

Unlimited liability as a signal of trust

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

Why would bankers agree to answer with their personal assets for the debts of their bank? The question deserves to be asked, because the limited liability of companies limited by shares is generally regarded as one of the major innovations of modern capitalism. The answer lies in the particular nature of banking and in the value of trust.

A client who entrusts his wealth to a bank wants to be assured that his assets will be managed prudently and returned on demand. The unlimited liability of the partners offers him a double signal. On the one hand, the partners have a direct personal interest in avoiding excessive risks, since their own fortune is at stake. On the other hand, in the event of failure, the creditors can have recourse to the partners' assets, which constitutes an additional guarantee.

Economists describe this mechanism in terms of the alignment of incentives. In a company limited by shares, the executives and shareholders may be tempted to take high risks, because they profit from the gains and bear the losses only up to the amount of their contribution, the remainder being borne by the creditors. In a partnership, this asymmetry largely disappears. Unlimited liability thus plays a role comparable to that of capital requirements, which oblige modern banks to absorb part of their losses before their creditors do.

Unlimited liability nevertheless has its limits. Its reach depends on the ratio between the partners' personal wealth and the volume of the bank's commitments. When the bank manages hundreds of billions of francs for its clients, the partners' wealth, however considerable, can cover only a fraction of the commitments in the event of a catastrophe. It should be remembered, however, that the assets managed for clients, and in particular securities held in custody, do not appear on the bank's balance sheet and remain, in principle, the property of the clients. The risk attaching to unlimited liability concerns above all the bank's own

Unlimited liability as a signal of trust

commitments, which are relatively modest in the wealth management model.

Unlimited liability also entails constraints for the partners and their families. It limits the diversification of their wealth, which is exposed to the bank's risk. It complicates succession, since the heirs must decide whether they wish to assume this liability. It makes it difficult to recruit partners from outside the founding families, who must agree to tie their fortune to that of the house.

Worked example. A wealth management bank carries on its balance sheet liabilities to clients of CHF 5 billion and equity of CHF 1 billion. Its five partners together hold personal wealth of CHF 800 million. If the bank suffers a loss of CHF 1.5 billion, its equity is exhausted and the partners must contribute CHF 500 million to cover the balance. If the loss reaches CHF 3 billion, their personal wealth is no longer sufficient, and the creditors suffer a loss of CHF 1.2 billion. The securities deposited by clients, which do not appear on the balance sheet, are not affected by these losses. The figures are fictitious; they show both the incentive power and the limits of unlimited liability.

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/geneva-unlimited-liability-as-a-signal-of-trust