



TP Financial transactions, a specific case

(IOTA-Budapest)

Transfer Pricing – Financial Transactions

Transfer Pricing Guidance on Financial Transactions INCLUSIVE FRAMEWORK ON BEPS: ACTIONS 4, 8-10

-Introduction

Accurate delineation of the actual transaction

Realistic alternatives

Publicly available financial tools or methodologies

Internal or external comparability?

-Case Study

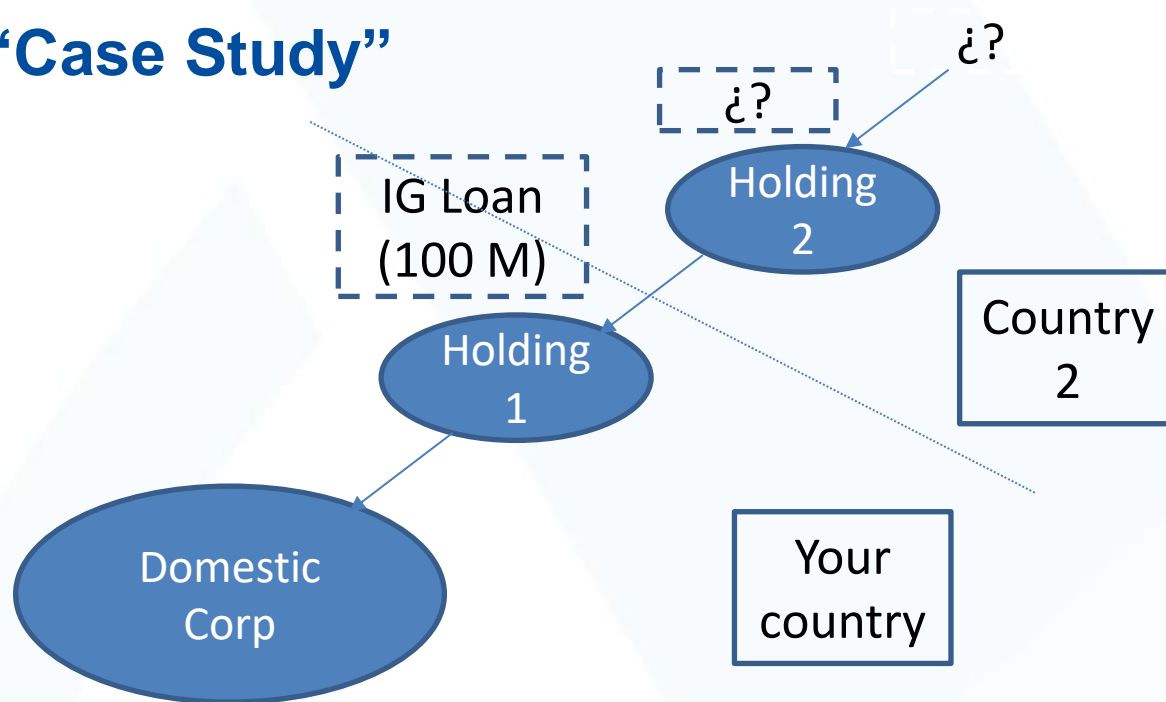
-Potencial solutions

Credit Rating Scale

		Senior Debt Ratings		
		MOODY'S	S&P	FITCH
Grado de inversión	Aaa	AAA	AAA	AAA
	Aa1	AA+	AA+	AA+
	Aa2	AA	AA	AA
	Aa3	AA-	AA-	AA-
	A1	A+	A+	A+
	A2	A	A	A
	A3	A-	A-	A-
	Baa1	BBB+	BBB+	BBB+
	Baa2	BBB	BBB	BBB
	Baa3	BBB-	BBB-	BBB-
Grado especulativo	Ba1	BB+	BB+	BB+
	Ba2	BB	BB	BB
	Ba3	BB-	BB-	BB-
	B1	B+	B+	B+
	B2	B	B	B
	B3	B-	B-	B-
	Caa1	CCC+	CCC+	CCC+
	Caa2	CCC	CCC	CCC
	Caa3	CCC-	CCC-	CCC-
	Ca	CC	CC	CC
	C	C	C	C
		D	D	D

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“Case Study”

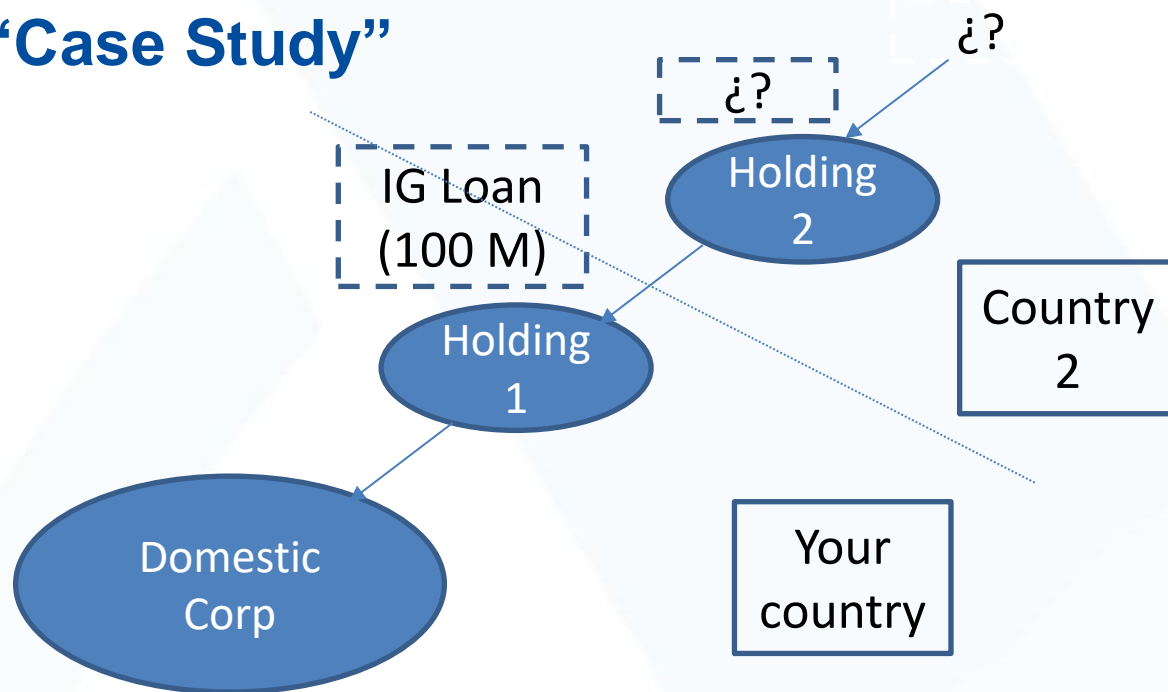


-A corporation (“Co”), constituted and operating solely in “your country” (domestic), was acquired by a foreign investor through a holding Company (H1). This holding Company received an 100 M Intra-group loan (IGL) in order to finance “Co” shares acquisition

-IGL agreement, signed on acquisition date, describes a 10 years subordinated financial instrument at Index + 10% interest rate (fixed minimum of 12%)

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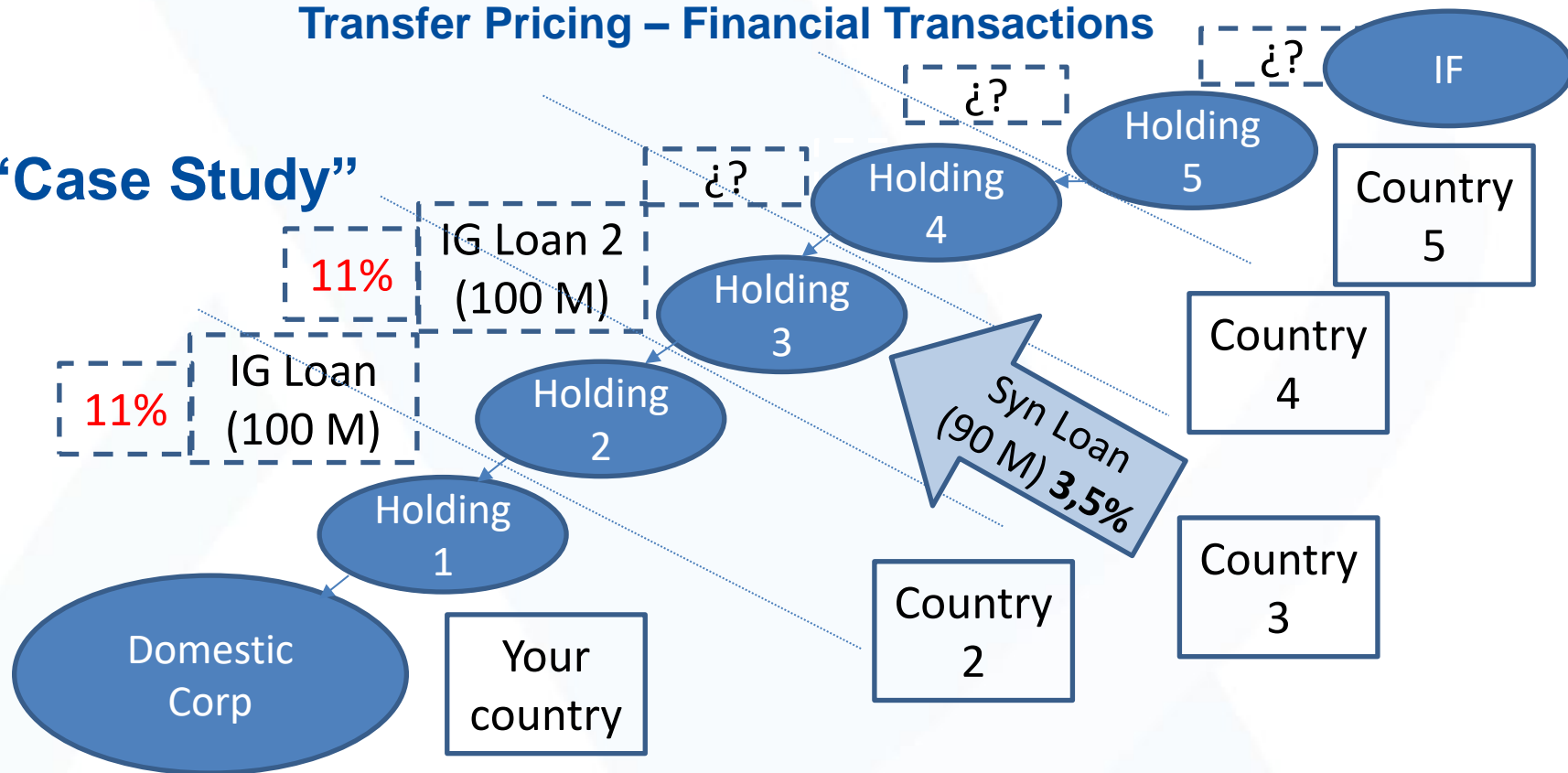
“Case Study”



- Taxpayer transfer pricing documentation contains a search for transactions that concludes with a set of 20 subordinated 5-15 years 50-250 M loans, dated on acquisition year, according to a stand-alone rating (“High Yield”) with no adjustments. This benchmark leads to an external comparability range (7.5% - 12.5%)
- Tax auditors request detailed info. regarding accurate delineation, borrower’s ability, creditworthiness, subordination, tenor, amount, parties and the possibility of internal comparables

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“Case Study”



-Taxpayer states that there are not internal comparables available:

a) 10 years before acquisition (b.a.): A 3rd party 10 Years Loan non subordinated 4% and early repaid (50 M). Borrower: Domestic Corp (“Co”)

b) 1 month (b.a.): A 8 Years Syndicated Loan non subordinated 3.5% (90M). Borrower: Holding 3 (H3)

Both loans were rejected by taxpayer due to differences (**tenor**, **subordination**, **credit rating**, **amount**, interest rate type..., regarding older one, also date)

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“Case Study”

Tax auditors highlights:

- The ultimate acquirer is a foreign Investment Fund (IF) through a number of holding companies structure (100% owned chain) involving several countries. A successful domestic business have shortly become a heavily indebted borrower but with a positive outlook for operational performance
- Acquisition of “Co” was essentially funded (90%) by a syndicated loan (Syn L)
- Taxpayer provides a “high yield” profile of “Co” based on a financial quantitative tool. Other relevant features are “considered” ALP since are similarly found in loans set
- Most of acquired “Co” earnings are devoted to H1 dividends. This dividend is used by H1 to cover accrued IC1 loan interest and loan reinbursements. H1 IC1 and H2 IC2 loans have identical terms, acting as a mirror
- Tax auditor underlines that “Co” is the single source of income as the sole “operating” entity. Syndicated Loan (Syn L) agreement focuses on “Co” creditworthiness
- 5 years after acquisition IF sells this investment (“Co”) to IF2 with capital gains. The IG loans structure is updated (“New” IG 1&2 Loans take the place of previous ones). Terms of New IG 1&2 Loans agreements are similar to New Syn loan one except interest rate (equal to the sum of 0.25% and New Syn loan fixed interest rate)

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“Case Study”

-Any questions or first proposals?

-Main issues to be discussed?

-In particular, what are your considerations about these comparability differences in the financial analysis?

Tenor

Subordination

Creditworthiness

Amount



Agencia Tributaria

THANK YOU VERY MUCH FOR YOUR ATTENTION

2025 - May (21-22)

LTO (Large Taxpayers Office)

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