

Bank Recapitalization in Bankruptcy



June 4, 2014

Introduction to Presenters

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Mr. Binns is an attorney with the firm of Dover Dixon Horne PLLC in Little Rock, Arkansas. Mr. Binns practices with an emphasis on corporate, commercial, banking, mergers, acquisitions, divestitures, complex banking products, bank holding company formations, de novo bank formations, and securities matters. Mr. Binns is a frequent speaker on matters regarding mergers, acquisitions, commercial law, securities and banking law. Prior to entering the private practice of law, Mr. Binns was an accountant practicing with an emphasis on securities regulation and regulatory compliance. Mr. Binns has extensive experience representing organizations before federal and state banking and securities agencies. In addition to his business accomplishments, Mr. Binns is the 46th person in the world to be certified by the 50 States Marathon Club, a nonprofit organization dedicated to the promotion of health and fitness, as having run a marathon (26.2 miles) in each of the 50 states in the United States. Mr. Binns holds a B.B.A. in Accounting from the University of Arkansas at Monticello and a J.D. from the University of Arkansas at Little Rock.



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Mr. Briggs joined Chaffe & Associates, Inc. ("Chaffe") in 1997 and currently heads its Financial Institutions Group. Mr. Briggs leads the group in providing merger and acquisition advisory services, valuation services, capital planning services and regulatory advisory services to banks and thrifts. While at Chaffe, Mr. Briggs has completed numerous bank and thrift merger advisory engagements, including regulatory-assisted transactions, for a total aggregate value of over \$400 million. In addition, Mr. Briggs has completed over 200 of other advisory assignments, including valuations, capital planning services and advisory on regulatory matters. Mr. Briggs holds a B.S. in Finance from the University of New Orleans and is a CFA charterholder. He has also served as an adjunct professor for the University of New Orleans. Mr. Briggs is a member of the CFA Institute and the CFA Society of Louisiana. He is registered with Financial Industry Regulatory Authority ("FINRA") as a registered representative and general securities principal and holds the Series 7, 24, 79 and 63 registrations.



Jeff P. Prostok
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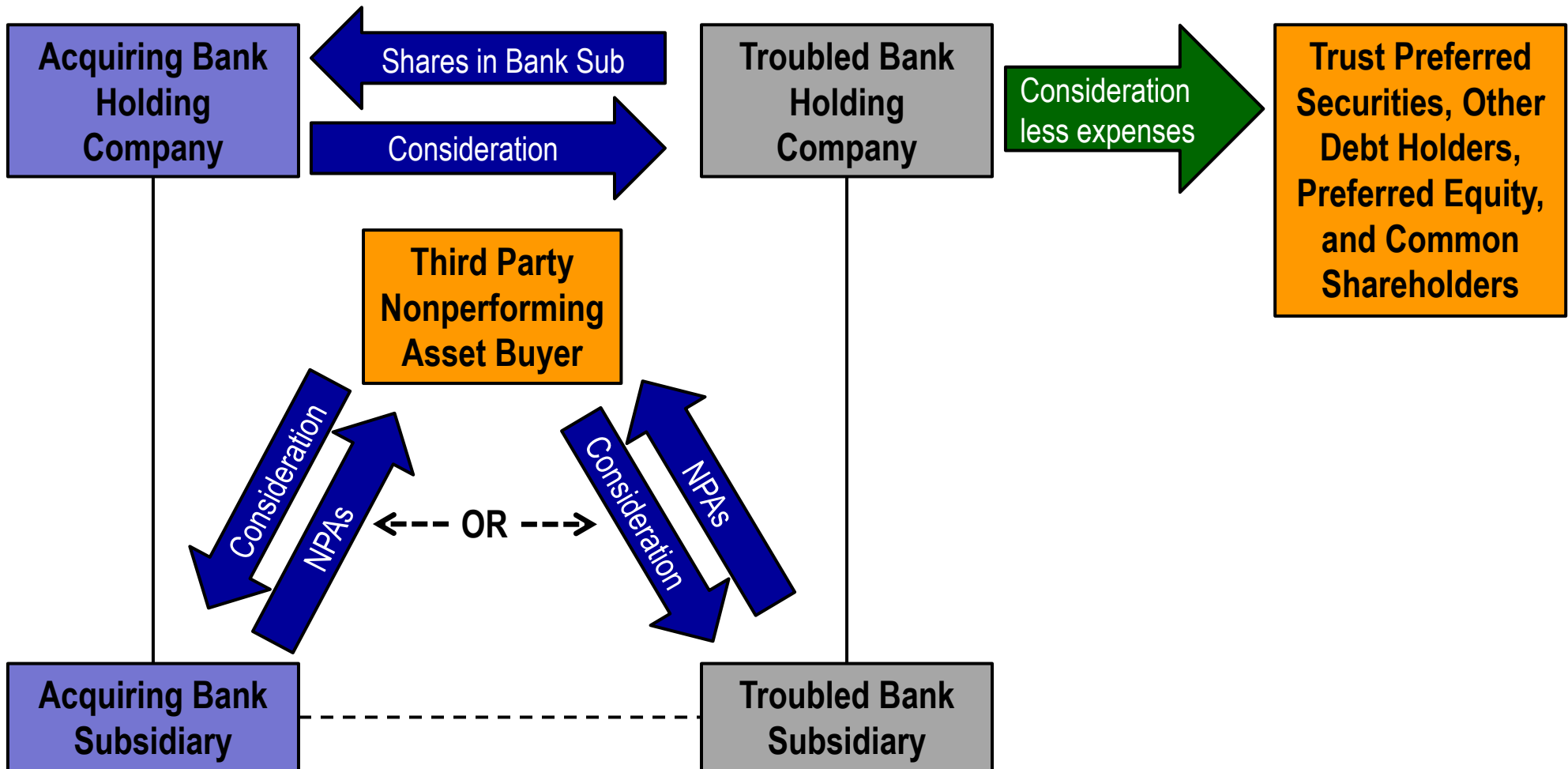
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Mr. Prostok concentrates his practice in the areas of business reorganizations, debtor and creditor rights, bankruptcy litigation, refinancing, and acquisitions of troubled companies. Mr. Prostok represented the Debtor Outsource Holdings, Inc. in the successful merger of Jefferson Bank into First Bank & Trust Lubbock and represented The First Bancshares with its successful acquisition of the First National Bank of Baldwin in the Bankruptcy Court for the Southern District of Alabama. Mr. Prostok has represented numerous debtors in his thirty years of bankruptcy practice including Texas Rangers Baseball Partners, Mirant Energy, Berryman Products, Inc., and many others. He recently served as co-counsel for an Ad Hoc group of bondholders with claims exceeding \$700 million in the Vitro S.A.B. bankruptcy case pending in the Northern District of Texas, preventing Vitro from enforcing its Mexican concurso plan in the United States. He has written and spoken about bankruptcy issues for a number of CLE programs sponsored by various organizations including the State Bar of Texas and is Board Certified in Business Bankruptcy Law by the Texas Board of Legal Specialization.

Strategies/Factors In Pursuing M&A

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Bankruptcy Sale Structure



Note: NPAs – non-performing assets

From Seller's Perspective

- **When determining whether pursuing bankruptcy as an alternative is the correct strategic decision, the Board/Executive Management in its decision making process must decide that such an alternative is the most viable option to prevent the bank from failing.**
 - **Typically, the selling bank already will have exhausted various other strategic alternatives before pursuing a bankruptcy strategy.**
 - **Most banks sold through bankruptcy are initially marketed as whole-bank holding company sales.**
 - **Negotiation with one potential acquirer vs. broader marketing effort.**
- **Maximizing consideration received for the bank is the most important factor.**
- **Certainty of closing the transaction is also vitally important.**
 - **Highest offer is not necessarily the best offer.**

From Seller's Perspective

- A Prepackaged Chapter 11 Plan is often the more preferred method for seller to effect a transaction through Bankruptcy Court because there is more certainty surrounding the transaction:
 - Need support of the senior creditors.
- It is important to be proactive versus reactive when pursuing strategic alternatives:
 - Bank holding companies in “trust-preferred limbo” can be forced into involuntary bankruptcy.
- While it is common to use the phrase “time kills deals”, in these transactions time actually can “kill” the bank.

From Acquirer's Perspective

- **Waiting on the bank to fail may not be the best strategy.**
- **§363 sales/Chapter 11 Prepackaged Plans can be viable options to pursue in acquisition.**
- **Two scenarios for acquirers to effect such a transaction:**
 - **Acquirer approaches a selling bank in a negotiated transaction; or**
 - **Selling bank is widely marketed by an investment bank and a potential acquirer is able to participate in the bidding process to acquire the selling bank through a §363 sale/Chapter 11 Prepackaged Plan.**
- **Due diligence.**

From Acquirer's Perspective

- It is critical already to have established a team of legal (bankruptcy and M&A) and financial advisors with experience in such transactions.
- The acquirer should perform a detailed analysis in order to determine a competitive bid.
 - As a stalking horse bidder in a §363 sale, there will be an organized auction process.
 - In a Chapter 11 Prepackaged Plan, competing bidders can emerge as well.
 - Need to know when to walk away.

Other Considerations

- **Negotiation with debt holders (secured and unsecured) of the bank holding company filing for bankruptcy.**
- **Opportunities for the sale of nonperforming assets to a third party.**
- **Consideration of potential tax consequences through collaboration with the acquirer's and selling bank's accountants.**

Strategies/Factors In Pursuing M&A

363 Transaction History

Buyer	State	Target	State	Announce Date	Complete Date	Deal Value (\$ MM)	ANNOUNCEMENT FINANCIALS						Price/ Bank TBV	Price/ Bank Earnings	Price/ Bank Assets
							TARGET			HC					
							Assets (\$000)	TE/ TA	TTM ROAA	TTM ROAE	NPAs/ Assets	TCE/ TA			
Banner Corporation	WA	Idaho Banking Company	ID	4/24/2014	Pending	\$ 2.60	\$ 102,087	3.29%	0.01%	0.33%	14.43%	(12.20%)	77.40%	NM	2.55%
RKJS Inc.	MD	First Mariner Bank	MD	2/10/2014	Pending	17.73	1,014,796	3.21%	(1.33%)	(37.02%)	6.51%	(2.64%)	54.47%	NM	1.75%
Olney Bancshares of Texas	TX	Park Cities Bank	TX	12/10/2013	2/28/2014	11.89	421,549	5.51%	(1.53%)	(25.33%)	26.99%	(5.26%)	51.22%	NM	2.82%
Talmer Bancorp Inc.	MI	Four subs of Capitol Bancorp	NA	10/14/2013	1/1/2014	6.50	991,074	4.99%	(1.13%)	(40.10%)	18.67%	(10.19%)	12.98%	NM	0.66%
Simmons First National	AR	Metropolitan National Bank	AR	9/12/2013	11/25/2013	53.60	991,357	6.23%	0.15%	2.25%	9.90%	(2.72%)	86.76%	36.56x	5.41%
United Community Bancorp	IL	Mercantile Bank	IL	6/27/2013	12/13/2013	NA	386,343	7.43%	(1.68%)	(23.90%)	2.95%	(11.07%)	NA	NA	NA
First Farmers Financial	IN	Bank of Indiana, NA	IN	4/9/2013	10/26/2013	NA	103,062	7.77%	(1.49%)	(16.17%)	5.94%	(6.55%)	NA	NA	NA
First Bancshares	MS	FNB of Baldwin County	AL	1/31/2013	4/30/2013	3.30	186,770	2.16%	(0.54%)	(23.69%)	3.94%	(4.00%)	81.76%	NM	1.77%
Western Alliance Bancorp.	AZ	Centennial Bank	CA	1/22/2013	4/30/2013	57.50	581,807	17.17%	0.91%	6.21%	14.75%	NA	65.97%	9.57x	10.10%
Talmer Bancorp Inc.	MI	First Place Bank	OH	10/29/2012	1/1/2013	45.00	2,617,268	5.88%	1.06%	19.51%	7.70%	1.49%	29.24%	1.57x	4.01%
Strategic Growth Bank	TX	Mile High Banks	CO	9/27/2012	12/31/2012	5.50	847,307	2.79%	(2.83%)	(102.82%)	15.65%	(2.23%)	27.09%	NM	0.65%
Home BancShares	AR	Premier Bank	FL	8/14/2012	12/1/2012	1.42	282,435	3.63%	(1.50%)	(40.35%)	14.36%	(4.33%)	13.79%	NM	0.50%
First Bank Lubbock	TX	Jefferson Bank	TX	4/4/2011	7/28/2011	11.00	204,922	5.83%	(0.59%)	(11.04%)	10.55%	(0.70%)	92.14%	NM	5.37%
SKBHC Holdings, LLC	CA	AmericanWest Bank	WA	10/27/2010	12/20/2010	6.50	1,482,790	2.64%	(3.63%)	(86.67%)	9.33%	(0.40%)	16.69%	NM	0.44%
25th Percentile							\$ 224,300	3.23%	(1.52%)	(39.33%)	6.81%	(6.55%)	24.49%	5.6x	0.66%
Median							501,678	5.25%	(1.23%)	(23.80%)	10.23%	(4.00%)	52.85%	9.6x	2.16%
75th Percentile							991,286	6.14%	(0.13%)	(2.51%)	14.67%	(2.23%)	78.49%	23.1x	4.35%

Strategies/Factors In Pursuing M&A

Market Response to 363 Acquisitions

Buyer	Target	Ticker	Announcement		Announcement		
			Date	Price	Price 1 Day After	Price 7 Days After	Price 30 Days After
Simmons First National Corp.	Metropolitan National Bank	SFNC	9/12/2013	\$26.87	\$28.38	\$30.18	\$32.79
<i>Stock Price Increase/(Decrease) vs. Announcement Price</i>					5.62%	12.32%	22.03%
The First Bancshares, Inc.	FNB of Baldwin County	FBMS	1/31/2013	\$10.30	\$10.41	\$10.80	\$11.61
<i>Stock Price Increase/(Decrease) vs. Announcement Price</i>					1.07%	4.85%	12.67%
Western Alliance BanCorp.	Centennial Bank	WAL	1/22/2013	\$11.50	\$11.48	\$12.30	\$13.80
<i>Stock Price Increase/(Decrease) vs. Announcement Price</i>					(0.17%)	6.96%	20.00%
Home BancShares, Inc.	Premier Bank	HOMB	8/14/2012	\$15.27	\$15.40	\$15.48	\$17.10
<i>Stock Price Increase/(Decrease) vs. Announcement Price</i>					0.85%	1.34%	11.98%
MEDIAN % INCREASE/(DECREASE)					0.96%	5.91%	16.33%

Buyer	Target	Approval		Closing		SNL Index Price Increase Announcement to Closing
		Date	Price	Date	Price	
Simmons First National Corp.	Metropolitan National Bank	9/12/2013	\$26.87	11/25/2013	\$34.19	7.82%
<i>Stock Price Increase/(Decrease) vs. Announcement Price</i>					NA	27.24%
The First Bancshares, Inc.	FNB of Baldwin County	4/23/2013	\$12.10	4/30/2013	\$11.88	6.00%
<i>Stock Price Increase/(Decrease) vs. Announcement Price</i>					17.48%	15.34%
Western Alliance BanCorp.	Centennial Bank	2/12/2013	\$13.05	4/30/2013	\$14.71	6.08%
<i>Stock Price Increase/(Decrease) vs. Announcement Price</i>					13.48%	27.91%
Home BancShares, Inc.	Premier Bank	11/29/2012	\$16.68	12/1/2012	\$16.86	5.16%
<i>Stock Price Increase/(Decrease) vs. Announcement Price</i>					9.20%	10.41%
MEDIAN % INCREASE/(DECREASE)					21.29%	6.04%

Source: SNL Financial

Overview of Regulatory and Deal Process

- **The acquisition of a bank in a §363 transaction requires careful planning.**
- **The bank holding company as the acquirer needs to have lined up the funds to make the acquisition possible by either selling common or preferred stock or borrowing the necessary funds. In some instances the acquirer may have the funds internally without the need to raise capital or borrow funds.**
- **Prior to the filing of the bankruptcy by the holding company of the troubled bank, the acquirer needs to have completed its due diligence of the troubled bank and ensured it is satisfied in the following areas (This will require the acquirer entering into a confidentiality agreement with the troubled bank and its holding company to agree to maintain the confidentiality of information provided to the acquirer):**
 - **The valuation of the loan portfolio and underlying collateral (e.g., notes, appraisals, and credit analysis) with careful attention given to nonperforming and classified assets**
 - **Other real estate owned and its appraised value**
 - **Termination fees and conversion costs on data processing agreements**

➤ Continued:

- **Compensation, employment and other contracts with employees**
- **Pending litigation**
- **Analysis of leases on branch locations**
- **Valuation of owned branch locations**
- **Claims filed with insurance carriers**
- **Employee benefit plans and labor matters**
- **Tax matters involving federal, state or local agencies**
- **Analysis of material contracts**
- **Retention of key employees**
- **Environmental assessments**
- **Transactions with affiliates**

➤ Continued:

- Analysis of the securities portfolio
- Agreements with regulatory agencies
- Review and matters involving subsidiaries, if any
- Review of audited financial statements

➤ It is critical that the acquirer be in contact with both its federal and state banking agencies prior to the filing of the bankruptcy and during the negotiation of the definitive agreement. The troubled bank will remain subject to possible closure prior to and during the bankruptcy process. Both prior to the bankruptcy and during the bankruptcy process, the acquirer should stay in constant contact with the banking agencies responsible for the troubled bank.

- **During the due diligence review by the acquirer of the troubled bank, the parties need to be working on the terms of the definitive agreement to include matters as follows:**
 - **The consideration to be paid for the troubled bank**
 - **Representations and warranties by the troubled bank and its holding company**
 - **Pre-closing matters and other covenants such as lending restrictions and other restrictions on the troubled bank and termination of agreements with certain employees of the troubled bank**
 - **Conditions of closing such as obtaining bank regulatory approvals and bankruptcy court approval**
 - **Termination of the definitive agreement to include the payment of a breakup fee to the acquirer in the event of acceptance of a competing bid by the troubled bank's holding company**

- **Because of restrictions on the troubled bank by bank regulatory agencies, the troubled bank will not be able to execute the definitive agreement without prior regulatory approval. However, the troubled bank will join into the definitive agreement at a later date once the acquirer obtains regulatory approval.**
- **It is important to have the applications prepared to file with bank regulatory agencies as soon as a definitive agreement is executed for acquisition of the troubled bank. The ability to obtain bank regulatory approval may be the deciding factor in the event there are competing bidders for the troubled bank.**

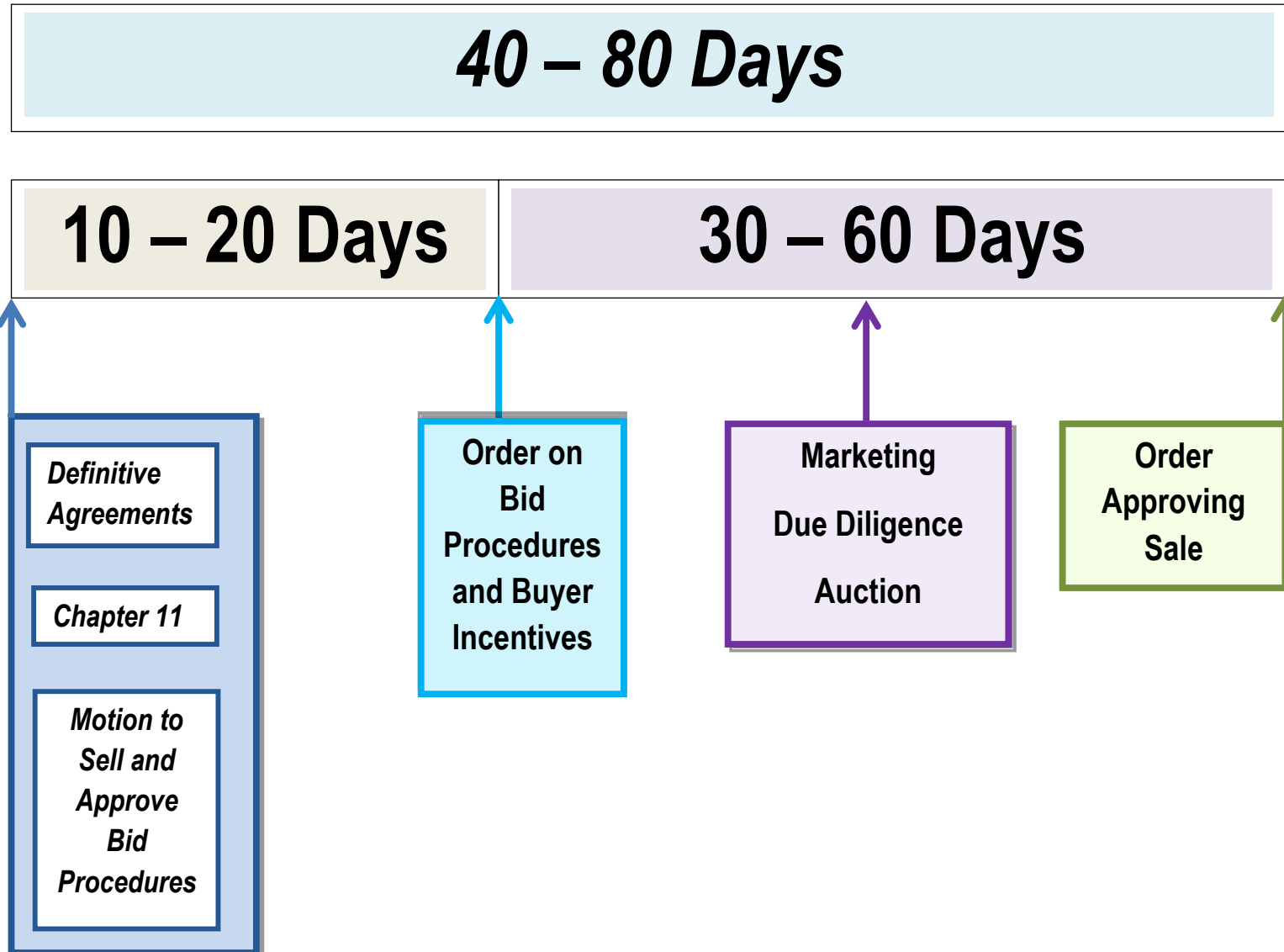
Overview of Bankruptcy Process

- In the past, banks have been reluctant to consider Chapter 11.
- Since the financial crisis, the banking industry has used §363 of the Bankruptcy Code to facilitate the recapitalization of banks.
- A §363 sale involves the parent filing bankruptcy, not the subsidiary bank. The parent company sells its bank to the highest bidder in a bankruptcy court approved and supervised auction process.

Overview of Bankruptcy Process

Timeline

SALE APPROVED Per § 363 MOTION



- **An alternative to a §363 sale is a Prepackaged Chapter 11 Plan. There is no auction but rather a written plan to resolve the holding company's obligations through a partial payment or other agreed upon terms. It is called "prepackaged" because it is negotiated before the bankruptcy filing. The Plan must be approved by the court and receive the approval of some but not all of its creditors.**

- **Chapter 11 provides options to avoid FDIC receivership and preserve the bank's value. Benefits include:**
 - **Allows the investment of new capital by achieving compliance with regulatory requirements.**
 - **Resolves obligations of the holding company and maximizes the value recovered by debt and security holders.**
 - **Preserves the bank's ongoing value by retaining customers and saving jobs.**
 - **Avoids FDIC receivership and loss to the Deposit Insurance Fund.**
 - **Avoids legal and financial risks to officers and directors resulting from FDIC receivership.**

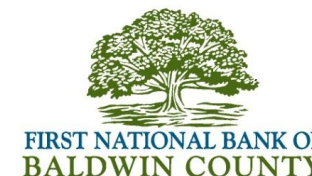
Case Study: The First Bancshares, Inc.'s Acquisition of First National Bank of Baldwin County

The First Bancshares, Inc.'s Acquisition of First National Bank of Baldwin County

- **Announce Date: 1/31/2013**
- **Complete Date: 4/30/2013**
- **Deal Value: \$3.3 million**
- **Organized Chapter 11 Bankruptcy Plan vs. Auction w/ Stalking Horse Bidder**



TheFirst
BANCSHARES, INC.



Deal Pricing Ratios/ Target Profile

Price/ Bank TBV	81.76%
Price/ Bank Earnings	NM
Price/ Bank Deposits	1.81%
Price/ Bank Assets	1.77%
TBP/ Bank Core Deposits	(0.52%)
Total Bank Assets (\$000s)	186,770
Bank NPAs ⁽¹⁾ / Assets	1.59%
Bank TE/ TA	2.16%

Target/ Target's Holding Co. Capital Structure

Tier 1 Leverage Ratio (Bank)	2.16%
Holding Co. Equity (\$000s)	(5,468)
Holding Co. Preferred Equity (\$000s)	2,014
Holding Co. TruPS (\$000s)	8,116
Holding Co. LT Debt (\$000s)	1,500

Source: SNL Financial

Note: Core deposits exclude CDs greater than \$100,000 and all brokered deposits.

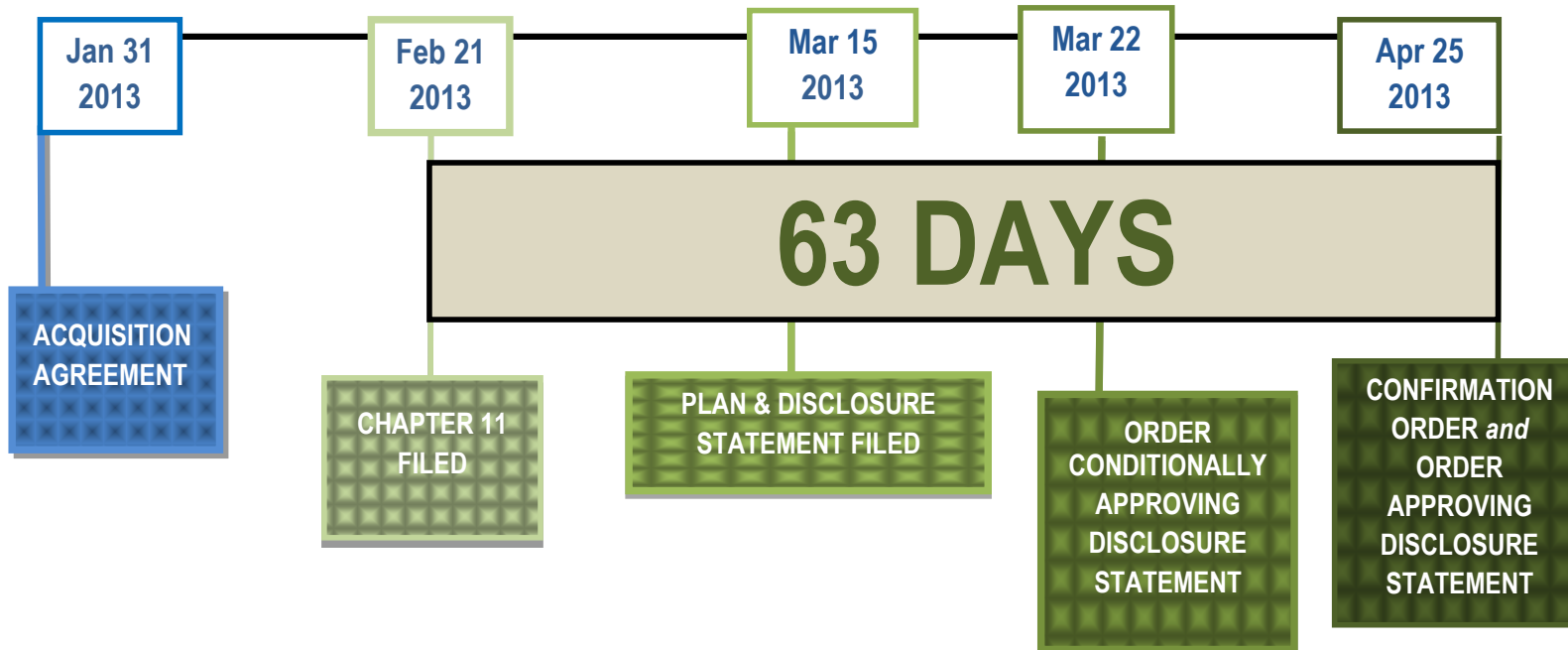
(1): NPAs exclude restructured loans, which were \$4.4 million as of December 31, 2012.

Timeline

BANKRUPTCY SALE THROUGH PREPACKAGED CHAPTER 11 PLAN



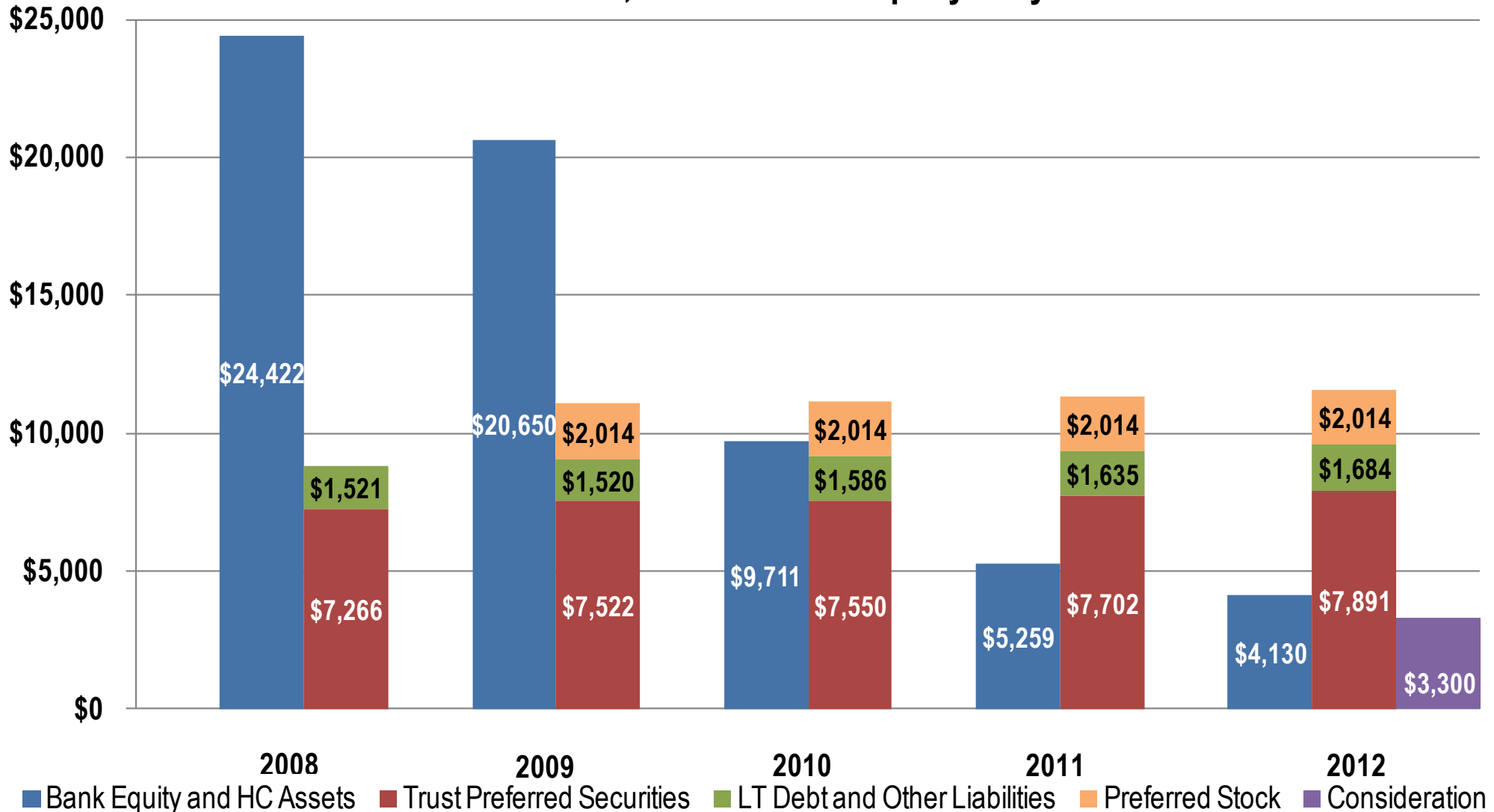
Acquisition of



Case Study

Impact of Deterioration of Bank Level Equity on Holding Company Leverage

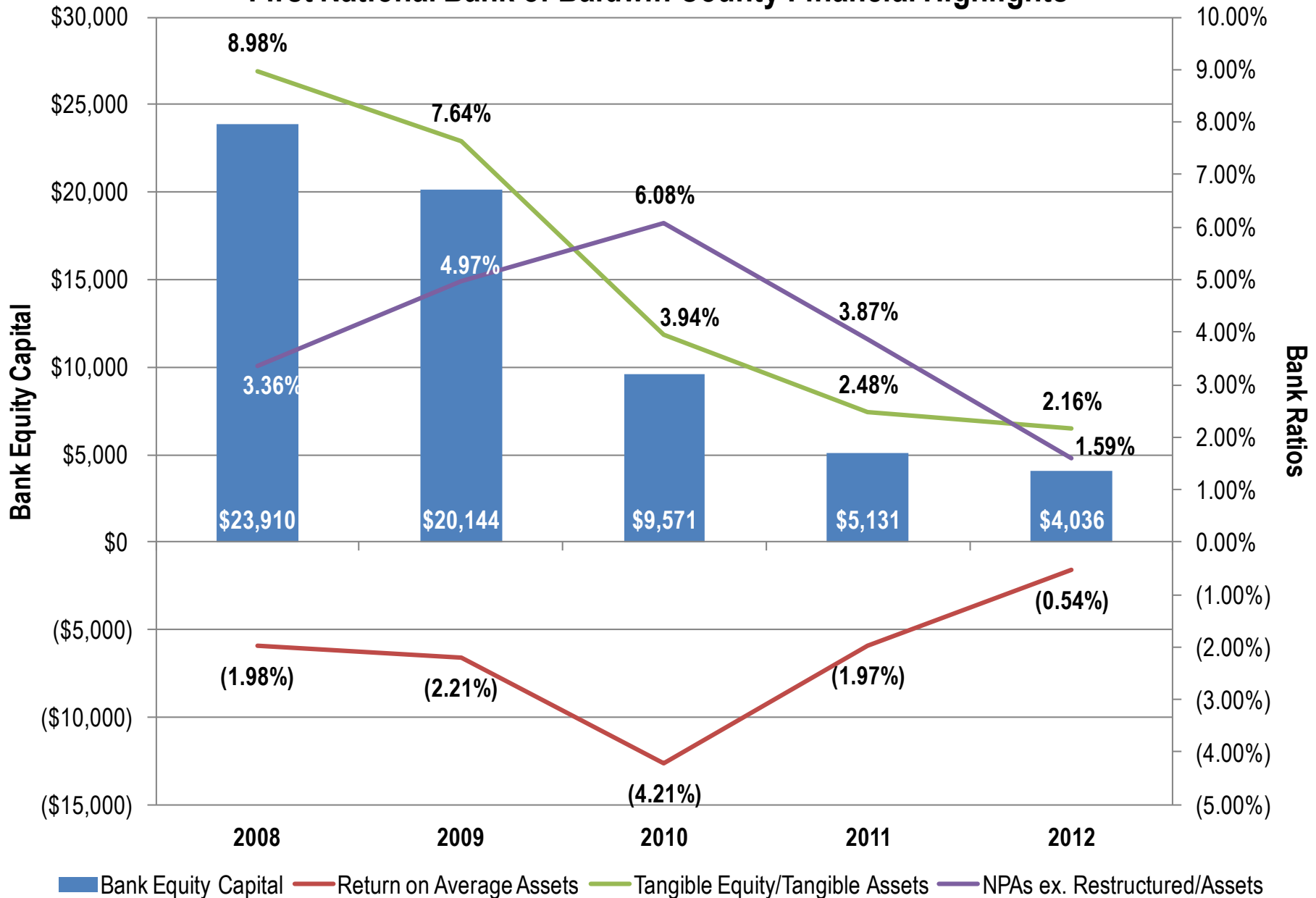
First Baldwin Bancshares, Inc. Parent Company Only Balance Sheet



Source: SNL Financial; Note: Trust Preferred Securities excludes equity in nonbank subsidiary.

Case Study

First National Bank of Baldwin County Financial Highlights



Source: SNL Financial; Note: \$'s in thousands

Comments and/or Questions?



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