

EC directive on bank resolution and its effects on covered bonds

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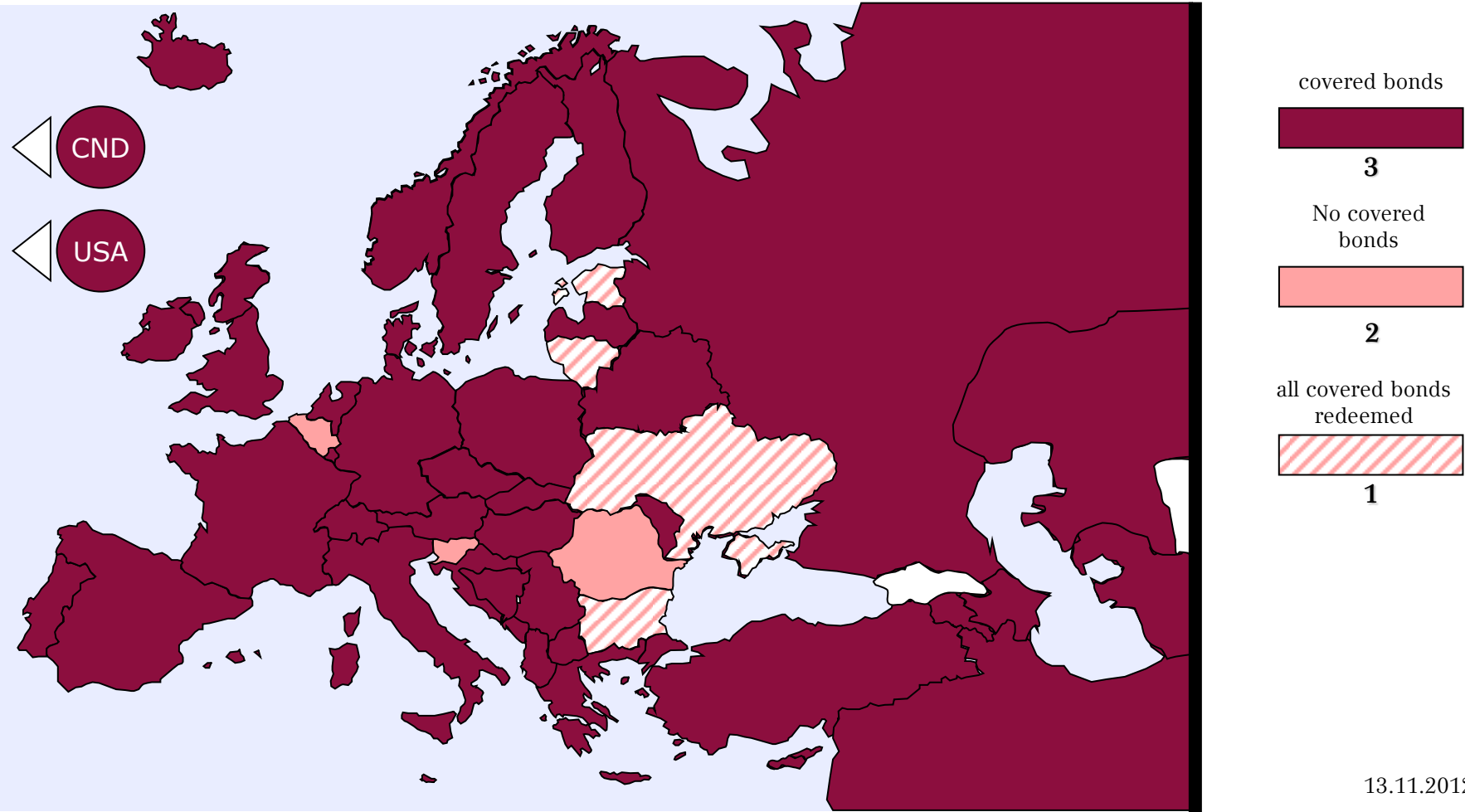
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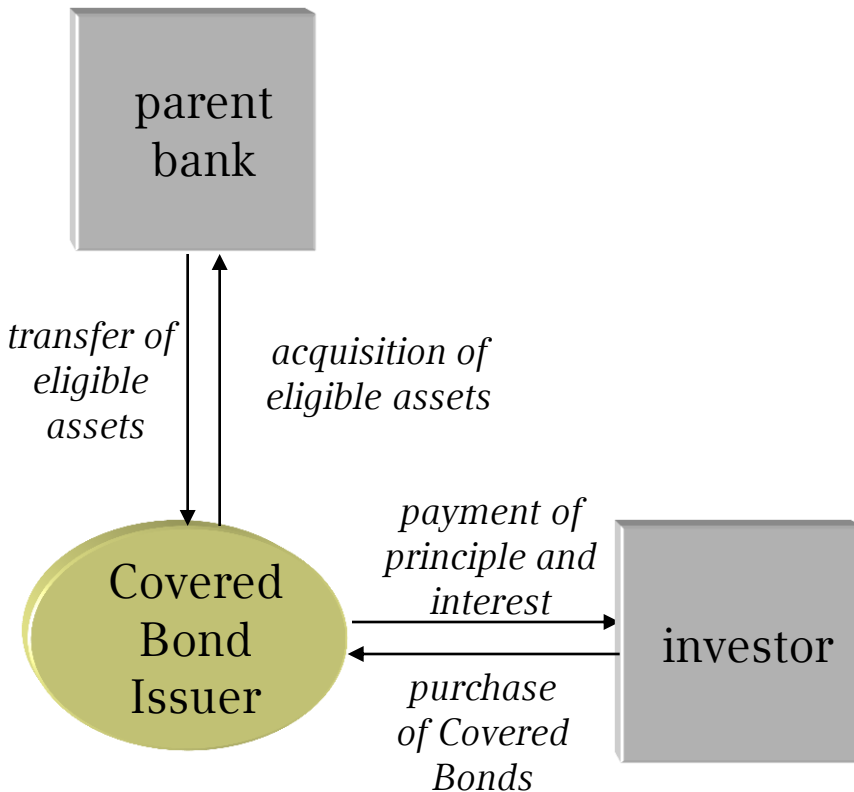
- The introduction charts of mr. Gunnar Schuster

Countries with covered bonds



13.11.2012

Covered Bond issuer is completely specialised funding institute: France, Ireland, Norway

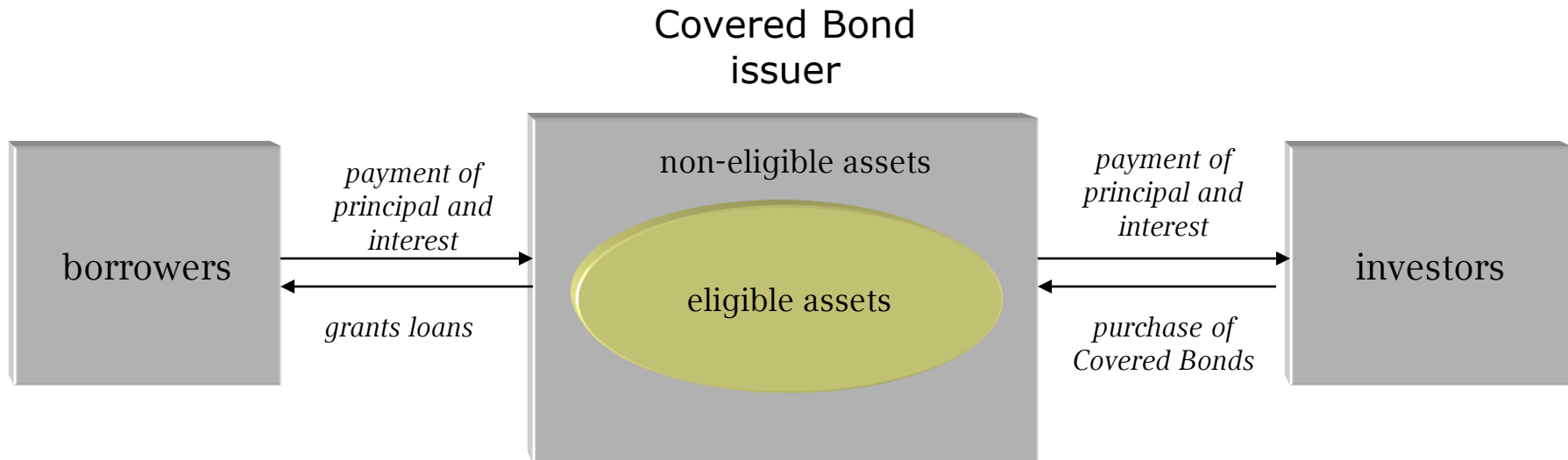


- Origination and servicing of eligible assets and management of Covered Bond issuing institute by parent bank or other parent institution
- Funding institute has no other function than holding (or mainly holds) eligible assets
- Issuer has the legal status of a credit institution
- Issuance governed by special legal framework
- Issuer has no or almost no staff
- Decisive = insolvency segregation of CB issuer from parent bank
- CB issuer capable of acting in spite of insolvency of parent bank?

2. Covered Bond Models

Model 2

**Covered Bond issuer is specialized credit institution by law:
Denmark, Hungary, Luxemburg, Poland**

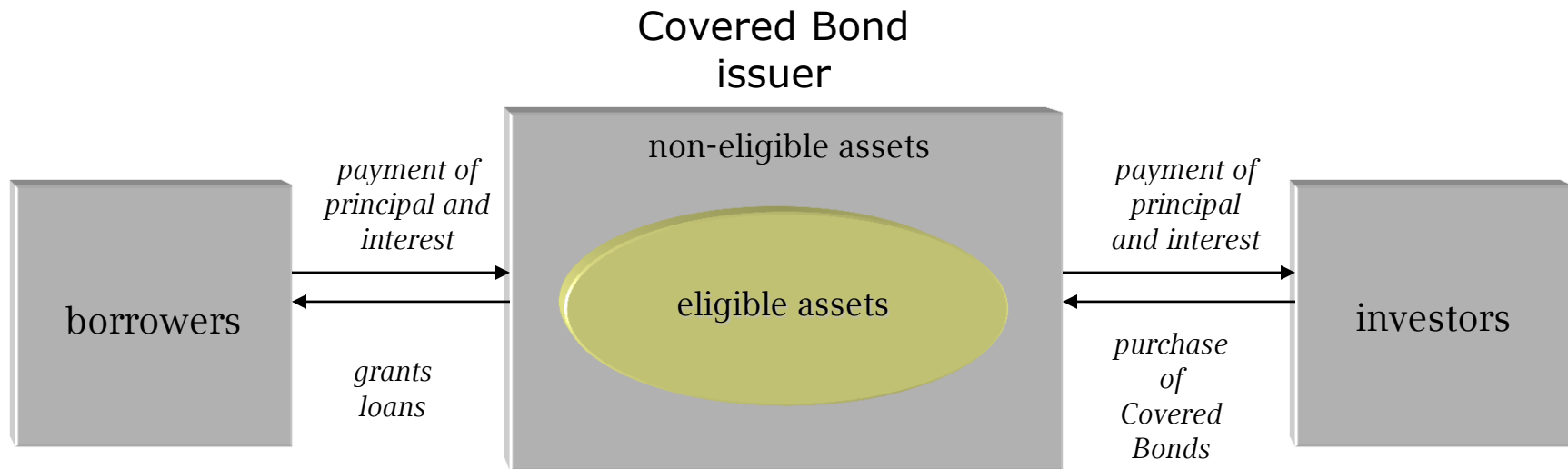


- Issuer originates, services and funds eligible and non-eligible business
- Loan origination restricted by law to mortgages and public-sector loans
- Issuer has the legal status of a credit institution
- Issuance governed by special legal framework
- Decisive = insolvency segregation of cover assets from insolvency estate

Covered Bond issuer is universal credit institution

Model 3

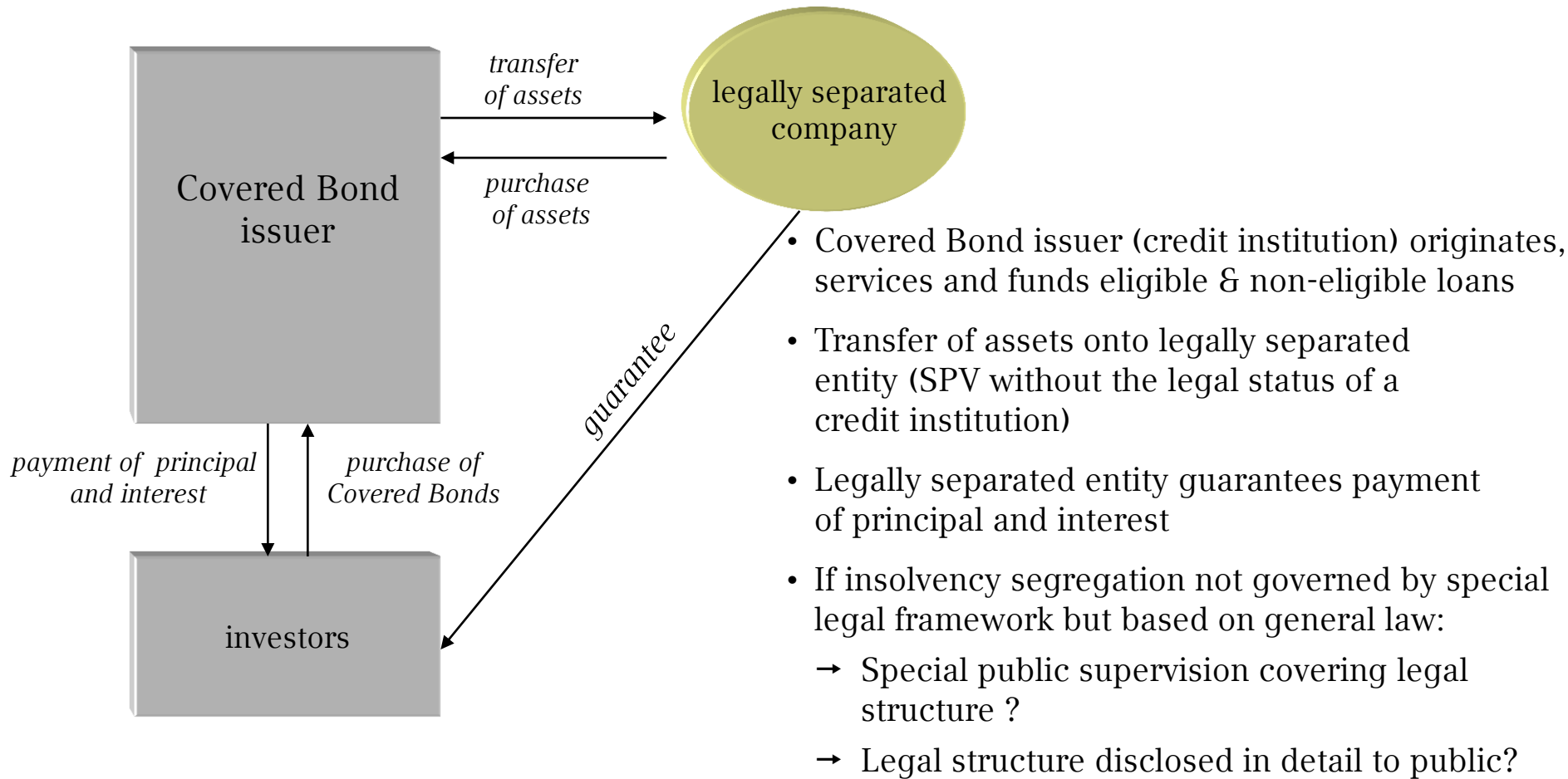
- **with qualified Covered Bond license:**
Austria, Belgium, Cyprus, Finland, Germany, Greece, Iceland, Latvia, Russia, Slovenia, Sweden
- **without qualified license:**
Bulgaria, Czech Republic, Lithuania, Portugal, Romania, Spain, Slovakia



- Issuer originates, services and funds eligible and non-eligible business
- Strict eligibility criteria apply to eligible cover assets
- Issuance governed by special legal framework
- Decisive = insolvency segregation of cover assets from insolvency estate

12.10.2012

**Covered Bond issuer is using SPV to achieve insolvency segregation of cover assets:
Italy, Netherlands, UK**



1

Covered bond issuers are credit institutions with the exemption of model 4 using the SPV structure and the CM directive applies to credit institutions

- With the different covered bond models in Europe in mind will the CM directive make a a level playing field for covered bond issuers? and/or shall the directive to apply to covered bond issuers?

2

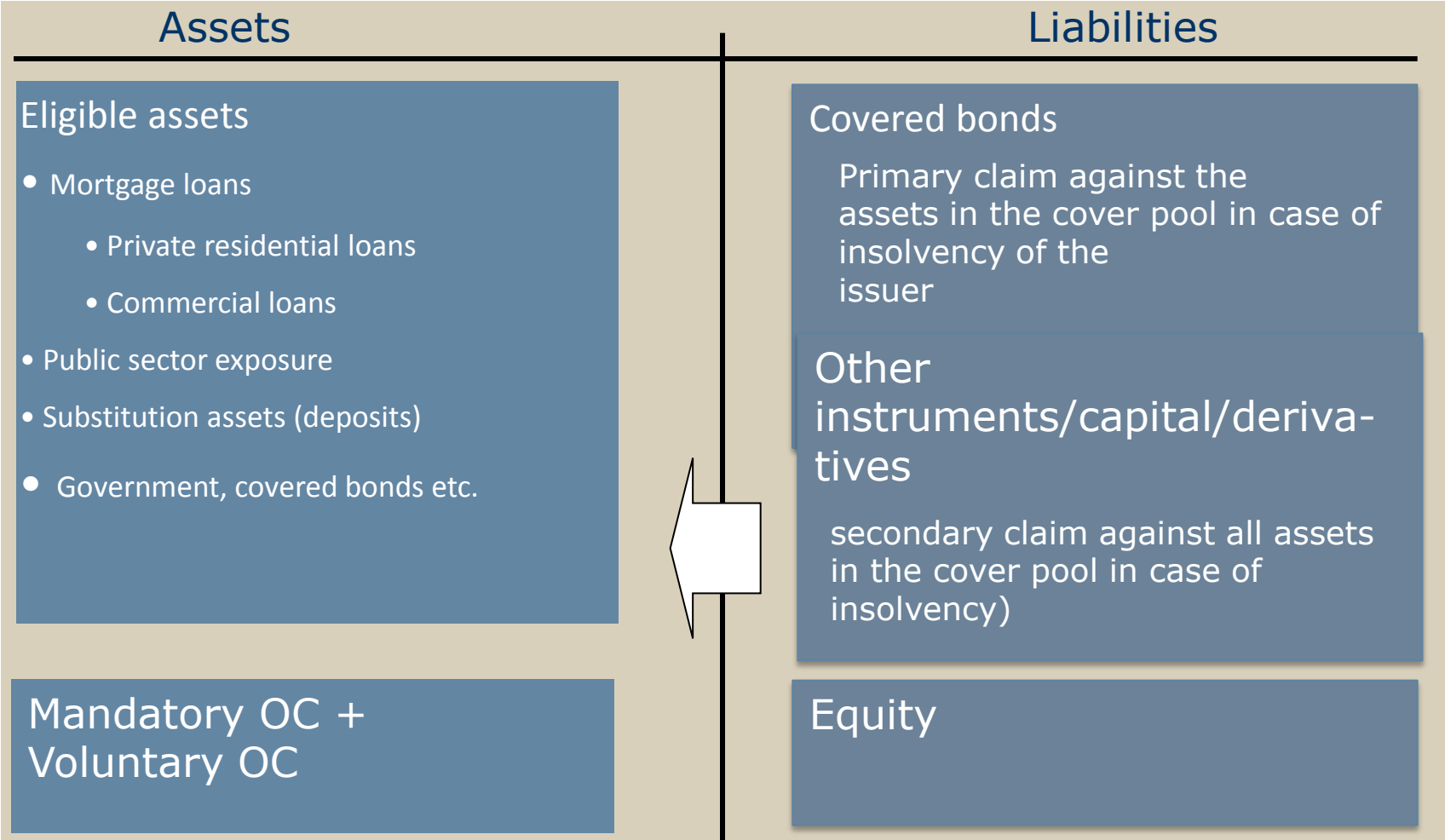
- At the moment we see a lot of initiatives from EU on the regulation of financial institutions in Europe, eg. CRR, CRD, single rule book, etc
- Do the crisis management directive work (sufficiently) well with other legislative initiatives that are currently underway – CRR – CRDIV?

3

Covered bonds are exempted from the bail-in tool in the CM directive, but the directive applies to the issuers

- Has every aspect with respect to safeguarding the status of covered bonds been covered or have we missed anything?

Covered bond cover pool



4

In the CM directive national authorities can exclude derivatives and covered bonds from the bail-in tool

- Are secured liabilities eg. derivatives and other instruments (when both the asset and the liability side are in the coverpool) sufficiently protected or has their protection been lowered?
- Is the voluntary OC sufficiently and indisputable protected?

5

Typically a covered bond investor have a preferential claim on the cover pool but the investor also have a unsecured claim direct on the issuer if the cover pool is not sufficient (dual recourse)

- Covered bonds are protected against bail-in, but what about the residual claim, which non-satisfied bondholders have against the issuer (dual recourse)?

6

The protection of covered bonds in the CM directive is limited to the bail-in tool

- Is there a need for a general provision that explicitly and unequivocally protects covered bonds (both in terms of assets and liabilities)?

7

Most covered bonds have a rating from one or more of the top three rating agencies

- Will the implementation of the CM directive have an impact on the rating of covered bonds (and the OC requirements)?

8

According to the CM directive Member States shall ensure that the institutions maintain, at all times, a sufficient aggregate amount of own funds and eligible liabilities.

- Is the requirement of minimum liabilities (previously a formal 10% requirement) that may be written down (bail-in) in fact relevant to covered bond issuers?

9

- Is it prudent to establish and maintain a crisis management regime considering that it might be expensive, and at the end of the day the price has to be borne by the customers and thereby the society in general?

10

Is the deadline for the introduction of bail-in (2018) appropriate, or is more time needed?