

SYMPOSIUM ON BUILDING THE
FINANCIAL SYSTEM OF THE 21ST CENTURY:
AN AGENDA FOR EUROPE AND THE UNITED STATES
HAMPSHIRE, ENGLAND • MARCH 24-26, 2011



AGENDA

THURSDAY, MARCH 24

6:00-6:30 p.m. COCKTAIL RECEPTION *FOUR SEASONS BALLROOM*

6:30-6:40 p.m. GREETINGS *MANDEVILLE ROOM*

- Hal Scott, Nomura Professor, Harvard Law School and Director, Harvard Program on International Financial Systems (PIFS)
- Christine Farnish, Managing Director, Barclays
- Karel Lannoo, Chief Executive Officer, Centre for European Policy Studies

6:40-7:40 p.m. KEYNOTE ADDRESS *MANDEVILLE ROOM*

- Nadia Calviño, Deputy Director General, DG Internal Markets and Services, European Commission
- Sheila Bair, Chairman, U.S. Federal Deposit Insurance Corporation (FDIC)

7:45-9:15 p.m. DINNER *FOUR SEASONS BALLROOM*

9:15-10:30 p.m. AFTER-DINNER COCKTAILS *FOUR SEASONS BALLROOM*

FRIDAY, MARCH 25

7:15-8:00 a.m. BREAKFAST *MANDEVILLE ROOM*

8:15-8:25 a.m. WELCOME/OPENING REMARKS *FOUR SEASONS BALLROOM*

- Karel Lannoo, Chief Executive Officer, Centre for European Policy Studies

8:25-8:45 a.m. PANEL SESSION: *FOUR SEASONS BALLROOM*

Topic 1: Bridging the U.S. and Europe on Derivatives and Securitization

- Lewis B. Kaden, Vice Chairman, Citigroup Inc.
- Andrew Procter, Global Head of Government & Regulatory Affairs, Deutsche Bank AG

8:50-10:15 a.m. SMALL GROUP SESSIONS

Group	Room	Facilitators	Reporter
1	Four Seasons Ballroom	Mitch Coen, Stefan Gavell	Eric Morgan de Rivery
2	Mandeville Ballroom	Nick Collier, Heath Tarbert	Brandon Becker
3	Bathurst	Jose-Luis Guerro, Richard Kaye	Jane Welch
4	Beckington	Sebastian Fairhurst, Penelope Naas	Simon Gleeson
5	Shrewsbury	Lisa Rabbe, Peter Tils	Alastair Sutton
6	Mandeville Ballroom	Mark Austen, John Houston	Bill Grimes

10:15-10:25 a.m. REFRESHMENT BREAK *FOUR SEASONS BALLROOM*

10:25-10:45 a.m. PANEL SESSION *FOUR SEASONS BALLROOM*

Topic 2: Cross Border Resolution of Bank Failures

- David Benson, Vice Chairman, Risk and Regulatory Affairs, Nomura Holdings, Inc.
- Wilson Ervin, Senior Advisor to the Chief Executive Officer, Credit Suisse

10:50-12:15 p.m. SMALL GROUP SESSIONS

Group	Room	Facilitators	Reporter
1	Four Seasons Ballroom	Christine Farnish, Ken Dam	Brandon Becker
2	Mandeville Ballroom	Alan Houmann, Dagmar Linder	Eric Morgan de Rivery
3	Bathurst	Dominique Graber, Michel Maquil	Jane Welch
4	Beckington	Crispin Waymouth, Barbara Matthews	Simon Gleeson
5	Shrewbsury	Staffan Jerneck, Julianne Lee	Alastair Sutton
6	Mandeville Ballroom	James Babicz, Karel Lannoo	Bill Grimes

12:15-1:30 p.m. LUNCHEON KEYNOTE ADDRESS *SEASONS BISTRO*

- Mark Hoban, Financial Secretary, HM Treasury

Introduced by: Christine Farnish, Managing Director, Barclays

1:30-3:00 p.m. PANEL SESSION: PLENARY DISCUSSION

FOUR SEASONS BALLROOM

Topic 3: Regulation of Non Bank Financial Institutions

- Stephen Albrecht, Managing Director, Regulatory Affairs, GE Capital
- Brandon Becker, Executive Vice President and Chief Legal Officer, TIAA-CREF
- Gary Blank, Senior Vice President, Public Policy, Fidelity Investments
- Philippe Brahin, Head of Regulatory Affairs, SwissRe
- Ryan Randall, Director of Public Policy, Passport Capital LLC
- Nick Reinhardt, Chair International Financial and Regulatory Affairs and Senior Policy Advisor, Fleishman-Hillard
- Chris Bates, Partner, Clifford Chance LLP

Moderator: Hal Scott, Nomura Professor, Harvard Law School and Director, Harvard Program on International Financial Systems (PIFS)

3:00-6:00 p.m. FREE TIME

3:00-6:00 p.m. REPORTERS MEETING *BATHURST*

6:15-6:45 p.m. COCKTAIL RECEPTION *FOUR SEASONS BALLROOM*

6:45-7:45 p.m. KEYNOTE ADDRESS *MANDEVILLE BALLROOM*

- Sir David Wright, Vice Chairman, Barclays Capital
- Peter Fisher, Senior Managing Director and Head of Fixed Income, BlackRock, Inc.

7:45-9:15 p.m. DINNER *FOUR SEASONS BALLROOM*

9:15-10:30 p.m. AFTER-DINNER COCKTAILS *FOUR SEASONS BALLROOM*

SATURDAY, MARCH 26

***Please call the bellman to collect your luggage before the Saturday morning sessions. They will kindly pick-up and store your luggage in the front lobby.**

7:15-8:00 a.m. BREAKFAST MANDEVILLE BALLROOM

* Saturday Panelists, Chairs, and Reporters please sit at reserved tables.

8:15-9:15 a.m. PRESENTATION & DISCUSSION FOUR SEASONS BALLROOM

Topic 1: Bridging the U.S. and Europe on Derivatives and Securitization

- Stefan Gavell, Executive Vice President, and Head of Regulatory, Industry, and Government Affairs, State Street
- Edouard de Lencquesaing, Chief Executive Officer, European Institute of Financial Regulation, Paris Europlace

9:20-10:20 a.m. PRESENTATION & DISCUSSION FOUR SEASONS BALLROOM

Topic 2: Cross Border Resolution of Bank Failures

- Matt Hammerstein, Head of Group Strategy, Brand and Corporate Affairs, Barclays Plc
- Tom Huertas, Director, Banking Sector, Financial Services Authority (UK)

10:20-10:30 a.m. REFRESHMENT BREAK

10:30-11:45 a.m. PRESENTATION & DISCUSSION FOUR SEASONS BALLROOM

Perspectives on the Sovereign Debt Crisis

- Karel Lannoo, Chief Executive Officer, Centre for European Policy Studies (CEPS)
- Matthieu Pigasse, Chief Executive Officer, Lazard France, Vice-Chairman, Lazard Europe, Managing Director, Lazard Frères Banque
- Alastair Wilson, Chief Credit Officer, Europe, Moody's
- Steven Major, Global Head of Fixed Income Research, HSBC Global Banking and Markets
- Dick McCormack, Executive Vice Chairman, Bank of America Merrill Lynch
- Hal Scott, Nomura Professor, Harvard Law School and Director, Harvard Program on International Financial Systems (PIFS)

11:45-1:00 p.m. CLOSING LUNCH MANDEVILLE BALLROOM

Harvard Law School

Program on International Financial Systems

Symposium on Building the
Financial System of the 21st Century:
An Agenda for Europe and the United States

Hampshire, England • March 24–26, 2011

Final Report

With special thanks to our host sponsor:  **BARCLAYS**

2011 Symposium on Building the
Financial System of the 21st Century:
An Agenda for Europe and the United States



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Founded in 1986, the Harvard Law School Program on International Financial Systems (PIFS) fosters the exchange of ideas on capital markets, financial regulation, and international financial systems through its acclaimed portfolio of *Symposia on Building the Financial System of the 21st Century*. PIFS also conducts research and organizes special events on these topics.

Each year, PIFS bilateral Symposia bring together senior financial leaders, high-ranking government officials, and distinguished academics from the United States and their counterparts from China, Europe, Japan, and Latin America for intensive dialogue on issues affecting international capital markets.

Off-the-record and closed to the media, the invitation-only PIFS Symposia convene leading market practitioners at off-site retreat venues. The Symposia model features candid, intimate exchanges between global counterparts within small-group discussions. Keynote addresses and panel sessions serve to initiate and enhance the interactive, small-group dialogue, which is conducted under Chatham House Rules in order to foster an open exchange of ideas. These discussions are synthesized and presented on the final day of the Symposium in a plenary session, and then summarized and published in the following Symposium Final Report.

Program on International Financial Systems

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To access the Symposium final plenary presentation, panelist presentations,
and participant concept papers, please visit:

www.law.harvard.edu/programs/about/pifs/symposia/europe/index.html.

Symposium Final Report

The ninth Europe-U.S. Symposium was held in Hampshire, England from March 24-26, 2011. Sessions included regulation of derivatives and securitization, cross-border resolution of bank failures, regulation of non-bank financial institutions, and policies to address the sovereign debt crisis. While major European and U.S. financial institutions were seen as increasingly well-capitalized and stable, financial institutions and governments in a number of eurozone economies, particularly Greece and Portugal, were seen as more precarious. Derivatives and securitization markets had yet to recover, creating concerns for both issuers and investors. There was also pervasive uncertainty about a number of key components of the European, U.S., and global financial systems, including the designation and treatment of systemically-important financial institutions, management of cross-border resolutions of failed financial institutions, regulatory treatment of hybrid forms of capital, and mechanisms for the management of sovereign debt crises in the EU.

Session 1

Bridging the U.S. and Europe on Derivatives and Securitization

In Session 1, participants discussed a variety of issues surrounding derivatives and securitization markets. The use of clearinghouses (or central counterparties, CCPs) was a major object of discussion, with questions being raised about membership, risk concentration and management, and interoperability. There was also extensive discussion of other aspects of regulatory reform for derivatives, especially as it pertained to information and cross-border consistency. Finally, participants discussed whether it would be possible to revive securitization markets, particularly in Europe. Questions were raised about the effects of recent and pending regulation, as well as the respective roles of the public and private sectors in reinvigorating securitization markets. Throughout the discussion of Session 1, a common theme was concern over uncertainty regarding regulatory framework, as well as the likelihood of unintended or unanticipated consequences arising from new regulations.

REFORM OF DERIVATIVES REGULATION: OBJECTIVES AND REALITY

Participants agreed that several principles animated deliberations over reform of derivatives regulation, although there was significant skepticism that regulation would achieve these goals. They identified the key principles as reducing or at least better managing counterparty risk, increasing transparency, and improving global regulatory consistency.

Managing Counterparty Risk

Improving management of counterparty risk, so as to reduce systemic risk, was seen by many participants as perhaps the most central objective of derivatives regulatory reform. The global financial crisis made

clear to regulators, policymakers, and many market participants that the loss of trust in counterparties could provoke contagion through collateral calls and sales of assets, resulting in market illiquidity, downward price spirals, and insolvencies.

New regulations, including increases in collateral and liquidity requirements as well as a wholesale shift to centralized clearing, were seen as attempts to reduce the risk of contagion. However, each of these was also seen as having the potential for negative consequences. Some participants worried, for example, that centralized clearing would also mean concentration of risk. (See below for a detailed summary of the discussions of clearing.) Collateral and liquidity requirements were seen by many participants as likely to raise the costs of doing business, leading to a contraction in the potential

for derivatives markets to contribute to global credit. Some participants also warned that, rather than improving stability, excessively strict requirements might actually *increase* volatility if firms and financial institutions responded either by not hedging their risks or by shifting their risk management efforts to other, less regulated areas of the financial system.

Many participants agreed that legislative attempts to eliminate counterparty risk were doomed to failure. They argued that the best that could be hoped for was better management of counterparty risk. They agreed that much of the responsibility for counterparty risk management must fall on financial institutions themselves; however, there was relatively little discussion of how financial institutions might change their internal evaluation procedures.

Increased Transparency

Participants agreed that a key focus of regulatory reform in both Europe and the U.S. had been increasing transparency of derivatives markets. However, they identified two different ways in which regulators were thinking about transparency: trade reporting to markets and transaction reporting to officials.

Much of the public debate was seen to have focused on trade reporting to market participants, so as to allow potential buyers and sellers to better understand pricing in the market. Some participants applauded efforts to improve market transparency. They argued that it would improve fairness in a market that they saw as biased toward the interests of a small number of dealers. They also felt that it would improve liquidity and price discovery in the markets for standardized derivatives. Other participants were strongly opposed to such market transparency. They felt that analogies to the effects of transparency on the liquidity of stock markets were misguided, since even “standardized” derivatives would inevitably vary greatly in terms of both structure and counterparty risk. They also doubted whether market liquidity was as meaningful in a specialized market in which most purchasers were buying derivatives as business hedges rather than for the purposes of financial speculation.

There was more general support for transaction reporting to regulators. In particular, participants recognized the legitimate prudential interest that regulators might have in net positions. There was less unanimity with regard to reporting of every transaction made, with some participants wondering whether such data would be of use to regulators and expressing some concern about both the regulatory burden on derivatives markets participants and the ability of supervisors to process and make sense of it.

CENTRAL CLEARING OF DERIVATIVES

One of the most touted reforms of Dodd-Frank and other regulatory initiatives following the crisis was the decision to shift the trading of most derivatives to centralized clearing parties (CCPs, or clearinghouses). While questions remained at the time of the Symposium concerning the reforms’ scope, including the types of derivatives involved, participants understood that the principle of centralized clearing would animate decisions about derivatives market regulation for some time to come.

Expected Benefits, Potential Drawbacks

Participants acknowledged that legislators and regulators expected the principle of centralized clearing to bring about several benefits. Primary among these was better management of counterparty risk. Regulators hoped to prevent a recurrence of the dynamic whereby the global financial crisis, which began in the U.S. subprime housing market, had been amplified by a chain reaction of collateral calls and fire-sales that created a vicious cycle throughout the global financial system. Clearinghouses would be able to centralize netting, enforce consistent rules on collateral, and manage any defaults that might arise; ideally, this would prevent fears of counterparty default from becoming self-fulfilling prophecies. Furthermore, in the event of the failure of a participant, losses would be collectivized among clearinghouse members, thus preventing a possible chain of failures resulting from interconnected positions.

A second expected benefit was improved flow of information to regulators and markets. CCPs would be in a position to better aggregate and transmit data to regulators, including vital information on net positions. Trade repositories could also provide information to markets about supply, demand, and pricing of various standardized derivatives. (As noted above, not all participants saw the latter as a positive development.)

Greater use of CCPs could also contribute to standardization, which was seen by regulators and some participants as an important goal in reducing the potential for fire-sales of illiquid derivatives. Other participants felt that the push for standardization was a mistake, however, arguing that most purchasers of derivatives had very specific hedging needs that could be met more economically with customized products than with standardized derivatives (or combinations of standardized derivatives).

Finally, some participants raised the possibility that use of CCPs could help to reduce operational risk.

While acknowledging the potential benefits of increasing use of centralized clearing, participants also raised concerns about potential drawbacks. These were seen as unintended (albeit not necessarily unanticipated) consequences. Principal among these was that large-scale use of CCPs would not eliminate counterparty and operational risk; instead, it would concentrate them. Participants worried that these CCPs would be too big to fail—indeed, some warned that under the new regulatory regime, clearinghouses would become “Super-SIFIs.” At the least, participants agreed that CCPs would almost by definition need to be defined as “systemically important.”

One way in which CCPs would almost certainly seek to reduce counterparty risk would be through increased collateral requirements for issuers and end-users. While this would improve the ability of CCPs to manage a default and lower the cost of doing so, some participants worried that it would make standardized derivatives too expensive. Reduced use of standardized derivatives would, in turn, induce some end-users either not to hedge their risk exposure or to

move to less liquid parts of the financial system. Some participants also expressed concern that reducing use of derivatives would negatively affect global credit, especially at a time when higher capital requirements would be reducing bank lending. Others were less concerned; while acknowledging the possibility of negative effects on credit expansion and less extensive use of hedging, they suggested that the increased costs were an appropriate way to better reflect the social costs of financial contagion.

Some participants argued that another unintended consequence of regulations promoting centralized clearing could be the inhibiting of cross-border transactions, thus having the unintended consequences of reducing liquidity and concentrating risks within jurisdictions. They pointed out that derivatives are contracts and thus unlike securities such as stocks and bonds. They worried that standardization of derivatives would occur on the basis of the laws of host jurisdictions, which would not be identical across borders. Fragmentation of derivatives markets would be particularly harmful for firms and financial institutions based in smaller jurisdictions.

Operational Issues

Participants discussed several operational issues involving clearinghouses, including ownership, effective control, and competition.

Governance

A key issue in discussions was ownership of CCPs. Not only were there questions about what governments might mandate, but there was also an acknowledgement that the stated principles of safety and inclusiveness might be in conflict with each other. For some participants, the principle of safety was paramount—as they pointed out, the primary purpose of mandating centralized clearing of derivatives was to reduce systemic risk. Thus, they felt that ownership of CCPs should be confined to institutions that had the resources to absorb a default. They reasoned that only large, well-capitalized financial institutions would be in a position to do so. Other participants pointed out that such an

ownership structure would lead to concentration of ownership and reduce the number of competing CCPs. It would violate the principle of inclusiveness by excluding most financial institutions and virtually all end-users, and could lead to monopoly pricing. They felt that greater diversity of ownership, particularly inclusion of the buy as well as the sell side, would contribute to efficiency and fairness.

A closely related issue was governance. Some participants agreed with the principle that ownership of CCPs should be confined to institutions with the wherewithal to contribute in the event of a default, but also saw the need for end-users and others to have a voice in decisionmaking, including pricing. Others saw this as unworkable, arguing that such decisions would affect the likelihood of defaults, and that therefore only members with capital exposure should be allowed to make these decisions.

It was also noted that regulators were likely to have a large voice in all aspects of clearinghouse operations, regardless of ownership. This could include requiring inclusiveness of membership, setting transaction prices and collateral standards, and mandating reporting requirements. Some participants voiced concern that regulatory constraints might make it unattractive to financial institutions to take on equity participation in a clearinghouse.

Centralization vs. Competition

A number of participants flagged as an additional complication the problems of international interoperability of clearinghouses. If a means could not be found to ensure international interoperability, they expressed concern that derivatives markets would be simultaneously beset by excessive concentration (within jurisdictions) and fragmentation (across jurisdictions). They worried that this would be the worst of both worlds.

Finally, some participants saw even greater potential for conflicting regulation and supervision across jurisdictions if CCPs were to be recognized as SIFIs or “Super-SIFIs.” Since virtually all participants appeared to agree that CCPs would in fact be systemically important, the need for cross-border coordination

seemed all the more essential, albeit difficult to achieve.

Information Issues

In addition to governance, risk, and competition issues, participants discussed how clearinghouses would manage information. They discussed reporting requirements, data security, and market transparency.

One unanswered question was over what kind of data regulators would demand and what they would do with it. Several participants made the case that for prudential purposes, regulators should confine themselves to requiring information only on net exposures of end-users as well as capital adequacy of the clearinghouse itself. Others suggested that regulators were likely to demand data on transactions in order to have more complete information about the operations of clearinghouses. Several concerns were raised with respect to the data to be provided to regulators. One was the costs of compliance for CCPs and their members—the more extensive and detailed the information required, the more costly it would be to trade on CCPs. A number of participants also expressed skepticism that regulators would be able to make effective use of massive amounts of transaction data. And some expressed suspicion that regulators in some jurisdictions might improperly use such data to penalize firms for “speculation” or other politically unpopular purposes.

Questions were also raised about data security. Under the new rules, clearinghouses would need to obtain and manage massive amounts of proprietary data that would need to be handled securely and robustly. Some participants raised the possibility that member institutions might be able to make use of some CCP-controlled data for commercial purposes.

Finally, participants discussed issues of market transparency. They agreed that in general, information was fundamental to liquidity and stability. However, there was considerable disagreement among participants as to how much transparency would be appropriate to derivatives markets. Some argued that the buy-side would benefit

tremendously from knowing bid and ask prices on a more or less real-time basis. They reasoned that this would improve competition and reduce margins for dealers. They also cited the analogy to stock markets, where market transparency translates into liquidity. Other participants disagreed with that assessment. They felt that, by reducing the returns to the sell-side, dealers would have less interest in trading derivatives, and so complete transparency would ironically reduce liquidity.

INTERNATIONAL CONSIDERATIONS

International considerations were another major topic of discussion. Participants recognized the attractiveness of having cross-border derivative markets to diversify and manage risk. But while both markets and regulators agreed on the importance of cross-border openness, Symposium participants expressed considerable concern about how that could be achieved in practice.

One of the major barriers to cross-border markets in derivatives was seen to be differences in legal systems. What would happen, for example, if Dodd-Frank and European Market Infrastructure Regulation (EMIR) were to have conflicting clearing requirements? For this reason, a number of participants expressed the view that full regulatory convergence would not be feasible (even within the EU), except on principles. Mutual recognition was also agreed to be difficult to achieve, particularly across the Atlantic. If the EU and U.S. had different rules, this could result in EU firms not being able to use U.S. clearinghouses and vice versa, which could have a devastating impact on a market that is heavily cross-border.

At issue was not only the content of new rules on derivatives and clearing, which a number of participants described as promoting ring-fencing, but the differing rules, sequencing, and pace of regulation in differing jurisdictions. Conversely, some participants raised the hope that significant progress could be made in improving operational convergence, for example in standardizing documentation and data protocols. They felt that this might be as important

for internationally-active financial institutions as agreement on principles.

SECURITIZATION AND PROSPECTS OF REVITALIZING ABS MARKETS

While much of the discussion in Session 1 focused on derivatives regulation, there was also considerable discussion of securitization. Participants questioned how markets for asset-backed securities could be revitalized and discussed the effects of changing regulation on securitization.

A major concern of many participants was the weakened condition of ABS markets. While U.S. markets for asset-backed securities had declined considerably, the market in Europe was seen to have essentially collapsed. This was seen as a serious problem not only for the financial institutions involved in securitization, but also for credit markets in general, since ABS could in principle provide a channel for expansion of credit at a time when capital and liquidity requirements were likely to cause a contraction of bank lending. In particular, real estate lending was seen to be quite dependent on ABS markets.

In evaluating the differing conditions of the U.S. and European ABS markets, a number of participants pointed to the role of public actors. In particular, they argued that the Fed's Term Asset-Backed Securities Loan Facility (TALF) had been essential in maintaining liquidity in the U.S., whereas central banks and governments in Europe had not done the equivalent. With confidence returning to financial markets, private sector actors in the U.S. were again demanding ABS. In Europe, in contrast, there had been little demand, and thus little issuance of ABS, since the crisis began. Several participants worried that Europe was losing even the legal and financial expertise to create and trade asset-backed securities.

Some participants suggested that for Europe, covered bonds might constitute a substitute, but others were skeptical that there would be enough

new issue of covered bonds to make a meaningful difference. Another strategy that was suggested for revitalizing securitization was standardization. A number of participants felt that standardization of documentation and terms could significantly reduce transaction costs and could contribute to expansion of both transatlantic and European markets.

Some participants pointed to other factors that were affecting ABS markets. One issue that was raised was the lingering suspicions among European financial institutions and regulators about ABS, stemming from the experience with subprime mortgage-backed securities in the global crisis. Others felt that there were still questions about the quality of underlying assets, which undermined prospects for ABS markets. With credit rating agencies in disrepute, those questions loomed large for investors. While some suggested that high quality ABS might still be attractive, the relatively small pool of loans to reliable borrowers with significant down payments was seen as a limiting factor. Some participants suggested that the demand for asset-backed securities would revive only when housing markets restabilized and returned to an upward trend.

Finally, for nearly all participants, a key issue was regulation. Rules on risk assessment, capital adequacy, liquidity buffers, and retention were all seen to weigh heavily on securitization markets, even where the impact was unintentional. For issuers, the issue of retention, or “skin in the game,” was seen as particularly important. Partly, this was seen to be a problem of uncertainty, as regulators continued to work on the specific rules that would apply to different types of assets and financial institutions. Beyond the issue of uncertainty, a number of participants argued that many lenders would become more conservative in response to the requirement that they hold a significant amount of loans in their own lending books. While this might well make ABS less subject to unwanted volatility and thus more attractive for investors, these participants felt that it would reduce supply considerably.

A variety of regulations and other policies were seen to affect the buy-side as well. One issue was how banks and other regulated financial institutions

should go about assessing the risk of asset-backed securities. Financial reform in both the U.S. and Europe had come out against reliance on credit rating agencies. Many also recognized the uncertainty that had arisen as to how to treat ABS in terms of capital adequacy. Meanwhile, unlike in the U.S., the European Central Bank had been unwilling to accept ABS for repo operations, making them much less attractive as an asset.

Non-bank financial institutions were seen to be similarly constrained when it came to investing in asset-backed securities. Most glaringly, Solvency II rules were seen to make it essentially impossible for EU insurance companies to become major investors in ABS. In Europe, hedge funds were seen as somewhat constrained by the Alternative Investment Fund Managers Directive, and other regulated funds by UCITS.

Session 2

Cross-Border Resolution of Bank Failures

Session 2 addressed the issue of cross-border resolution of bank failures. Participants agreed that this was a crucial element in improving management of a future crisis. Discussion ranged from guidelines for resolution procedures to prevention of SIFI failure to legal infrastructure for cross-border resolutions. While there was considerable consensus regarding principles for cross-border bank resolution, there was more disagreement on how best to prevent failures and to work across borders to manage and contain them.

PRINCIPLES

One principle on which most participants agreed was that no financial institutions should be allowed to be too big or too complex to resolve. The limited choices available to national authorities—particularly in the U.S.—to address the failure of a complex bank holding company were seen to have contributed to the global crisis.

A key concern of all participants was to minimize aggregate losses. Participants agreed that bank failures were different from failures of other firms or financial institutions, due both to the public utility aspect of keeping the payments system working and to the central role that confidence and trust play in the banking business. Moreover, the danger of contagion had been clearly demonstrated during the recent crisis. Thus, participants emphasized the importance first of preventing SIFI failures and then of maintaining failed banks as going concerns. Participants agreed that it would be particularly important to improve cross-border procedures for maintaining failed banks as going concerns, as these were seen to be insufficiently developed.

In addition to the principle of minimizing aggregate losses, participants discussed at some length the distribution of costs in the event of a major bank failure. Participants agreed that costs to taxpayers should be minimized in order to avoid moral hazard problems. However, some participants were careful to distinguish their position from what they saw as politically-driven promises that taxpayers would never again have to bail out a financial institution. They argued that financial crises and the potential for contagion could not be completely eliminated. Thus, in some cases, it would be less costly for society to have public authorities support a financial institution without forcing it into bankruptcy, and have the financial sector pay for the cost afterwards. Others disagreed, arguing that the possibility of public bail-outs would have the effect of building moral hazard into the system.

With regard to how taxpayer impact should be minimized, three measures were discussed. One was prevention through maintenance of sufficient capital buffers within each bank. At a national level, there was also support for expanding resolution funds to meet the needs of a SIFI failure. There was also considerable discussion (summarized at greater

length below) about investor haircuts—while there was a clear consensus that investors should take the biggest hit, there was some disagreement about which investors should be affected, as well as concerns about potential rushes for the exits. Finally, returning to cross-border aspects, participants were clear that the principle for haircuts must be equal treatment for all investors of a given asset class, regardless of whether they are domestic or foreign.

PREVENTING SIFI FAILURE

Participants agreed that preventing failures of large, cross-border financial institutions was preferable to having to resolve them. The desire to improve the stability of such institutions had led legislators and regulators to strengthen supervisory standards, improve internal risk assessment and management, and to build in capital and liquidity buffers against crises. Of these, the issue of capital buffers received the most attention at the Symposium.

Capital Requirements

Participants' views regarding regulatory capital were mixed. While some supported the idea that significantly higher capital standards were appropriate in the wake of the global crisis, others worried that proposed capital standards were excessive and might indeed be counterproductive. The arguments in favor of stricter capital adequacy were straightforward: larger capital buffers would reduce the need for money to be injected either from resolution funds or public accounts. This argument would be further strengthened in the case of very large financial institutions based in small jurisdictions, as Swiss authorities had already decided.

In contrast, many participants expressed concern that capital requirements were too stringent. They noted that in addition to significant increases embodied in Basel III, a number of governments had imposed or were planning to impose even higher capital requirements for banks under their jurisdiction. On top of that, many major banks (as well as non-banks) could expect to be subject to an additional—albeit as yet undecided—SIFI capital surcharge. Finally,

designation as a globally systemically important financial institution (G-SIFI) would likely carry with it yet another, as yet undecided, capital surcharge.

These participants worried that high capital requirements would lead to lower return on equity for banks, and that lower ROE would have one or more of several negative effects on bank activities. First, they argued that banks would not be in a position to lend nearly as much, especially since poor returns would make further capital investments unattractive for potential investors. A second concern was that banks would pursue riskier activities in order to improve returns. While theoretically this should not occur, given the Basel calibration of capital to risk, in practice that calibration broke down. Alternatively, financial activity might leave the banking system altogether for less regulated institutions involved in potentially riskier transactions.

Bail-Ins and Contingent Capital

There was also considerable discussion of hybrid capital that had been proposed to supplement capital buffers. The discussion did not always distinguish between bail-ins and contingent capital (CoCo's), because the issues they raise were seen as highly similar even though the instruments themselves differ in a variety of ways. (CoCo's specifically indicate the trigger and conversion ratios in their contracts, while bail-ins do not. Rather, they leave both matters to regulators.)

Advocates of bail-ins and CoCo's felt that such hybrid capital could have the effect of reducing taxpayer liability without forcing banks to issue costly common shares. Using the example of CoCo's, they argued that the automatic conversion into equity when banks were most in need of capital could prevent bank failures as well as bank runs and losses of confidence. Moreover, since the price of CoCo's would fall relative to other junior debt when markets sensed that a financial institution was in trouble, advocates saw it as providing an extra measure of market discipline, since those debtholders would know that they would join equity investors in losing value if the bank went under.

An argument was also made that bail-ins would provide a better alternative to the use of bridge banks in dealing with complex financial conglomerates, particularly cross-border ones, as bail-ins would create more time in which regulators could work with the institutions to devise permanent solutions. But it was seen as critical that conversion to equity should not be treated as a default or trigger derivatives calls.

Other participants felt strongly that bail-ins and CoCo's would not be a positive development. While banks could benefit from lower-cost financing and a guarantee that hybrid capital would act like debt when they preferred debt and like equity when they needed capital, investors would be holding securities that acted like capital when they preferred debt. Potential investors thus felt that they would be taking on banks' risk in unpredictable ways and would likely price CoCo's or bailable debt like equity.

Participants also pointed to a variety of regulatory and legal uncertainties that would likely affect the attractiveness of hybrid capital to banks and investors alike. Some participants questioned, for example, how accounting would work for holders of such securities, particularly highly-regulated entities like insurance companies and pension funds (if they were allowed to invest in them): would mark-to-market be the right measure or would there be some other means of determining fair value? There was also great uncertainty as to how markets would price in the risk associated with bail-ins and CoCo's.

Underlying uncertainties in such day-to-day issues, participants felt that there remained significant uncertainties about what would happen to holders of hybrid capital in the event of a solvency crisis on the part of the issuer. For example, a key issue was how, when, and by whom conversion from debt to equity would be triggered. As one participant put it, "Whoever controls the trigger effectively controls the bank." There were further questions about how a bail-in would affect previously triggered CoCo's. Given national differences in financial regulation, the trigger would likely be held by different entities in different countries, from supervisory agencies to finance ministries to central banks, all of which might have differing incentives, capabilities, and preferences.

Without coordination, different subsidiary banks in a holding company would be treated differently. More important was the circumstances under which a bail-in conversion might be triggered. Participants assumed that conversion would need a bail-in to be triggered before actual insolvency, but there was great uncertainty about how authorities would judge the viability of a given financial institution. Political issues might also intrude—for example, if most holders of CoCo's were non-residents.

REGULATORY POWERS AND INFRASTRUCTURE

Returning to the main issue of resolving SIFIs, participants agreed that the global crisis had exposed serious gaps in regulation and supervisory capabilities in a number of countries. In the U.S., for example, the FDIC had well-established authority and capability to manage the failure of banks. Non-banks and bank holding companies were a different story, as demonstrated by the failure of Lehman. Regulatory reforms in both the U.S. and Europe accordingly focused on the resolution of complex institutions.

Resolving complex financial conglomerates was seen to pose a variety of sticky problems for regulators. Participants noted that in many cases, financial conglomerates possessed legal structures that did not necessarily parallel business functions. A widely-used example was a bank holding company structure, in which IT and risk management functions were maintained centrally in the holding company itself. In such a case, even if the bank or another business unit were to be healthy on its own, it would not be able to operate without the continued operation of the holding company; perhaps even worse, it might be forced to queue up with other customers or creditors in the event that the holding company become insolvent. Thus, some provision would have to be made to manage the whole conglomerate in an integrated manner as a going concern.

Participants recognized that one of the new tools in the regulatory toolkit to deal with resolutions was SIFI designation. Despite the widespread agreement

that it was important to eliminate “too big (or complex) to resolve,” there was disagreement about how systemic importance should be defined and the principals by which individual financial institutions should be designated as SIFIs for purposes of resolution. A number of participants argued that a size-based criterion could both overstate the systemic risk posed by financial institutions thus designated as SIFIs and understate the risk posed by smaller but more interconnected (or highly-leveraged) financial institutions. This question was particularly vigorously debated in the context of non-banks (see Session 3).

Participants expressed uncertainty as to how supervisory powers would be exerted to modify obligations of financial institutions (or, in the case of financial conglomerates, the obligations of functional units). Some participants felt that this ambiguity would be particularly relevant if some units or subsidiaries might be subject to standard bankruptcy courts rather than the financial resolution authority—while MOUs were being developed to bridge statutory and contractual regimes, participants were unsure whether these would be honored as planned.

Clarification of legal authority was not in itself seen to be sufficient to ensure that resolution of financial conglomerates would be smooth and orderly. While there were mixed opinions among participants as to whether it would be possible to plan effectively in advance for the dismemberment of a financial conglomerate, the concept of living wills was seen as a potentially important pillar of resolving complex financial institutions. Indeed, regulators and some financial institutions had already moved significantly in that direction.

Turning to practical matters, participants identified several factors that would come into play if national authorities were to actually trigger receivership of a SIFI. One was timing. A number of participants focused on the need for speed: with banks, resolution authorities aim to complete the main resolution plan over the course of a weekend so as to prevent loss of going concern value. This is an essential claimed virtue of a bail-in. Others agreed with the principle but felt that resolution of complex institutions would likely require more time to sort

out. Thus, they emphasized the importance of a clear regulatory framework to establish bridge banks to ensure business continuity (and in some cases, bad banks as a means of cleaning up balance sheets of troubled lenders).

It was also clear that having resolution funds in place was a necessary condition for successful resolution in most cases. But there were debates as to whether there should be additional levies for SIFIs—while some participants emphasized that SIFI failure could severely burden a general resolution fund, others argued that contribution rates should be risk-based rather than size-based, and that the biggest institutions were actually likely to be less risky than others, particularly with the enhanced scrutiny that would come with SIFI designation.

CROSS-BORDER ISSUES

While SIFI resolution was seen as inherently challenging, participants saw cross-border resolution to be much more so.

They described Europe as presenting a multiplicity of different legal environments for resolution of financial institutions, with the differences only accentuated when comparing transatlantically or globally. Depending on the jurisdiction, regulators may or may not be the resolution authority, initiation and implementation of resolution might be divided, and the respective roles of resolution funds and bankruptcy courts might further complicate the picture. For this reason, a strong argument was made that home-country management must be a basic principle in cross-border resolutions.

Participants raised several concerns about how such cross-border inconsistency could lead to problems. One issue raised was the potential for financial conglomerates to engage in regulatory or supervisory arbitrage. For example, financial institutions may choose to domicile themselves in jurisdictions where certain classes of investors, depositors, or creditors were better protected. A related concern was that some states might respond to the threat of regulatory arbitrage by ring-fencing operations under their authority. A number of participants

raised the example of Lehman as a cautionary tale about how different laws could favor different stakeholders. Differential treatment of foreigners was another concern, with many participants expressing disapproval of U.S. deposit insurance rules that give preferences to depositors who are U.S. residents.

To reduce the problems of regulatory arbitrage, as well as to efficiently handle the practical complications of resolution of failed transnational financial institutions, participants agreed that cross-border cooperation would be an important goal to try to attain. However, participants universally acknowledged the difficulty of accomplishing such cooperation. Not only did differing legal and regulatory systems create difficulties, but many participants worried that politics would work against cooperation as well, since the idea of helping out foreign investors, depositors, or creditors would not be attractive in many countries.

Even if the ideal of cross-border cooperation were honored, some participants saw significant incentives for ring-fencing if it appeared that the resolution of a financial institution based in a foreign country might impose significant costs on domestic actors. While some commentators had suggested subsidiarization as a solution to the problem, Symposium participants criticized the concept on the basis that it would render truly multinational management of financial institutions impossible by multiplying internal and external transaction costs and regulatory burden.

Thus, participants were left to focus on cooperative agreements to hardwire cross-border cooperation. Much of the actual cooperative activity among regulators had focused on creating common understandings and producing MOUs that enshrined the principle that cross-border resolutions should be led by home-country regulators and implemented according to home-country laws and procedures. This was seen by a number of participants as an expedient way of avoiding conflicts and ring-fencing, while also providing clarity about process.

Other participants were more skeptical that an MOU would constrain a government that was in a populist moment or that was about to lose significant

money either for itself or its taxpayers. They raised the question of whether it would be necessary to create legally binding treaties to ensure cooperation, although they agreed that this strategy would be particularly difficult. Another alternative would be for investors of a financial holding company, as well as its subsidiaries, to contract into a resolution regime of the company's home country.

One encouraging note about cross-border cooperation was the statement by some participants that it need not be particularly widespread to be effective. One suggested that, from a U.S. perspective, as long as the authorities were able to secure strong agreements with five to six major partners, that would address the vast bulk of cross-border issues.

Session 3

Regulation of Non-Bank Financial Institutions

Session 3 on Friday afternoon was conducted as a “Socratic dialogue” on the topic of regulation of non-bank financial institutions, with particular emphasis on SIFI designation, capital requirements, reporting requirements, and the Volcker Rule. Uncertainty was a major theme, as in discussion of other topics. There was also considerable debate over whether regulations written primarily with banks in mind should be applied directly to non-banks.

SIFI DESIGNATION

With all large financial institutions finding themselves potentially subject to being designated as systemically important by either domestic regulators or the Financial Stability Board (for G-SIFIs) for purposes of supervision, there was widespread interest as to how designation would be decided. In the U.S., this designation only affects non-bank financial institutions since under Dodd-Frank all bank holding companies with \$50 billion plus in assets are supervised by the Fed. Most financial institutions appeared to strongly wish to avoid such designation, as they expected that it would bring with it additional regulatory burdens, including higher capital requirements, restrictions on some areas of their business, and higher compliance costs. On the other hand, some thought such institutions might have a lower cost of capital due to the implicit guarantee against failure resulting from the designation.

With regard to non-banks, some participants saw the effects of SIFI designation on their business as potentially worse than for banks and bank

holding companies. The main concern was that SIFI designation might subject non-banks to a variety of constraints that would be essentially extensions of bank regulation. Non-banks, which already faced their own set of regulations based on function, would thus have to face a set of different rules that may or may not overlap (or conflict) with the requirements of their primary regulators. Some also made the argument that close scrutiny was more appropriate for banks than for other financial institutions, given the potential of a bank failure to rapidly disrupt the payments system.

Other participants defended the concept of designating non-banks as SIFIs, pointing out that some of the most problematic financial institutions in the recent crisis (AIG, Lehman) had in fact been non-banks. Given their potential to originate or amplify financial crises, these participants felt that at least some non-banks needed to be treated by macroprudential authorities as systemically important.

Discussion of specific financial institutions ranged over a variety of different types of non-banks, each of which presented its own set of challenges. Insurance

companies, for example, were seen already to be heavily and effectively regulated—in the EU through Solvency II and in the U.S. through a variety of state regulations. (Some participants suggested that U.S. insurance companies might be happy to accept SIFI designation if it meant that federal regulation would preempt regulation by 50+ states and dependencies, but they dismissed the possibility that would actually occur.) As a number of participants pointed out, it was the *unregulated* activities of insurance conglomerates such as AIG that had created problems; thus, they reasoned that the bigger problem was regulatory gaps rather than insufficient capital provisioning or information disclosure.

Money market funds received some debate, since they had increasingly been seen, particularly in the U.S., as a substitute for bank deposits. Some participants, pointed to the implicit guarantee not to “break the buck” as justifying bank-like regulation—and perhaps even account insurance—for MMFs. Others disagreed strongly, arguing that MMFs explicitly did not guarantee principal, that they were pass-through entities, and that there were already clear rules on the securities in which MMFs could invest. They dismissed in particular the suggestions that capital requirements or insurance funds should be mandated, although some were open to the idea that additional safeguards be put in place to ensure proper management of funds and of customers’ accounts. Moreover, they disputed the idea that MMFs would require a bank-like resolution procedure, since the value of shares was based entirely on the market value of securities held by the funds at any given time.

Opinions were also mixed with regard to alternative investment vehicles such as private equity and hedge funds. Despite the intense political criticism of such funds, a number of participants questioned whether it was appropriate to think of them as systemically important at all. Some pointed out that such funds had not been a major driver of the recent crisis. Others recognized the possibility that a highly-leveraged and highly-interconnected fund could create serious problems in the financial system, as Long-Term Credit Management had showed. But a number of those participants argued that the problem of over-leverage should best be addressed by better

scrutiny of the risk management practices of banks and other financial institutions that lent hedge funds money. There did appear to be two points of consensus. One was that hedge funds and private equity funds should not be immune from information disclosure requirements. The other was that, given the vast variations in size, business models, and business practices among alternative investment vehicles, regulation should be fitted to the profiles of each fund.

These points were mirrored in conclusions about regulatory reform concerning non-bank financial institutions in general. Participants agreed that for most financial institutions, regulators should be seeking to close functional gaps rather than simply making regulation stricter. To the extent that macroprudential regulators might seek to regulate non-banks as SIFIs, participants agreed that it should be done on a consolidated basis, as most European countries were already trying to do and FSOC was supposed to do. (That said, some participants argued that the whole idea of SIFI designation was misplaced; they preferred to see uniform regulation of *activities* designated as systemically important. It was noted in this regard that under Section 120 of Dodd-Frank, the FSOC was given the authority to recommend regulations to regulators in the interest of macroprudential policy.)

REGULATION OF NON-BANKS

Discussion also touched on other aspects of regulation of non-banks, particularly reporting requirements and the Volcker Rule. Discussion of reporting requirements could be roughly divided into recognition of the need to fill regulatory gaps and concerns over regulatory burden. Participants generally supported efforts to improve reporting for non-banks such as hedge funds that had previously escaped the kind of detailed reporting and disclosure rules that other financial institutions faced. It was recognized that hedge funds needed to provide more illumination about their activities to regulators. On the other hand, a number of participants expressed concern about disclosure for the sake of disclosure, arguing that costs of compliance were growing rapidly without necessarily improving

stability, since regulators would not be able to make effective use of much of the data being demanded.

There was also some discussion of how the Volcker Rule would affect U.S. non-banks. Some participants speculated that it would be a boon for non-banks, as the elimination of banks' proprietary trading operations would remove some of their keenest competition—as one participant put it, the Volcker Rule would be “a case study in unintended consequences.” Hedge funds, for example, would no longer have to face competition in trading from their prime brokers. Other non-banks would not benefit in the same way, since at least some would be subject to the Volcker Rule if there were a bank in the conglomerate structure—for example, at least some mutual funds companies also maintained an online bank or trust bank to handle certain financial operations. Some participants also noted with concern the possibility that the UK would impose a limited version of the Volcker Rule (applying only to retail banks) as a reflection of continuing popular anger at the failure of major financial institutions in the crisis.

A recurring point in discussions of the Volcker Rule, as in discussions of capital requirements, was that these measures would likely reduce credit creation by the banking system. Many participants worried that there was nowhere in the system where financial institutions would be in a position to make up for the shortfall, and thus that prospects for overall economic growth in the U.S. and Europe would be damaged.

Session 4

Perspectives on the Sovereign Debt Crisis

The final session stepped away from discussion of financial regulation and focused instead on the ongoing sovereign debt crisis in the eurozone. Having been taken by surprise by the Greek crisis, which was soon compounded by parallel problems in Portugal and Ireland, the eurozone had been forced to respond on a collective basis. Following the initial *ad hoc* response to the Greek crisis, eurozone policymakers had negotiated a series of bail-out mechanisms, culminating in the creation of the permanent European Stability Mechanism (ESM), set for June 2013. (Indeed, the European Council's announcement about the ESM occurred during the Symposium.) Despite the establishment of a variety of means of crisis management, however, many participants remained skeptical of their likely effectiveness.

SOURCES OF INSTABILITY

Participants expressed continuing deep concern about sovereign risk in the eurozone. Although there was optimism about the sustainability of Italian and Spanish sovereign debt, the problems of Portugal, Ireland, and Greece were seen to be more intractable. Participants noted that markets were increasingly predicting defaults or restructuring for Greece and Portugal, while Ireland appeared set to have to take on additional fiscal burden to stabilize its financial system.

Private investors' reticence to continue to amass sovereign debt from peripheral economies had already led to significant support from the ECB, the European Financial Stability Facility (EFSF), and the European Financial Stabilization Mechanism (EFSM), with the result that public authorities were holding increasing amounts of that debt. At the same time,

the large stocks of peripheral economy sovereign debt held by banks in fiscally stable European economies meant that financial systems in those countries could come under pressure as well if restructuring were to occur. Worse, some participants noted that, since the IMF, ECB, EFSF, and EFSM would be senior to other debtholders, any haircut would be imposed solely on private investors, raising the likely hit to principal in the event of a restructuring.

There was also some discussion of the U.S. as a potential source of instability, based on the rapidly increasing national debt, continued fiscal policy stalemate, and ongoing quantitative easing. There was little sense of an imminent crisis, however. The greater concerns were about the ability of the U.S. political system to deliver a credible medium-term deficit reduction plan, given the intransigence of actors across the political spectrum. Optimists predicted a pragmatic compromise, but only after the 2012

elections. Others worried that only halfway solutions were likely, but no one predicted a U.S. sovereign debt crisis.

Some participants predicted that monetary policy developments would soon pose more serious problems for highly-indebted governments. Most expected that the ECB would soon begin raising interest rates to dampen inflation, and that this would add significantly to the repayment burden of indebted governments. The same possibility was raised for the U.S., but with much lower probability assigned to rapid interest rate hikes.

INSTITUTIONAL RESPONSES IN THE EUROZONE

Despite the travails of peripheral eurozone economies in the wake of the global crisis, participants were impressed by the continuing commitment of governments to supporting the common currency. Since the onset of the Greek crisis, eurozone countries had already established two bail-out mechanisms (EFSF and EFSM, totaling €500 billion) and had just agreed to supplant them with a third (ESM, with €700 billion). The ESM blueprint included strict conditionality, no joint liability of contributing governments, provisions for cooperation with the IMF, preferred creditor status for the ESM in the event of subsequent debt restructuring, and the prospect of private creditor loss. The announced purpose of the ESM and its predecessors was to support governments facing liquidity crises, not to lend into cases of actual insolvency (to the extent that a country can ever be regarded as truly insolvent); rescue loans would be meant to buy governments time to put fiscal policy changes into place and begin to improve their ability to pay back debtholders.

In addition to the ESM, eurozone countries sought to reconstruct the tattered Growth and Stability Pact, in the form of a new Europe Plus Pact that sought to address Germany's concerns about eurozone economies' competitiveness and mandated greater automaticity of sanctions for violations of the agreement. Despite the novelty of these new features and the intent of eurozone governments to make

them stick, many participants were skeptical about their ability to constrain sovereign states' behavior.

A third component of the eurozone's crisis management and prevention strategy was the decision to include collective action clauses (CACs) in all new eurozone sovereign debt issues starting in mid-2013. While participants agreed that CACs might improve the efficiency of restructuring, there were a variety of questions about how they would work, including trigger mechanisms, the likely voting behavior of the ECB and other official or semi-official creditors, and the legal status of CACs in various jurisdictions.

EFFECTIVENESS AND IMPLICATIONS FOR FINANCIAL STABILITY

There was considerable discussion about how the current situation and the new institutional arrangements would play out over time. Participants offered a variety of answers.

Participants noted that many financial institutions in Europe were likely to be affected. In the near term, there was a consensus that banks would engage in a flight to quality and that new debt issues by fiscally challenged governments would need to be placed with public institutions, whether domestically or through the eurozone rescue mechanisms. Going forward, the increasing shares of peripheral economies' sovereign debt held by official actors would mean an increase of the potential haircut for private investors; this in turn was seen as making sell-offs by private investors more likely, increasing the risk of further liquidity crises arising. Participants also felt that the dynamic would make reentry of private investors into sovereign debt markets ever more remote, and wondered when and how sovereign debt markets for peripheral eurozone economies would start working again.

The impact of CACs was another question mark. While participants were generally supportive of the clauses as a means of making restructuring more orderly and predictable, some worried that private investors would shun them. In particular, some participants suggested that the inclusion of CACs

would make it unavoidable that sovereign debt holdings of banks would be made subject to capital requirement risk weighting—as one asked, how long can haircuts and zero risk-weighting co-exist?

The increasing likelihood of debt restructuring in some peripheral economies raised additional uncomfortable questions for regulators. Some asked if assumptions of haircuts would be built in to bank stress testing or prudential supervision of insurance companies. There were also some doubts about whether national or EU macroprudential regulators would be willing to warn the financial institutions under their jurisdiction about the growth of “sovereign bubbles.” Finally, there was considerable uncertainty as to how certain debtholders might vote if CACs were activated—for example, would a Portuguese public employees’ pension fund vote on behalf of the workers it represented or in support of the government, or be excluded from voting at all? (Domestic creditors controlled by the government have been excluded from voting in emerging market CACs.) The answer would presumably be of great interest to private debtholders.

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Symposium Agenda

THURSDAY, MARCH 24

6:30–6:40 p.m. GREETINGS

- Hal S. Scott, Nomura Professor, Harvard Law School and Director, Harvard Program on International Financial Systems (PIFS)
- Christine Farnish, Managing Director, Barclays
- Karel Lannoo, Chief Executive Officer, Centre for European Policy Studies (CEPS)

6:40–7:40 p.m. KEYNOTE ADDRESS

- Nadia Calviño, Deputy Director General, DG Internal Markets and Services, European Commission
- Sheila Bair, Chairman, U.S. Federal Deposit Insurance Corporation

FRIDAY, MARCH 25

8:15–8:25 a.m. WELCOME AND OPENING REMARKS

- Karel Lannoo, Chief Executive Officer, Centre for European Policy Studies (CEPS)

8:25–8:45 a.m. PANEL SESSION

Topic 1: Bridging the U.S. and Europe on Derivatives and Securitization

- Lewis B. Kaden, Vice Chairman, Citigroup Inc.
- Andrew Procter, Global Head of Government and Regulatory Affairs, Deutsche Bank AG

8:50–10:15 a.m. SMALL GROUP SESSIONS

Group

- 1 *Facilitator:* Mitch Coen, Director, Government Relations, Barclays Capital
Facilitator: Stefan Gavell, Executive Vice President and Head of Regulatory, Industry, and Government Affairs, State Street
Reporter: Eric Morgan de Rivery, Partner, Jones Day
- 2 *Facilitator:* Nick Collier, Head of European Government Affairs, Thomson Reuters
Facilitator: Heath Tarbert, Senior Counsel, Weil, Gotshal & Manges LLP
Reporter: Brandon Becker, Executive Vice President and Chief Legal Officer, TIAA-CREF
- 3 *Facilitator:* Jose-Luis Guerro, Co-Head of Global Markets, HSBC Bank Plc
Facilitator: Richard Kaye, Head of Government Relations, EMEA, JPMorgan Chase & Co.
Reporter: Jane Welch, Visiting Fellow, European Financial Services Law, British Institute International and Comparative Law
- 4 *Facilitator:* Sebastian Fairhurst, Secretary General, European Financial Services Round Table
Facilitator: Penelope Naas, Managing Director, European Government Affairs, Citi
Reporter: Simon Gleeson, Partner, Clifford Chance LLP
- 5 *Facilitator:* Lisa Rabbe, Managing Director, Credit Suisse Securities (Europe) Limited
Facilitator: Peter Tils, Chief Executive Officer, Central and Eastern Europe, Deutsche Bank AG
Reporter: Alastair Sutton, Lawyer, Private Practice
- 6 *Facilitator:* Mark Austen, Chief Operating Officer, Association for Financial Markets in Europe (AFME)
Facilitator: John Houston, Senior Partner, Kreab Gavin Anderson
Reporter: Bill Grimes, Professor and Department Chair of International Relations, Boston University

10:25–10:45 a.m. PANEL SESSION

Topic 2: Cross-Border Resolution of Bank Failures

- David Benson, Vice Chairman, Risk and Regulatory Affairs, Nomura Holdings, Inc.
- Wilson Ervin, Senior Advisor to the Chief Executive Officer, Credit Suisse

Group

- 1 *Facilitator:* Christine Farnish, Managing Director, Barclays
Facilitator: Ken Dam, Max Pam Professor Emeritus of American and Foreign Law and Senior Lecturer, University of Chicago Law School
Reporter: Brandon Becker, Executive Vice President and Chief Legal Officer, TIAA-CREF
- 2 *Facilitator:* Alan Houmann, Managing Director, European Government Affairs, Citi
Facilitator: Dagmar Linder, Managing Director, Regional Management Central and Eastern Europe, Deutsche Bank AG
Reporter: Eric Morgan de Rivery, Partner, Jones Day
- 3 *Facilitator:* Dominique Graber, Co-Head of Group Prudential and Public Affairs, BNP Paribas
Facilitator: Michel Maquil, President and Chief Executive Officer, Luxembourg Stock Exchange
Reporter: Jane Welch, Visiting Fellow, European Financial Services Law, British Institute International and Comparative Law
- 4 *Facilitator:* Crispin Waymouth, Policy Advisor, Institute of International Finance
Facilitator: Barbara Matthews, Managing Director, BCM International Regulatory Analytics LLC
Reporter: Simon Gleeson, Partner, Clifford Chance LLP
- 5 *Facilitator:* Staffan Jerneck, Director and Director of Corporate Relations, Centre for European Policy Studies (CEPS)
Facilitator: Julianne Lee, Head of Public Affairs, Nomura International
Reporter: Alastair Sutton, Lawyer, Private Practice
- 6 *Facilitator:* James Babicz, Head of Risk, UK, SAS
Facilitator: Karel Lannoo, Chief Executive Officer, Centre for European Policy Studies (CEPS)
Reporter: Bill Grimes, Professor and Department Chair of International Relations, Boston University

12:15–1:30 p.m. **LUNCHEON KEYNOTE ADDRESS**

- Mark Hoban, Financial Secretary, HM Treasury
Introduced by: Christine Farnish, Managing Director, Barclays

1:30–3:00 p.m. **PANEL SESSION: PLENARY DISCUSSION**

Topic 3: Regulation of Non Bank Financial Institutions

- Stephen Albrecht, Managing Director, Regulatory Affairs, GE Capital
 - Brandon Becker, Executive Vice President and Chief Legal Officer, TIAA-CREF
 - Gary Blank, Senior Vice President, Public Policy, Fidelity Investments
 - Philippe Brahin, Head of Regulatory Affairs, Swiss Re
 - Ryan Randall, Director of Public Policy, Passport Capital LLC
 - Nick Reinhardt, Chair International Financial and Regulatory Affairs and Senior Policy Advisor, Fleishman-Hillard
 - Chris Bates, Partner, Clifford Chance LLP
- Moderator:* Hal S. Scott, Nomura Professor, Harvard Law School and Director, Harvard Program on International Financial Systems (PIFS)

3:00–6:00 p.m. **REPORTERS MEETING**

6:45–7:45 p.m. **KEYNOTE ADDRESS**

- Sir David Wright, Vice Chairman, Barclays Capital
- Peter Fisher, Senior Managing Director and Head of Fixed Income, BlackRock, Inc.

SATURDAY, MARCH 26

8:15–9:15 a.m. **PRESENTATION AND DISCUSSION**

Topic 1: Bridging the U.S. and Europe on Derivatives and Securitization

- Stefan Gavell, Executive Vice President and Head of Regulatory, Industry, and Government Affairs, State Street
- Edouard de Lencquesaing, Chief Executive Officer, European Institute of Financial Regulation (EIFR), Paris EUROPLACE

9:20–10:20 a.m. **PRESENTATION AND DISCUSSION**

Topic 2: Cross-Border Resolution of Bank Failures

- Matt Hammerstein, Head of Group Strategy, Brand, and Corporate Affairs, Barclays Plc
- Tom Huertas, Director, Banking Sector, Financial Services Authority (UK)

10:30–11:45 a.m. **PRESENTATION AND DISCUSSION**

Perspectives on the Sovereign Debt Crisis

- Karel Lannoo, Chief Executive Officer, Centre for European Policy Studies (CEPS)
- Alastair Wilson, Chief Credit Officer, Europe, Moody's Investors Services Ltd
- Steven Major, Global Head of Fixed Income Research, HSBC Global Banking and Markets
- Dick McCormack, Executive Vice Chairman, Bank of America Merrill Lynch
- Hal S. Scott, Nomura Professor, Harvard Law School and Director, Harvard Program on International Financial Systems (PIFS)

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Paris EUROPLACE gathers and echoes the positions expressed by the market players and conducts the following activities:

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