be bought or sold in

a current transaction between willing parties, that is, other than in a forced or liquidation sale”.

--最大的優點在於透明

➤cash method :

在實際有現金流入流出時才認列損益

➤accrual method :

--如一般會計原則中收入成本配合的做法，屬較保守的做法

--交易時即計算損益，但利益及損失的認列方式不同

--如有利益，則採逐日認列此利益方式

--如有損失，則立刻認列損失

<Example> Assume you have a long position in oil and try to hedge this position with forward. Please compare profit/loss using different method

Spot price	\$13
Exercise price of forward after 6 month	\$15
Delivery price of forward	\$15
Quantity	1000
Storage	\$2 per year
Interest rate	6%
Future value factor	1.03

Ans :

(a)先計算 forward 的理論價值

$$F = S(1 + rt) + Ct = \$13 \times (1 + 6\% \times 0.5) + \$2 \times 0.5 = \$14.39 < \$15$$

對要 short forward 而言，會產生利益

(b)Historical：不需計算資金成本(被包括在整個公司的資金成本裏)

(c)Accrual：--因收入成本配合，故需計資金成本

--交易時即計算出利益，依分期認列

(d)MTM：--在交易時即計算出未來所鎖定利益的現值，並認列利益

$$\text{--現值} = (K - F)Q / (1 + rt) = (15 - 14.39) \times 1000 / 1.03 = 592$$

--盤此利潤的現值再逐月認列利息

	Method		
	Historical	Accrual	MTM
Cost of purchase oil	(13,000)	(13,000)	
Current value of oil inventory			(13,000)
Receivable for oil delivery	15,000	15,000	
Current value of oil contract			14,563
Storage cost at expiration	(1,000)	(1,000)	
Storage cost at inception			(971)
Interest cost		(390)	
Total Profit	1,000	610	592
Profit each month			
Month 0(交易時)	0		592
Month 1	0	101.7	3
Month 2	0	101.7	3
Month 3	0	101.7	3
Month 4	0	101.7	3
Month 5	0	101.7	3
Month 6	1,000	101.7	3

- 對交易員而言，會傾向採用較早認列利益的方式
- 對公司而言，實際現金流入只有在期末時一次
- 較早認列利益的方式可能有潛在危險
 - operational expense 尚未計入、交易對手可能違約

(4) MTM 面臨的問題→proper choice of market prices

- Objective market price
 - 客觀=不受交易員持有部位的影響
 - 人為拉抬影響市價
 - 模型訂價亦可能有潛在危險
- Bid or Ask price
 - long position→Bid(較低)
 - short position→Ask(較高)
 - 或可利用平均數
- Nonsimultaneous quotes
 - 不同市場有交易、收盤價時點不同

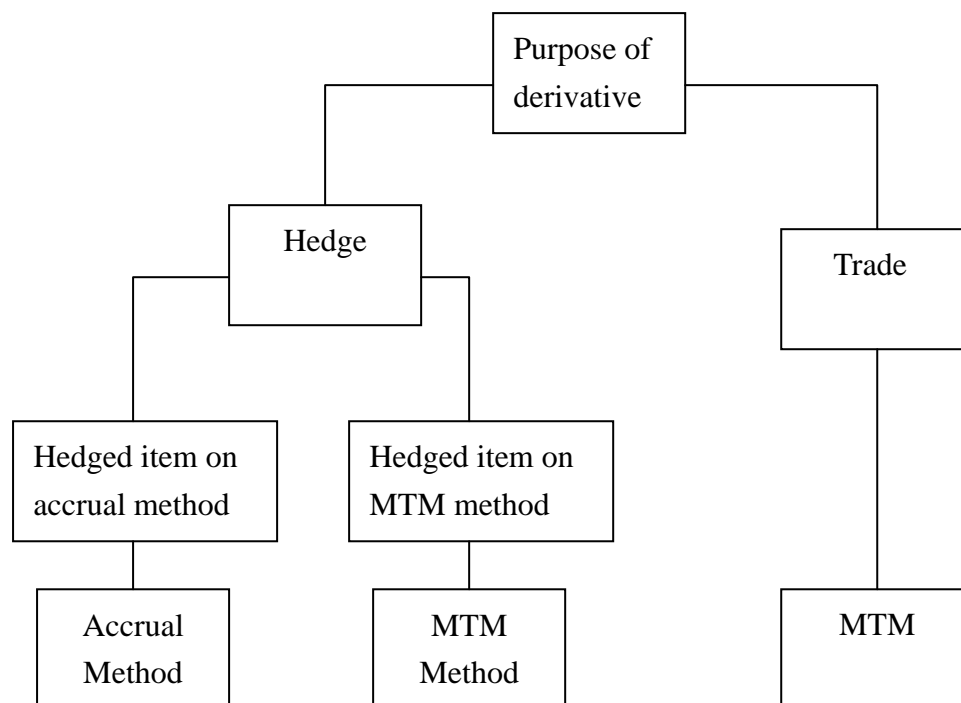
<Example> FRM Exam 2000

MTM on a futures contract that is long in London and short in Chicago can be handled by which of the following

- (a) Recording the close price in both location
- (b) Recording market prices at the same instant, regardless of time zones**
- (c) Recording market prices at the same local time in both locations
- (d) Forecasting the London price at 4pm Chicago time**

(5) 一般衍生性商品會計處理的原則

- 先看衍生性商品交易的目的為何
- 再看 underlying asset 的會計處理原則為何



<Example>

Which type of derivative contract is least appropriate for a manufacturing company to hedge a rise in the cost of its raw materials?

- (a) Long futures
- (b) Long call option
- (c) Short put option
- (d) Floating – price payer on commodity swap**

3. External Reporting—FAS 133

過去 derivatives 被視為表外項目，隨 derivatives 被廣泛使用，如何能將 derivatives 的價值/損益反應在財務報表上的重要性隨之增加。

(1) FAS 133 簡介

- FASB (Financial Accounting Standards Board) 致力於 derivatives 會計處理準則
- 將 derivatives 放在表外將會隱藏風險
- 1998/6 通過 No133 Standard—Accounting for Derivatives Instruments and Hedging Activities，包括了衍生性商品會計、避險會計、揭露原則等
- derivatives 應以 fair value (market price) 表達在資產負債表上

➤ derivatives 價值的變動應表達在損益表上，但避險的 derivatives 例外

(2) Derivatives 的定義

➤ Its has one or more underlyings and one or more notional amounts. Its payoff is function of notional and the underlying.

➤ It requires an initial investment of zero or smaller than would be required for an equivalent cash position. More precisely, for an option based contract, it has an initial net investment equal to the fair value of the option component. For other types of derivatives, it requires an initial net investment that is less than 5% of the fully prepaid amount.

➤ Its terms require or permit net settlement. Alternatively, there is a market mechanism for net settlement. Or the asset to be delivered is readily convertible into cash or is itself a derivative instrument.

➤ 以下契約並不算 derivatives

--正常交易的有價證券(T+2 天)

--正常的買賣行為(如機器設備)

--傳統保險契約(payload = result of event, not change in the underlying)

--財務保證契約

--某些 OTC 的契約，其報酬是與下列相關

(a) climate, geological, or other physical variables (如 weather derivatives)

(b) Prices of nonfinancial assets not easily converted to cash

(c) Specific revenue volume of one or another counterparty

--某些財務契約

(a) 以自己公司股票為指數的契約

(b) 與員工的股票選擇權相關

(c) issued as contingent on a business combination

--壽險投資、一些投資契約及貸款承諾等

<Example>FRM Exam 1998

All of the following instrument are considered to be derivatives under FAS133 except

(a) Futures contracts

(b) Total Return swaps

(c) **Credit default swaps**

(d) Option contracts

Ans : Credit default swaps do not necessarily satisfy net settlement condition.

(3) Embedded Derivative

FAS 133 亦針對 Embedded Derivatives (derivatives that are included in the provision of other contracts) 加以討論

- Ex : A structure note where the payoff is a function of the return on S&P index.
- 混合型商品應分為主契約(host contract)及 embedded derivative if and only if
 - Economical characteristics of the contract and embedded derivative are “**not clearly and closely related.**”
 - Fair market value for the hybrid contract would not be reported on the B/S.
 - Embedded derivative would meet the definition of a derivative on a standard basis.
- 若可區分為主契約(host contract)及 embedded derivative , 則 embedded derivative 部份即受到 FAS 133 的限制

<Example>

屬於交易性質的混合型商品 , 是否應該要區分為主契約及 embedded derivative ?

<Example>

Corporate **callable** bond 是否應該要區分為主契約及 embedded derivative ?

<Example>

對投資人而言 , Convertible bond 是否應該要區分為主契約及 embedded derivative ?
對發行公司而言又是否應該要區分呢?

<Example> FRM Exam 1998

Under FAS133, which of the following instrument would require bifurcation of the cash instrument and the embedded derivative instrument?

- (a) **Inverse floater**
- (b) Inflation indexed bond
- (c) Indexed amortizing notes
- (d) Callable debt

Ans :

Inverse Floater = Fixed rate bond + long in a received-fixed swap

(4) Disclosure Rules of FAS 133

FAS 133 的揭露原則視衍生性商品的持有目的而不同 , 損益的揭露原則如下 :

- No Hedging designation : 當衍生性商品非使用於避險時
 - 衍生性商品的損益認列於盈餘中

- Fair Value hedge：適用於使用衍生性商品規避市價變動之避險時
 - 衍生性商品之損益需和被避險工具的損益抵銷後，認列於盈餘中
 - Hedge ineffectiveness 可能產生
- Cash Flow hedge：適用於使用衍生性商品規避現金流量變動之避險時
 - 衍生性商品 ineffective hedge 部份的損益應被歸類於 OCI(Other Comprehensive Income)
 - 衍生性商品 effective hedge 部份的損益在當被避險工具需認列損益時，同時認列損益
- Foreign Exchange hedge：適用於使用衍生性商品規避外匯部位之避險時

外匯部位	揭露原則
Unrecognized firm commitment	Fair value method
Available for sale security	Fair value method
Forecasted transaction	Cash flow method
Net investment in a foreign operation	Adjustment in an equity account

(5) Hedge Effectiveness

- 必須要在交易開始時即指定為避險工具，方能夠適用於避險會計處理
- 必須經常監督(至少 quarterly，以為財報一致)
- 理論上進行完全避險時，不應產生 hedge ineffectiveness
- 有 2 個 perfectly effective hedges
 - Forward contracts with maturities that perfectly match the hedge asset
 - Plain vanilla interest rate swap that perfectly match the hedged asset
- 可以 dollar-offset method 或 statistical analysis method 來測試避險部位是
否”highly effectiveness”

(a) dollar-offset method：

$$\text{Effectiveness ratio} = \frac{\text{Change in value of hedging instrument}}{\text{Change in value of hedged instrument}}$$

Ratio 應介於 80%~120% 方稱為有效避險

(b) statistical analysis method：regression analysis to estimate the relationship bet the hedging instrument and the hedging risk

$R^2 > 80\%$ 方稱為有效避險

- 如 hedge effectiveness 過差，則無法再適用於避險會計處理
- 3 種情況下，不需要計算 hedge effectiveness
 - most critical terms of the hedged and hedging instruments are the same
 - IRS matches the underlying in all aspect
 - If all aspects of the derivatives instruments match the hedged asset, except in the principal repayment term

(6) FAS 133 的缺點

- 過於複雜
- 增加盈餘的波動性
- Penalize macro hedges

<Example>出口到日本的汽車製造商，因競爭者是日本當地廠商，故進行日圓避險，以免日圓貶值造成的損失

(7) 如何處理 SPE(Special Purpose Entities)

- SPE：financial vehicles used to convert income-producing assets (loans, bonds, receivables) into cash
- 將資產移轉給 SPE 換取現金，在會計上屬於出售資產
- Enron 利用 SPE 美化財務報表
 - 因屬於"sufficient independent economic substance"，故不需要編合併報表，僅需要說明其持有 SPE 股權即可
 - 外部投資人至少擁有 SPE 3%的股權
 - Enron 人為操作資產負債表，美化財務結構
 - 同時 Enron 保證 SPE 的績效，Enron 有義務對 SPE 挹注資金
- FASB interpretation 46：
 - 外部投資人至少擁有 SPE 10%的股權方能適用於表外處理
 - SPE 的外部投資人不能要求母公司的保證

4. External Reporting—IAS

(1) IAS 簡介

IASB(International Accounting Standards Board)在 2001 年取代 1973 年成立的 IASC(International Accounting Standards Committee)，來推廣全球性的會計標準

- 國際性的標準(讓所有交易所接受)
- 歐盟要求 2005 年起所有歐盟公司遵守 IASB
- 推出 IFRS(International Financial Reporting Standards)，陸續被指定為 IAS(International Accounting Standard)

- FASB 與 IASB 在會計原則上有所不同，尤其是在是否應採用原則性規範或細部規範
 - 原則規範：過多自由度
 - 細部規範：僅強調字面意義，而未遵守其精神

(2) IAS 37

- 1999/7 生效

- 處理對象—或有負債/資產(contingent liabilities and asset)的準備金(provision)
- 處理原則—provision should be recognized only when there is a liability, that is, a present obligation resulting from past events
- 處理目的—確保財報中只承認真正的債務義務
- 處理條件—需滿足下列三條件，公司才能在 B/S 上提列準備
 - 目前的債務義務的產生是來自於過去的事件(即 obligation event)
 - 支付的可能性高
 - 估計的金額具可信度
- obligation even—a event that create a legal or constructive obligation and results in a company have no realistic alternative but to settle the obligation.

<Example>

- 1.零售店允許客戶在 30 天內退貨
- 2.公司因過去的事件遭到法律訟訴

<Example>

Which of the operation risk types can be clearly be provisioned (given that a figure can be reasonably estimated)

- (a) Transaction processing risk
- (b) Legal risk
- (c) System risk
- (d) Interest expense

(3) IAS 39

- 2001/1 生效
- 處理對象—financial instrument
 - 現金、定存、活存、CP、應收應付帳款
 - debt and equity securities
 - Asset Backed Securities
 - 租賃、保險、退休金等
- 處理原則—所有的金融工具都應該要列入 B/S
 - FAS 133 僅處理 derivatives
- 處理方式
 - 交易成本以公平市價衡量成本
 - 後續評價則依不同性質而定
 - 除避險交易外，derivatives 的價值變動均需列入損益計算
 - 避險交易處理大致與 FAS 133 同

Tax Issues

1. 和稅務相關的議題包括了

(1) Nature or character of taxable gains and losses

<Example> Zeros 到底該算是資本利得還是利息所得呢?

(2) Timing of their recognition, during life or at expiration of the transaction

(3) Sources of revenues, which determines whether income will bear tax?

<Example>

個人—資本利得稅率通常低於一般所得

法人—資本利得稅率與一般所得相同

<Example> Future 的處理

--Future 需以 MTM 來評價

--外匯期貨部位的損益屬 ordinary income

--其他期貨部位的損益屬 capital gain/loss

<Example> 避險部位的處理

--和被避險部位的損益一起認列，屬於 ordinary income

--在稅務上的避險定義為下列 2 點

(a) to reduce the risk of price changes with respect to assets held or to be held for the purpose of producing ordinary income

(b) to reduce the risk of price changes with respect to borrowings