FDIC
Advisory Committee on
Systemic Resolution

The Single Point of Entry Resolution Strategy

December 11, 2013

Agenda

- Background
- Overview of Title II and Resolution
- SIFI Structure
- Single Point of Entry as a Resolution Strategy
- Resolution Process

Background

- The financial crisis that began in late 2007 highlighted deficiencies in the existing U.S. financial institution resolution regime
- In the aftermath of the crisis, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)
- Title I and Title II of the Dodd-Frank Act provide significant authorities to the FDIC and other regulators to address the failure of a systemically important financial institution (SIFI)

Background

- Title I of the Dodd-Frank Act requires all covered financial companies to prepare resolution plans to demonstrate how they could be resolved in a rapid and orderly manner under the U.S. Bankruptcy Code

- Bankruptcy is the preferred option, however, Congress recognized that a SIFI may not be resolvable under bankruptcy without posing risk to U.S. financial stability

- Title II provides a back-up authority to place a SIFI into an FDIC receivership process if a resolution through bankruptcy would have serious adverse effects on U.S. financial stability

Title II - Orderly Liquidation Authority

- The Orderly Liquidation Authority (OLA) provides tools necessary to effect a rapid and orderly resolution of a covered financial company

- Title II establishes certain policy goals for the OLA

  - Owners and management responsible for a covered financial company's failure must be held accountable

  - Stability of the U.S. financial system must be maintained

  - Resolution of the failed covered financial company must impose losses in accordance with statutory priorities without imposing a cost on U.S. taxpayers

Resolution under Title II

- Dual objectives:
  - Promote market discipline
  - Maintain stability in the U.S. financial system
- Impediments:
  - Avoid multiple competing insolvencies
  - Maintain essential services and critical operations
  - Ensure counterparties cannot take actions that would create systemic disruption
  - Ensure access to liquidity
  - Promote cooperation with foreign authorities

SIFI Structures: Challenges to Resolution

- U.S. SIFIs organized under a holding company structure with hundreds or thousands of interconnected entities
  - Span legal and regulatory jurisdictions
  - Highly integrated
  - Core business lines often not aligned with legal entities
  - Funding dispersed between affiliates as need arises
- Resolution of one subsidiary could trigger collapse of entire company and transmit adverse effects throughout financial system

The Single Point of Entry Strategy

- The FDIC is developing the Single Point of Entry (SPOE) strategy as a possible approach to resolving a G-SIFI
  - Places failed/failing top-tier parent holding company into receivership
    - Holds shareholders, debt holders and management of top-tier parent company accountable for failure
  - Keeps operating subsidiaries open
    - Protects against contagion in the financial system
    - Maintains vital linkages among critical operating subsidiaries
    - Ensures continuity of services

Resolution Process: Receivership

- Transfer assets of receivership estate to newly created bridge financial company (bridge company)
- Leave most liabilities in receivership estate; transfer obligations supporting subsidiaries' contracts to bridge
- Replace officers and directors responsible for failure; appoint new Board of Directors
- Enter into initial Operating Agreement
  - Determine cause of failure and develop plan to remediate
  - Retain accounting and valuation consultants acceptable to FDIC and complete valuation work and prepare audited financial statements.
  - Develop business plan for bridge
  - Develop funding, liquidity and capital plans subject to regulator approval
- Establish and implement plan for restructuring
  - Change in businesses, shrinkage of businesses, liquidation of certain subsidiaries or business lines, closure of certain operations

Resolution Process: Funding

- Expect well-capitalized bridge company and its subsidiaries to obtain funding directly from customary sources in private markets

- Market conditions could be such that private sources of funding may not be immediately available.

- If private-sector funding cannot be immediately obtained, the Dodd-Frank Act provides for liquidity from an Orderly Liquidation Fund (OLF); if needed, the FDIC would utilize OLF funds on a short-term transitional basis
  - Only available on a fully secured basis
  - Backed by assessments (if necessary) against the largest financial companies

- Taxpayer losses prohibited

Resolution Process: Claims

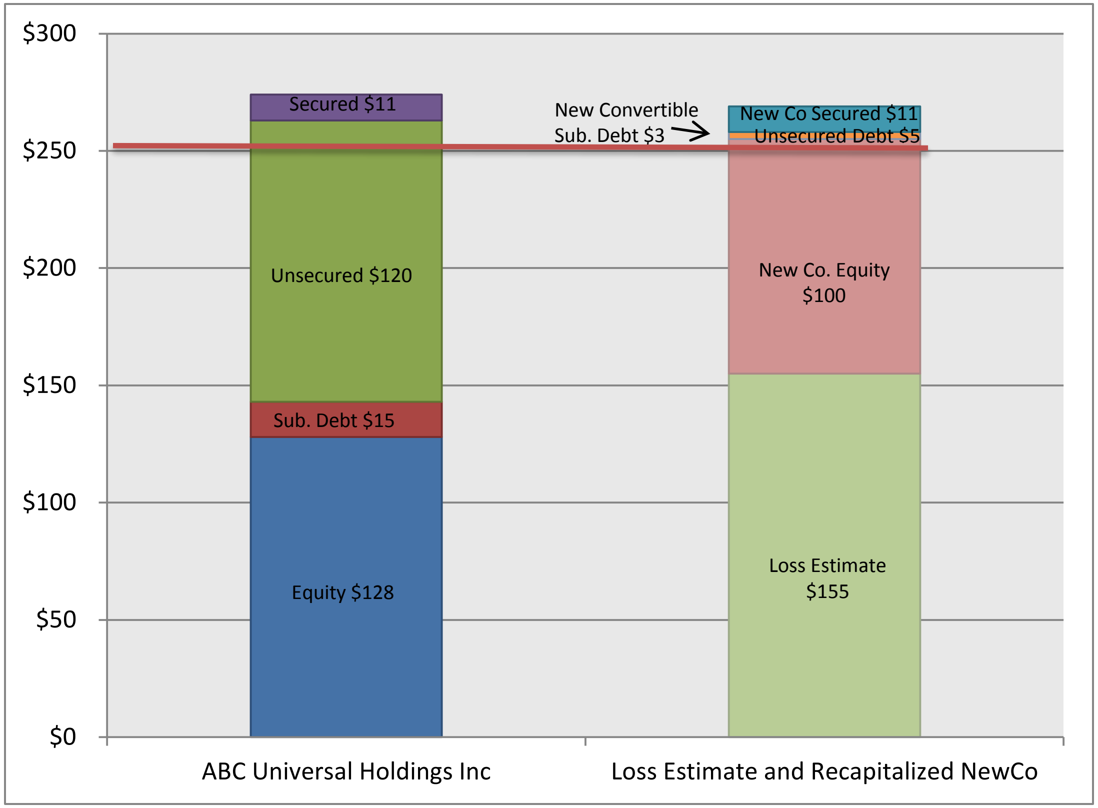
- Dodd-Frank Act sets claims priority
  - Shareholders' equity, subordinated debt and substantial portion of unsecured liabilities of holding company left in receivership
  - Certain claims (e.g. vendor claims) may be transferred to bridge company
    - Transfers that have a disparate impact only made if necessary to:
      - Maximize return to creditors left in receivership, and
      - Initiate and continue operations essential to the bridge company
    - FDIC has limited its discretion to treat similarly situated creditors differently

Resolution Process: Termination of Bridge Company

- Bridge company terminated upon FDIC approval of enforceable restructuring plan
- Creditor claims satisfied through exchange of claims for newly issued securities in a new holding company (NewCo) or companies (NewCos)
  - Valuation of bridge company
    - Fresh start accounting
    - Prepared by bridge company, accountants, and consultants
    - Final valuation reviewed by FDIC advisor and approved by the FDIC
  - Issuance and distribution of new equity, debt, and, possibly, contingent securities (warrants or options) in NewCo or NewCo(s)

Resolution Process: Capitalization of NewCo and Distribution of Losses

Claims Waterfall ($B)



Timeline for Resolution

Phase	Activity	Pre-failure	Determination, Appointment and Bridge Period	Post Recap
		Ongoing	Day: -5, -2, -1, 0, 30, 60, 90, 120, 150, 180-270	Ongoing
Resolution Planning	Resolution plan review; Title II planning			
	FDIC valuation			
Determination	FDIC board case / Orderly Liquidation Plan			
	Joint recommendation to UST Secretary (3 key process)			
	UST Secretary determination (with the President)			
	Judicial review (if applicable)			
Appointment	Receiver appointed; bridge chartered; board/CEO appointed			
Bridge / Receivership	**Remove management responsible for failure** (immediate/ongoing)			
	Operating agreement effective			
	Claims class determination			
	Claims bar			
	Valuation / prepare new financials / fairness opinion			
	Recapitalization & business / capital / liquidity plans approved			
	Issue new securities / terminate bridge			
	Agreement to Continue Restructuring Plan/ Approval of NewCo (or NewCos) BHC Application			
Post-Bridge	Restructuring / divestiture complete; resolvable in bankruptcy			

Failure

Recapitalization