The EU recovery and resolution directive
Simon Gleeson
November 2013
Understanding recovery and resolution

- Counterparty risk analysis
- Impact on transactions/opinions
- New business projects
- Recovery and resolution planning
The New EU Bank capital stack…?

- Secured Borrowing
- Insured deposits
- Uninsured deposits
- Other creditors [derivatives?]
- Senior unsecured (bail-in) debt
- Tier 2
- Tier 1
SPE – Starting point

Equity & sub debt

Holding Company

Senior Debt (LAC)

Investment Firm

Bank
SPE – Basic Methodology

- Holding Company
- Investment Firm
- Bank

Equity & sub debt

Write down/off

Senior Debt (LAC)

New equity

Recapitalise
BRRD LAC

Equity & sub debt

Bank

Senior Debt (LAC)
Equity & sub debt

Write down/off

Bank

Senior Debt (LAC)

New equity recapitalises bank
Who resolves what?

France

Bank A

Bank C

Bank B

Holding Company

Germany

Spain

LAC

LAC

LAC
Who resolves what?

France

Bank A

LAC

Germany

Holding Company

Bank B

LAC

Bank C

LAC

Spain

The EU recovery and resolution directive
Who resolves what?

France

Germany

Spain

Bank A

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Bank B

Bank C

LAC

LAC

LAC
Current issues

- Discretion to exclude liabilities from bail-in and absorption of losses
- Treatment of derivative liabilities in bail-in
- Principle of equal treatment in resolution
- Minimum eligible liabilities requirement and application to groups
- Proposal for minimum level of contractually bail-in-able debt ("bail-in bonds")
- Use of DGS in resolution and treatment of deposits in insolvency
- Use of resolution funds for solvency support
- Burden sharing/mutualisation of losses between resolution funds
- How do we require the “loss absorbing” senior debt element to be structured?
- If LAC is senior debt issued out of the bank, how do we deal with set-off?
- How do we decide which elements of senior debt to exclude?
- How do we harmonise between ESM and non-ESM countries?
What is a Resolution Fund?

A number of possible purposes

- Absorbing losses (private-sector ESM?)
- Provision of liquidity
- Payment of incidental expenses

RRD model oscillates between a number of these

Resolution fund is only large enough to break the sovereign/bank co-dependence loop if the bail-in power is sufficiently strong to break it anyway?
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