

## Investing In or Acquiring Troubled Banks: The Problem of Holding Company Debt

January 25, 2011 | Client Update

In the wake of the recent purchase of AmericanWest Bank by a joint venture between a Goldman Sachs fund and Oaktree Capital, we have received numerous client inquiries regarding the different techniques that might be used to acquire or recapitalize troubled banking organizations. The Goldman/Oaktree venture acquired AmericanWest through a Bankruptcy Code Section 363 sale as part of a bankruptcy of AmericanWest's parent corporation. Davis Polk has a great deal of experience representing purchasers, sellers and other parties in Section 363 sales. We also have deep experience with several other techniques that might be used to make similar investments, including prepackaged bankruptcies, investments at the bank holding company level with voluntary debt restructuring and investments at the bank level without holding company concessions. We caution that the use of any technique or strategy is highly dependent on the facts and circumstances, and that there are a multitude of tax, regulatory, corporate, contractual and litigation risks to be evaluated prior to embarking on any particular course.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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