Two Court Cases in England and New York re Debt Restructurings

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EFMLG meeting
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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
ARGENTINE DEBT RESTRUCTURING

• 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 (2ND 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.