



# The Orderly Liquidation Authority: Framework and Issues

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# Orderly Liquidation Authority:

## Overview

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- **Purpose**

- Fundamental goal to resolve a failing SIFI while mitigating the systemic consequences and without a taxpayer bailout
- Bankruptcy remains the primary resolution process – OLA only if Bankruptcy could not mitigate the systemic consequences

- **Initiating OLA**

- Applies only to “financial companies” – predominantly engaged in financial activities
- Only if use of normal insolvency processes would have “serious adverse effects on financial stability” of the U.S.
- Requires special process: recommendation by 2/3 majority of Board of Governors and FDIC Boards (different if a broker-dealer or insurer involved) to Treasury Secretary - who decides whether to invoke after consultation with the President
- Company can consent or appeal to judicial review – which must take place within 24 hours

# Orderly Liquidation Authority:

## Overview (continued)

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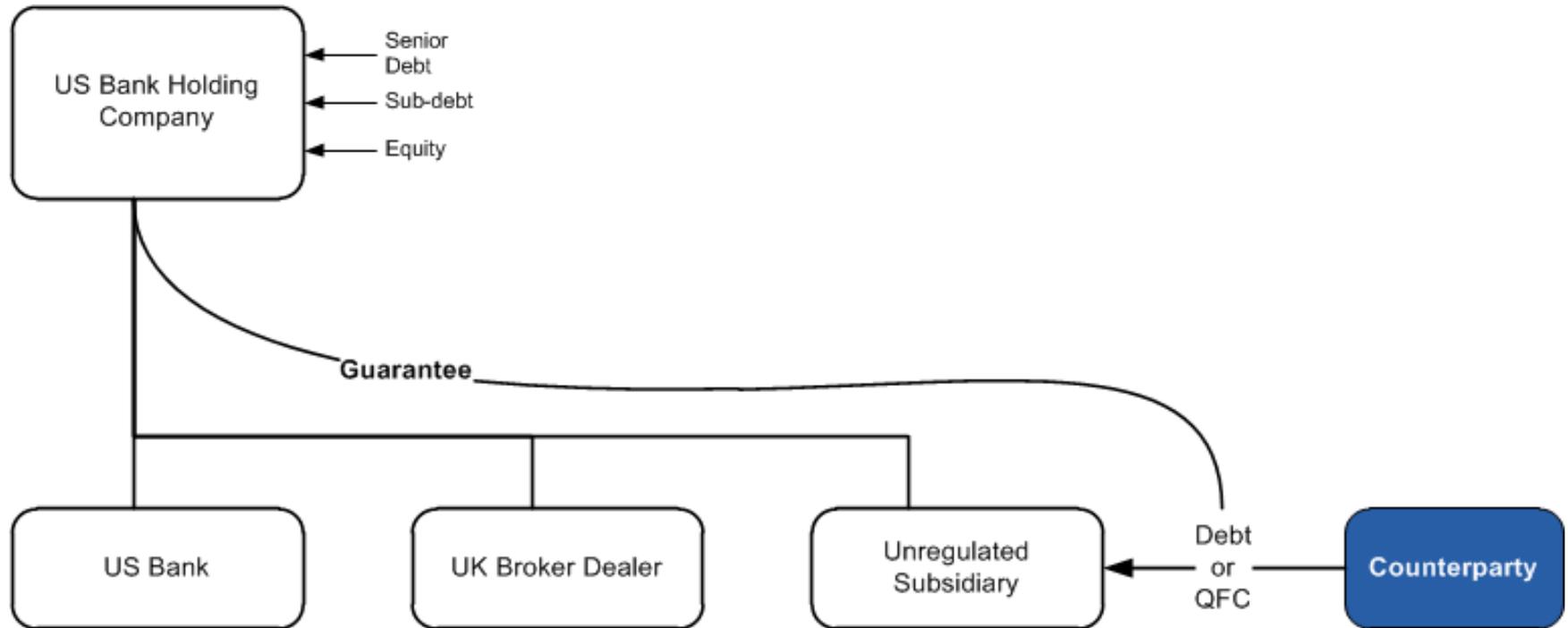
### ■ **FDIC Powers as Receiver**

- Immediate authority to transfer assets or liabilities to a buyer or a newly chartered Bridge Financial Company
- Bridge Financial Company can continue operations of failed financial company
- Creditors are paid pursuant to a statutory priority for distribution of proceeds from resolution
  - Treatment of similarly situated creditors
  - Statutory minimum recovery requirement
  - Authority to pay certain creditors more – to maximize value, essential to operations, minimize the amount of any loss
- Qualified Financial Contracts, Cross-defaults and Section 210(c)(16)

### ■ **Funding**

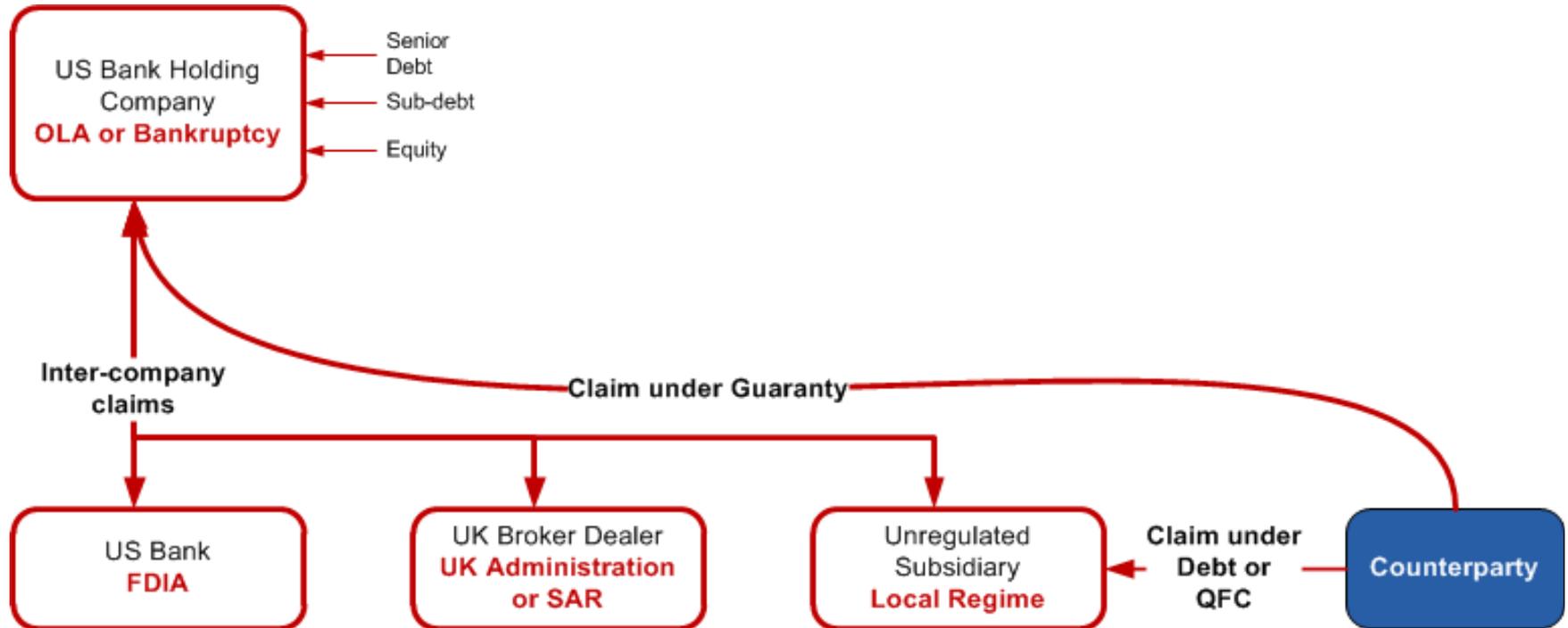
- Funding from the Orderly Liquidation Fund – a Treasury line of credit
- Repaid from preferred priority from proceeds of resolution
- If insufficient, then through assessments against SIFIs

# Hypothetical US-based Financial Group



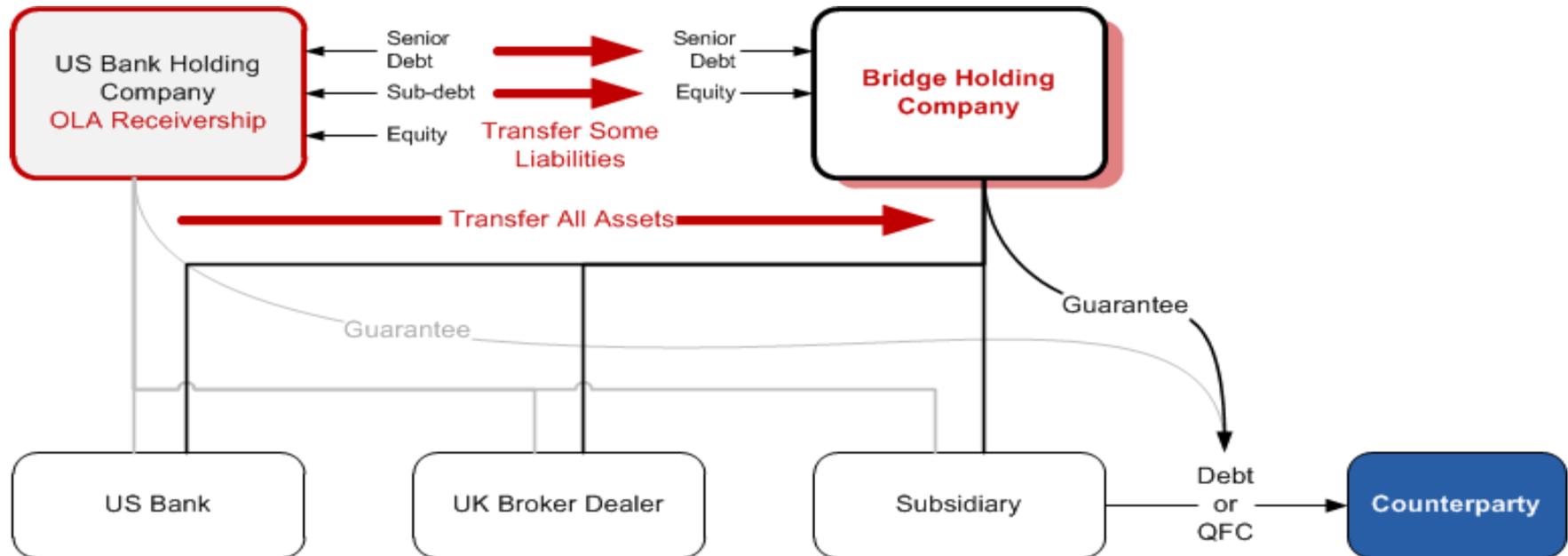
- US non-operating holding company with operating subsidiaries in multiple jurisdictions
- Parent guarantees certain subsidiary obligations to counterparties, including QFCs
- Holding company capital stack
  - Senior debt → Subordinated debt → Equity

# Resolution Strategies – MPOE

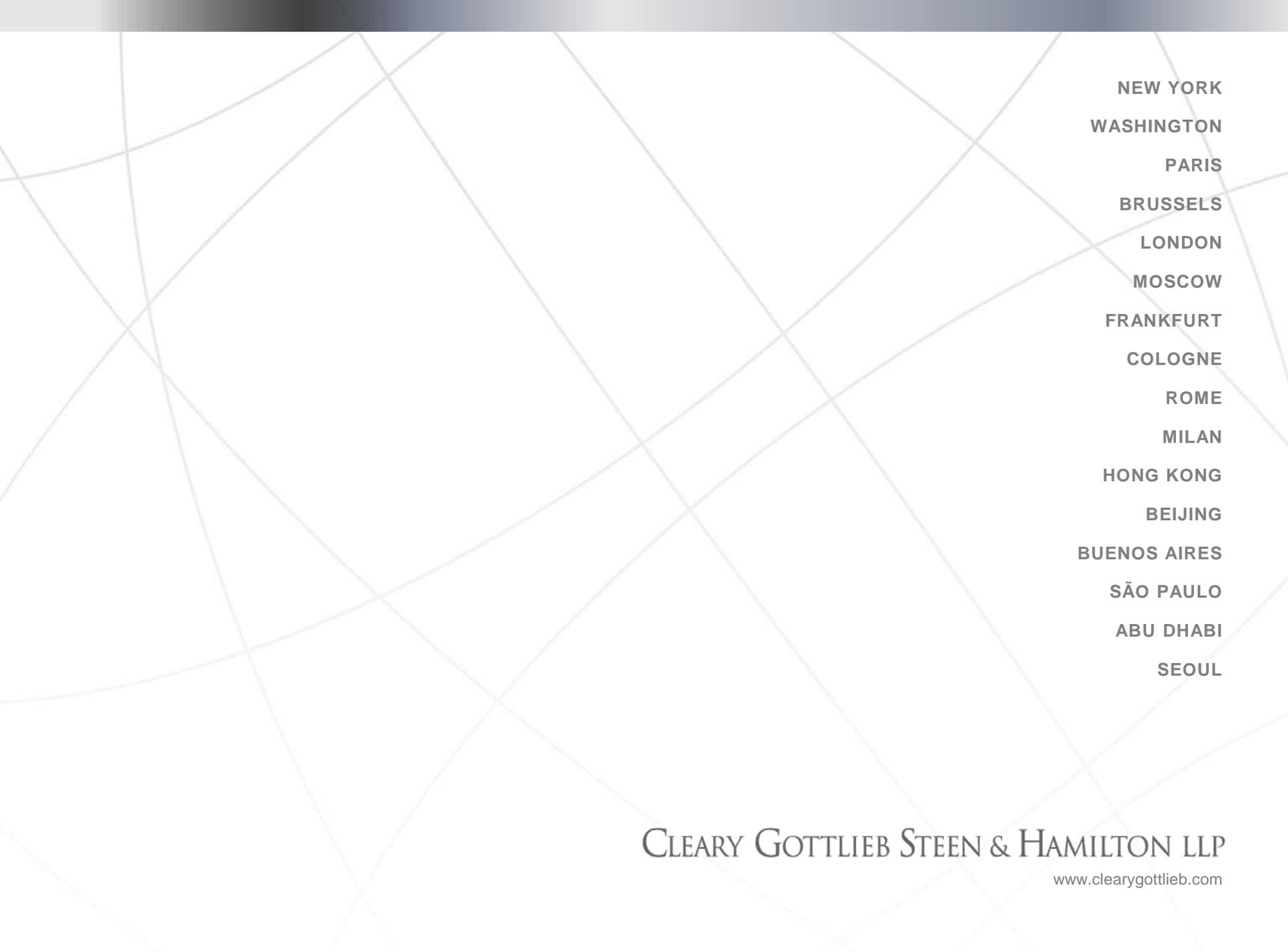


- All entities in insolvency proceedings
- Requires coordination of multiple resolution authorities and regimes
- Can raise challenges for certain group structures, including “de-grouping,” complex inter-company claims, trapping of liquidity, loss of access to key shared services
- The preferred approach for other group structures, particularly groups that fund at the operating company level and where subsidiaries are largely self contained

## Resolution Strategies – SPOE (Recapitalization under OLA)



- Only HoldCo enters receivership; subsidiaries continue operating outside of resolution
- HoldCo assets (primarily equity in subsidiaries) transferred to Bridge over the weekend
- Certain liabilities transferred to Bridge, likely over time
- Cross-defaults nullified by transfer of parent guarantees or giving “adequate protection”
- Subsidiaries recapitalized by down-streaming funds or forgiving intercompany debt
- Liquidity provided by the Orderly Liquidation Fund
- Exit: equity in Bridge is issued to new investors, left-behind creditors, or both



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