Can Regulators End Too Big to Fail?
A Discussion of Dodd-Frank Resolution Planning

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Overview

• Title I vs Title II of Dodd-Frank

• Two Key Questions About Orderly Resolution

• Single Point of Entry vs Multiple Point of Entry Resolution
Dodd-Frank Title I

• Banks must demonstrate through resolution plans that they can achieve an orderly resolution through conventional bankruptcy.

• Regulators must either certify that banks have laid out a credible path to such resolution, or take steps to downsize and/or reorganize them so they can.
Dodd-Frank Title II

• Gives the FDIC receivership powers to achieve an orderly resolution

• Supported by a Treasury (public) liquidity financing mechanism.

• FDIC rulemakings vs bank plans

• Section 214 requires liquidation of bank.
Key Question #1: Is Orderly Resolution Even Possible?

• What makes resolution ‘orderly’?
• Limit economic disruption to third parties.
  – Fear of disruption > ad hoc taxpayer bailout.
• No taxpayer costs.
• Liquidate or restructure failing banks
  – ‘zombie banks’ create significant economic harm
  – Disorderly liquidation can also destroy economic value
Barriers to Orderly Resolution

• Size

• Complexity
  – International operations
  – Range of business lines and subsidiaries
  – Internal organization

• Need for financing sources scaled to bank size
Key Question #2: Is Resolution A ‘Disguised Bailout’?

- What if our orderly resolution mechanism involves substantial public support?
- What if our orderly resolution mechanism does not truly restructure the bank?
- What if the costs of orderly resolution fall on ‘innocent’ parties?
  – Retail depositors, middle class pensioners.
- Will our orderly resolution mechanism hold responsible parties accountable?
Single Point of Entry (SPOE)

- Resolution powers are applied directly only to the top-level holding company.
- Subsidiaries below the holding company are recapitalized using long-term debt held by the holding company.
- Recapitalized subsidiaries continue to operate, transferred to new entity.
- Advantages and Disadvantages
  - Feasibility? (Key Question #1)
  - Chance of ‘disguised bailout’? (Key Question #2)
Multiple Points of Entry (MPOE)

• Application of resolution powers directly to single or multiple subsidiaries.

• Individual subsidiaries may cease to operate, be broken off, or sold.

• Advantages and disadvantages.