CLEARY GOTTLIEB Details and Differences of banks rescue packages France Antoine Winckler March 4th, 2008

© 2008 Cleary Gottlieb Steen & Hamilton LLP. All rights reserved.

Outline

- I- Description of the French Scheme
- II- Commission Assessment of the Scheme
- III- Action Plan to Save Dexia
- IV- New Developments and Comments

RES BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARIS BRUSSELS LONDO
russels london moscow frankfurt cold Die rome milan h <mark>ong kong</mark> beling <mark>new york</mark> washington <mark>paris</mark> brussels <mark>london</mark> m
SELS LONDON MOSCOW FRANKFURT COLOGN—OME MILAN HONG KONG BEIING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCO
LONDON MOSCOW FRANCFURT COLOGNE ROAD MILAN HONG KONG BEJING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW F
don moscow erankfurt cologne rome . Dan hong kong beijing new york washington paris erussels london moscow fran
MOSCOW FRANKFURT COLOGNE ROME MILA CONG KONG BELING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFU
COW FRANKFURT COLOGNE ROME MILAN HO KONG BEIJING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT C
FRANKFURT COLOGNE ROME MILAN HONG HANG BELING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOG
ANKEURT COLOCIUE ROME MILAN HOM <mark>G KON (1) ING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE F</mark>
FURT COLOGNE ROME MILLAL M <mark>ONG KONG BEJJING NEW YORK</mark> WASHINGTON PARIS BRUSSELS <mark>LONDON</mark> MOSCOW FRANKFURT COLOGNE ROM
COLOGNE ROME MILM H ONG KONG BEIJING MATY YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MIL
OGME ROME MILAN HONG KONG BEUING NEV Y) PRK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN I
EROME MILAN HO <mark>NG KONG BELING NEW YORK</mark> MASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HON
ME MILAN HONG KONG HUJING N <mark>ew york w. P. Hington Paris</mark> brussels <mark>London</mark> Moscaw frankfu ry cologne <mark>rome</mark> milan H <mark>ong Ko</mark>
ALIAN HONG KONG BEJING NEW YORK WALHING TON <mark>PARIS BRUSSELS LONDON</mark> MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG F
N HONG KONG BEIING NEW YORK WASHINGTOL <mark>i aris brussels london</mark> moscow Frankfurt co logne <mark>rome</mark> milan <mark>hong kong</mark> Belin
NG KONG BEJING NEW YORK WASHINGTON PARIS BRUSSELS LOMBON NOSCOW FR <mark>ankfurt cologne rome</mark> milan <mark>hong kong</mark> Bejing N
KONG HEDING NEW YORK WASHINGTON PARK (*) USSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BEDING NEW Y
G BELING NEW YORK WASHINGTON PARIS BRU. LES LONDON MOSCOVY FRANKFURT COLOGNE ROME MILAN HONG KONG BELING NEW YORK
ING NEW YORK WASHINGTON PARIS BRUSSELS FOLIDON MOSCOW FRANKFURT COLOGNE ROME MILAN MONG KONG BEJING NEW YORK WA
NEW YORK WASHINGTON PARIS IRUSSELS LONDO I MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KÖNG BEIJING NEW YORK WASHIN
I YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLDGNE <mark>ROME MILAN HONG KONG</mark> BEJING NEW YORK WASHINGTON
ak yashington paris brussels london moʻcow frankfurt cologne r <mark>ome milan hong kong beling new york</mark> washington <mark>paf</mark>
ASHINGTON PARIS BRUSSELS LONDON MOSCO - LANKFURT COLOGNE ROME MILAN H <mark>ong kong</mark> belin <mark>g new york</mark> washington <mark>paris b</mark> i
THE PARTY HAVE BEEN WHEN THE STATE OF THE PARTY NAME OF THE PARTY NAME OF THE PARTY

MILAN MER KONG BELLING NEW YORK WASHINGTON PARIS BRUSSELS LONI

BERUSELS HONG KONG BELLING NEW YORK WASHINGTON PARIS BRUSSELS

UGGN ROME MILAN HONG KONG BELLING NEW YORK WASHINGTON PARIS B

T COLOCAL ROME MILAN HONG KONG BELLING NEW YORK WASHINGTON PARIS

FURT COLOCAL ROME MILAN HONG KONG BELLING NEW YORK WASHINGTON

RANK FURT COLOCAL ROME MILAN HONG KONG BELLING NEW YORK WASHING

NO CHE MANK FURT COLOCAL ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER ROME MILAN HONG KONG BELLING NEW YORK

MO CHE FALLEN HONG TOLOGER FOR HONG MEN HONG TOLOGER WORK WASHING WELL WASHING NEW YORK WASHING WELL WASHING NEW YORK WASHING WELL WASH

The Guarantee Scheme

- Creation of a <u>Société de Financement de l'Economie Française</u> (SFEF)
 - Purpose: Issuing debt securities with State guarantee to grant loans to credit institutions.
 - Shareholding: Limited liability company with a Board of Directors. State ownership of 34%, with blocking minority and veto right. Remaining 66% owned by French banks.
- <u>Eligibility</u>: Credit institutions licensed and supervised in accordance with the French Monetary and Financial Code and which comply with capital adequacy requirements in accordance with the provisions of the Code
- Loans with a <u>maturity</u> of up to 5 years and <u>interest rate</u> to be agreed on a case-by-case basis but equal
 to the refinancing rate of the SFEF, plus an additional remuneration corresponding to the premium
 charged by the French State in consideration of its guarantee.
- Obligation for the beneficiary to post <u>collateral</u> (ie mortgages, real estate leasing, loans to local authorities, corporate loans with sufficient ratings and loans to individuals).
- Price of the guarantee: the financing costs of each Credit institution will be market prices.
- <u>Compensations</u>: beneficiaries must observe ethical rules and commit to provide credit to SMEs and households.

The Guarantee Scheme - Implementation

- On October 2008, the Caisse des Dépôts et Consignations (CDC) granted a € 5 bn loan to the SFEF, reimbursed by an issue of bonds.
- 3 tranches have already been issued, all of which were subscribed:
 - The 1st issue of notes was completed by the SFEF in November 2008 (€5 bn 3-years bonds). Orders for the bonds were in excess of € 7 billion.
 - The 2d issue was completed in December 2008 (€ 6 bn 2-year bonds) Orders for the bonds were in excess of € 3 bn.
 - •The 3d issue was completed on January 2009 (€ 5 bn, 5-years bonds).
- In total, French banks benefited of € 21 bn contributions in liquidity.

The Recapitalization Scheme

- Article 6-III of the Finance Act Amendment provides for 2 options:
 - Recapitalization of a Financial Institution to restore confidence: The State can subscribe to Tier 1 Subordinated Securities and/or Preferred shares from Financial Institution;
 - Aid to a financial institution in difficulty: The State commits to intervene, where necessary, in the capital of Financial institutions in difficulties and whose failure would create a risk for the entire financial system
- The Ministry of Finance will use an *ad hoc* vehicle <u>Société de prises de participations de l'Etat</u> (SPPE) for those recapitalizations.
- The French State will guarantee securities issued by the SPPE.
- The type of guarantee, its maturity and the amount guaranteed are subject to a decision from the Minister of the Economy.
- <u>Eligible Institutions</u>: French institutions referred to in article L.562-1 of the French Monetary and Financial Code, (broad category)
- Financial institutions must commit to respect <u>undertakings</u>.

The Recapitalization Scheme - Implementation: First Tranche

- On December 11, 2008, 6 French banks issued an aggregate amount of €10.5 bn of Tier
 1 Subordinated Securities to the SPPE.
 - The securities are interest bearing (5-year OAT yield + approximately 400 bp), non voting, perpetual subordinated instruments with a call option at the request of the issuer after 5 years.
 - Credit Agricole received €3 bn; BNPP €2,55 bn; Société Générale €1,7 bn; Crédit Mutuel €1,2 bn; Caisses d'Epargne €1,1 bn and Banques Populaires €950 million.
 - Obligations for the beneficiary:
 - Adopt the MEDEF/AFEP Code of Conduct (review of their remuneration policy);
 - Commitment to increase the amount of outstanding loans by 3 or 4% annually;
 - No share buybacks while securities are outstanding, other than to cover employee shareholding schemes and ongoing management operations;
 - No restriction on dividend distribution.

The Recapitalization Scheme - Implementation: 2d Tranche

- The French government has announced its intention to subscribe for a second tranche of €10,5bn of Tier1 securities (Preferred Shares without voting rights and/or Tier 1 Subordinated Securities) by August 31, 2009.
- Each of the 6 banks that participated in the 1st tranche will be entitled to receive an identical share in the second tranche.
- Obligations for the beneficiary:
 - Adoption of the MEDEF/AFEP Code of Conduct by May 31, 2009,
 - Priority must be given to the reinforcement of capital base when allocating 2008 earnings
 - Top executives have foregone their bonuses for 2008
 - Undertaking to enter into an agreement with the government relating to the financing of €7 bn in export contracts.
- The amount of the second tranche have been increased of €500 million to take account of the merger of the central bodies of the Caisses d'Epargnes and the Banques Populaires, within the limit of 50 bp of the Tier 1 ratio of the new entity.



Previous Commission decisions on French banks

- Rescue and restructuring aid to credit institutions in difficulty
 - Crédit Lyonnais (1995 and 1998)
 - The Commission refuses to apply 87(3)(b).
 - But the aid can be compatible with the common market if it (i) restore the viability of the firm, (ii) is proportionate to the restructuring costs and benefits and doesn't exceed what is strictly necessary; (iii) has the least distortion of competition possible and significant contribution of the firm; and (iv) if measures are taken to compensate competitors.
 - Transfer of Assets of the Société Banque Occidentale to Crédit lyonnais (1998): aid incompatible with the R&R Guidelinnes because it had not restored the viabilitity of the firm.
 - Crédit Foncier de France (1999): approval of the aid on condition tyhat CFF implemented the recovery plan in full.
 - GAN Group (1996 and 1997): aid compatible with the common market.
 - Société Marseillaise de Crédit (1998): aid compatible with the common market.
- State Guarantees in favour of public banks
 - State Guarantee by the Caisse des Dépôts et Consignations (2003): existing aid to be abolished.

Authorization Of The Scheme For Refinancing Credit Institutions (1)

- Commission Decision of October 30, 2008, authorising the French scheme for refinancing institutions.
- The Scheme constitutes State Aid:
 - State imputability
 - SFEF set up by a legislative Act + State conrol over its activity;
 - Financial risks rest in fine on the State;
 - Administrative sanctions if the benficiaries do not respect obligations.
 - The State guarantee is a <u>State ressource</u>;
 - ■There is an <u>advantage</u> as equivalent financing is not available on the market.

Authorization Of The Scheme For Refinancing Credit Institutions (2)

- The Scheme is compatible with the Common market, as an appropriate means of restoring confidence on the financial markets.
 - Legal basis: article 87(3)(b) + Commission Communication of October 13, 2008

Appropriateness:

- Non-discriminatory access for banks authorised in France, including subsidiaries of foreign groups;
- Obligation for the beneficiary banks with regard to financing the real economy;
- Limitation to the discretionary power of the French authorities;
- The refinancing scheme does not lead to a capital release.

Necessity

- Aid limited in time: essentially less than 3 years. Not more than 5 years.
- Aid limited in scope.

Authorization Of The Scheme For Refinancing Credit Institutions (3)

Proportionality

- Pricing mechanism covers the funding costs of the scheme and ensures a fair contribution by the beneficiary banks;
- Incentive to minimize use of the scheme;
- Appropriate safeguards against abuse of the scheme, including restrictions on certain commercial practices and a cap on the increase in the balance sheets of the beneficiary banks.
- Commitments taken by the French authorities:
 - Re-notification of the scheme in the event that the total amount of loans granted or of securities subscribed, to or acquired by, the SFEF with a maturity of more than 3 years exceeds a certain percentage of the total amount outstanding.
 - Notification of individual aid decisions if the total amount to be received by a bank exceeds certain pre-defined limits
 - Re-notification of the scheme in 6 months' time

Authorisation Of The Recapitalization Plan

- Commission decision of December 8, 2008, authorising the French scheme to inject capital into certain banks.
- •The Commission noted that the scheme is intended for « fundamentally sound » banks which are under sever pressure to increase their capital owing to the financial crisis and that this pressure could lead the banks to cut lending to the detriment of the entire French economy.
- •The Commission concluded that the scheme was compatible with EU state aid principles (article 87(3)b) in that it provides in particular for:
 - An obligation for the beneficiary banks with regard to financing the real economy;
 - An undertaking by the beneficiary banks to adopt measures concerning the remuneration of senior management and market operators and to observe certain governance rules;
 - minimum level of remuneration on the securities and a step-up mechanism to ensure that the State's involvement in the banks' capital will be as brief as possible.

	FRANKFURT COLOGNE ROM C ACT COLOGNE ACT CO	me niilan hong kong beding ne w yor k washington paris brussels Rome milan m ong k ong bejing new york washington paris brus Sabe bome milan home kong bejing mem voos waschington babbe
	- Acti	CLÜGNE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PA URT COLÜĞNE ROME MILAN HONG KÖNG BELING NEW YORK VASHINGTO RUKFURT COLÜĞNE ROME MILAN HONG KÖNG BELING NEW YORK WASHII FRANKFURT COLÜĞNE ROME MILAN HONG KÖNG BELING NEW YORK W
KONG BELING NEW YORK WASHINGTON PAR NG KONG BELING NEW YORK WASHING HILAN HONG KONG BELING NEW YORK WAS ME MILAN HONG KONG BELING NEW YORK	DOS GRUSSELS LONDON DARIS BRUSSELS LONI NA PARIS BRUSSELS I	COW FRANKFURT COLOSINE ROME MILAN HONG KONG BEJING NEW YOR MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BEJING NEW YOR DON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BEJING I LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BEJIST LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG
HOWE BOINE MILAN HONG KONG BELING NEW YORNE BOING NEW YORNE BOING NEW YOR COLOGNE ROME MILAN HONG KONG BELING NEW YORT COLOGNE ROME MILAN HONG KONG BRANKFURT COLOGNE ROME MILAN HONG KO	SUBSTITUTE OF PARTS IN THE STANDARD OF THE STA	RUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KRIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KAN PRAIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN GTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN SHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME (WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROM
COW FRANKFURT COLOGNE HOME MILIAN H MOSCOW FRANKFURT COLOGNE ROME MIL JONDON MOSCOW FRANKFURT COLOGNE R RES LONDON MOSCOW FRANKFURT COLOGNE R	Save	TORK WYSHINGTON PARTS BRUSSELS LONDON MOSCOW FRANKFURT COLL EW YORK WASHINGTON PARTS BRUSSELS LONDON MOSCOW FRANKFURT IG NEW YORK WASHINGTON PARTS BRUSSELS LONDON MOSCOW FRANKFI BEJING NEW YORK WASHINGTON PARTS BRUSSELS LONDON MOSCOW FRA
ROSSELS LONDON MOSCOW PRANKFUR LE BRUSSELS LONDON MOSCOW FRANKFUR LE PARIS BRUSSELS LONDON MOSCOW FRANK GTON PARIS BRUSSELS LONDON MOSCOW FI SHINGTON PARIS BRUSSELS LONDON MOSCO WE WASHINGTON PARIS BRUSSELS LONDON MOSCO	Dexia	G KONG BELING NEW YORK WASHINGTON PARTS BRUSSELS LONDON MOSS HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSSELS LONDON I LAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSSELS LOND E MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSSELS LONE WILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW WASHINGTON PARTS BRUSS SARE ROME MILAN HONG KONG BELING NEW WASHINGTON PARTS BRUSS SARE ROME WASHINGTON PARTS B
YORK WASHINGTON PARIS BRUSSELS LONDO EW YORK WASHINGTON PARIS BRUSSELS LO IG NEW YORK WASHINGTON PARIS BRUSSEL BUING NEW YORK WASHINGTON PARIS ING BELIING NEW YORK WASHINGTON PARIS ING RELIING NEW YORK WASHINGTON PARIS ING RELIING NEW YORK WASHINGTON PARIS ING RELIING NEW YORK WASHINGTON PARIS	NDON MOSCOW FRANKFURT CI NDON MOSCOW FRANKFU S LONDON MOSCOW FRAN ISSELS LONDON MOSCOW F S BRUSSELS LONDON MOSCC	OLOGNE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PAR RT COLOGNE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON KEURT COLOGNE ROME MILAN HONG KONG BELING NEW YORK WASHING RANKFURT COLOGNE ROME MILAN HONG KONG BELING NEW YORK WAS DIVERANKFURT COLOGNE ROME MILAN HONG KONG BELING NEW YORK WAS PARKHURT COLOGNE ROME MILAN HONG KONG BELING NEW YORK OKCOME FINE FOLGERE FOR MEMILAN HONG KONG BELING NEW YORK OKCOME FINE FOLGERE FOR FILLING NEW YORK OKCOME FILLI
HONG KONG BEJING NEW YORK WASHINGTON HONG KONG BEJING NEW YORK WASHINGTON HONG KONG BEJING NEW YORK WASHINGTON HONG KONG BEJING NEW YORK WASHING WASHING NEW YORK WASHING WASHING NEW YORK WASHING	ON PARIS BRUSSELS LONDON IN PARIS BRUSSELS LONDO (VASHINGTON PARIS BRUSSELS RK WASHINGTON PARIS BRUSSEL RK WASHINGTON PARIS BRUSSEL	NASCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BEJING NEW MASCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BEJING NE SALONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BEJING NESELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BEJING NO SELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KO
SNE ROME MILAN HONG KONG BELING NEW OLGGNE ROME MILAN HONG KONG BELING RT COLGGNE ROME MILAN HONG KONG BELING REURT COLGGNE ROME MILAN HONG PARNKFURT COLGGNE ROME MILAN HONG POW FRANKFURT COLGGNE ROME MILAN HO OSCOW FRANKFURT COLGGNE ROME MILAN HO	V YORK WASHING ON PARES NEW YORK WASHINGTON F JING NEW YORK WASHINGT G BEJING NEW YORK WASH KONG BEJING NEW YORK V NG KONG BEJING NEW YOR NHONG KONG BEJING NEW	STRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE RRK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE N YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE

EMILAN THE KONG BELLING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRE ONE CILLAN HONG KONG BELLING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRE ROOM "LAN HONG KONG BELLING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW ED TOME JILLAN HONG KONG BELLING NEW YORK WASHINGTON PARIS BRUSSELS LONDON TY COLOUGH FOME MILAN HONG KONG BELLING NEW YORK WASHINGTON PARIS BRUSSELS KEINT COLOUGH FOME MILAN HONG KONG BELLING NEW YORK WASHINGTON PARIS BRUSSELS IN PRECINCE TO THE ROME MILAN HONG KONG BELLING NEW YORK WASHINGTON PARIS BRUSSELS IN TOLOUGHE ROME MILAN HONG KONG BELLING NEW YORK WASHINGTON PARIS IN TOLOUGHE ROME MILAN HONG KONG BELLING NEW YORK WASHINGTON PARIS IN TOLOUGHE ROME MILAN HONG KONG BELLING NEW YORK WASHINGTON IN THE HONG W

ELS LONDON MOSCOW FRANKFI

ARIS BRUSSELS LONDON MO

Action Plan to Save Dexia - Recapitalization

- Agreement of September 30, 2008 between the French, Belgian and Luxembourg governments: <u>capital increase</u> of €6,4 bn.
- The French state invested €3bn in new shares (joint investment including €2 bn from the French State-controlled Caisse des Dépôts et Consignations).
- Following that operation the French State owns more than 25% of Dexia SA.

Action Plan to Save Dexia - Guarantee

- Agreement of October 9, 2008 between the French, Belgian and Luxembourg governments on a joint guarantee mechanism – covered 60,5% by Belgium, 36,5% by France and 3% by Luxembourg.
- The Finance Act Amendment authorises the Minster of Economy to grant the guarantee of the French State to the debt capital markets funding programs set up by certain entities of the Dexia Group.

Conditions

- The programs must have been set up and implemented between October 9, 2008 and October 31, 2009
- The guarantees issued by the Belgian and the Luxembourg States must be jointly called upon
- The guarantee is caped to up to 36,5% of the funds raised by the Dexia group.
- The Finance Act Amendment n°2008-1443 of December 2008 adds that the State guarantee can be granted in respect of certain liabilities incurred by Dexia in connection with its monoline insurer FSA in the U.S.

Commission Authorisation Of The Guarantee

- Commission Decision of October 19, 2008, authorising the guarantee granted by the Belgium, France and Luxembourg States to Dexia.
- •The Commission notes that the collapse of the bank would have had a snowball effect on the Belgian banking sector and, consequently, on the entire Belgian economy.
- ■The Commission concludes that this measure is proportionate, appropriate and necesary in order to remedy the group's difficulties, in so far as:
 - it is intended to facilitate Dexia's access to means of financing in order to restore investor confidence and encourage inter-banking lending;
 - It is limited in time;
 - It will be repaid by Dexia at low rates based on the recommendation of the ECB.
- •The authorization is limited to a period of <u>6 months</u>. In order to benefit from an extension, the Member States must submit a restructuring or liquidation plan.
- •The decision covers neither the capital increase nor the guarantee in the context of the sale of FSA.

		IE ROME NILAN HONG KONG TEDING NE W YORK WASHINGTON PARIS BRUSSELS I
	HE PANKEURT COL	LOGNE ROME MILAN H ong k ong beling new york washinston <mark>paris</mark> bruss
		T COLOGNE ROME WILAN HONG KONG BELING NEW YORK WASHINGTON PARIS 8
	N MOSCOW FRANK	GEURT COLOGNE Rome milan hong kong bejing new York washington pai Aankeurt Cologne Rome milan hong ko ng bejing new York washingtor
	CONIDON MOSCO	W FRAUKFURT COLOGNE ROME MILAN HONG KONG BELING NEW YORK WASHIN
	ov Nounot s e	DSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BELING NEW YORK WAS
	VS INUSSELS LON	MOON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BELING NEW TON
	NO DARIS BRUSSELS	S LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BELJING N ISSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BELJIN
	DINGTON PARIS	BRUSSELS LONDON MOSCOW FRANKFURY COLOGNE ROME MILAN HONG KONG
TE MILAN MONG KONG BELING NEW YOR BOWE BELING NEW		ARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KO ON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HON
IGNE ROME MILAN H ONG KONG BELJING COLOGNE ROME MILAN H ONG KONG B E	GNEW YORK WASHIR	INGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN MAHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MI
JIRT COLOGNE ROME MILAN HONG KOL	DUING NEW YOR	RR WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE RON
nkfurt cologne kome milan h ong Frankfurt cologne rome Milan H	KONG BELLING	CTORK WASHINGTON PARIS BRUSSELS LONDON MICSCOW FRANKFURF COLOGINE. NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURF COLO
	ONG KONG BED	IING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT O
	Non Hong Kong	B BELING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFU
ON MOSCOW FRANKFURT COLOGNE ROOMS NO COLOGNE ROOMS NO COLOGNE ROOM FRANKFIRE COLOGNE		KONG BEJING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRAN Mic wome heling meny york washington bades briesels london moscow i
	OGNE ROME MILAN	ING. KONG BELING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCON. I HONG KONG BELING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSC
	NIOGNE ROME W	AILAN HONG KONG BELING NEW YORK WASHINGTON PARIS BRUSSELS LONDON N
	T COLDGNE HON	ME MILAN HONG KONG BELING NEW YORK WASHINGTON PARIS BRUSSELS LOND
		E ROME MILAN HONG KONG BEIING NEW YORK WASHINGTON PARIS BRUSSELS LO
TON PARTS HRUSSELS LONDON MOSCOT	SEED ON INCOME.	OGNE ROME MILLAN HONG KONG BELJING NEW YORK WASHINGTON PARTS BROSSE
	COW FRANKFI	COLDGINE NOME MILAN HONG NONG BELING NEW YORK WASHINGTON PARTS BY URT COLOGNE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PART
ORK WASHINGTON PARIS BRUSSELS LOR	ON MOSCOW FRA	NNKFURT COLOGNE ROME MILAN HONG KONG BEJING NEW YORK WASHINGTON
W YORK WASHINGTON PARIS BRUSSELS	LO IDON MOSCOW	FRANKFURT COLOGNE ROME MILAN HONG KONG BEIJING NEW YORK WASHING
G NEW YORK WASHINGTON PARIS BRUI	LONDON MOSC	COW FRANKFURT COLOGNE ROME MILAN HONG KONG BEJING NEW YORK WASI
NG BELLING NEW YORK WASHINGTON PARIS	SELS LONDON	MOSCOW FRANKFURT COLOGNE NOME MILLAN BONG NONG BELLING NEW YORK DON MOSCOW FRANKFURT COLOGNE ROME MILLAN BONG KONG BELLING NEW YO
KONG BEJING NEW YORK WASHINGTO	DARIS BRUSSELS L	LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BEIJING NE
	CT IN PARIS BRUSS	SELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BELIIN
AN MONG KONG BELING NEW YORK W	S GTON PARIS B	RUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BE
OME MILAN HONG KONG BELLING NEW YOR	CORK WASHINGTON	NES PROSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG AND PARIS PRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG
NE ROME MILAN HONG KONG BELLING I		GTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLDGNE ROME MILAN H
DLOGNE ROME MILAN HONG KONG BEU		SHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILL
T COLOGNE ROME MILAN HONG KONG		C WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME
KFURT COLOGNE ROME MILAN HONG K	ING BELLING NEW Y	YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE BY
W FRANKFURT COLOGNE ROME WILLAND	HONG KONG BELLIN	EW TORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGS IG NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT CO
DSCOW FRANKFURT COLOGNE ROME N	LAN HONG KONG B	BELLING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFUR

E MILAM TONG KONG BELING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW ROME (ILLAN) HONG KONG BELING NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW BE FOR THAN HONG KONG BELING NEW YORK WASHINGTON PARIS BRUSSELS LONDON ST COLOGA BY ILLAN HONG KONG BELING NEW YORK WASHINGTON PARIS BRUSSELS KEURT COLOGA BILLAN HONG KONG BELING NEW YORK WASHINGTON PARIS BRUSSELS NEW TO THE FORME MILAN HONG KONG BELING NEW YORK WASHINGTON PARIS BRUSSELS LONDON FRENKLURT COLOGNE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARIS ON THE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON PARIS ON MOSCON ERE IN SET COLOGNE ROME MILAN HONG KONG BELING NEW YORK WASHINGTON WASHINGTON WASHINGTON WASHINGTON WASHINGTON TO THE WOORK WASHINGTON WASHINGTON WASHINGTON WASHINGTON WASHINGTON WASHINGTON WASHINGTON WASHINGTON WASHINGTON WASHING NEW YORK WASHINGTON WENT WASHINGTON WASHINGTON

ELS LONDON MOSCOW FRANKFU

DON MOSCO

ON PARIS BRUSSELS LONDON MOSCOW FRA

G NEW YORK WASHINGTON PARIS BRUSSELS LONDON A

TON PARIS BRUSSELS LONDON MO

G BELIING NEW YORK WASHINGTON PARIS

The French Paradox

- France has a long experience of State Aid in the banking sector and governments have traditionnally expressed very interventionist (even protectionist) views.
- However, French interventions were neither the first nor the more massive
 - •First States to notify a scheme: Ireland, Denmark and UK (Commission auhorisation on October 8). France waited until the Eurozone summit of October 12.
 - •French biggest recapitalization: BNP (€5 bn). To be compared with Guarantee of ING's Alt-A Securitized Mortgage Portfolio by the Dutch State (€35.1 bn) or Recapitalization of RBS by UK (£20 bn).
 - •French Recapitalization: €40 bn. To be compared with German scheme: €80 bn

Unresolved Issues

- How will the beneficiaries' commitments be monitored?
- What must be the content of the restructuring plans?
- How are impaired assets going to be dealt with? (cf Communication From the Commission on the treatment of Impaired Assets in the Community Banking Sector, February 25, 2008)
- How can ask for assets disposals when everybody sales?
- Is the distinction between fundamentally sound banks and banks in difficulty appropriate? (what if a sound bank situation deteriorates?)

NEW YORK WASHINGTON PARIS BRUSSELS LONDON MOSCOW FRANKFURT COLOGNE ROME MILAN HONG KONG BEIJING CLEARY GOTTLIEB STEEN & HAMILTON LLP

www.clearygottlieb.com