

# **Two Court Cases in England and New York re Debt Restructurings**

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**EFMLG meeting**  
**Frankfurt, 30 November 2012**

# ASSENAGON v. ANGLO IRISH

- Exchange offer for sub debt: 20 cents or 0
- Use of exit consents
- Irish Government's intention to legislate for subordinated bond bail-in
- 92% participation



# ENGLISH HIGH COURT: 'PRISONER'S DILEMMA'

- **Purpose of exit consents is to intimidate potential minority**
- **Majority must act to benefit class of bondholders as whole**
- **High Court decision appealed**



- **2005 & 2010  
exchange offers:  
24-29 cents**
- **Hold-outs warned  
that they will  
receive nothing**
- **Argentine ‘Padlock  
Law’**
- **91% participation**





***The Securities will constitute ... direct, unconditional, unsecured and unsubordinated obligations of the Republic and shall at all times rank pari passu without any preference among themselves***

***The payment obligations of the Republic under the Securities shall at all times rank at least equally with all its other present and future unsecured and unsubordinated External Indebtedness.***

# US COURT OF APPEALS (2<sup>ND</sup> CIRCUIT)

- **Rejected narrow ‘ranking’ interpretation**
- **Endorsed ‘equal treatment’ interpretation**
- **Argentina breached pari passu under any interpretation**
- **Injunctions imposed on payment intermediaries**
- **Impact on preferred creditor status of IMF?**
- **Impact of collective action clauses?**



**Thank-you for your attention.**

**Q&A.**