

Asset Management Forum Claim Trends in Today's Market

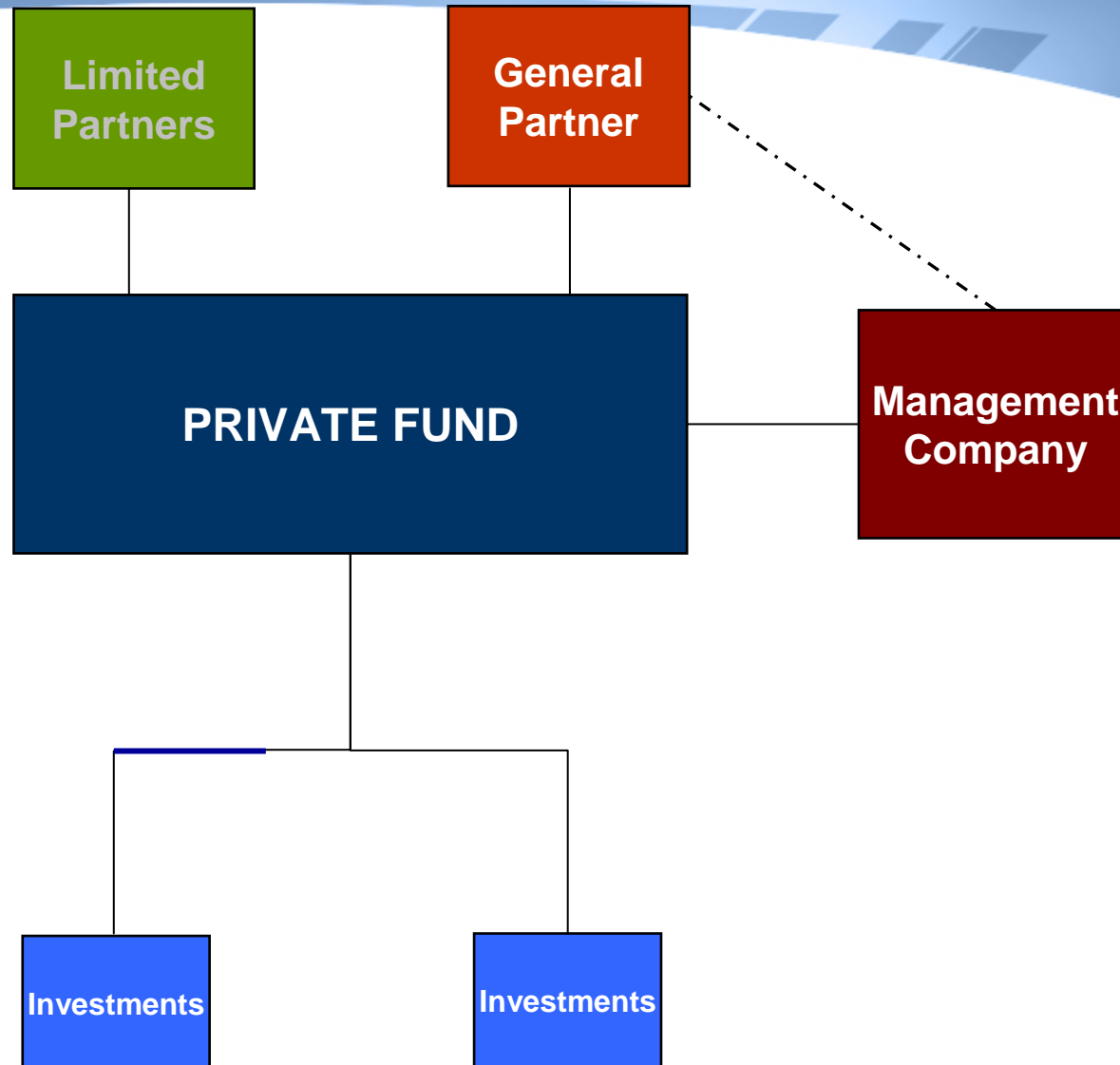
**Noel Tan
27 May 2009**



Today's Objective ...

- Key Claim trends
 - ✓ What events lead to lawsuits
 - ✓ Who is getting sued
 - ✓ Who is suing & why
- Impact of the Credit Crisis
- What's next?

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What Events Lead to Claims

What events Lead to Law Suits

Everyday activities, such as...

- Back-office support functions
- Communications with third parties
- Not doing anything

What Events Lead to Lawsuits?

- PC Exits
- Market Fluctuations
- Divestments
- Non- or under-performance

Trends: Who is Getting Sued?

Trends: Who is Getting Sued?


Everyone / Everything

- Fund 56%
- Firm individuals 35%
- Management company 35%
- Fund management entity 29%

Trends: Who is Getting Sued?

Total Committed Capital

- + \$5 Billion 9%
- \$1.0 Billion - \$5 Billion 41%
- \$500 Million - \$1.0 Billion 16%
- < \$500 Million 34%



Trends: Who will bring the claim?

Trends: Who is Suing & Why?

Typical Plaintiffs include...

- Fund of Funds
- Investors
- Governmental Agencies and Self-Regulatory Organizations
- Portfolio Companies constituencies
 - ✓ Shareholders 23%
 - ✓ Employees/management 23%
 - ✓ Creditors 19%
 - ✓ Business partners 15%
- Co-investors

Key Exposures

- Breach of fiduciary duties
- Breach of contract
- Misappropriation of assets and other fraud
- Personal trading
- Brokerage issues – soft-dollars, best execution
- Side Letters
- Misrepresentations (performance, experience/qualifications,...)
- Failure to disclose conflicts of interest
- Failure to follow investment guidelines



Impact of the Credit Crisis

Securities Litigation Surges in 2009

- 169 Securities lawsuits in 1Q09 – 38% increase on annualised basis
- 108 against Financial Services Firms
- Number of Madoff-related lawsuits – 153 and counting; 74 were against non-US companies
- Number of sub-prime/credit related lawsuits - 823

Resulting Affects

- Market uncertainty
- Traditional financing not readily available
- More equity/less leverage required – more “club deals”?
- More “broken” deals. Material Adverse Change
- Increasing exposures related to PCs approaching or being in the “zone of insolvency”
- Breach of investment guidelines
- Lower portfolio company valuations
- Portfolio companies struggling to refinance with favorable term

Resulting Affects

- Increased scrutiny (investors & regulators)
- Increased redemption requests
- Lowering of Compensation
- Fall-out of Fund of Hedge Funds



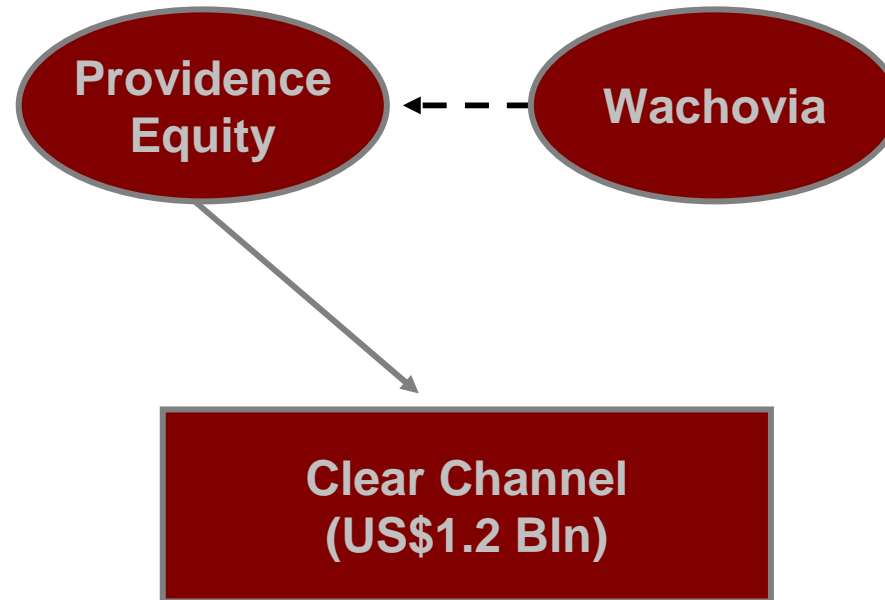
The Tangled Credit Crisis Web

Clear Channel

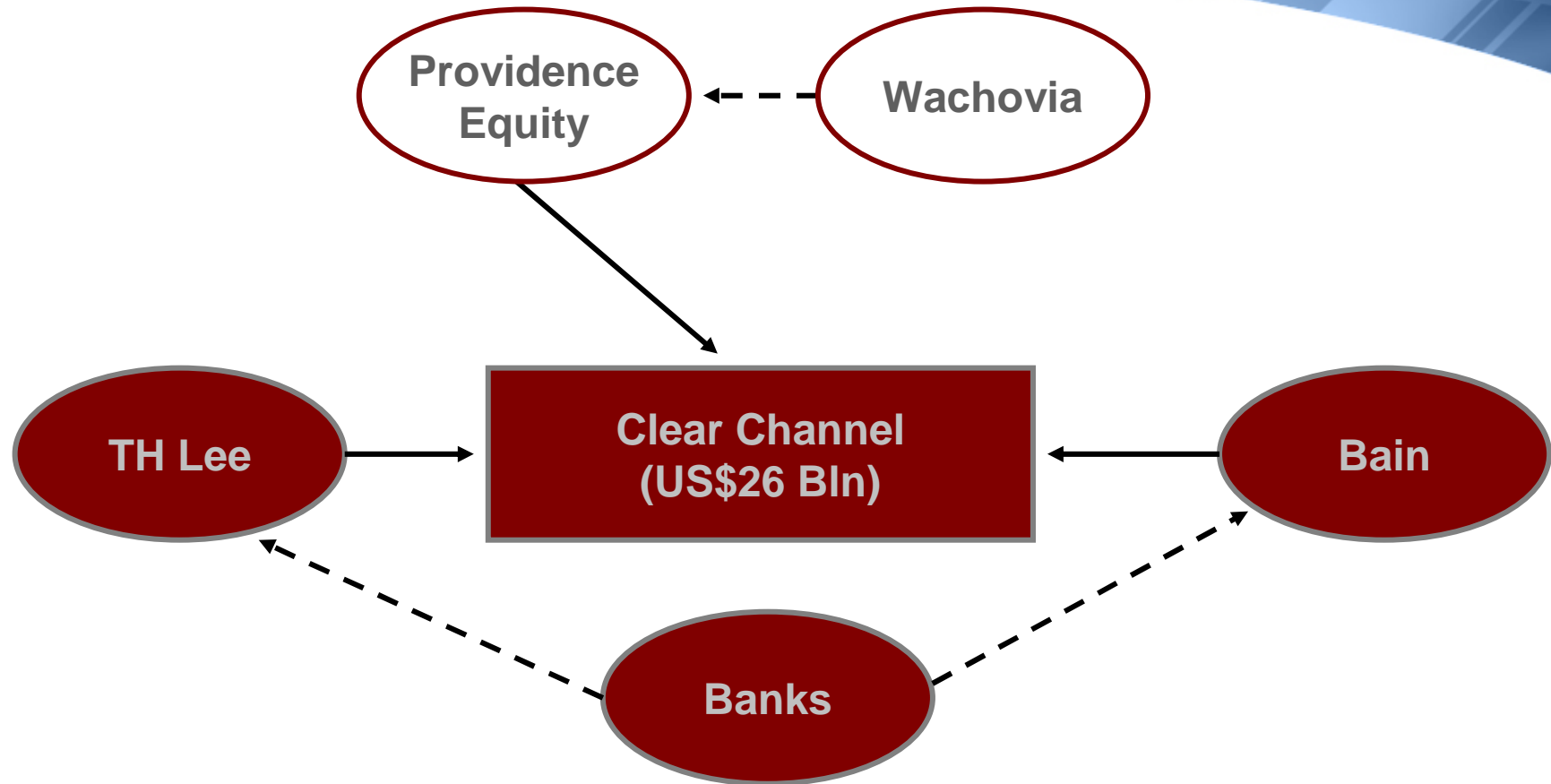
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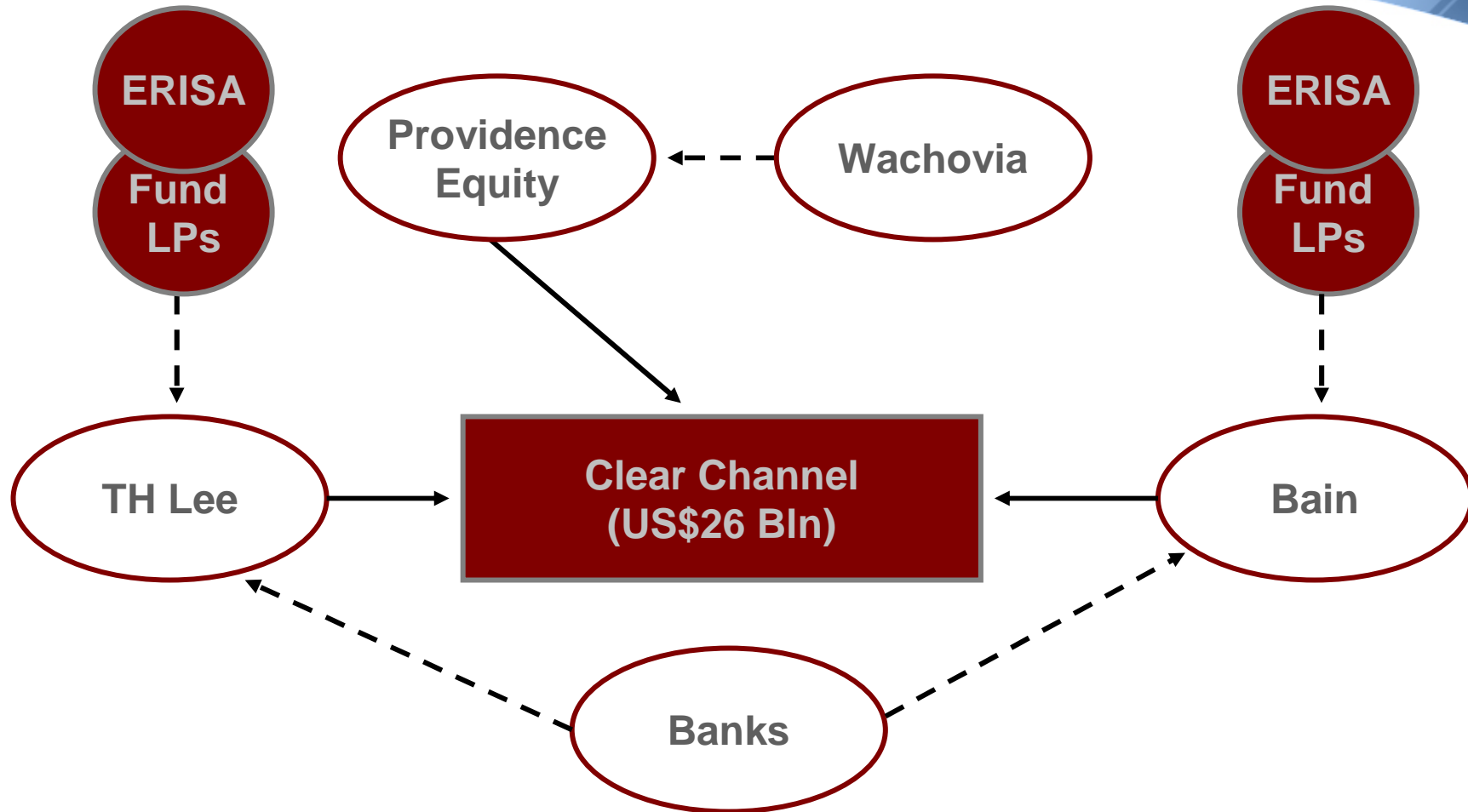


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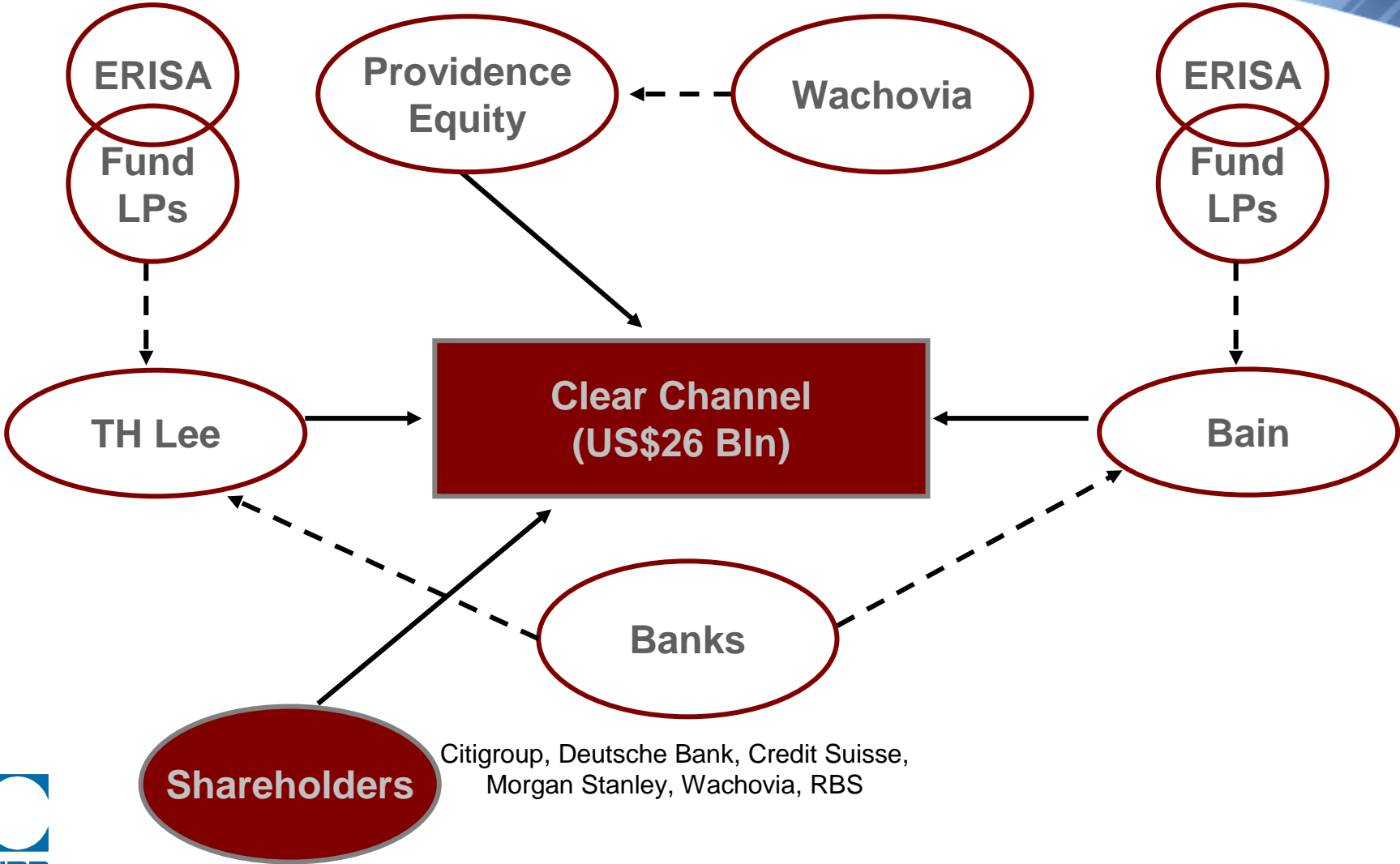


Citigroup, Deutsche Bank, Credit Suisse,
Morgan Stanley, Wachovia, RBS

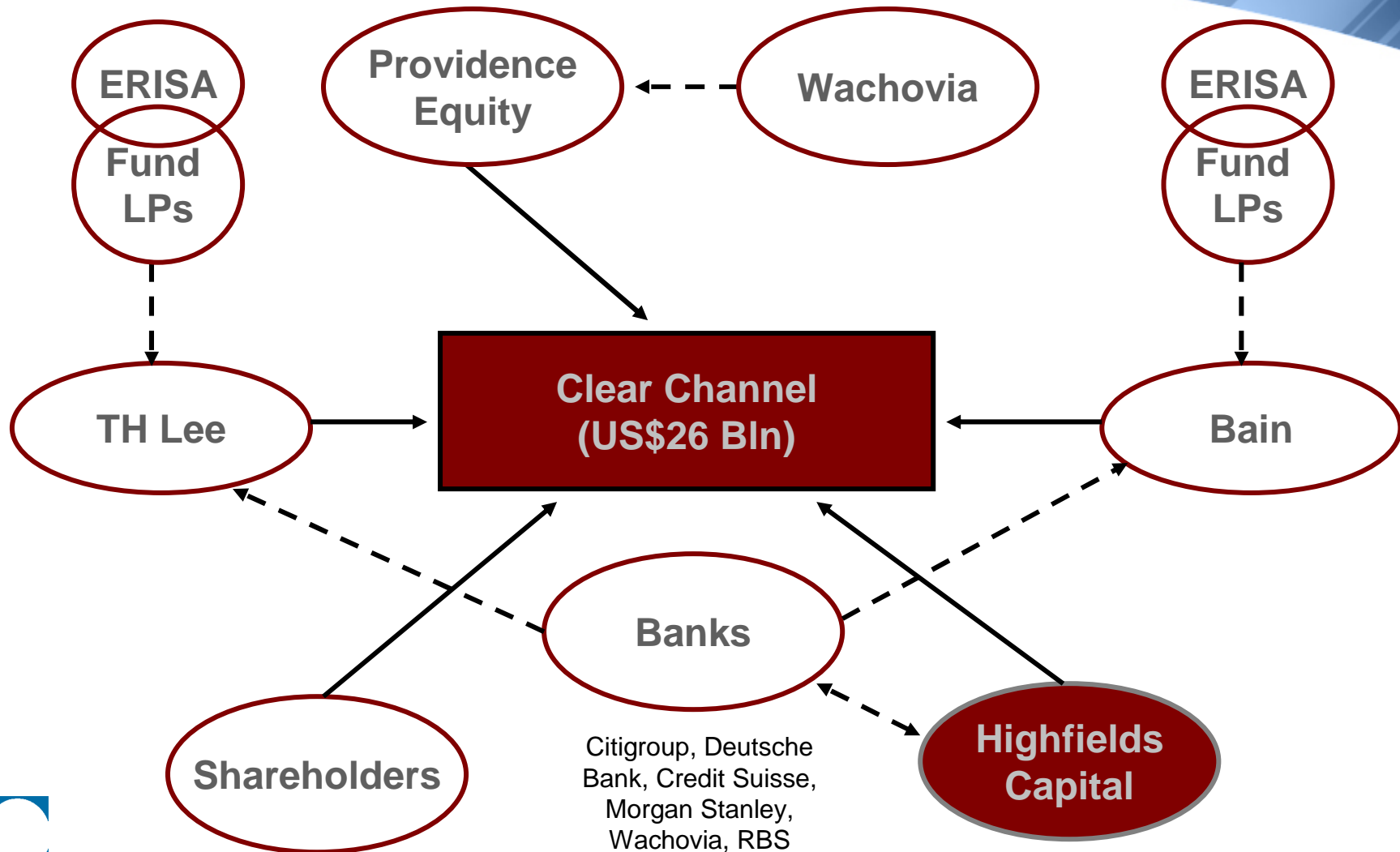
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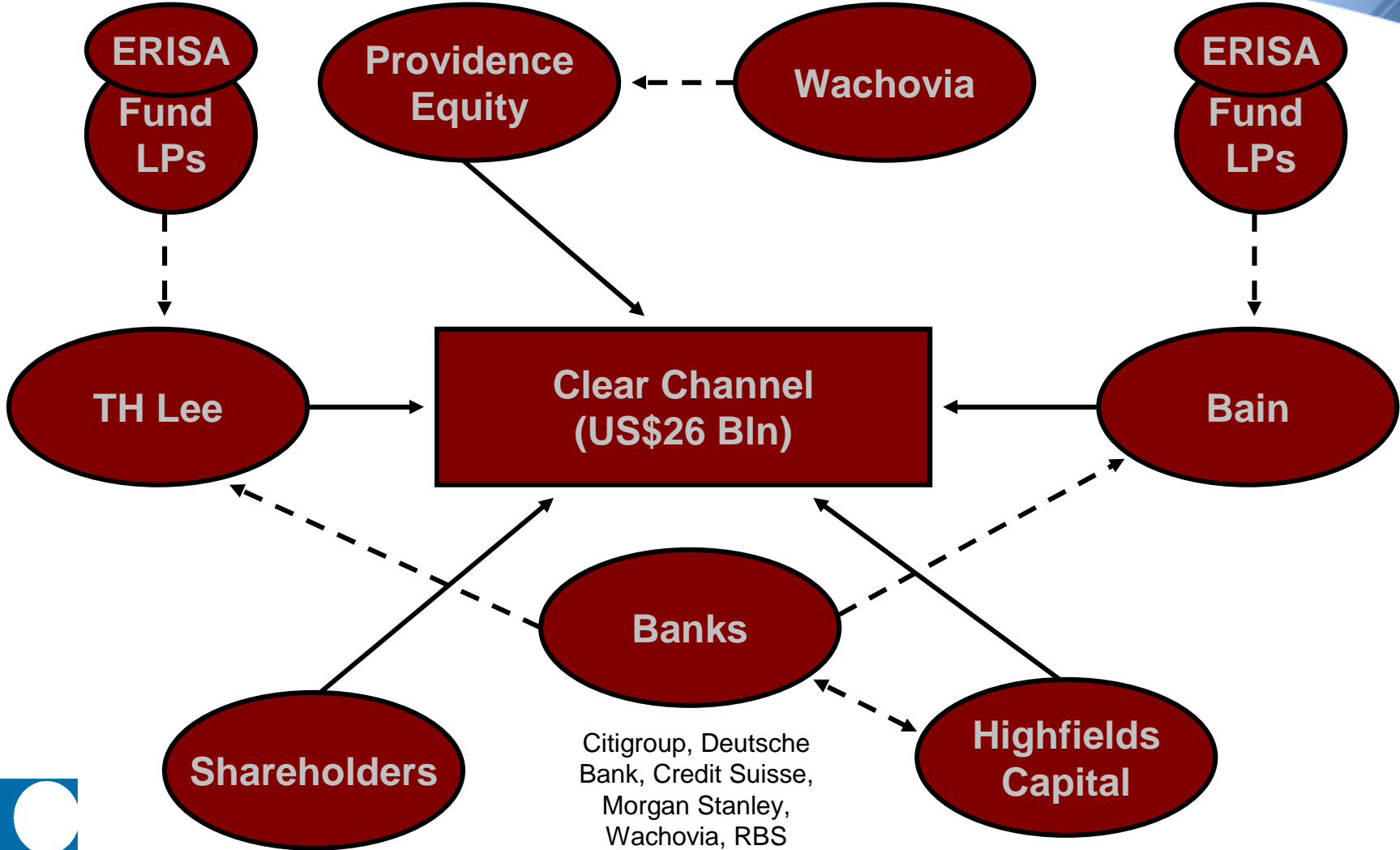
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**300 Millionen Euro
weggeschmissen**

Deutschlands



**dümmste
Bank!**

Mein Essen mit der Queen



Lone Star / Korea Exchange Bank

Arrest warrant sought for Lone Star's Korea head

By Lina Yoon

SEOUL—Lone Star Funds' troubles in South Korea were ratcheted up a notch as prosecutors requested an arrest warrant for Yoo Hoe Won, the chief executive of Lone Star's Korean business, on charges of embezzlement and breach of trust.

Authorities here have launched a far-reaching investigation into the Dallas private-equity fund's activities in Korea, focusing on Lone Star's 2003 purchase of a controlling stake in Korea Exchange Bank. Investigators are looking at whether Lone Star bought the stake for less than its true value and whether bank officials and govern-

ment bureaucrats accepted bribes in return for approving the deal.

The case of Mr. Yoo, whom prosecutors had detained on Tuesday and who also is known as Paul Yoo, isn't directly related to the sale of the KEB stake but will help with the probe, senior prosecutor Chae Dong Wook said.

The Seoul Central District Court held hearings Thursday to determine whether to grant the request.

Lone Star Advisors Korea declined to comment.

Lone Star's image has been marred by an alleged admission of wrongdoing by its former top Korea executive, Steven Lee, who

confessed to the firm that he embezzled millions of dollars from Lone Star, according to people familiar with the matter. The firm

Foreign funds have turned huge profits on the Korean economy's recovery.

has said it is cooperating with investigators, and Mr. Lee's attorney has said Mr. Lee has repaid all

misappropriated funds.

Prosecutors also said Thursday that they had requested a warrant for the arrest of a former asset-management official for Hudson Advisors Korea, a subsidiary of Lone Star Advisors Korea, on charges of breach of trust. Hudson Advisors Korea declined to comment.

Foreign funds that rushed into Korea after the 1997-1998 Asian financial crisis and a subsequent credit-card debacle have since turned huge profits on the Korean economy's recovery. In March, Lone Star signed a preliminary agreement with Kookmin Bank to sell for a total of 6.42 trillion won (\$6.91 bil-

lion) its 50.53% stake in KEB and an additional 14.09% stake it was set to buy back from Germany's Commerzbank AG and Export-Import Bank of Korea. Lone Star stands to earn roughly \$4.5 billion on the deal.

While some foreign investors have accused Korean regulators of treating them unfairly, Lone Star's situation is complicated by Mr. Lee's wrongdoing. Now, the prosecutor's request to arrest Mr. Yoo could complicate it further.

The prosecution said it will begin a full-fledged investigation as soon as the state audit agency concludes its own probe.



Finian Tan / Vickers Financial Group

TODAY • Tuesday • May 13, 2008

Business

NEW FRAMEWORK MAKES IT CHEAPER FOR SMALL FIRMS TO FILE ACCOUNTS

It may soon be cheaper for smaller companies to file their accounts.

Under a framework proposed by the Ministry of Finance (MDF), small and medium-sized enterprises (SMEs) will be allowed to depart from certain accounting standards.

Called "differential reporting", the framework "seeks to make it less onerous for SMEs to prepare their financial statements and reduce their costs in doing so",

the MDF said.

Other countries that have adopted differential reporting for SMEs include Malaysia, Hong Kong and the United Kingdom.

Currently, all companies incorporated in Singapore, regardless of size, have to abide by financial reporting standards authorised by the Accounting Standards Council (ASC), a body set up by the MDF.

The MDF's consultation paper noted that SMEs are often owner-managed and that its stakeholders have different information needs from those of a listed company.

SMEs' financial statements are used primarily by owners to monitor performance and capital expenditure and by banks to determine capacity to repay.

While there is no legal definition of an SME at present, the MDF is proposing that the framework be applied to firms that meet two of the three following criteria: Net assets not exceeding \$15 million; turnover of not more than \$15 million and employees not more than 200.

The public can submit their views to the ASC at www.asc.gov.sg by June 30.

— CHEOW XIN YI

Ex-banker Finian Tan sued

He pledges to vigorously defend against allegations of failing to distribute profits

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A CAYMAN Islands incorporated investment company is suing former investment banker Finian Tan (picture) and several of his companies, including the Vickers Financial Group, for, among other things, allegedly failing to distribute profits following the listing of a property trust.

The listing in question is that of the real estate investment trust Cambridge Industrial Trust (CIT) on the Singapore Exchange in July 2006.

The plaintiff in the suit is Magic Holdings, which claims it invested US\$1 million (\$1.4 million) between March and June 2006 in a limited partnership fund formed to invest in unlisted companies.



Magic Holdings contributed 11.4 per cent of the total US\$8.77 million raised by this fund's limited partners.

Part of this pool of money, amounting to some \$452,866, was used to invest in another limited partnership called Vickers Private Equity Partners V — or "Fund V" for short.

Fund V was then said to have bought an 18-per-cent stake in Cambridge Real Estate Investment Management (Creim), which in turn owned 60 per cent of Cambridge Industrial Trust Management (CITM) and 50 per cent of Cambridge Industrial Property Management.

Following Fund V's investment in Creim, Dr Tan was appointed a director of the latter company. In July 2006, CITM listed CIT on the Singapore Exchange — its first property trust.

Magic Holdings says in its writ that Creim would receive US\$4.57 million in cash, apparently as its share of the proceeds from the listing.

Around March last year, Magic was given an update, whereby it was informed that Creim had received US\$4.61 million cash, or \$7.25 million at the applicable exchange rate, from the CIT listing.

cash in the sum of \$7.25 million in or about August 2006 from the listing of CIT, Dr Tan and/or Vickers Private Equity Meta Partners, in breach of the fiduciary duties to the plaintiffs, had failed and/or refused to cause the Fund to distribute any profits to the plaintiffs to date and/or to furnish the plaintiffs with information relating to the non-distribution of profits by the Fund."

In another update in June last year, Magic Holdings claimed that Dr Tan and/or Vickers Private Equity Meta Partners had stated that Creim currently had cash on its balance sheet and that part of it would be distributed to its shareholders through their partnership fund.

As Magic Holdings claims it has not received any monies to date, it says it "has suffered loss and damage". Magic Holdings has also accused Dr Tan and the other defendants of concealing certain facts and dealings between them.

Dr Tan has dismissed the allegations against him.

He told Today: "The action will be vigorously defended and we are confident that justice will prevail."

"Magic represents a very minor investment to the Vickers Group and their af-

What's Next?

Key Trends

- Increase in portfolio company bankruptcies
- Change in regulatory framework and increased scrutiny from regulators
- Fees under the spotlight
- Fund raising will remain a challenge?
- Systemic risk
- Tighter internal controls?

Key Underwriting Factors

- Claims/litigation history, regulatory issues
- Transparency/Investor Communication
- Investor profile and investment minimums
- Size and historical change in assets
- Degree of leverage
- Culture
- Historical performance and volatility
- Management background and experience
- Valuations controls and procedures

Thank You!

