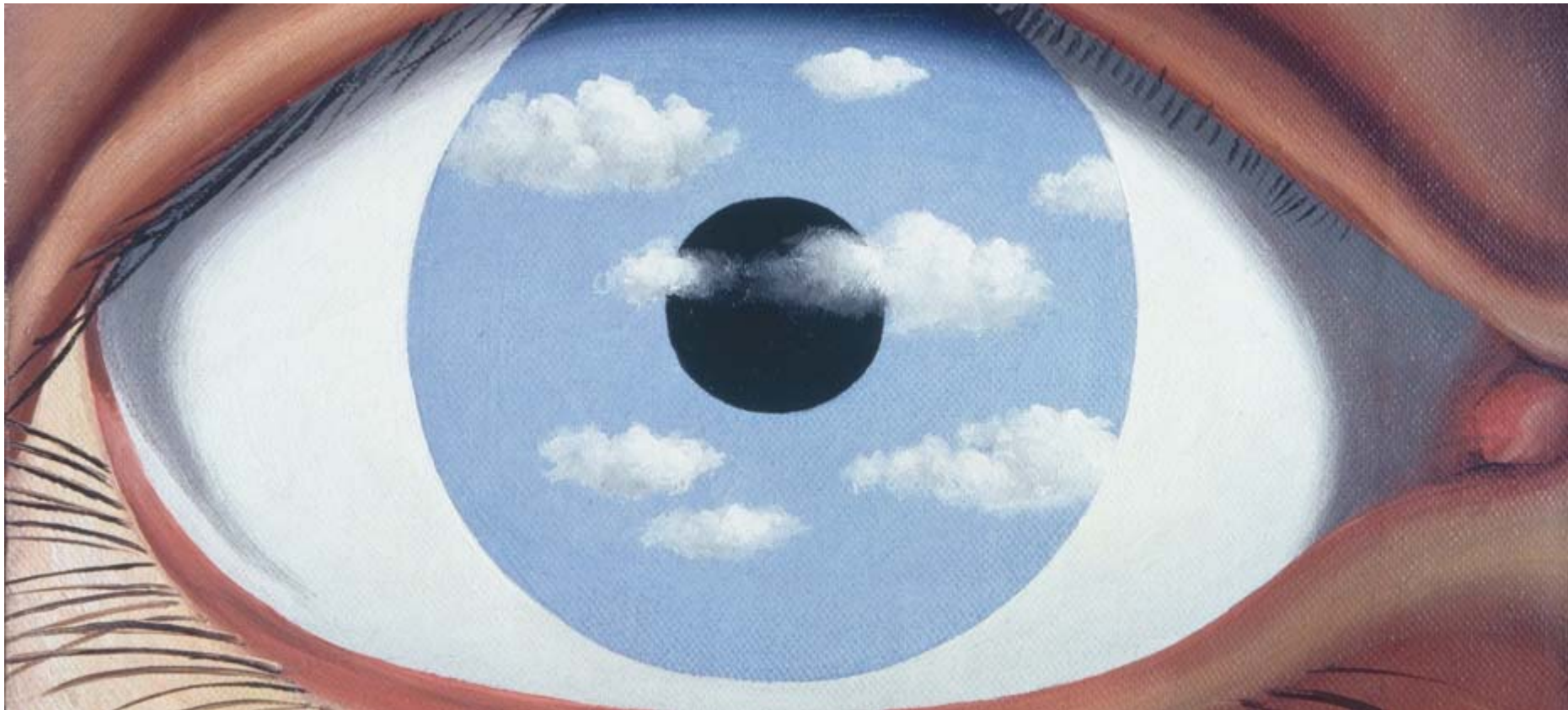


# M&A event\*

Magritte Museum, Brussels  
16 June 2009

*Magritte*



\*connectedthinking



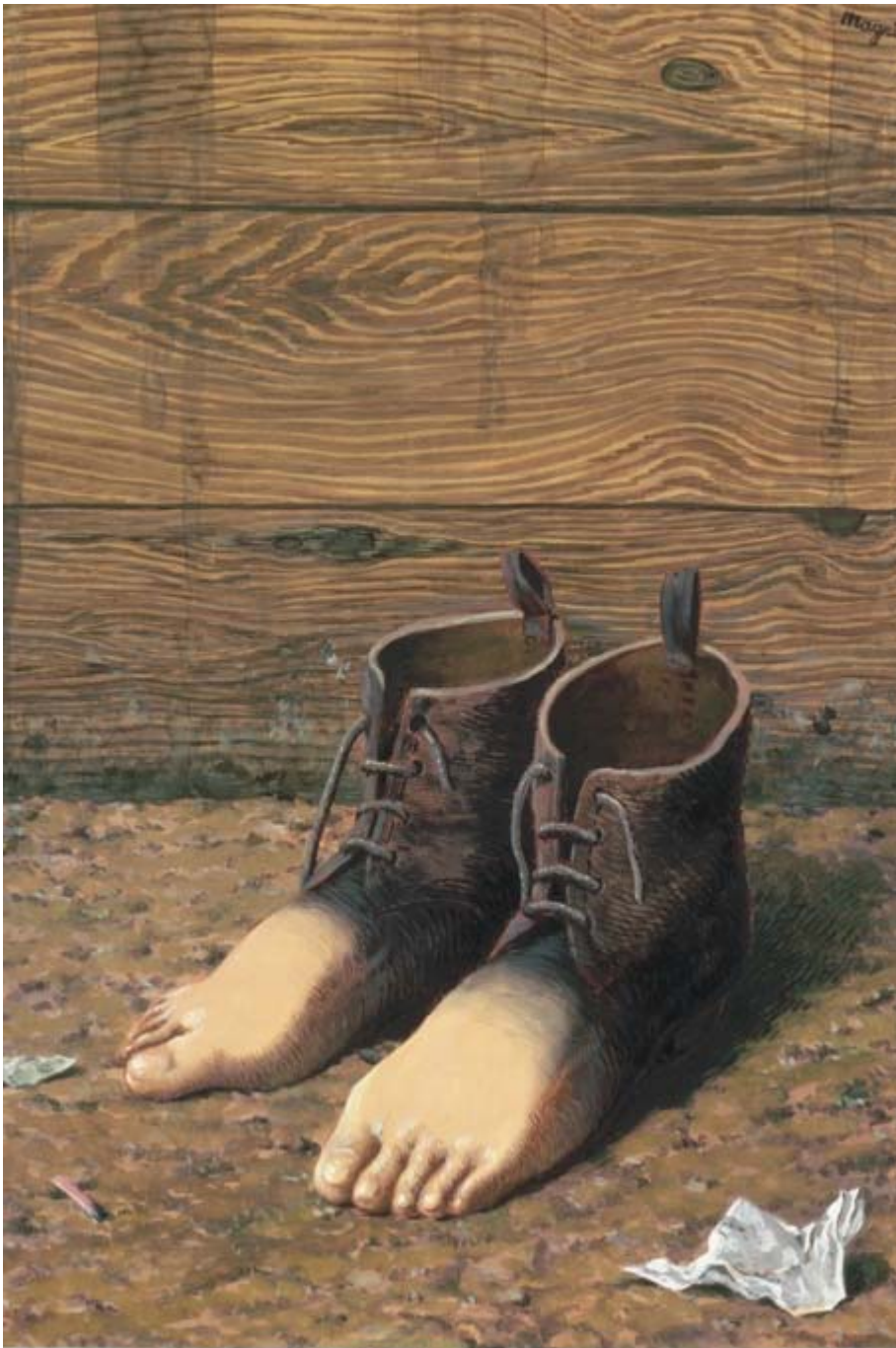
# M&A event Introduction

*Magnitite*

# Tax aspects of debt restructuring

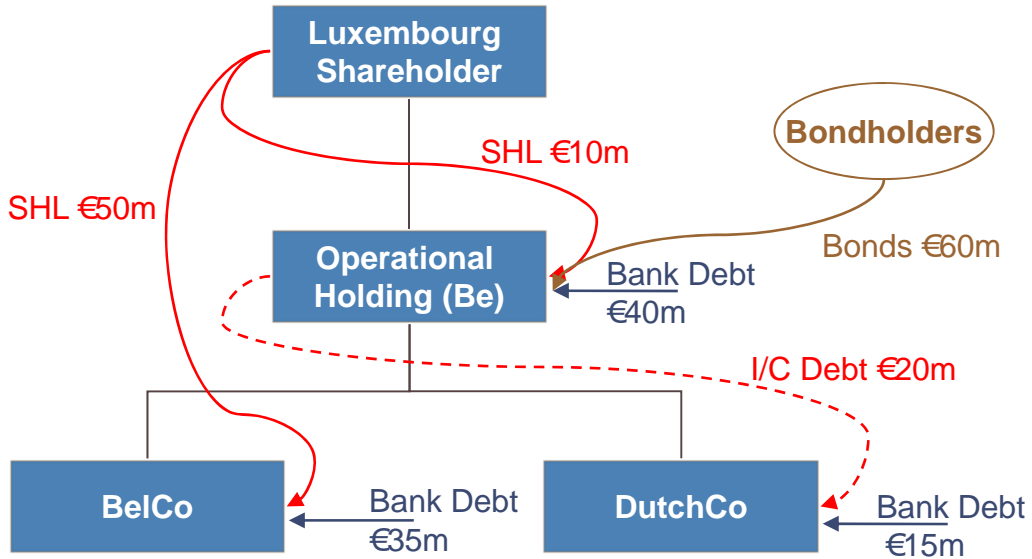
Jan Muyldermans,  
*Lead Transactions partner at  
PwC Belgium*

Magritte



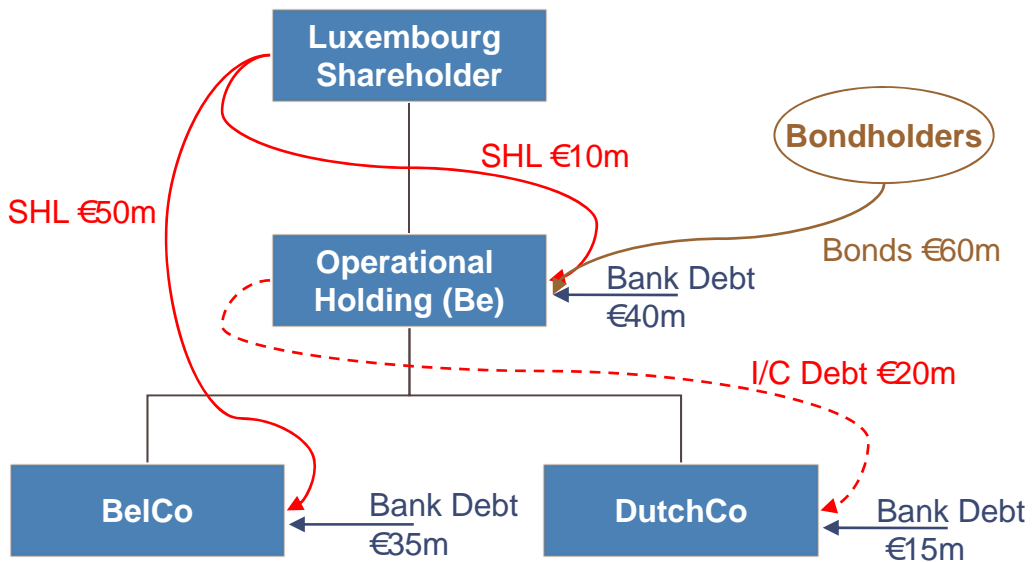
# Current group structure before debt restructuring

	Total
→ Bank Debt	€90m
→ Bonds	€60m
- → I/C Debt	€20m
→ SHL	€60m



# Current group structure before debt restructuring

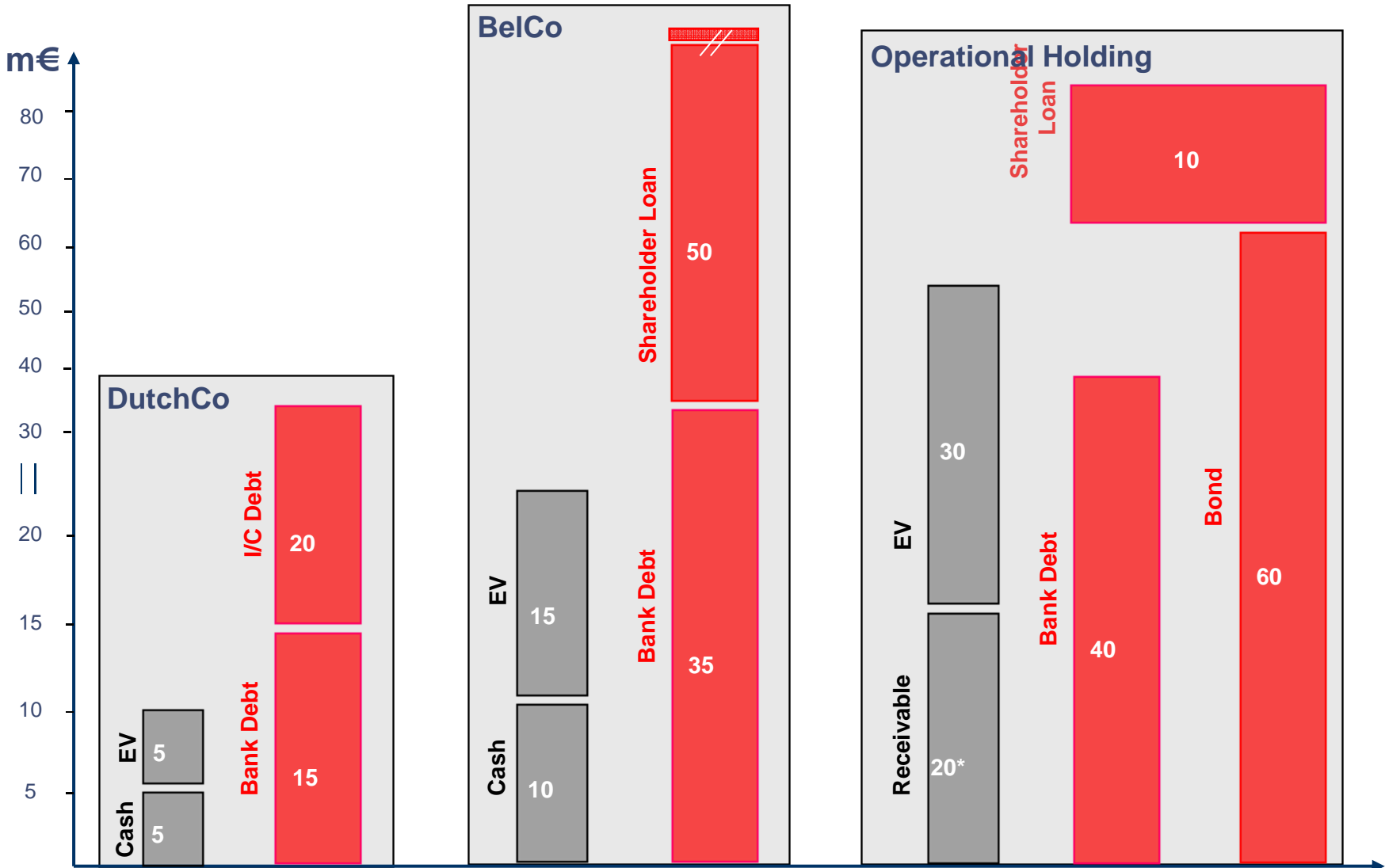
	Total
→ Bank Debt	€90m
→ Bonds	€60m
- → I/C Debt	€20m
→ SHL	€60m



Name	Enterprise Value	Receivables & Cash	Bank debt	Bond	I/C Debt	Shareholder loan	Total debt	Net Debt	Equity value without participations
Operational Holding	30	20*	(40)	(60)	-	(10)	(110)	(110)	(80)
BelCo	15	10	(35)	-	-	(50)	(85)	(75)	(60)
DutchCo	5	5	(15)	-	(20)	-	(35)	(30)	(25)
<b>TOTAL</b>	<b>50</b>	<b>15</b>	<b>(90)</b>	<b>(60)</b>	<b>(20)</b>	<b>(60)</b>	<b>(230)</b>	<b>(215)</b>	<b>(165)</b>

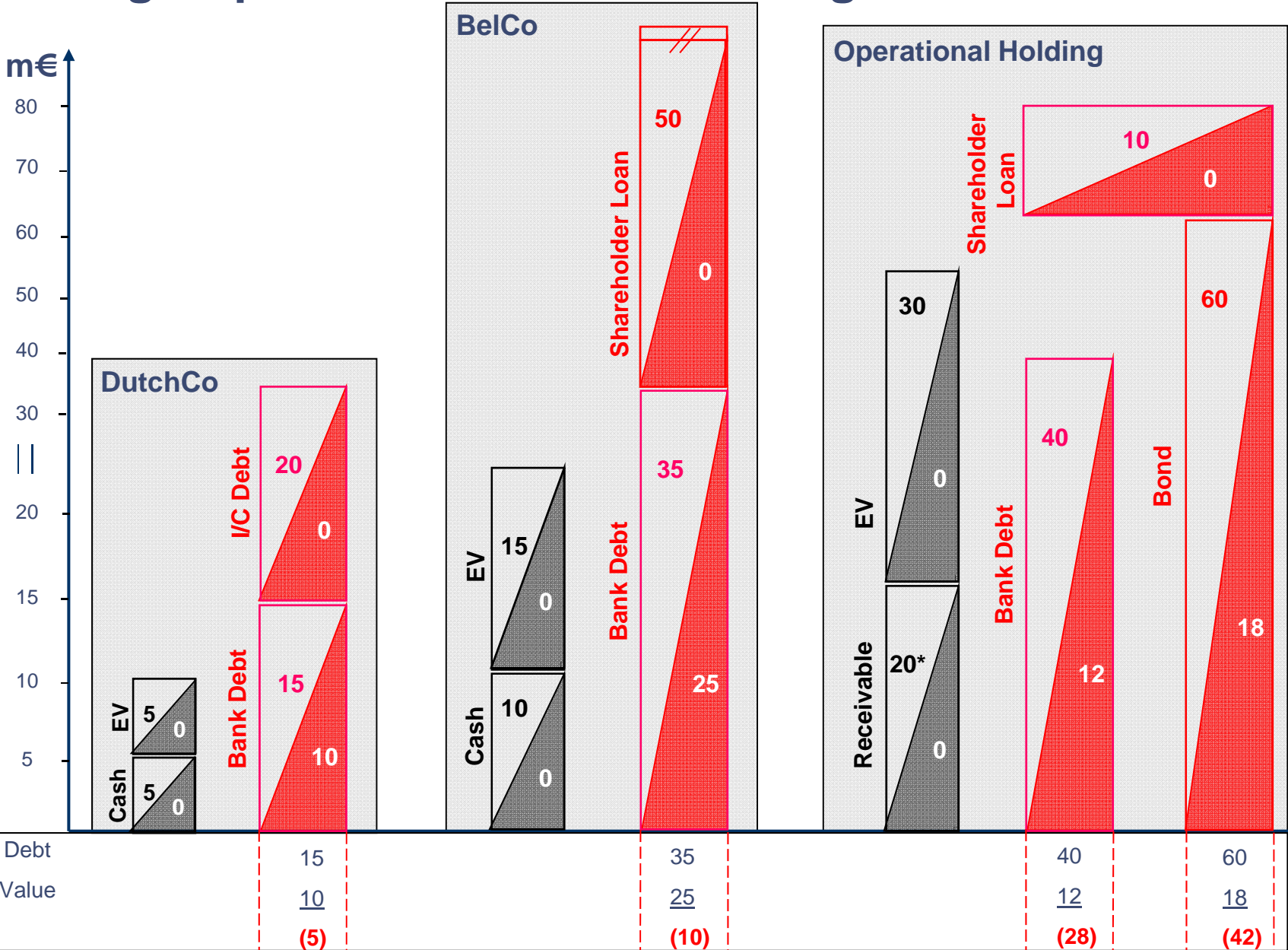
\* I/C receivable has no value  
Assumption: no cross-guarantees

# Current group before debt restructuring



\* I/C receivable has no value

# Current group before debt restructuring



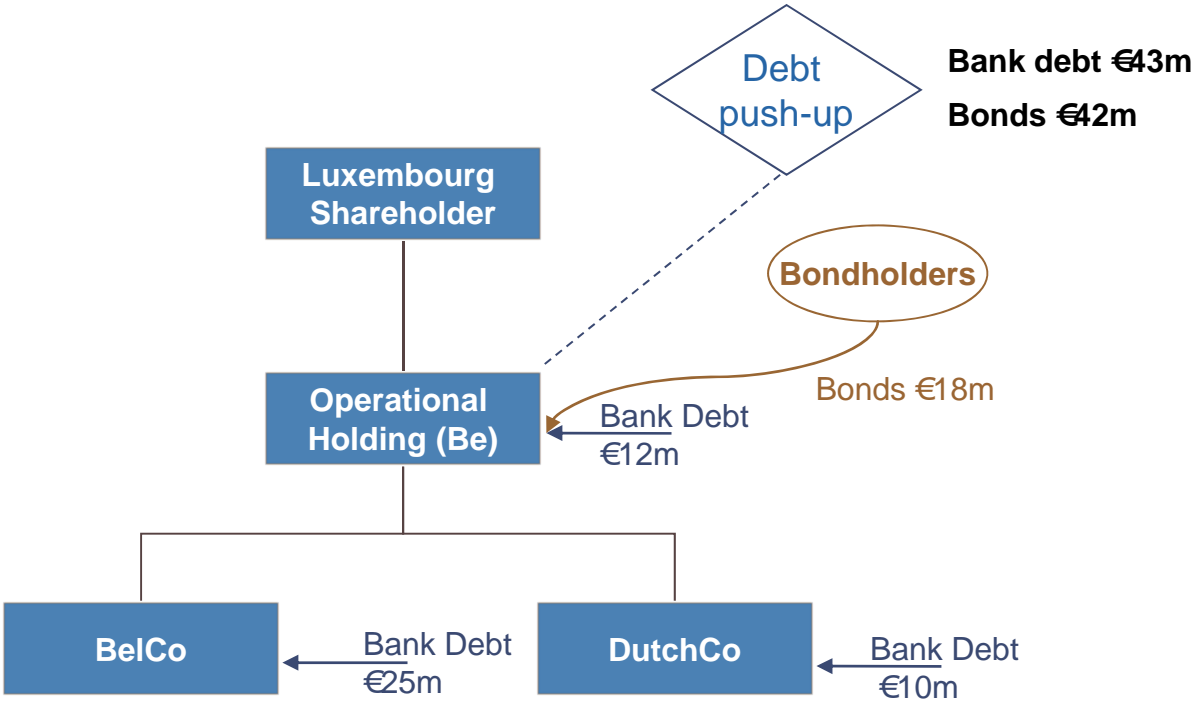
# Key terms of debt restructuring

The group can only bear financial debt of **€65m** which means:

- **Elimination of shareholder loans (SHL)** from Luxembourg Shareholder on Operational Holding and BelCo of respectively €10m and €50m
- **Elimination of inter-company debt** of DutchCo to Operational Holding of €20m
- **Partial Debt-push-up** of bonds for €42mio (total €60m) and of bank debt for €43m (total €90m)

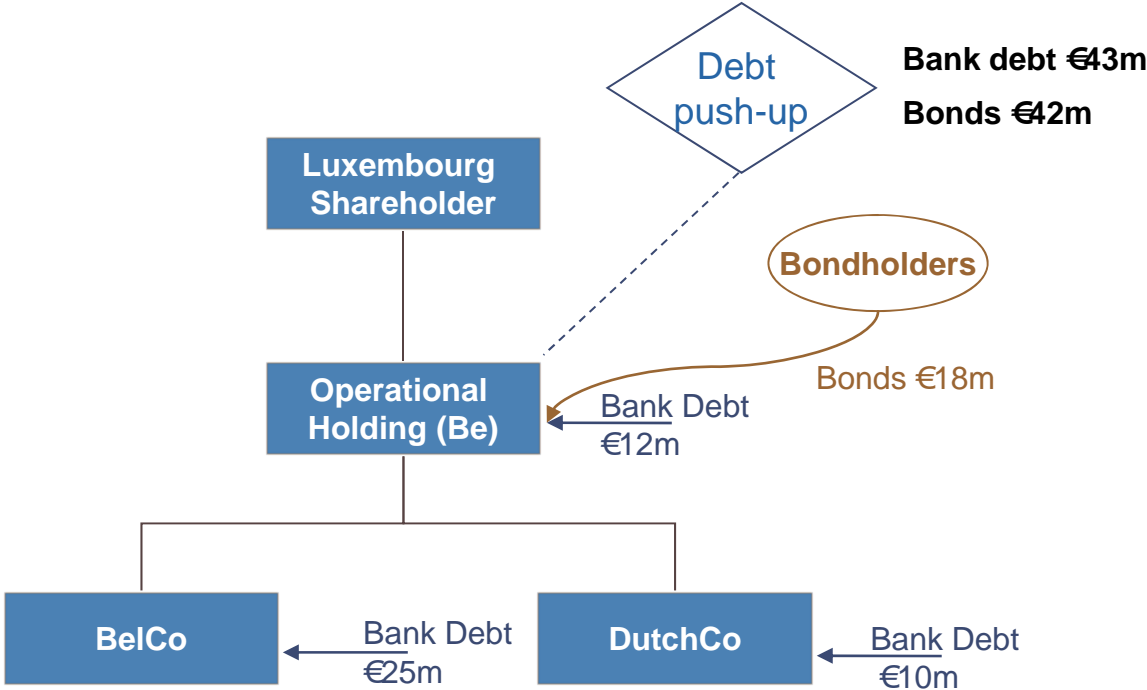
# New structure after debt restructuring

	<u>Total</u>
→ Bank Debt	€47m
→ Bonds	€18m
- → I/C Debt	€0m
→ SHL	€0m



# New structure after debt restructuring

	Total
→ Bank Debt	€47m
→ Bonds	€18m
- → I/C Debt	€0m
→ SHL	€0m



Name	Enterprise Value	Receivables & Cash	Bank debt	Bond	I/C Debt	Shareholder loan	Total debt	Net Debt	Equity value without participations
Operational Holding	30	-	(12)	(18)	-	-	(30)	(30)	0
BelCo	15	10	(25)	-	-	-	(25)	(15)	0
DutchCo	5	5	(10)	-	-	-	(10)	(5)	0
<b>TOTAL</b>	<b>50</b>	<b>15</b>	<b>(47)</b>	<b>(18)</b>	<b>-</b>	<b>-</b>	<b>(65)</b>	<b>(50)</b>	<b>0</b>

Assumption: no cross-guarantees  
PricewaterhouseCoopers  
Tax aspects of debt restructuring

# Key terms of debt restructuring

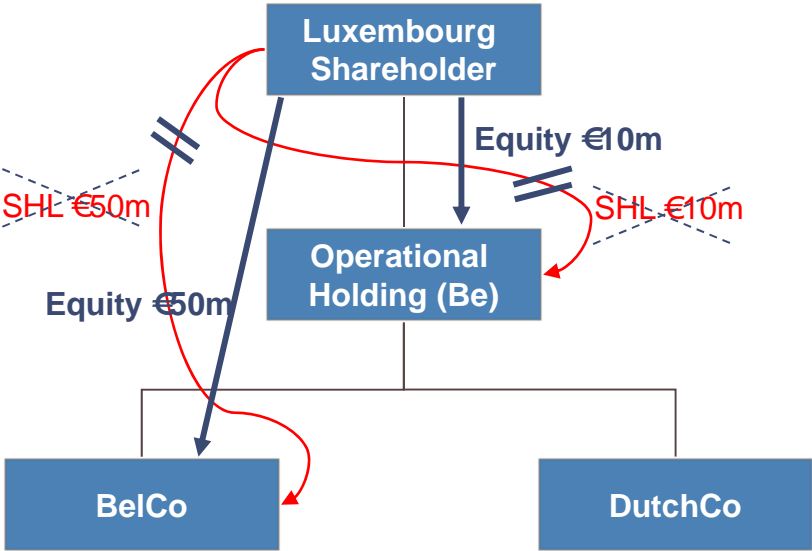
- The group can only bear financial debt of **€65m** which means:
  - **Elimination of shareholder loans (SHL)** from Luxembourg Shareholder on Operational Holding and BelCo of respectively €10m and €50m
  - **Elimination of inter-company debt** of DutchCo to Operational Holding of €20m
  - **Partial Debt-push-up** of bonds for €42mio (total €60m) and of bank debt for €43m (total €90m)

# Elimination of shareholder loans (SHL) from Luxembourg Shareholder on Operational Holding and BelCo of respectively €10m and €50m

- Waiver of debt: not a good solution:
    - Taxable in the hands of Operational Holding and BelCo, and no sufficient tax losses to off-set
- Solution: Debt/Equity swap followed by sale

# Elimination of shareholder loans (SHL) from Luxembourg Shareholder on Operational Holding and BelCo of respectively €10m and €50m

## Debt/equity swap



## Description

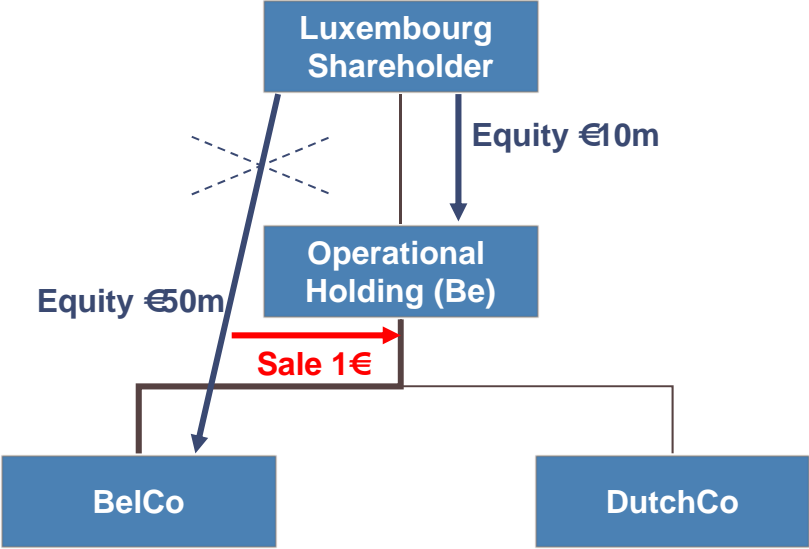
Luxembourg shareholder contributes its shareholder loans on Operational Holding and BelCo with a face value of respectively €10m and €50m into resp. Operational Holding and BelCo at fair market value of €1 against issuance of new shares by Operational Holding and BelCo, the share capital of which will be increased by €10m and €50m.

# Elimination of shareholder loans (SHL) from Luxembourg Shareholder on Operational Holding and BelCo of respectively €10m and €50m

- Tax aspects:
  - **Debt/equity swap:**
    - The losses realized by Luxembourg Shareholder on the Debt/equity swap in total amount of €60m are fully tax deductible
    - For the Operational holding and Belco the Debt/equity swap is a mere B/S operation (no waiver of debt) which should be tax neutral
    - The conversion of the accrued interest due by Operational Holding and BelCo into equity will be considered as a payment of interest (novation) which in principle is subject to withholding tax but will in most cases be exempt

# Elimination of shareholder loans (SHL) from Luxembourg Shareholder on Operational Holding and BelCo of respectively €10m and €50m

## Subsequent sale (or contribution)



## Description

Luxembourg shareholder sells its shares in BelCo at fair market value of €1 to Operational HoldCo

# Elimination of shareholder loans (SHL) from Luxembourg Shareholder on Operational Holding and BelCo of respectively €10m and €50m

- Tax aspects:
  - **Subsequent sale** of the shares in BelCo to Operational Holding:
    - In principle the Luxembourg shareholder should not realise any gain or loss on this transaction (loss already taken at moment of debt/equity swap) and therefore no tax consequences
    - The shares in BelCo so received by Operational Holding from Luxembourg shareholder will be recorded in its accounts at its acquisition value which is 1€

# Key terms of debt restructuring

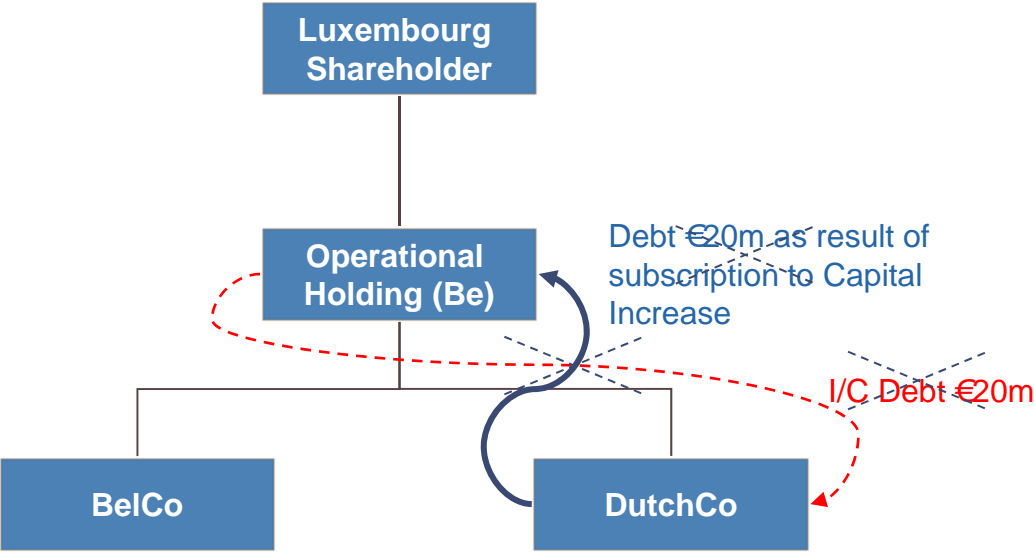
- The group can only bear financial debt of **€65m** which means:
  - **Elimination of shareholder loans (SHL)** from Luxembourg Shareholder on Operational Holding and BelCo of respectively €10m and €50m
  - **Elimination of inter-company debt** of DutchCo to Operational Holding of €20m
  - **Partial Debt-push-up** of bonds for €42mio (total €60m) and of bank debt for €43m (total €90m)

# Elimination of inter-company debt of DutchCo to Operational Holding of €20m

- Waiver of debt: not a good solution:
  - Tax deductibility in hands of Operational Holding is refused by Belgian Tax Authorities unless ‘return to good fortune’-clause, which the bondholders and banks would not agree to
  - Possibly taxable in hands of DutchCo
- Debt/equity swap in DutchCo (through plain contribution of I/C receivable) is as such not possible under Dutch law
- Technique in the Netherlands: set-off for full value (“verrekening”)

# Elimination of inter-company debt of DutchCo to Operational Holding of €20m

## Set-off for full value (“verrekening”)

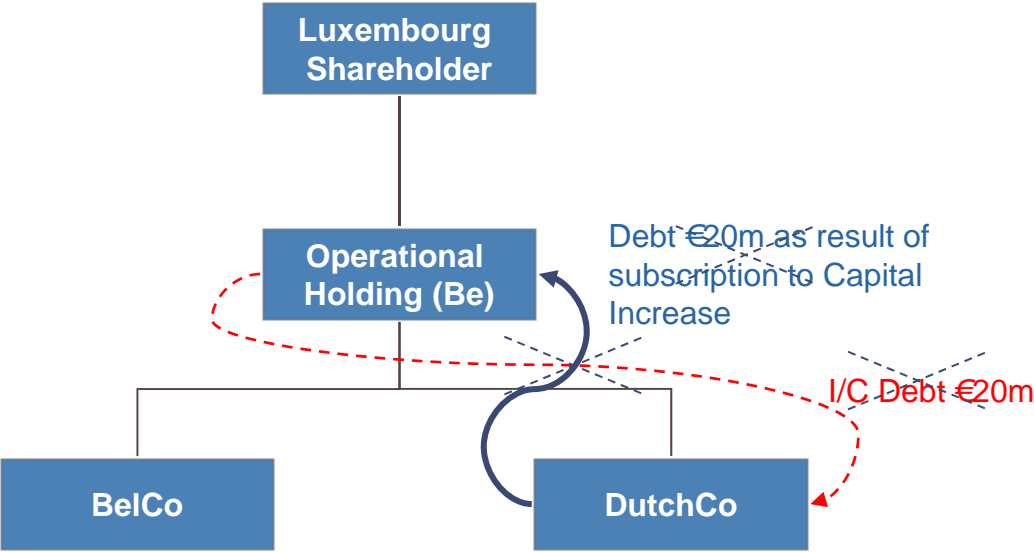


### Description

Operational Holding subscribes to a capital increase of DutchCo (without effective cash payment) followed by a set-off between subscription obligation and I/C receivable

# Elimination of inter-company debt of DutchCo to Operational Holding of €20m

## Set-off for full value (“verrekening”)



### Tax aspects

- No profit recognition for DutchCo
- For Operational holding set-off tax-neutral
- The question arises at which value the shares which the Operational holding has in DutchCo should be recorded
- Under Dutch tax law no withholding tax on interest

# Key terms of debt restructuring

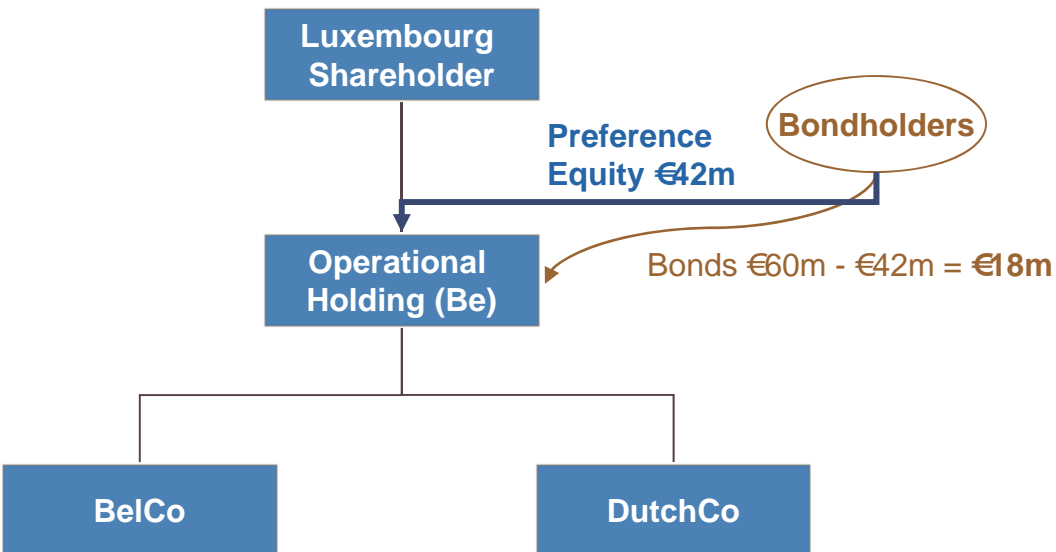
- The group can only bear financial debt of **€65m** which means:
  - **Elimination of shareholder loans (SHL)** from Luxembourg Shareholder on Operational Holding and BelCo of respectively €10m and €50m
  - **Elimination of inter-company debt** of DutchCo to Operational Holding of €20m
  - **Partial Debt-push-up** of bonds for €42mio (total €60m) and of bank debt for €43m (total €90m)

# Partial Debt-push-up of bonds for ~~€42m~~ (total ~~€60m~~) and of bank debt for ~~€43m~~ (total ~~€90m~~)

- Bond on Operational Holding of ~~€60m~~ is reduced to **€18m** (debt-push-up of ~~€42m~~)
- Bank debt of ~~€90m~~ is reduced to **€47m** (debt-push-up of ~~€43m~~):
  - On DutchCo level: from ~~€15m~~ to **€10m**
  - On BelCo level: from ~~€35m~~ to **€25m**
  - On Operational Holding level: from ~~€40m~~ to **€12m**

# Partial Debt-push-up of bonds for €42m (total €60m) and of bank debt for €43m (total €90m)

Debt/equity swap: **Bond debt** is reduced from €60m to €18m and the €42m debt balance is contributed into share capital of Operational Holding in exchange for equity

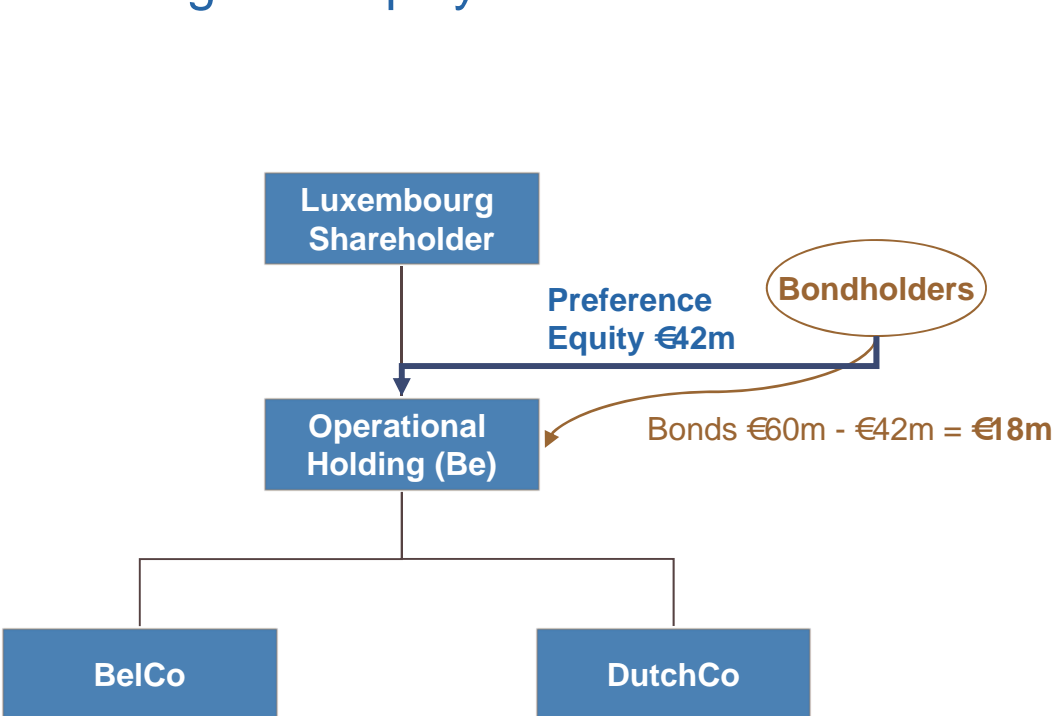


## Tax aspects for Operational Holding

- No tax impact
- The conversion of the accrued interest into equity is in principle subject to withholding tax but often exempt
- Special features can be added

# Partial Debt-push-up of bonds for €42m (total €60m) and of bank debt for €43m (total €90m)

Debt/equity swap: **Bond debt** is reduced from €60m to €18m and the €42m debt balance is contributed into share capital of Operational Holding in exchange for equity

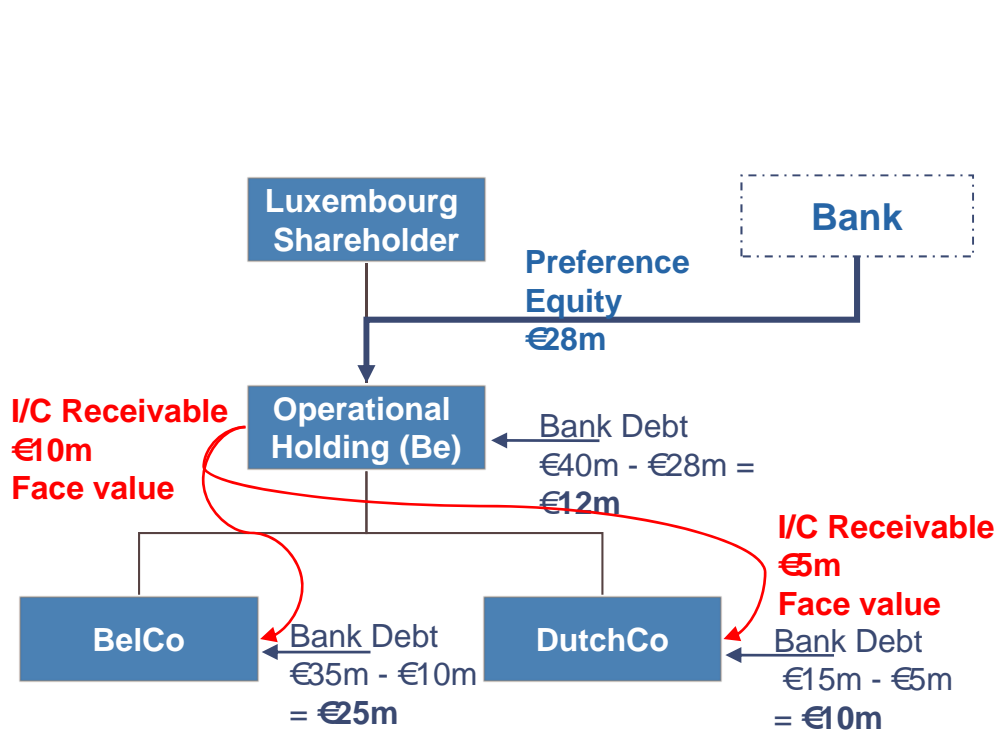


## Tax aspects for Bondholder

- Since fair market value of bond is only €18mio, the loss for the bondholders of €42mio should be tax deductible
- The preference shares in the accounts of the bondholders are recorded for €1

# Partial Debt-push-up of bonds for €42m (total €60m) and of bank debt for €43m (total €90m)

Debt/equity swap: The €43m debt balance (i.e. €28m on Operational Holding, €10m on BelCo and €5m on DutchCo) is contributed into the share capital of Operational Holding in exchange for equity of €28m

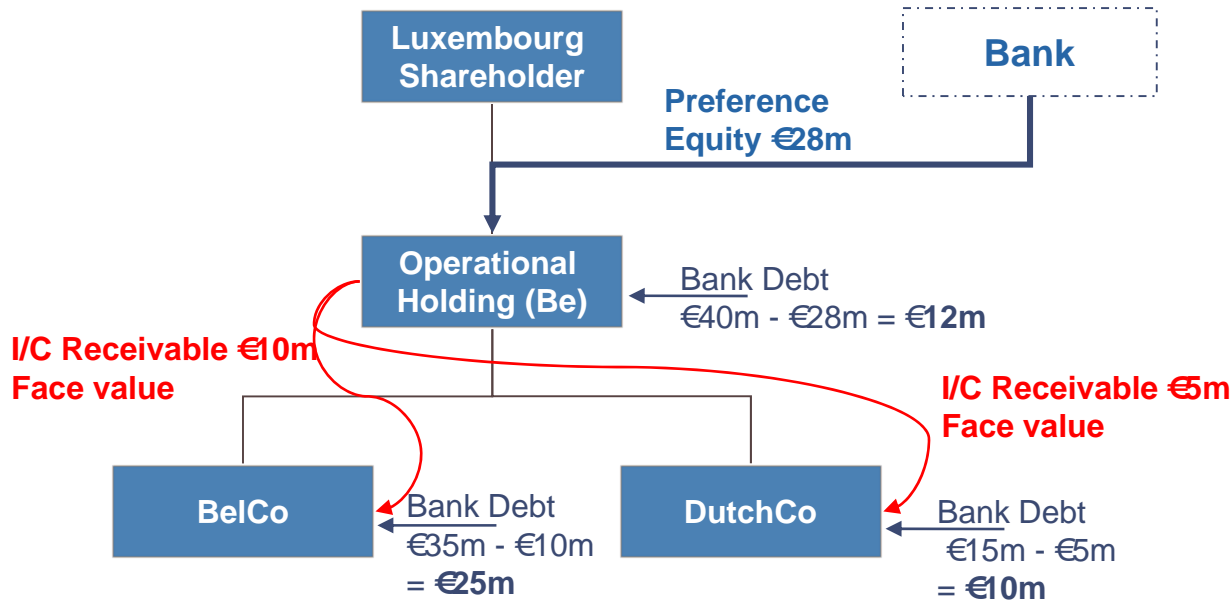


## Tax aspects for Operational Holding

- No tax impact
- Share capital is only increased with €28m since fair market value of receivable on BelCo and on DutchCo is 0
- The receivable on BelCo with face value of €10m and on DutchCo with face value of €5m are recorded in the B/S at €1
- The conversion of the accrued interest into equity is in principle subject to withholding tax but often exempt

# Partial Debt-push-up of bonds for €42m (total €60m) and of bank debt for €43m (total €90m)

Debt/equity swap: The €43m debt balance (i.e. €28m on Operational Holding, €10m on BelCo and €5m on DutchCo) is contributed into the share capital of Operational Holding in exchange for equity of €28m

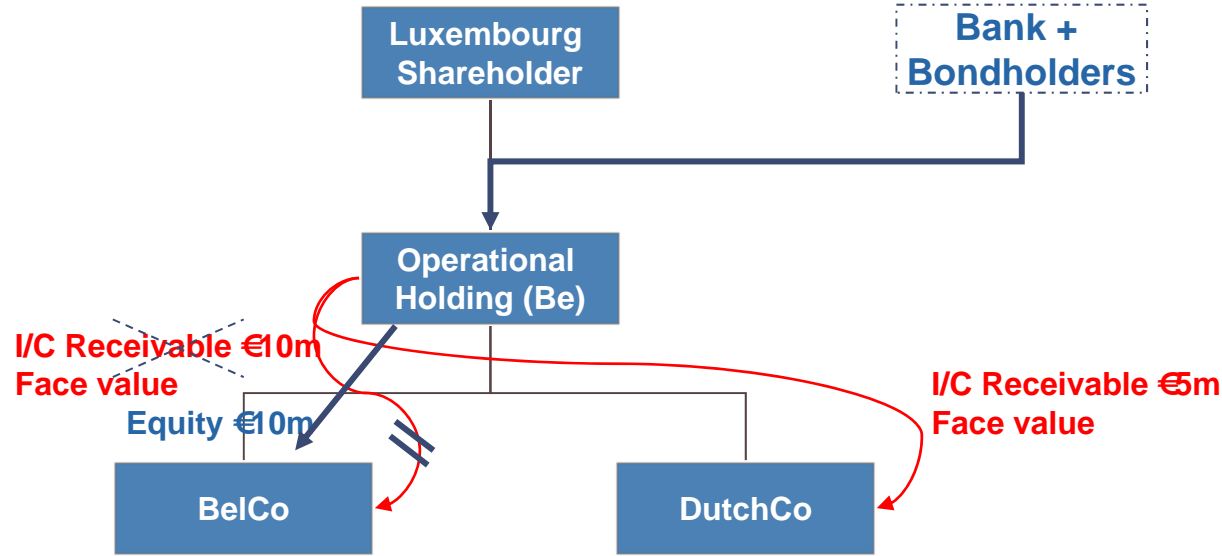


## Tax aspects for Bank

- Since fair market value of bank debt is only €47mio, the loss for the banks of €43mio should be tax deductible
- The preference shares in the accounts of the banks are recorded for €1

# Partial Debt-push-up of bonds for €42m (total €60m) and of bank debt for €43m (total €90m)

Debt/equity swap: **Operational Holding** contributes its inter-company receivable on BelCo against issuance of new shares.



## Tax aspects for Operational Holding

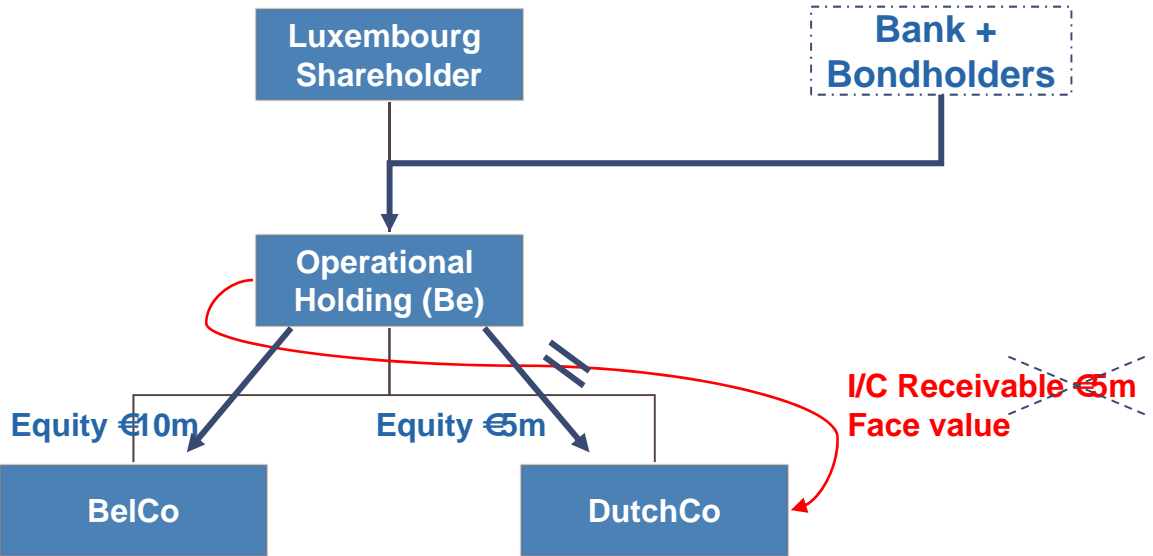
- New shares: 1€
- No tax gains or losses realized upon its contribution
- The conversion of the accrued interest into equity is in principle subject to withholding tax but often exempt

## BelCo

- Increase of share capital of €10m

# Partial Debt-push-up of bonds for €42m (total €60m) and of bank debt for €43m (total €90m)

Debt/equity swap: **Set-off for full value (“verrekening”)**

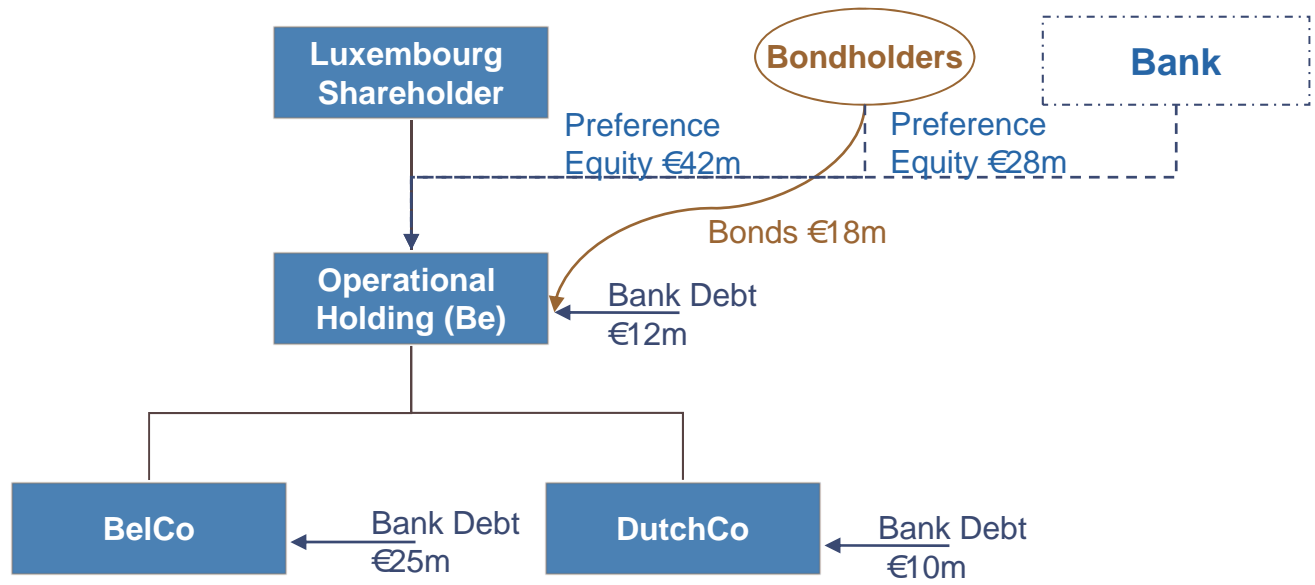


## Description

Operational Holding subscribes to a capital increase of DutchCo, followed by a set-off between subscription obligation and I/C receivable of €5m

# Partial Debt-push-up of bonds for €42m (total €60m) and of bank debt for €43m (total €90m)

## Final structure



# Partial Debt-push-up of bonds for €42m (total €60m) and of bank debt for €43m (total €90m)

- Other various techniques could be envisaged as well:
  - Plain vanilla partial Debt/equity swap
  - **Replacement of current bonds and bank debt by new debt instruments issued by same borrowers followed by a partial Debt/equity swap**
  - **Partial conditional sale of bonds and bank debt to a new LuxCo**
  - **Partial sale of bonds and bank debt to a new LuxCo in exchange for an interest-free bond with options**

# Salient points of the new Continuity Act



*Magritte*

# Continuity Act of 9 February 2009

- Replacement of Judicial Composition Act of 17 July 1997
- If Judicial restructuring through Amicable or Collective agreement:
  - In hands of debtor, taxable profit resulting from waiver of debt is tax exempt
  - In hands of creditor, waiver of debt is tax-deductible also if not conditional and if on related parties
  - VAT refund in the event of waiver of commercial debt



# The M&A Market post credit crunch

Chris Hemmings,  
*Global Head of Corporate  
Finance at PwC UK*

*Magnette*

# Agenda/Contents

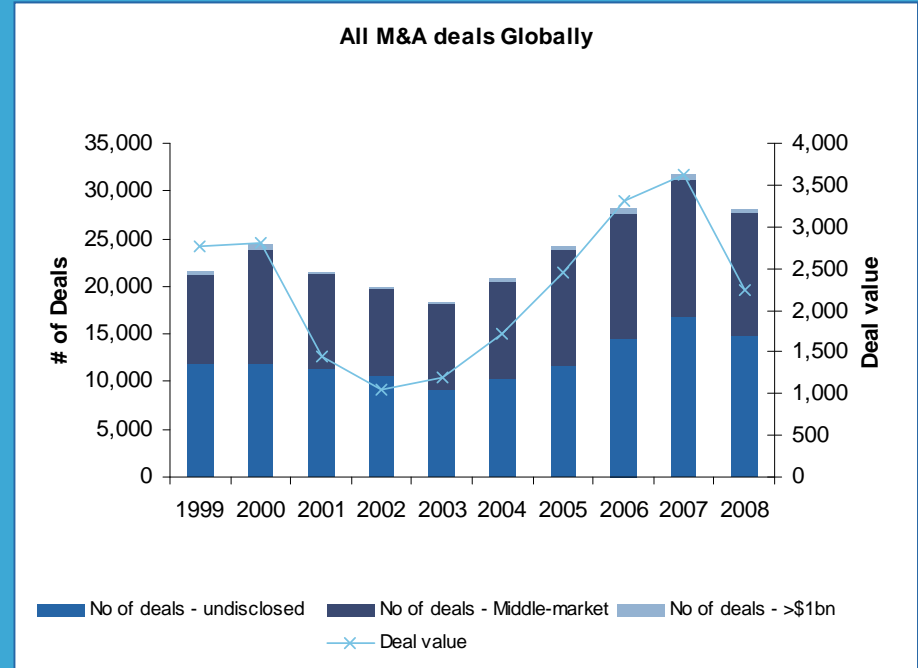
- Global M&A Activity
- A market in transition
- Getting ahead of the market

# Section one

- Global M&A Activity
- A market in transition
- Getting ahead of the market

# Global M&A Activity

- The decline in activity has continued into 2009 with a 32% drop in deal volumes and 39% drop in deal values year to date
- Deals >\$500m most affected, down more than 60% from their peak



Source: Dealogic

All parts of the M&A market have been affected but the bigger deals have suffered the most

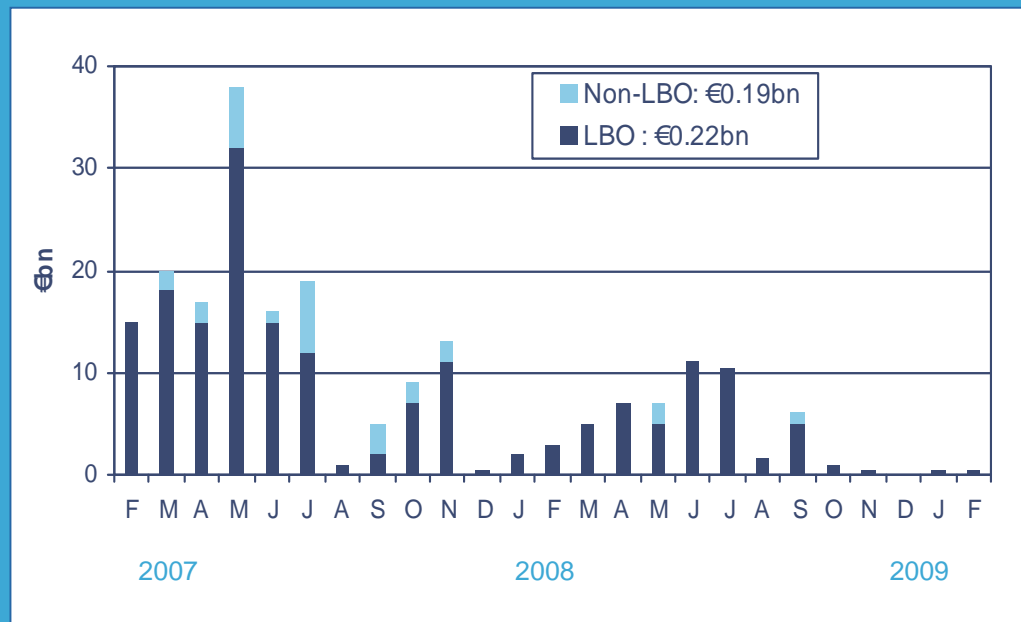
# Global M&A Activity

	Decrease in Activity	
	Deal volume %	Deal value %
North America	(31.9)	(29.6)
Central and South	(44.6)	(62.7)
Europe	(36.8)	(53.7)
Africa and Middle East	(46.3)	(37.6)
Asia Pacific	(28.0)	(45.8)

Different markets entered the M&A downturn at very different times but they are all suffering now

# Credit markets remain closed

- Deals >€300m have trouble financing the debt line
- Acquisition debt is now in the 3-4 x EBITDA range
- Cost of debt remains high



The unavailability of debt contributes to poor M&A activity levels but most importantly to company valuation issues

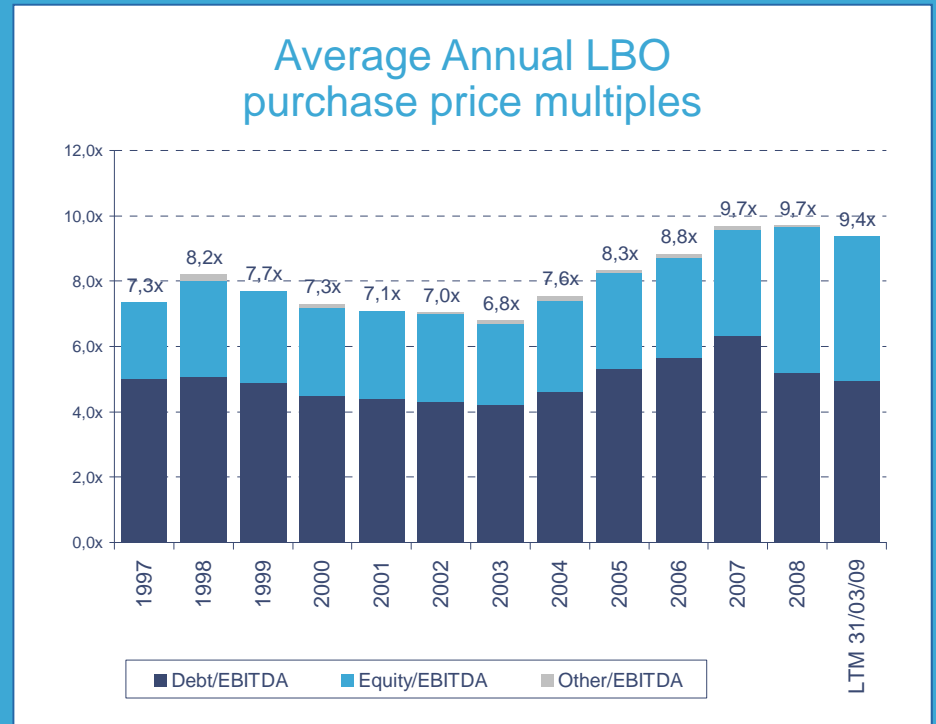


# Section two

- Global M&A Activity
- A market in transition
- Getting ahead of the market

# Company valuation are now adjusting

- Average Private Equity deal multiples have declined by 3% from their peak
- All the worlds major stock markets have suffered a 35-45% correction since 1 January 2008
- The M&A market has adjusted more slowly
- It will return to 6-8x EBITDA



Source: S&P LCD

Many potential vendors still expect the deal market to return to 10+ EBITDA multiples

# Private Equity is taking a time out

- They have lost their financial leverage advantage
- Many are saddled with significant portfolio problems
- A significant proportion of the Institutions will cease to exist
- PE activity is now at its worst level since the early 1990's

Corporates will be the key driver of the M&A upturn

# Corporates are biding their time

- Despite relatively strong balance sheets, corporates have become cautious about M&A
- Small bets only
- Infill acquisitions not diversification
- Conscious of a pricing gap

However, there are now early signs of the re-emergence of the strategic buyer

# Section three

- Global M&A Activity
- A market in transition
- Getting ahead of the market

# M&A in the Bubble

Focus on speed  
not on quality

- Auctions were driven to tighter and tighter timetables
- Cutting corners became the norm
- Corporates were squeezed out

Focus on  
leverage not on  
valuation

- Leverage replaced strategic premium
- Market comparables ceased to become relevant
- Corporates were priced out

Focus on risk  
assessments not  
on growth

- Risk became the prime driver of valuation multiples, not growth
- Flat businesses became highly prized

M&A markets worldwide seemed to dance to the tune of PE investors at the expense of the Corporate strategic buyers

# The new improved M&A market

- Space will be created for strategic buyers to assess the targets
- Auctions will take longer, > 6 months
- Auctions will be smaller, unless the target is very weak
- Valuations will cluster in the range of 6-8x EBITDA

Whilst these all assist the corporate, proprietary deal-flow will become important again. Have corporates retained the networks to generate these leads?

# Sources of deals

- Private Equity will seek “pre-emptive” offers for their portfolio companies, post this summer
- “Good” distress business will start coming to the market in Q4 2009
- Public to privates will become active in 2010
- Banks will start exiting their control positions from Q4 2009
- Corporates will begin to spin off non-core subsidiaries as we move towards 2010

Succeeding in the market will require focus, prioritisation and good networks

# Conclusion

- When the M&A market opens up, corporates will hold most of the cards  
*But*
- Good private equity houses will continue to benefit from situations where corporates have not clarified their strategic needs
- Corporates who have established strong networks and clear acquisition criteria will benefit significantly
- The window for buying businesses will begin to open in September but will really start in January 2010

# Corporate finance

**UK's leading M&A adviser, on deals \$50m-\$1bn in value, over 10 years<sup>1</sup>**

**Leading Global Project Finance adviser<sup>2</sup>**

<sup>1</sup>Number one by volume of UK announced deals, \$50m-\$1bn, 10 years to 2008, Thomson Financial 12/01/09

<sup>2</sup>Number one by number of closed mandates in 2008, Project Finance International January 2009



# Thank you.

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