FEDERAL RESERVE SYSTEM

Docket No. OP-1816

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064-ZA37

Guidance for Resolution Plan Submissions of Domestic Triennial Full Filers

AGENCIES: Board of Governors of the Federal Reserve System (Board) and Federal Deposit Insurance Corporation (FDIC).

ACTION: Final guidance.

SUMMARY: The Board and the FDIC (together, the agencies) are adopting this final guidance for the 2025 and subsequent resolution plan submissions by certain domestic banking organizations. The final guidance is meant to assist these firms in developing their resolution plans, which are required to be submitted pursuant to section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as amended (the Dodd-Frank Act), and the jointly issued implementing regulation (the Rule). The scope of application of the final guidance is domestic triennial full filers (specified firms or firms), which are domestic Category II and III banking organizations. The final guidance describes the agencies' expectations, depending on the resolution strategy chosen by the firm, regarding a number of key vulnerabilities in plans for an orderly resolution under the U.S. Bankruptcy Code (i.e., capital; liquidity; governance mechanisms; operational; legal entity rationalization; and insured depository institution (IDI) resolution, if applicable). The final guidance modifies and clarifies certain aspects of the proposed guidance based on the agencies' consideration of comments to the proposal, additional analysis, and further assessment of the business and risk profiles of the firms.

DATES: The final guidance is available on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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I. Introduction

A. Background

Section 165(d) of the Dodd-Frank Act[1] and the Rule[2] require certain financial institutions to report periodically to the Board and the FDIC their plans for rapid and orderly resolution under the U.S. Bankruptcy Code (the Bankruptcy Code) in the event of material financial distress or failure. The Rule divides covered companies into three groups of filers: (a) biennial filers; (b) triennial full filers; and (c) triennial reduced filers.[3] The terms "covered company" and "triennial full filer" have the meanings given in the Rule, as do other, similar terms used throughout this final guidance document.

Triennial full filers under the Rule are required to file a resolution plan every three years, alternating between full and targeted resolution plans.[4] The Rule requires each covered company's full resolution plan to include, among other things, a strategic analysis of the plan's components, a description of the range of specific actions the covered company proposes to take in resolution, and a description of the covered company's organizational

[1] 12 U.S.C. 5365(d).
[2] 12 CFR parts 243 and 381.
[3] 12 CFR 243.4 and 12 CFR 381.4.
[4] 12 CFR 243.4(b) and 12 CFR 381.4(b).

structure, material entities, and interconnections and interdependencies.[5] Targeted resolution plans are required to include a subset of information contained in a full plan.[6] In addition, the Rule requires that all resolution plans consist of two parts: a confidential section that contains any confidential supervisory and proprietary information submitted to the agencies, and a section that the agencies make available to the public.[7] Public sections of resolution plans can be found on the agencies' websites.[8]

Recent Developments

Implementation of the Rule has been an iterative process aimed at strengthening the resolution planning capabilities of financial institutions subject to the Rule. To assist the development of covered companies' resolution planning capabilities and plan submissions, the agencies have provided feedback on individual plan submissions, issued guidance to certain groups of covered companies, and issued answers to frequently asked questions. The agencies believe that guidance can help focus the efforts of similarly situated covered companies to improve their resolution capabilities and clarify the agencies' expectations for those filers' future progress in their resolution plans. To date, the agencies have issued guidance to: (a) U.S. global systemically important banks (GSIBs),[9] which constitute the biennial filer group; and (b) certain large foreign banking organizations (FBOs) that are triennial full filers.[10] The agencies have not, however, thus far issued guidance to domestic triennial full filers and the additional FBOs that make up the remainder of the triennial full

[5] 12 CFR 243.5 and 12 CFR 381.5.
[6] 12 CFR 243.6(b) and 12 CFR 381.6(b).
[7] 12 CFR 243.11(c) and 12 CFR 381.11(c).
[8] The public sections of resolution plans submitted to the agencies are available at www.federalreserve.gov/supervisionreg/resolution-plans.htm and www.fdic.gov/regulations/reform/resplans/.
[9] Guidance for § 165(d) Resolution Plan Submissions by Domestic Covered Companies applicable to the Eight Largest, Complex U.S. Banking Organizations, 84 FR 1438 (Feb. 4, 2019) (2019 GSIB Guidance).
[10] Guidance for Resolution Plan Submissions of Certain Foreign-Based Covered Companies, 85 FR 83557 (Dec. 22, 2020) (2020 FBO Guidance).

filers.

Several developments inform the final guidance:

- The agencies' consideration of comments to the proposed guidance (as defined below);
- The agencies' review of domestic triennial full filers' 2021 resolution plans and the issuance of individual letters communicating the agencies' feedback on those submitted plans;
- The agencies' recent experience with the resolutions of Silicon Valley Bank, Signature Bank, and First Republic Bank, and related stress experienced by a range of other financial institutions; and
- The agencies' analysis of the current risk profiles of the domestic triennial full filers.

The preamble to the 2019 revisions to the Rule indicated that the agencies would make any future resolution guidance available for comment,[11] and on August 29, 2023, the agencies invited comments on proposed guidance for the 2024 and subsequent resolution plan submissions by domestic triennial full fillers (proposed guidance or proposal).[12]

The Rule requires triennial full filers to submit their resolution plans on or before July 1 of each year in which a resolution plan is due.[13] At the time the agencies issued the proposed guidance, triennial full filers were required to submit their next resolution plans on or before July 1, 2024. In the proposal, the agencies requested comment about whether the

[11] Resolution Plans Required, 84 FR 59194, 59204 (Nov. 1, 2019).
[12] https://www.federalreserve.gov/newsevents/pressreleases/bcreg20230829b.htm; https://www.fdic.gov/news/press-releases/2023/pr23067.html. *See also* Guidance for Resolution Plan Submissions of Domestic Triennial Full Filers, 88 FR 64626 (Sept. 19, 2023).
[13] 12 CFR 243.4(b)(3) and 12 CFR 381.4(b)(3).

agencies should provide more than six months for firms to take into consideration the expectations in the finalized guidance. Several comments discussed the timing of the next resolution plan submission and its relationship to the final guidance as well as other regulatory requirements. Most requested extensions, with several requesting at least a year and one stating six months would be adequate. Two commenters stated a maximum of six months from publication of the final guidance to the first submission would be adequate.

On January 17, 2024, the agencies announced an extension of the resolution plan submission deadline for the triennial full filers from July 1, 2024, to March 31, 2025.[14] At this time, the agencies are further extending the 2025 resolution plan submission deadline for all triennial full filers to October 1, 2025, to provide the firms with sufficient time to develop their full resolution plans in light of the final guidance. The agencies are also clarifying that all triennial full filers' subsequent resolution plan submission, a targeted resolution plan, is due on or before July 1, 2028 and that future resolution plan submissions will be due every three years after that, alternating between full and targeted resolution plans, pursuant to the Rule,[15] unless the agencies exercise their authority under the Rule to alter the submission date for future resolution plan submissions.[16]

Resolution Plan Strategy

U.S.-based covered companies subject to the Rule have adopted one of two resolution strategies: (1) a single point of entry (SPOE) strategy where only the top tier bank holding company enters resolution through a bankruptcy proceeding; or (2) a multiple point of entry (MPOE) strategy where the top tier bank holding company files for bankruptcy, the FDIC-

[14] https://www.federalreserve.gov/newsevents/pressreleases/bcreg20240117a.htm; https://www.fdic.gov/news/press-releases/2024/pr24002.html.
[15] 12 CFR 243.4(b) and 12 CFR 381.4(b).
[16] 12 CFR 243.4(d)(2) and 12 CFR 381.4(d)(2).

insured bank subsidiary enters resolution pursuant to the Federal Deposit Insurance Act of 1950, as amended (the FDI Act), and where other entities enter the appropriate resolution regimes. The SPOE and MPOE resolution strategies that firms have chosen present different risks and entail different types of planning and development of capabilities; accordingly, the proposal contained content applicable to SPOE resolution strategies and separate content applicable to MPOE resolution strategies.

Commenters supported inclusion of expectations for both MPOE and SPOE resolution strategies, and supported firms' ability to choose either strategy. However, some commenters questioned whether the agencies were expecting or encouraging firms to adopt an SPOE resolution strategy and recommended that the agencies disclose publicly whether they prefer a particular resolution strategy, and engage in notice and comment rulemaking if they do. For firms that change resolution strategies, some commenters requested that the agencies provide a transition period and made statements about the preferred length of such a transition period, and one requested that the agencies not issue any findings regarding a firm's first resolution plan that adopts a different resolution strategy.

The agencies do not prescribe a specific resolution strategy for any firm. This guidance, similarly, does not suggest that any firm should change its resolution strategy, nor are the agencies identifying a preferred strategy for a specific firm or set of firms. The selection of a preferred strategy, including MPOE or SPOE as a preferred resolution strategy, should reflect the characteristics of the firm and its business operations and support the goal of the resolution plan to substantially mitigate serious adverse effects of the firm's failure on financial stability in the United States. Each firm remains free to choose the resolution strategy it believes would most effectively facilitate a rapid and orderly resolution.

The agencies are providing separate guidance for an SPOE resolution strategy and an MPOE resolution strategy in acknowledgment that firms are free to adopt the resolution strategy that best suits their operations and organizations. Further, the agencies note there may be resolution strategies other than SPOE and MPOE that could facilitate a rapid and orderly resolution. The specified firms should continue to submit resolution plans using the resolution strategies they believe would be most effective in achieving an orderly resolution of their firms. Regardless of strategy, a resolution plan should address the key vulnerabilities, support the underlying assumptions required to successfully execute the chosen resolution strategy, and demonstrate the adequacy of the capabilities necessary to execute the selected strategy.

Moreover, because the agencies do not prescribe resolution strategies, firms may voluntarily change their preferred strategy in the future. However, reflecting the voluntary nature of resolution strategy changes, the agencies do not anticipate providing a transition period during which a firm would be free from potential findings under the Rule while it effectuates a change in resolution strategy, whether from MPOE to SPOE, or to any other resolution strategy. A firm controls the timing of when it submits its first plan with a different strategy; accordingly, it can take the time it needs to put in place the resources and capabilities needed to submit a plan that satisfies the standard in section 165(d) of the Dodd-Frank Act and the Rule. The standard of review for a resolution plan submission of a firm that transitions to a new strategy is therefore the same as for any firm subject to the Rule.[17]

B. Connection to Other Rulemakings

Long-Term Debt Proposal

[17] *See* 12 CFR 243.8 and 12 CFR 381.8.

The agencies, as well as the Office of the Comptroller of the Currency (together with the agencies, the Federal banking agencies), issued in August 2023 a proposed rule for comment that would require certain large holding companies, U.S. intermediate holding companies of FBOs, and certain IDIs, to issue and maintain outstanding a minimum amount of long-term debt (LTD), among other proposed requirements.[18] The agencies have received comments on the LTD proposal, and will consider all comments received in context of the LTD rulemaking. The agencies requested comments on the proposed guidance that take the LTD proposal into consideration.

One commenter recommended that, for purposes of their resolution plans, firms should only assume their existing outstanding LTD and not the projected LTD that would be in place once the firm has achieved full compliance with the LTD proposal. Another commenter argued that the agencies should consider the interaction between the proposed guidance and LTD proposal, with a goal of having them work together to improve the resolvability of applicable banking organizations and avoid duplicative or contradictory requirements. The commenter also asserted that calibration of an IDI's internal LTD requirement could lead banking organizations using an MPOE resolution strategy to adopt an SPOE resolution strategy because of the costs of compliance with such internal LTD issuance. One commenter discussed whether the agencies should align the objectives of the LTD proposal and the resolution planning under the Rule.

The Federal banking agencies have not finalized the LTD rulemaking as of the issuance of this final guidance. The agencies recognize that LTD issued and maintained by a

[18] https://www.federalreserve.gov/newsevents/pressreleases/bcreg20230829a.htm; https://www.fdic.gov/news/press-releases/2023/pr23065.html. *See also* Long-Term Debt Requirements for Large Bank Holding Companies, Certain Intermediate Holding Companies of Foreign Banking Organizations, and Large Insured Depository Institutions, 88 FR 64524 (Sept. 19, 2023) (LTD proposal).

specified firm could affect the firm's strategic analysis of the funding, liquidity, and capital needs of, and resources available to, the covered company and its material entities.[19] However, the agencies believe that the finalization of a requirement to maintain a specified amount of LTD would not affect this guidance in any material way. Any final LTD rule will address the manner in which its requirements will be implemented. This final guidance is intended to convey the agencies' expectations regarding the content of resolution plan submissions, and not to contradict, modify, or accelerate a company's obligations under other laws or regulations. As provided in the final guidance, firms should develop their resolution plans in accordance with the current state of the applicable legal and policy frameworks. The agencies also recognize, however, that there may be phase-in periods during which rules become effective. Should the LTD rule be finalized in advance of October 1, 2025, the agencies will not expect firms to incorporate the requirements of the rule into their 2025 resolution plan submissions. This should provide firms covered by the LTD rule with reasonable time to consider any final LTD rule in a future resolution plan submission.

Further, and as noted above, the agencies are not recommending that any specified firm adopt any particular strategy in response to this guidance or the LTD proposal.

FDIC IDI Resolution Plan Proposal

The agencies received three comments on the connection between the proposal and the IDI Rule.[20] The FDIC published proposed revisions to the IDI Rule on September 19, 2023,[21]

[19] *See* 12 CFR 243.5(c)(1)(iii) and 12 CFR 381.5(c)(1)(iii).
[20] 12 CFR 360.10 (IDI Rule).
[21] Resolution Plans Required for Insured Depository Institutions With $100 Billion or More in Total Assets; Informational Filings Required for Insured Depository Institutions With at Least $50 Billion But Less Than $100 Billion in Total Assets, 88 FR 64579 (Sept. 19, 2023) (Proposed IDI Rule).

and published final revisions on July 9, 2024.[22] Those commenters recommended coordinating aspects of the proposed guidance and the Proposed IDI Rule, including having consistent terms and concepts. One commenter requested that cross-referencing to section 165(d) resolution plans be permitted under the Proposed IDI Rule. Another comment questioned whether a more holistic approach would be possible to synchronize the requirements of section 165(d) planning and IDI Rule resolution planning. One commenter asserted that the MPOE guidance could cause confusion on the part of firms by conflating resolution strategies and the underlying purpose of the Rule and the IDI Rule.

The Rule requires a covered company to submit a resolution plan that would allow for the rapid and orderly resolution of the firm under the U.S. Bankruptcy Code in the event of material financial distress or failure. The final guidance clarifies the agencies' expectations regarding certain topics and provides direction as to how a covered company may demonstrate its compliance with its statutory obligation under section 165(d) of the Dodd-Frank Act to develop a resolution plan allowing for its rapid and orderly resolution. The IDI Rule serves a different purpose: the IDI Rule assists the FDIC in preparing to manage the resolution of a covered insured depository institution. While these two rules may be complementary, they are not the same. Additionally, whether to align the IDI Rule with the Rule or permit cross-referencing to section 165(d) resolution plans under the IDI Rule is outside the scope of this guidance.

C. Proposed Guidance

On August 29, 2023, the agencies invited public comment on proposed guidance for

[22] Resolutions Plans Required for Insured Depository Institutions with $100 Billion or More in Total Assets; Informational Filings Required for Insured Depository Institutions With at Least $50 Billion but Less Than $100 Billion in Total Assets, 89 FR 56620 (July 9, 2024).

how domestic triennial full filers' resolution plans could address key challenges in resolution, which was proposed to apply beginning with the specified firms' 2024 resolution plan submissions.[23] The proposal identified the banking organizations to which the guidance would apply and articulated several areas of guidance: capital; liquidity; governance mechanisms; operational; legal entity rationalization and separability; and IDI resolution, if applicable. The proposed guidance described the agencies' proposed expectations for each of these areas. Most substantive topics were bifurcated, with separate guidance for an SPOE resolution strategy and an MPOE resolution strategy. The proposed guidance concluded with information about the format and structure of a plan that applied equally to plans contemplating either an SPOE resolution strategy or an MPOE resolution strategy.

The proposed guidance for firms that adopt an SPOE resolution strategy was generally based on the 2019 GSIB Guidance, with certain modifications that reflected the specific characteristics of and potential risks posed by the failure of the specified firms. The proposed guidance for firms that adopt an MPOE resolution strategy incorporated certain aspects of the 2019 GSIB Guidance that the agencies believed are applicable to large banking organizations, with modifications appropriate to this strategy and institutions with the characteristics displayed by the specified firms. For MPOE firms, the proposed guidance also omitted aspects of the 2019 GSIB Guidance that would not be pertinent to MPOE resolution strategies. The agencies also proposed to clarify their expectations for specified firms that adopt an MPOE resolution strategy that includes the resolution of a material entity that is a U.S. IDI.

[23] *Supra* note 12.

The agencies invited comments on all aspects of the proposed guidance. The agencies also specifically requested comments on a number of issues, including the interaction of resolution guidance with a final long-term debt rule, the amount of time between the publication of the final guidance and the firms' next resolution plans, the appropriateness of guidance on IDI resolution, and whether to issue derivatives and trading expectations.

II. Overview of Comments

The agencies received and reviewed eight comment letters on the proposed guidance. Commenters included various financial services trade associations, a law firm, two public interest groups, and certain individuals. In addition, the agencies met with representatives of a banking organization that would be a specified firm and a trade association that represents banking organizations that would be specified firms at their request to discuss issues relating to the proposed guidance.[24] This section provides an overview of the general themes raised by commenters. The comments received on the proposed guidance are further discussed below in the sections describing the final guidance (and, in some cases, previously in section I), including any changes that the agencies have made to the proposed guidance in response to comments.

Differentiating Expectations Based on Size, Complexity, and Risk

One commenter contended that the proposed guidance did not sufficiently differentiate expectations among firms subject to resolution planning guidance. The commenter argued that section 165 of the Dodd-Frank Act requires the agencies to tailor application of prudential standards issued pursuant to that section, such as resolution

[24] Summaries of those meetings and copies of the comments can be found on each agency's website. https://www.federalreserve.gov/apps/foia/ViewComments.aspx?doc_id=OP-1816&doc_ver=1; https://www.fdic.gov/resources/regulations/federal-register-publications/2023/2023-guidance-resolution-plan-submissions-domestic-triennial-3064-za37.html.

planning guidance; contended that the proposal was too similar to the 2019 GSIB Guidance; and encouraged expectations in the final guidance to be further differentiated based on size, risk, and other factors.

Resolution Strategy and Transition Period

Several commenters supported the proposal's inclusion of expectations for both MPOE and SPOE resolution strategies and the agencies' statement that firms have ability to choose their preferred strategy. However, as noted above, some commenters questioned whether the agencies were expecting or encouraging firms to adopt an SPOE resolution strategy and recommended that the agencies disclose publicly whether they prefer a particular resolution strategy. For firms that change resolution strategies, some commenters requested that the agencies provide a transition period during which the agencies would not make credibility findings in connection with a plan review.

Capital and Liquidity

The agencies received a number of comments on the capital and liquidity sections of the proposed guidance. Regarding the capital section of the proposed guidance, one commenter asserted that including expectations regarding the positioning of capital for firms with an SPOE resolution strategy is premature given that finalization of a proposal to modify the capital requirements for large banking organizations[25] and the LTD proposal may impact firms' capital planning, contended that the proposal included expectations that are duplicative of existing capital requirements, and suggested removing the guidance on Resolution Capital Adequacy and Positioning (RCAP) from the final guidance. Regarding expectations for firms using an MPOE resolution strategy, one commenter agreed that additional expectations are

[25] Regulatory Capital Rule: Large Banking Organizations and Banking Organizations With Significant Trading Activity, 88 FR 64028 (Sept. 18, 2023) (Capital proposal).

not warranted, while another commenter argued for capital plans for each material entity and asked the agencies to align expectations for the MPOE capital guidance with SPOE capital guidance.

Regarding the liquidity section of the proposed guidance, one commenter argued that Resolution Liquidity Adequacy and Positioning (RLAP) expectations are not appropriate due to the comparatively simple legal entity structures and reduced risk profiles of these firms and claimed that RLAP is redundant with certain regulatory requirements. In addition, one commenter requested that the final guidance strengthen expectations for liquidity in resolution by including a procedure or protocol for liquidity related decisions, irrespective of resolution strategy.

IDI Resolution Analysis

The agencies received a number of comments on the proposed guidance related to the resolution of a subsidiary material entity U.S. IDI. Multiple commenters requested clarity on how the firm's plan should address the expectations regarding the FDIC's statutory least-cost requirement and questioned whether there is sufficient information available for firms to effectively evaluate whether a proposed resolution plan would satisfy the least-cost analysis expectations. These commenters also questioned whether the least-cost analysis would be of value to FDIC in an actual resolution and argued that the guidance should be aligned with the requirements of the IDI Rule. One stated sufficient time should be given for firms to conduct new analyses and seek additional guidance from the agencies and that aspects of this section of the proposal should not be finalized.

Another commenter argued that firms should not be expected to demonstrate that their preferred strategy would be consistent with the FDIC's statutory least-cost requirement. One

commenter further suggested that the Proposed IDI Rule is a better forum to address how IDI subsidiaries can be resolved under the FDI Act.

Another commenter suggested that the agencies should require firms to develop resolution strategies involving bridge depository institutions (BDIs) and recommended that the guidance address the value of assets transferred to such a BDI, how the resolution plan would address the IDI's franchise value, and how the preferred resolution strategy would result in a least-costly resolution.

Derivatives and Trading

Some commenters supported including expectations for derivatives and trading activity in the final guidance, contending that derivatives activity for domestic triennial full filers may increase in the future and proposed applying such guidance to firms with net derivatives exceeding a given threshold. However, one commenter supported not including such expectations, stating it was appropriate to exclude such guidance because the specified firms have limited derivatives and trading portfolios, particularly relative to the U.S. G-SIB banking organizations covered by such guidance.

Connection to Other Rules

The agencies received a number of comments about the interaction of the proposed guidance with several other rulemaking initiatives by the Federal banking agencies. For example, some commenters recommended coordinating the FDIC's Proposed IDI Rule revisions with the resolution plan rule and final guidance for the specified firms. Two commenters suggested that the agencies consider the interaction between the proposed guidance and the LTD proposal to ensure the two proposals work together to improve the resolvability of applicable banking organizations and avoid duplicative or contradictory

requirements. One commenter also expressed concern including certain expectations in the final guidance, such as those relating to capital, would be premature before finalizing the Capital proposal and LTD proposal, which impact firms' capital planning.

Timing of Next Resolution Plan

Several comments discussed the timing of the next resolution plan submission and its relationship to this final guidance. Some commenters recommended providing at least one year between issuing final guidance and the deadline for domestic triennial full filers' next resolution plan submissions. However, other commenters suggested that six months from publication of the final guidance to the first resolution plan submission would be adequate for firms to take into account the guidance.

III. Final Guidance

After considering the comments, conducting additional analysis, and further assessing the business and risk profiles of domestic triennial full filers, the agencies are issuing final guidance that includes certain modifications and clarifications from the proposal. In particular, the capital, liquidity, governance mechanisms, operational, IDI resolution, separability, and assumptions sections of the final guidance reflect changes from the proposed guidance. In addition, as was noted in the proposal,[26] the final guidance consolidates all prior resolution planning guidance for the firms in one document. Further, as was noted in the proposal,[27] the final guidance is not intended to override the obligation of an individual firm to respond in its next resolution plan submission to pending items of individual feedback or any shortcomings or deficiencies jointly identified or determined by the agencies in that

[26] *See* proposed guidance at 64628.
[27] *See* proposed guidance at 64628.

firm's prior resolution plan submissions. The guidance is drafted to reflect the current conditions in the industry and institutions as they exist today.

As discussed below,[28] several commenters asserted that the proposal did not adequately differentiate among covered companies based on their size, complexity, and risk to financial stability. The guidance, however, takes into account the size and complexity of firms, their resolution strategy, and whether they are based in the United States or in a foreign jurisdiction. In addition, the final guidance is not meant to limit firms' consideration of additional vulnerabilities or obstacles that might arise based on a firm's particular structure, operations, or resolution strategy.

The agencies also note that commenters described certain expectations that are set forth in the guidance as "requirements." As the agencies indicated in the proposed guidance and are now reaffirming, the final guidance does not have the force and effect of law. Rather, the final guidance outlines the agencies' supervisory expectations regarding each subject area covered by the final guidance.[29] The final guidance includes language reflecting this position.[30]

Finally, the agencies made several minor, non-substantive changes from the proposal, including to align the wording of guidance directed at firms that adopt an SPOE resolution strategy and firms that adopt an MPOE resolution strategy.

A. Scope of Application

The agencies proposed applying the guidance to all domestic triennial full filers and invited comment on all aspects of the proposed scope of the guidance. The agencies

[28] *See infra* Section III.K.
[29] *See* 12 CFR 262.7 and Appendix A to Part 262; 12 CFR part 302.
[30] *See infra* Section V.I.

received no comments concerning the scope of the guidance's application and are finalizing this section of the guidance as proposed.

B. Transition Period

The proposed guidance did not describe how the guidance would be applied to domestic banking organizations that become covered by its scope, but it did request comment on all aspects of the proposed scope of application. To provide certainty to domestic banking organizations, the final guidance states that when a domestic banking organization becomes a specified firm, the final guidance will apply to the firm's next resolution plan submission with a submission date that is at least 12 months after the time the firm becomes a specified firm.[31] If a specified firm ceases to be a domestic triennial full filer, it will no longer be considered a specified firm, and the guidance will no longer be applicable to that firm as of the date the firm ceases to be a domestic triennial full filer.

C. Capital

For specified firms with an SPOE resolution strategy, the agencies proposed capital expectations substantially similar to those in the 2019 GSIB Guidance. The ability to provide sufficient capital to material entities without disruption from creditors is essential to an SPOE resolution strategy's objective of ensuring that material entities can continue to operate as the firm is resolved. The proposal described expectations concerning the appropriate positioning of capital and other loss-absorbing instruments (e.g., debt that a parent holding company may choose to forgive or convert to equity) among the material entities within the firm (RCAP). The proposal also described expectations regarding a methodology for periodically estimating

[31] The plan type for that next submission remains as specified by the Rule, i.e., a full or targeted resolution plan. *See* 12 CFR 243.4; 12 CFR 381.4.

the amount of capital that may be needed to support each material entity after the bankruptcy filing (resolution capital execution need, or RCEN).

The agencies received several comments on the capital section of the proposed guidance. One commenter asserted that including expectations in this guidance regarding the positioning of capital is premature given that finalization of the Capital proposal and the LTD proposal may impact firms' capital planning. The commenter argued that existing capital requirements are sufficient for the size and complexity of the firms subject to this guidance without RCAP expectations, which, the commenter asserted, would add more complexity to the resolution planning process.

After reviewing these comments, the agencies are finalizing this section of the guidance generally as proposed, but with one clarification. Proposed guidance related to the methodology for periodically estimating the amount of capital that may be needed to support material entities in bankruptcy (RCEN) could have been construed as establishing a mandatory minimum capital requirement. As the agencies have discussed elsewhere, resolution plan guidance is not binding and does not establish legal requirements.[32] The final guidance clarifies the kind of information the agencies expect a firm to provide if that firm's resolution strategy includes recapitalizing material entities but does not establish requirements for firms.

RCAP expectations are important for firms to ensure the appropriate positioning of capital and other loss-absorbing instruments among the material entities within the firm and to effectively execute a SPOE resolution strategy. Finalizing RCAP expectations is not premature in light of outstanding proposals such as the LTD rulemaking and other pending

[32] *See supra* Section III.

rules because the RCAP expectations can be achieved with or without the LTD contemplated in the LTD proposal. The Federal banking agencies have not finalized the LTD proposal as of the issuance of this final guidance, and comments on that proposed rule are currently under consideration. Specifically, the final guidance does not rely on or presume the finalization of pending rules and instead states, consistent with the proposal, that a resolution plan should be based on the current state of the applicable legal and policy frameworks.[33] The guidance is intended to assist firms in developing their resolution plans, which are required to be submitted pursuant to the Dodd-Frank Act and the Rule. While other capital and resolution-related rules may establish minimum standards applicable to firms submitting resolution plans, this guidance is designed to facilitate a firm's own analysis of its expected needs in resolution across that firm's material entities.

Additionally, the stress experienced by and the failure of several large banking organizations in March 2023 highlighted the fast-moving nature of stress events, as several banking organizations entered resolution proceedings rapidly. These events also highlighted the potential for the failure of a large regional banking organization to affect financial stability. Successful execution of an SPOE resolution strategy – including the need to ensure that individual material entities have adequate capital to maintain operations as the firm is resolved – is unlikely to be successful under a short time frame without advance planning. Appropriate positioning of capital and other loss-absorbing instruments among the firm's material entities is an important element of this advanced planning to reduce uncertainty and enable timely recapitalization consistent with an SPOE resolution strategy. Accordingly, the

[33] *See infra* Section V.VIII.

agencies are finalizing guidance that includes RCAP expectations for firms that adopt an SPOE strategy.

For firms that adopt an MPOE resolution strategy, the agencies did not propose further expectations concerning capital and asked a question about whether capital-related expectations should be applied. In response, one commenter agreed with the proposal that additional expectations are not warranted for firms using an MPOE resolution strategy, arguing that such expectations would serve no purpose. However, another commenter contended that it is not prudent to assume that material entities within a holding company structure can be wound down in an orderly manner and that, at a minimum, capital plans are needed for each material entity to preserve its value during the transition period between a firm's failure and when it can be sold or closed in an orderly way. The commenter asked the agencies to reconsider expectations for firms that adopt an MPOE resolution strategy and align them with expectations for firms that adopt an SPOE resolution strategy.

The agencies have determined that additional capital expectations for firms selecting an MPOE resolution strategy are not necessary at this time. Under an MPOE resolution strategy, most material entities do not continue as going concerns upon the firm's entry into resolution proceedings and are likely to have already depleted existing capital. Accordingly, the agencies are finalizing this section as proposed.

D. Liquidity

For firms that adopt an SPOE resolution strategy, the agencies proposed liquidity expectations substantially similar to those in the 2019 GSIB Guidance. A firm's ability to reliably estimate and meet its liquidity needs prior to, and in, resolution is important to the execution of a firm's resolution strategy because it enables the firm to respond quickly to

demands from stakeholders and counterparties, including regulatory authorities in other jurisdictions and financial market utilities. Maintaining sufficient and appropriately positioned liquidity also allows subsidiaries to continue to operate while the firm is being resolved in accordance with the firm's preferred resolution strategy. For firms that adopt an MPOE resolution strategy, the agencies proposed that a firm should have the liquidity capabilities necessary to execute its preferred resolution strategy, and its plan should include analysis and projections of a range of liquidity needs during resolution.

The agencies received several comments on the liquidity section of the proposed guidance. One commenter supported including RLAP expectations in the final guidance for firms that adopt an SPOE resolution strategy, while another commenter requested that the agencies remove RLAP from the final guidance. The second commenter argued that RLAP expectations are not appropriate due to the comparatively simple legal entity structures and reduced risk profiles of the firms subject to the proposed guidance. The commenter also claimed that RLAP would be redundant to certain regulatory requirements, such as the Liquidity Coverage Ratio (LCR) and Internal Liquidity Stress Testing (ILST).

Another commenter requested that, irrespective of resolution strategy, the guidance strengthen expectations for liquidity in resolution by including a procedure or protocol for liquidity related decisions. The commenter argued that the guidance should affirm the importance of overcoming barriers to moving liquidity across material legal entities and clarify which types of transfers of liquidity are permissible for material entities in resolution.

After reviewing these comments, the agencies are finalizing this section of the guidance largely as proposed, with one clarifying edit concerning forecasting maximum operating liquidity and peak funding needs. The final guidance clarifies that these forecasts

should ensure that material entities can operate through resolution, as compared to the proposed guidance that provided that the forecasts should ensure that material entities can operate after the firm files for bankruptcy.

RLAP expectations are not addressed by ILST and other regulatory requirements. Maintaining sufficient and appropriately positioned liquidity is critical to executing an SPOE resolution strategy, regardless of the size and complexity of the banking organization. The LCR and ILST requirements that commenters referenced serve a different purpose – to promote resilience of firms' funding profiles – and are not focused on resolution planning.

Finally, the agencies are not establishing expectations regarding procedures or protocols for liquidity-related decisions and the types of transfers of liquidity that are permissible for material entities in resolution for firms that adopt a MPOE resolution strategy. The Rule already includes requirements for firms to include detailed descriptions of funding and liquidity needs and resources of material entities, and to identify interconnections and interdependencies related to liquidity arrangements.[34] Beyond the assumptions specified in the final guidance related to liquidity, additional details of how each firm provisions liquidity in the lead up to and during resolution are not needed at this time. Furthermore, firms should follow procedures and protocols that are aligned with their larger liquidity management frameworks to facilitate their preferred resolution strategies.

E. Governance Mechanisms

The agencies proposed governance mechanisms expectations for domestic firms that use an SPOE resolution strategy. These firms would have been expected to develop an adequate governance structure with triggers that identify the onset, continuation, and

[34] 12 CFR 243.5(c)(1)(iii), (g) and 12 CFR 381.5(c)(1)(iii), (g).

increase of financial stress to ensure that there is sufficient time to prepare for resolution-related actions. The agencies did not propose governance mechanisms expectations for domestic firms contemplating an MPOE resolution strategy, as entry of certain types of material entities into resolution would be determined by criteria prescribed in statute or dependent to some extent on actions taken by regulatory authorities in implementing a statute. The agencies requested comment on whether to apply additional governance mechanisms expectations to domestic firms contemplating an MPOE resolution strategy. Some commenters called for the agencies to apply similar governance mechanisms expectations regardless of a firm's preferred resolution strategy, arguing that many aspects of resolution planning are the same or similar for MPOE and SPOE resolution strategies.

One commenter also encouraged the agencies to adopt expectations that firms articulate their internal legal strategy, processes for making key decisions, and roles and responsibilities leading up to and after a material entity of a firm using an MPOE resolution strategy enters bankruptcy. Another commenter claimed that governance mechanisms are needed for domestic MPOE filers to preserve the value of each material entity during the transition period between failure and orderly resolution. However, another commenter argued that final guidance should not include governance mechanisms expectations for domestic MPOE filers as such expectations would not meaningfully improve resolvability.

After review and consideration of these comments, the agencies are finalizing this section of the guidance largely as proposed, with one clarification applicable only to firms that adopt an SPOE strategy. The proposed guidance provided that a firm can reproduce a legal analysis that was submitted in a prior plan submission, and that the firm should build upon the analysis. The final guidance clarifies that the agencies expect that a firm that relies

upon a previously submitted analysis ensure it remains accurate and up to date. While there is a general obligation for firms to submit plans that contain accurate information, the agencies are providing this clarification due to the agencies' experience that certain legal matters in some resolution plan submissions have been outdated.

Regarding firms that adopt an MPOE strategy, the agencies are finalizing this section of the guidance as proposed. Under an MPOE resolution strategy, certain material entities' entry into resolution is typically determined by or dependent on the actions of supervisory and resolution authorities. Adopting expectations for triggers, playbooks, pre-bankruptcy support, internal legal strategy, processes for making key decisions, and roles and responsibilities for domestic triennial full filers adopting an MPOE resolution strategy, with their present operations, activities, and structures, would not meaningfully improve the resolvability of the specified firms. Accordingly, the final guidance does not contain governance mechanisms expectations for those firms.

F. Operational

For firms that adopt an SPOE resolution strategy, the agencies proposed aspects of the operational expectations of the 2019 GSIB Guidance and SR letter 14-1,[35] with modifications based on the specific characteristics and complexities of the specified firms. Like the 2019 GSIB Guidance, the proposal contained expectations on managing, identifying, and valuing collateral; management information systems (MIS); and shared and outsourced services. For firms that adopt an MPOE resolution strategy, the agencies proposed operational expectations based on SR letter 14-1 and the 2019 GSIB Guidance that are limited to those most relevant to an MPOE resolution strategy. As noted in the proposal, development and maintenance of

[35] SR letter 14-1, "Principles and Practices for Recovery and Resolution Preparedness" (Jan. 24, 2014), *available at*: https://www.federalreserve.gov/supervisionreg/srletters/sr1401.htm.

operational capabilities is important to support and enable execution of a firm's preferred resolution strategy, including providing for the continuation of identified critical operations and preventing or mitigating adverse effects on U.S. financial stability.

The agencies received two comments on the proposed guidance. One comment argued that the proposed guidance's expectation that MPOE firms remediate vendor arrangements to support continuity of shared and outsourced services is overbroad. The commenter asserted that this expectation is inappropriate for MPOE firms that mostly receive external services through their IDIs because termination of such vendor contracts due to *ipso facto* clauses would be stayed by the FDI Act,[36] and as many firms include resolution-resilient terms in vendor contracts when those contracts undergo periodic review and renewal. The commenter recommended that the Agencies specify that this expectation would apply only to contracts not covered by the FDI Act stay. Another commenter contended that firms with limited payment, clearing, and settlement (PCS) activities, such as firms without identified critical operations related to those activities, should not have to develop the same capabilities as firms with more complex PCS activities.

After review and consideration of these comments, the agencies are finalizing this area of the guidance with three clarifications applicable only to firms that adopt an SPOE strategy, and one modification applicable to firms with either preferred resolution strategy. First, the proposed guidance for firms that adopt an SPOE strategy stated that a firm should maintain a fully actionable implementation plan to ensure the continuity of shared services that support identified critical operations or core business lines. Implied in the concept of supporting identified critical operations or core business lines is the notion that a firm would need to be

[36] *See* 12 U.S.C. 1821(e)(13).

able to execute its resolution strategy. Accordingly, the final guidance for firms that adopt an SPOE strategy explicitly states that a firm's implementation plan to ensure continuity of shared services should include those services that are material to the execution of the firm's resolution strategy.

Second, the proposed guidance for firms that adopt an SPOE strategy stated that a firm should demonstrate capabilities for continued access to PCS services essential to an orderly resolution through a framework to support such access and the provided elements of such a framework. The agencies note that prior instances of resolution plan guidance contained certain limitations on similar PCS framework expectations,[37] and the final guidance adopts that language to clarify the scope of said expectations.

Third, the proposed PCS guidance for firms that adopt an SPOE strategy contained several references to "various currencies." The agencies note that in the finalization of the 2020 FBO Guidance, the agencies revised similar language in response to a comment requesting that certain aspects of that guidance be made consistent with international expectations.[38] The final guidance is adopting the language from the 2020 FBO Guidance for that same reason.

Additionally, the agencies recognize that firms anticipate relying on external parties for the execution of some aspects of the resolution strategy, and the proposal included and the final guidance maintains the expectation that a firm identify and support the continuity of outsourced services that support critical operations or are material to the execution of the preferred resolution strategy. Such outsourced services that firms may rely on could be employing outside bankruptcy counsel and consultants to help prepare documents needed to

[37] 2020 FBO Guidance at 83572–73.
[38] 2020 FBO Guidance at 83566.

file for bankruptcy, and to represent the firm during the course of the bankruptcy proceedings. The agencies expect that covered companies engage in advance planning to help facilitate their ability to complete all filings, motions, supporting declarations and other documents to prepare for and file an orderly resolution in bankruptcy. In recognition of this expectation, the final guidance states that – regardless of strategy – those professionals' services could be material to the execution of a firm's preferred resolution strategy and, if so, should be accounted for in the firm's resolution plan. Accordingly, the agencies expect that firms should prepare during business as usual to ensure they can complete and file all documents needed to initiate their preferred resolution strategy.

The other aspects of this section of the guidance are being finalized as proposed. The comment addressing contract remediation correctly observes that the FDI Act permits the FDIC as receiver of a failed IDI to enforce contracts with that IDI notwithstanding any provisions in the contract permitting termination due to insolvency or appointment of the receiver. However, it is advantageous for contracts that support identified critical operations or that are material to the execution of the resolution strategy to not purport to permit termination. Counterparties may not be aware of the receiver's authority under the FDI Act to enforce such agreements, potentially requiring the receiver to seek authority from a court to compel the counterparty's performance, which could lead to interruption of identified critical operations and capabilities needed to execute the resolution strategy. Further, counterparties located overseas may not recognize the authority afforded the receiver to compel the performance of contracts. The agencies recognize that contract remediation is an ongoing process and encourage firms to make such changes proactively.

Regarding PCS activities, as discussed elsewhere,[39] the Agencies note that the level of detail provided in a firm's plan should be both consistent and commensurate with the firm's risk and activities.

G. Legal Entity Rationalization & Separability

For domestic banking organizations that adopt an SPOE resolution strategy, the agencies proposed adopting legal entity rationalization (LER) and separability expectations from the 2019 GSIB Guidance. The LER expectations explained that a firm's legal structure should support the firm's preferred resolution strategy, including by: facilitating the recapitalization and liquidity support of material entities; facilitating the sale, transfer, or wind-down of certain discrete operations; adequately protecting the subsidiary IDIs from risks arising from the activities of any nonbank subsidiaries of the firm; and minimizing complexity that could impede an orderly resolution. The separability expectations outlined that a firm should identify discrete operations that could be sold or transferred in resolution, with the objective of providing optionality in resolution, including via a detailed separability analysis that addresses divestiture options, execution plans, and impact assessments.

For domestic banking organizations using an MPOE resolution strategy, the agencies proposed LER and separability expectations that are reduced as compared to those contained in the 2019 GSIB Guidance. The LER expectations clarified that the firm should consider various factors and describe in its plan how the legal entity structure aligns core business lines and any identified critical operations with the firm's material entities, as well as any cases where a material entity IDI relies on an affiliate that is not the IDI's subsidiary during resolution. The separability expectations explained that a firm should include options for the

[39] *See infra* Section III.K.

sale, transfer, or disposal of significant assets, portfolios, legal entities, or business lines in resolution and provide supporting analysis, including an execution plan, identification of any impediments and mitigants, a financial impact assessment, and an identified critical operation impact assessment.

The agencies received one comment on the LER and separability guidance for domestic banking organizations. The commenter contended that separability analysis is inappropriate for businesses and legal entities that would be wound down in resolution, as it may not be feasible to sell or otherwise transfer such businesses, and that separability analysis would not enhance resolvability. The commenter further claimed that many elements of the separability analysis may not be appropriate for firms that are not active in the investment banking space or lack large mergers and acquisitions teams.

After consideration of the comment received, the agencies are issuing legal entity rationalization guidance for both SPOE and MPOE firms. LER criteria enhance an orderly resolution by promoting in business-as-usual a corporate structure that supports a firm's preferred resolution strategy. The agencies are retaining these expectations, in part, to encourage firms to consider resolution implications of changes to corporate structure, including from future growth or mergers and acquisitions. For firms with SPOE resolution strategies, the agencies continue to encourage the firms to develop and apply LER criteria to facilitate the sale, transfer, or wind-down of certain discrete operations within a timeframe that would meaningfully increase the likelihood of orderly resolution. The agencies continue to encourage firms using MPOE resolution strategies to consider potential sales, transfers, and wind-downs during resolution as they maintain their legal entity structures.

However, the separability section of guidance is not needed at this time for the

specified firms due to their current corporate structures and other separability-related expectations. Most of the specified firms have three or fewer material entities, with the overwhelming majority of their assets concentrated in their IDIs. In addition, the Rule requires firms to address the feasibility and impact of sales or divestitures and the final LER guidance contains separability-related expectations. The agencies may consider the need for firm-specific separability expectations in the future for specified firms that substantially increase their non-bank activities or change in a way such that separability becomes critical to their resolvability.

Finally, the agencies moved the description of their expectation on governance processes from the proposed separability section to the LER section of the final guidance text.

H. Insured Depository Institution (IDI) Resolution

Background

In the proposal, the agencies provided clarifying expectations as to how a firm adopting an MPOE resolution strategy with a material entity IDI should explain how the IDI can be resolved under the FDI Act in a manner that is consistent with the overall objectives of the resolution plan. In particular, the proposed expectations for IDI resolution were designed to support the resolution plans' effectiveness in substantially mitigating the risk that the failure of the specified firm would have serious adverse effects on financial stability in the United States, while also adhering to the legal requirements of the FDI Act without relying on the assumption that the systemic risk exception will be invoked in connection with the resolution of the firm. For example, the agencies proposed clarifying that if a firm adopting an MPOE resolution strategy selects an IDI resolution strategy other than a payout liquidation, the firm's plan should provide information supporting the feasibility of the firm's

selected strategy, although such a feasibility analysis need not consist of a full FDI Act least-cost requirement analysis. The agencies proposed that a firm could instead provide a more limited analysis. The proposal noted that the same expectations would not be applicable to firms adopting an SPOE resolution strategy because the U.S. IDI subsidiaries of such firms would not be expected to enter resolution.

The agencies received a number of comments on the proposed guidance related to the resolution of a subsidiary material entity U.S. IDI. Some commenters requested additional clarity on how the firm's plan should address the expectation that the plan include an analysis of how the resolution strategy could potentially meet the FDIC's statutory least-cost requirement. One commenter suggested that the agencies should require firms to develop resolution strategies involving BDIs. This commenter recommended that the guidance address how firms could describe and quantify the value of the firm's assets transferred to such a BDI, and that the agencies should provide guidance so that firms would address how the resolution plan would incorporate the value of the IDI's assets and liabilities, including its franchise value, and how the preferred resolution strategy would result in a least-costly resolution. The commenter also recommended that firms and regulators reach agreement on certain assumptions regarding valuations.

Another commenter argued that firms adopting an MPOE strategy should not be expected to demonstrate that their preferred strategy would be consistent with the FDIC's statutory least-cost requirement. This commenter stated that efforts to conduct a hypothetical least-cost requirement analysis, or a proxy for that analysis, would be of no or minimal value to the FDIC in an actual resolution event. The commenter claimed that it would not be possible to conduct a least-cost test requirement analysis in a resolution plan submission in

the absence of actual bids from actual buyers. Instead, the commenter recommended that the guidance provide expectations for how firms selecting an MPOE strategy could demonstrate their valuation capabilities. The commenter also suggested that because a least-cost requirement analysis is not a component of the Proposed IDI Rule, it also should not be a component of the guidance. This commenter requested sufficient time to address any finalized guidance that provides expectations for including least-cost requirement analysis.

Several commenters suggested that the Proposed IDI Rule is a better forum to address how the IDI subsidiary of a specified firm selecting an MPOE strategy can be resolved under the FDI Act in a manner that is consistent with the FDI Act. A commenter also suggested that the agencies' expectations for resolution plan submissions under the Rule should align with the requirements of the FDIC's IDI Rule plan submissions.

When an IDI fails and the FDIC is appointed receiver, the FDIC generally must use the resolution option for the failed IDI that is least costly to the DIF of all possible methods (the least-cost requirement).[40] A resolution plan that contemplates the separate resolution of a U.S. IDI that is a material entity and the appointment of the FDIC as receiver for that IDI should explain how the resolution could be achieved in a manner that adheres to applicable law, including the FDI Act, and that would achieve the overall objectives of the resolution plan. Prior resolution plans that have addressed the resolution of the IDIs in MPOE strategies have sometimes included resolution mechanics that are not consistent with the FDI Act,

[40] *See* 12 U.S.C. 1823(c)(4)(A). A deposit payout and liquidation of the failed IDI's assets (payout liquidation) is the general baseline the FDIC uses in a least-cost requirement determination. *See* 12 U.S.C. 1823(c)(4)(D). An exception to this requirement exists when a determination is made by the Secretary of the Treasury, in consultation with the President and after a written recommendation from two-thirds of the FDIC's Board of Directors and two-thirds of the Board, that complying with the least-cost requirement would have serious adverse effects on economic conditions or financial stability and implementing another resolution option would avoid or mitigate such adverse effects. *See* 12 U.S.C. 1823(c)(4)(G). A specified firm should not assume the use of this systemic risk exception to the least-cost requirement in its resolution plan.

including inappropriate assumptions that uninsured deposits could automatically be transferred to a BDI.

Separate and distinct from the Rule, the FDIC has a regulation, the IDI Rule, requiring certain IDIs (covered IDIs or CIDIs) to submit to the FDIC resolution plans providing information about how the CIDI can be resolved under the FDI Act. Contemporaneous with publication of the proposed guidance, the FDIC published in the Federal Register the Proposed IDI Rule, a proposed rulemaking to amend and restate the IDI Rule, which has since been finalized and was published in the Federal Register on July 9, 2024.

The IDI Rule and the Rule each have different goals, and, accordingly, the expected content of the respective resolution plans is different. The purpose of the IDI Rule is to ensure that the FDIC has access to the information it needs to resolve a CIDI efficiently in the event of its failure, including an understanding of the CIDI's ability to produce the information the FDIC would need to conduct a least-cost determination under a wide range of circumstances.

The Rule serves a different purpose. The Rule requires a covered company to submit a resolution plan that would allow rapid and orderly resolution of the firm under the Bankruptcy Code in the event of material financial distress or failure. The regional bank failures in March 2023 demonstrated that banking organizations of size and complexity similar to that of the specified firms – or even smaller and less complex banking organizations – can be disruptive to U.S. financial stability. In the case of Silicon Valley Bank and Signature Bank, uninsured depositors would have faced the potential for significant losses had the least costly approach to resolution, a payout liquidation, been adopted. The potential for contagion from the deposit runs at the firms that failed, as well as related potential for risks to

the economy and financial stability, led the Secretary of the Treasury, in consultation with the President and after a written recommendation from the FDIC's Board of Directors and the Board, to invoke the systemic risk exception to enable the FDIC to resolve these institutions in a way that would avoid or mitigate serious adverse effects on economic conditions or financial stability. Though a specified firm would be conducting its analysis without input in the form of actual bids from potential buyers, the agencies expect firms to use available information to estimate the value of its franchise for purposes of conducting the limited least-cost analysis articulated in the guidance.

If a firm's resolution plan under the Rule that includes an MPOE strategy calls for resolving an IDI using a strategy other than payout liquidation, the plan should explain how the requirements of the FDI Act could be met without depending upon extraordinary government support. Even though this analysis is not binding in an actual resolution scenario, an analysis showing that the firm's preferred resolution strategy could satisfy requirements of the FDI Act could help the firm demonstrate that the resolution plan's preferred strategy could be executed in a manner consistent with applicable law. If a resolution plan does not provide such an explanation, it may be appropriate to conclude that the strategy would not satisfy the FDI Act's relevant provisions, such as the least-cost requirement, which could represent a weakness in the plan. As a general matter, the agencies followed this practice in reviewing previous full resolution plan submissions.

Guidance. In response to commenters, the agencies are providing additional detail to help address commenters' questions related to the FDI Act's least-cost requirement and how it relates to the expectations in this final guidance. The final guidance does not express a change in the agencies' expectations. Instead, the final guidance provides more detail on

approaches a firm can use to explain how the resolution of its IDI subsidiary can be achieved in a manner that substantially mitigates the risk that the firm's failure would have serious adverse effects on U.S. financial stability while also complying with the statutory and regulatory requirements governing IDI resolution. The final guidance lists a number of different common strategies for resolving an IDI and describes the kind of information that a firm could provide to explain how a resolution using one of the example strategies could be consistent with the least-cost requirement. The final guidance also provides information about calculating the value of an IDI's assets and its franchise value. Finally, the final guidance explicitly notes that the agencies are not expecting a firm to provide a complete least-cost analysis.

Strategies for resolving an IDI.

Purchase and Assumption Transaction. The FDIC typically seeks to resolve a failed IDI by identifying, before the IDI's failure, one or more potential acquirers so that as many of the IDI's assets and deposit liabilities as possible can be sold to and assumed by the acquirer(s) instead of remaining in the receivership created on the failure date.[41] This transaction form, termed a purchase and assumption or P&A transaction, has often been the resolution approach that is least costly to the DIF, and is usually considered the easiest for the FDIC to execute and the least disruptive to the depositors of the failed IDI — particularly in the case of transactions involving the assumption of all the failed IDI's deposits by the assuming institution (an all-deposit transaction).

The limited size and operational complexity present in most small-bank failures have been significant factors in allowing the FDIC to execute P&A transactions with a single

[41] *See generally* https://www.fdic.gov/resources/resolutions/bank-failures/ for background about the resolution of IDIs by the FDIC.

acquirer on numerous occasions. Resolving an IDI via a P&A transaction over the closing weekend, however, has not always been available to the FDIC, particularly in failures involving large IDIs. P&A transactions require lead time to identify potential buyers and allow due diligence on, and an auction of, the failing IDI's assets and banking business, also termed its franchise. The acquiring banks must also have sufficient excess capital to absorb the failed IDI's assets and deposit franchise, sufficient expertise to manage business integration, and the ability to comply with several legal requirements. Larger failed banks can pose significant, and potentially systemic, challenges in resolutions that make a P&A transaction less viable. These challenges include: a more limited pool of potential acquirers as a failed IDI increases in size; operational complexities that require lengthy advance planning on the part of the IDI and the FDIC; the development of certain expertise; potential market concentration and antitrust considerations; and potentially the need to maintain the continuity of activities conducted in whole or in part in the IDI that are critical to U.S. financial stability.

Alternative Resolution Strategies. If no P&A transaction that meets the least-cost requirement can be accomplished at the time an IDI fails, the FDIC must pursue an alternative resolution strategy. The primary alternative resolution strategies for a failed IDI are: (1) a payout liquidation; or (2) utilization of a BDI.

Payout Liquidation. The FDIC conducts payout liquidations by paying insured deposits in cash or transferring the insured deposits to an existing institution or a new institution organized by the FDIC to assume the insured deposits (generally, a Deposit Insurance National Bank or DINB). In payout liquidations, the FDIC as receiver retains substantially all of the failed IDI's assets for later sale, and the franchise value of the failed

IDI is lost. A payout liquidation is often the most costly and disruptive resolution strategy because of this destruction of franchise value and the FDIC's direct payment of insured deposits.

Bridge Depository Institution. If the FDIC determines that temporarily continuing the operations of the failed IDI is less costly than a payout liquidation, the FDIC may organize a BDI to purchase certain assets and assume certain liabilities of the failed IDI.[42] Generally, a BDI would continue the failed bank's operations according to business plans and budgets approved by the FDIC and carried out by FDIC-selected BDI leadership. In addition to providing depositors continued access to deposits and banking services, the BDI would conduct any necessary restructuring required to rationalize the failed IDI's operations and maximize value to be achieved in an eventual sale. Subject to the least-cost requirement, the initial structure of the BDI may be based upon an all-deposit transaction, a transaction in which the BDI assumes only the insured deposits, or a transaction in which the BDI assumes all insured deposits and a portion of the uninsured deposits. Once a BDI is established, the FDIC seeks to stabilize the institution while simultaneously planning for the eventual exit and termination of the BDI. In exiting and terminating a BDI, the FDIC may merge or consolidate the BDI with another depository institution, issue and sell a majority of the capital stock in the BDI, or effect the assumption of the deposits or acquisition of the assets of the BDI.[43] While utilizing a BDI can avoid the negative effects of a payout liquidation, such as destruction of franchise value, many of the same factors that challenge the feasibility of a

[42] Before a BDI may be chartered, the chartering conditions set forth in 12 U.S.C. 1821(n)(2) must also be satisfied. For purposes of this guidance, if the Plan provides appropriate analysis concerning the feasibility of the BDI strategy, there is no expectation that the resolution plan also demonstrate separately that the conditions for chartering the BDI have been satisfied.

[43] 12 U.S.C. 1821(n)(10).

traditional P&A transaction also complicate planning for the termination of a BDI through a sale of the whole entity or its constituent parts.

Though one commenter suggested that the guidance should require firms to develop resolution strategies involving BDIs, the agencies do not maintain an expectation that firms will develop resolution strategies involving BDIs. The expectations provided in this guidance are also intended to be helpful to firms that have chosen to involve a BDI in their resolution strategy.

Least-Cost Analysis for Resolution Plans. The final guidance does not include an expectation that firms provide in their resolution plans a complete least-cost analysis. Such an analysis would, for example, include a comparison of the preferred strategy for resolving an IDI that is a material entity against every other possible resolution method. While a firm may choose to provide a complete least-cost analysis, this guidance discusses expectations regarding a limited least-cost analysis that would explain how the firm's preferred strategy is not more costly than a payout liquidation and, if applicable, an insured-only BDI.

One commenter suggested that the agencies should provide guidance for how firms should address the valuation of an IDI's assets and liabilities, including its franchise value. In this final guidance, the agencies are providing additional explanation for how firms can develop and support the valuation of the IDI's assets and liabilities in an IDI resolution. This guidance includes a description of how firms can assess the franchise value of a firm's business.

Example. The following example should be read in conjunction with section VIII of the guidance text, *Insured Depository Institution (IDI) Resolution*. This example is only intended to provide firms with an illustration of the types of considerations and calculations

that could be included in a firm's analysis explaining how its preferred strategy would be less costly than a payout liquidation and, if applicable, an insured-only BDI. This example is not intended to serve as a template for firms or to provide guidelines for reasonable valuations of a firm's assets or liabilities. The valuations described in this example are intended to be illustrative and are not guidance about the likely values of a firm's assets and liabilities in an individual resolution plan or in resolution.

Bank A has $500 billion in total assets, consisting of $250 billion loans; $75 billion cash and equivalents; $125 billion in investment securities; and other assets totaling $50 billion. The bank's initial funding structure consists of $400 billion in deposits; $25 billion in various unsecured payables and debt; $25 billion in secured funding; and $50 billion in capital instruments. For this example, the bank assumes it would encounter idiosyncratic events at a time when severely adverse economic conditions are present, and this combination of events would cause the bank to be closed by the chartering authority and the FDIC appointed as receiver. The illustrative tables below reflect values as of the appointment of the FDIC as receiver.

The initial events combine to cause immediate losses of $25 billion recognized as direct operating charges and $15 billion through write-downs/provision expense for the loan portfolio, and $60 billion of deposit runoff occurs.

- For purposes of conducting the analysis, the firm's management assumes that additional value diminution is present in the loan portfolio. Accordingly, after thoroughly analyzing the quality of its loan portfolio and determining the potential for additional credit losses, as well as considering the market value of the loan portfolio based upon the type of loans it holds in comparison with comparable sales

transactions, and after further considering sensitivity testing, management supports an estimate near $175 billion for the loan portfolio.

- In developing its Resolution Plan, the firm's management further supports that $40 billion of additional deposit runoff would occur in addition to the initial $60 billion. At the time of failure, Bank A's remaining $300 billion of deposits are 60% insured and 40% uninsured. The ratio of insured deposits to uninsured deposits is used to calculate the pro rata recovery of depositors and the losses imposed on the DIF as a result.[44]
- The deposit runoff is assumed to be met by using $50 billion of cash and selling $50 billion of investment securities. The remaining $75 billion investment portfolio is entirely invested in short-term U.S. Treasury securities with an estimated value of $70 billion.
- The other assets are implicated in the initial idiosyncratic loss. These other assets include fixed assets, foreclosed property, intellectual property, and miscellaneous items with a market value of $25 billion.
- As shown in Table 1, the Plan provides an analysis of the payout liquidation strategy. This strategy includes an expected loss to the DIF of $18 billion.

Table 1: Illustration of Bank A Payout Liquidation – Cost Estimate *(dollars in billions)*

Liquidation Market Value		**Payout Liquidation Liability Claim and Amount Recovered**		
Category	Value	Category	Claim	Recovery / (Loss)
Loans	$175	Secured Claims	$25	$25 / ($0)
Securities	$70	Deposits Insured	$180	$162 / ($18)
Cash	$25	FDIC incurs the loss for the insured deposits so that all insured deposits are fully repaid.		
Other	$25			

[44] *See infra* note 45.

Total	$295	Deposits Uninsured	$120	$108 / ($12)
		Unsecured Claims / Debt	$25	$0 / ($25)
		Equity Holders		No recovery
Loss to Deposit Insurance Fund (to make whole insured depositors) = $18 billion[45] Losses to uninsured depositors = $12 billion.				

- However, the Plan also asserts and supports that the payout liquidation approach fails to reflect the franchise value of the combined deposit and loan relationships stemming from considerations such as the low administrative costs associated with servicing large deposits, the elimination of significant customer acquisition costs, the stable fee income stream associated with the accounts due to barriers to entry for certain products, and the importance and value of integrating the loan and deposit products.
- The Plan calculates, and provides the analysis supporting the calculation, that the economic benefit of packaging these benefits together in an all-deposit BDI is $20 billion, which is reflected as a bid premium to liquidation pricing in Table 2.
- The result is that the all-deposit BDI is less costly to the DIF than liquidation because of the inclusion of the bid premium.

Table 2: Illustration of Bank A Preferred Strategy – Cost Estimate *(dollars in billions)*

All Deposit Bridge Market Value		**All Deposit Bridge Bank Liability Claim and Amount Recovered**		
Category	Value	Category	Claim	Recovery / (Loss)
Loans	$175	Secured Claims	$25	$25 / ($0)
Securities	$70	Deposits Insured	$180	$174/ ($6)
Cash	$25	FDIC incurs the loss for the insured deposits so that all insured deposits are fully repaid.		
Other	$25			

[45] Calculation: 1) $295 billion asset value less secured claim of $25 billion = $270 billion available to depositors and junior claims; 2) $270 billion available spread pro-rata across $300 billion depositor class; 60% insured deposits and 40% uninsured deposits; 3) $270 billion x .6 = $162 billion paid to insured depositors; $270 billion x .4 = $108 billion paid to uninsured depositors.

Sub Total	$295	Deposits Uninsured	$120	$116 / ($4)*
Bid Premium	$20	Unsecured Claims / Debt	$25	$0 / ($25)
Total	$315	Equity Holders		No recovery
Loss to Deposit Insurance Fund (to make whole insured and uninsured depositors) = $10 billion, which is less than the payout liquidation loss.[46] * Losses to uninsured depositors total $4 billion and are absorbed by the DIF.				

I. Derivatives and Trading Activities

The agencies requested comment on whether to provide derivatives and trading activities guidance for specified firms that adopt an SPOE or MPOE resolution strategy. Some commenters argued that no derivatives and trading guidance is needed for domestic triennial full filers because they have limited derivatives and trading portfolios, particularly relative to the U.S. GSIB banking organizations covered by such guidance. These commenters also noted that not all of these biennial filers, which are Category I firms, are subject to this type of guidance. Other commenters supported providing such guidance to domestic triennial full filers, despite observing that these firms engage in less activity than the biennial filers. One commenter cautioned that derivatives activities for domestic triennial full filers may increase in the future and proposed the inclusion of an orderly-wind-down analysis for firms with net derivatives exceeding a given threshold. Another commenter recommended that the guidance include expectations for: roles and responsibilities in derivatives unwind, plan reporting regarding derivatives exposures, plan risk assessments in cross-border activity, barriers to swift unwind of derivatives activities booked outside the United States, and capabilities to generate detailed derivative reports.

[46] Calculation: 1) $315 billion asset value less secured claim of $25 billion = $290 billion available to depositors and junior claims; 2) $290 billion available spread pro-rata across $300 billion depositor class; 60% insured deposits and 40% uninsured deposits; 3) $290 billion x .6 = $174 billion paid to insured depositors; $290 billion x .4 = $116 billion paid to uninsured depositors.

This commenter also argued that firms should specify plans to wind-down between affiliates and external counterparties, as well as describe potential sale of some trading positions.

After reviewing the comments and considering the scope of derivatives and trading activities of domestic Category I, II, and III banking organizations,[47] the agencies determined that the banking organizations that would be specified firms have limited derivatives and trading operations compared to the subset of biennial filers that are the subject of derivatives and trading guidance. The agencies also note that the Rule includes certain requirements regarding derivatives and trading activities with which all covered companies – including domestic triennial full filers – must comply, as well as the overall requirement to provide a strategic analysis describing the covered company's plan for orderly resolution.[48] The agencies believe that for this set of covered companies, given their current activities, the topic of derivatives and trading activities is sufficiently addressed by the Rule. The agencies are therefore finalizing the guidance without including expectations on derivatives and trading activity for the specified firms.

The agencies also recognize that derivatives activity or risk for domestic triennial full filers may change in the future. The agencies may consider the need for firm-specific derivatives and trading expectations in the future for specified firms that substantially increase their derivatives and trading activities or change in a way such that having a strategy to wind-down their derivatives portfolios is critical to their resolvability.

J. Format and Structure of Plans; Assumptions

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[47] *See* FR Y-15 Systemic Risk Report, 2nd quarter 2023 data. Publicly available at the National Information Center https://www.ffiec.gov/NPW. *See also Quarterly Report on Bank Trading and Derivatives Activities – Third Quarter 2023.* Publicly available at https://www.occ.gov/publications-and-resources/publications/quarterly-report-on-bank-trading-and-derivatives-activities/index-quarterly-report-on-bank-trading-and-derivatives-activities.html.

[48] *See* 12 CFR 243.2 and 12 CFR 381.2; 12 CFR 243.5(c) and (e)(6)-(7), and 12 CFR 381.5(c) and (e)(6)-(7).

This section of the proposal described the agencies' preferred presentation regarding the format, assumptions, and structure of resolution plans. Under the proposal, plans would have been expected to contain an executive summary, a narrative of the firm's resolution strategy, relevant technical appendices, and a public section as detailed in the Rule. The proposed format, structure, and assumptions were generally similar to those in the 2019 GSIB Guidance, except that the proposed guidance reflected the expectations that (a) a firm should support any assumptions that it will have access to the Discount Window and/or other borrowings during the period immediately prior to entering bankruptcy and clarified expectations around such assumptions, and (b) a firm should not assume the use of the systemic risk exception to the least-cost test in the event of a failure of an IDI requiring resolution under the FDI Act. In addition, for firms that adopt an MPOE resolution strategy, the proposal included the expectation that a plan should demonstrate and describe how the failure event(s) results in material financial distress, including consideration of the likelihood of the diminution the firm's liquidity and capital levels prior to bankruptcy. The proposal also included several questions about assumptions and whether to include answers to frequently asked questions.

The agencies received one comment in response to a question posed regarding assumptions related to lending facilities, including the Discount Window. The commenter supported the proposed assumptions guidance regarding these facilities and recommended that the agencies consider providing additional guidance on assumptions related to the amount, timing, and limitations of liquidity that might become available from these sources. However, the additional guidance requested by the commenter is unnecessary, and the agencies are finalizing this section of the guidance as proposed with one clarification.

Specifically, the proposed guidance regarding the relevant assumptions already includes references to timing and limitations of liquidity commensurate with the activities of firms subject to the guidance.

As a clarification, the agencies have added a reference to Federal Home Loan Banks (FHLBs) as a type of borrowing for which firms should provide support in their resolution plans if they assume access during the period immediately prior to entering bankruptcy. The agencies' experiences in 2023 showed that many IDIs depend heavily on FHLB funding in times of stress and, accordingly, the agencies expect firms to be prepared to support any assumptions around such reliance for resolution planning purposes.

The final guidance also includes an expectation contained in the 2019 GSIB Guidance regarding the parameters of economic forecasting in a resolution plan submission. Those guidance documents stated that a resolution plan should assume the Dodd-Frank Act Stress Test (DFAST) severely adverse scenario for the first quarter of the calendar year in which a resolution is submitted is the domestic and international economic environment at the time of the firm's failure and throughout the resolution process.[49] While this assumption is similar to a provision in the Rule,[50] the agencies believe it is important to provide guidance to firms about the timing of the required assumption in the Rule. The Board provides DFAST scenario information to the specified firms through the Board's public website.[51]

The agencies also received a comment recommending that more of firms' resolution plans be disclosed publicly to promote market discipline and specifically asking that the

[49] 84 FR 1459; 85 FR 83578.
[50] 12 CFR 243.4(h)(1) and 12 CFR 381.4(h)(1).
[51] https://www.federalreserve.gov/publications/dodd-frank-act-stress-test-publications.htm.

public portion of resolution plans describe potential acquirers of operations in the event of resolution. The Rule establishes at a high-level the required content of the public section of a resolution plan,[52] and this final guidance clarifies the agencies' expectations with respect to that section. The agencies are mindful that the public disclosure of resolution plans, which may contain private commercial information, has both benefits and drawbacks, and the agencies believe that, at the moment, the Rule – revisions to which are outside the scope of this guidance – and the final guidance appropriately balance transparency with confidentiality.

The agencies are otherwise finalizing this section of the guidance as proposed.[53] The agencies did not receive any comments in response to the proposal's request for comments about answers to frequently asked questions, and the agencies have not included those prior answers to frequently asked questions because these prior answers were requested by and prepared for a different set of firms.

K. Additional Comments

Differentiating Resolution Plan Guidance

The agencies received several general comments about whether the expectations in the proposal were suitably modified from expectations included in past resolution plan guidance and whether the proposal appropriately distinguished between different types of triennial full filers. Several commenters contended that the proposed guidance did not sufficiently differentiate expectations among firms subject to resolution planning guidance. One commenter argued that section 165 of the Dodd-Frank Act requires the agencies to differentiate the content of the resolution planning guidance; the proposal was too similar to

[52] 12 CFR 243.11(c) and 12 CFR 381.11(c).

[53] The agencies also are clarifying one expectation in the Financial Statements and Projections subsection of the Format and Structure of Plans; Assumptions section of the guidance that could be construed to impose a requirement on the specified firms.

the 2019 GSIB Guidance; and expectations for the specified firms should be further differentiated based on size, risk, and other factors. Another commenter argued that the proposed guidance favors the MPOE resolution strategy by including fewer expectations for firms that adopt that strategy and recommended that final guidance for firms adopting an MPOE resolution strategy should be more aligned with guidance for resolution plan filers with an SPOE resolution strategy.

While the differentiation requirement in section 165 of the Dodd-Frank Act does not apply to this non-binding resolution plan guidance, the guidance differentiates among covered companies, taking into consideration their size, complexity, and other risk-related factors; their resolution strategy, whether SPOE or MPOE; and whether they are domestic or foreign-based.

The thresholds and risk-based indicators that form the basis of the risk-based category framework used by the Rule are designed to take into account an individual firm's particular activities and organizational footprint that may present significant challenges to an orderly resolution.[54] The Rule, using those categories, defines triennial full filers as one cohort because the failure of a Category II or III banking organization could pose a threat to U.S. financial stability. Banking organizations in these two categories often have similar characteristics, such as organizational structures, and similar resolution strategies that benefit from similar resolution guidance. Accordingly, the agencies believe the guidance is equally appropriate for domestic Category II and III banking organizations. In addition, as discussed above, the regional bank failures in March 2023 demonstrated that the failure of banking organizations with $100 billion to $250 billion in total consolidated assets can be disruptive to

[54] *See* 84 FR 59197–201.

U.S. financial stability. For these reasons, providing the guidance to domestic triennial full filers in that asset range is appropriate to prevent or mitigate risks to the financial stability of the United States.

Guidance for specified firms that adopt an SPOE resolution strategy is differentiated relative to guidance for Category I banking organizations (i.e., the 2019 GSIB Guidance), notably with the absence of derivatives and trading expectations, which are applicable to most of the U.S. GSIBs, and other operational guidance as well as reduced separability expectations. Other aspects of the SPOE guidance are appropriately similar to the 2019 GSIB Guidance because the successful execution of an SPOE resolution strategy benefits from the capabilities discussed in the guidance. The guidance for firms that adopt an MPOE resolution strategy includes substantially simpler expectations, relative to SPOE guidance and the 2019 GSIB Guidance, in the areas of capital, liquidity, governance mechanisms, operational, legal entity rationalization and separability, derivatives and trading expectations, and PCS. Having simpler expectations relative to SPOE guidance does not necessarily mean a firm adopting an MPOE strategy will encounter fewer challenges developing its resolution plan; regardless of the strategy chosen, the firm is responsible for providing adequate information and analysis to demonstrate its plan will facilitate an orderly resolution. Each firm remains free to choose the resolution strategy it believes would most effectively facilitate an orderly resolution, and the agencies are not suggesting that any firm change its resolution strategy, nor do the agencies identify a preferred strategy for a specific firm or set of firms.[55]

Finally, resolution plan guidance for Category II and III banking organizations is adapted to whether a covered company is based in the United States or in a foreign

[55] See Section I.A *Resolution Plan Strategy* for further discussion about why the agencies are differentiating expectations depending on whether a firm adopts an SPOE or MPOE resolution strategy.

jurisdiction, with dedicated guidance documents for each type of firm. The Rule differentiates between banking organizations based on home jurisdiction,[56] and whether a banking organization is based in the United States can significantly impact its resolution strategy, resolution capabilities, and resolution planning. Accordingly, expectations for domestic and foreign-based triennial full filers are differentiated in the areas of capital, liquidity, governance mechanisms, shared services, separability, branches, and group-wide resolution plans.

Comments about Resolution Planning and the Proposal

The agencies received several general comments about resolution planning guidance. The agencies have considered these commenters' input but have made no modifications to the final guidance.

One commenter expressed support for the proposed guidance, in part, because it reaffirms that bankruptcy is the preferred resolution strategy and would improve the quality of resolution plan submissions through enhanced information and assumptions, better enabling the resolution of a specified firm in an orderly manner. Another commenter praised the agencies' proposal for providing needed clarity and transparency on expectations for specified firms' resolution plans, and for making several improvements that will improve specified firms' resolution plans.

Another commenter recommended that the agencies adopt the content of the guidance in the form of a legally binding and enforceable rule, in part due to the size and scope of specified firms, the importance of resolution planning, and the financial stability implications involved. This commenter also suggested that the large bank failures in 2023

[56] *See* 12 CFR 243.5(a) and 12 CFR 381.5(a).

demonstrated the need for improvement in banking organizations' resolution planning and the agencies' process for assessing these plans.

Resolution planning is important to U.S. financial stability; however, the agencies have not made changes to the guidance in response to these comments. The Rule, which is legally enforceable, identifies the specific topics that must be addressed in resolution plans. In contrast, resolution plan guidance outlines the agencies' supervisory expectations and priorities and articulates the agencies' general views regarding appropriate resolution planning practices for the specified firms. The final guidance provides examples of resolution plan content and capabilities that the agencies generally consider consistent with effective resolution planning. This approach is consistent with resolution planning guidance provided to other covered companies in the past, including guidance for Category I banking organizations and certain foreign Category II banking organizations.

A commenter argued that the agencies should allow for an iterative process for domestic triennial full filers to develop their strategies and capabilities, similar to the gradual maturation of Category I banking organizations' resolution plans. This commenter also argued the agencies should provide more than one year for firms to incorporate the final guidance into their next resolution plan submissions and that the guidance should not be the basis for a deficiency.

By statute and under the Rule, each resolution plan filer must submit a plan for orderly resolution under the U.S. Bankruptcy Code, and the agencies must assess the credibility of each plan. Each firm remains free to choose the resolution strategy it believes would most effectively facilitate an orderly resolution and the agencies are not suggesting that any firm change its resolution strategy, nor do the agencies identify a preferred strategy

for a specific firm or set of firms. The standard of review for a resolution plan submission of a firm that transitions to a new strategy is the same as for any firm subject to the Rule. The agencies stated in the preamble to the 2019 revisions to the Rule that they would endeavor to finalize guidance a year in advance of the next applicable resolution plan submission date, and the agencies are extending the next resolution plan submission deadline for these firms to provide at least one year advanced notice of general guidance.[57] The agencies also reaffirm that the guidance does not have the force and effect of law, and the agencies do not take enforcement actions or issue findings based on resolution planning guidance.

Comments Outside the Scope of Proposal

The agencies received several comments outside the scope of the proposed guidance. One commenter urged the agencies to shorten the length between resolution plan submissions under the Rule, from three to two years, and evaluate key aspects of plans annually. This commenter also recommended the agencies create an independent committee to advise the agencies on resolution planning matters as well as require large banking organizations to hold more capital generally. Another commenter argued that any LTD requirements should reflect a banking organization's preferred resolution strategy and not push a banking organization to adopt a particular strategy while another commenter recommended finalizing the LTD proposal as proposed. A commenter also encouraged the FDIC to provide banking organizations at least one year to comply with any final IDI Rule. Another commenter also recommended that the agencies promote resolvability by requiring large corporations to hold term deposits at the specified firms. In addition, another commenter suggested including in the final guidance expectations related to green financing.

[57] *See* 2019 GSIB Guidance at 59204.

The agencies have not made any changes to the guidance to address these comments.

IV. Paperwork Reduction Act

Certain provisions of the final guidance contain "collections of information" within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3521). In accordance with the requirements of the PRA, the agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The agencies have requested and OMB has assigned to the agencies the respective control numbers shown. The information collections contained in the final guidance have been submitted to OMB for review and approval by the FDIC under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and section 1320.11 of OMB's implementing regulations (5 CFR part 1320). The Board reviewed the final guidance under the authority delegated to the Board by OMB, and has approved these collections of information.

The agencies did not receive any comments related to the PRA.

The agencies have a continuing interest in the public's opinions of information collections. At any time, commenters may submit comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to the addresses listed in the **ADDRESSES** caption in the proposed guidance notice. All comments will become a matter of public record. A copy of the comments may also be submitted to the OMB desk officer for the agencies: By mail to U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington DC 20503; by facsimile to (202) 395-5806; or by email to: oira_submission@omb.eop.gov, Attention, Federal Banking Agency Desk Officer.

Collection title: Board: Reporting Requirements Associated with Regulation QQ.

FDIC: Reporting Requirements Associated with Resolution Planning.

OMB control number: Board 7100-0346; FDIC 3064-0210.

Frequency: Triennial, Biennial, and on occasion.

Respondents: Bank holding companies (including any foreign bank or company that is, or is treated as, a bank holding company under section 8(a) of the International Banking Act of 1978 and meets the relevant total consolidated assets threshold) with total consolidated assets of $250 billion or more, a bank holding companies with $100 billion or more in total consolidated assets with certain characteristics, and nonbank financial firms designated by the Financial Stability Oversight Council for supervision by the Board.

Current actions: The final guidance modifies certain provisions of the proposed guidance. For domestic firms, the final guidance eliminates expectations related to separability, reducing the average burden hours per response by 3,000 for domestic firms using an SPOE strategy and 975 for domestic firms using an MPOE strategy. The final guidance also clarifies expectations around operational shared services for firms using an SPOE resolution strategy and around the IDI Resolution Plan/Least Cost Test for all firms. Regarding operational shared services, the guidance clarifies that a firm's implementation plan to ensure continuity of shared services should include those that are material to the execution of the resolution strategy, such as reliance on outside bankruptcy counsel and consultants. Regarding the FDI Act's least-cost requirement and how it relates to expectations around IDI resolution, the agencies provided additional detail on how firms can develop and support the valuation of an IDI's assets and liabilities in an IDI resolution. The agencies do not anticipate these clarifications impacting the burden estimates.

Historically, the Board and the FDIC have split the respondents for purposes of PRA clearances. As such, the agencies will split the change in burden as well. As a result of this split and the final revisions, there is a proposed net increase in the overall estimated burden hours of 14,922 hours for the Board and 14,304 hours for the FDIC. Therefore, the total Board estimated burden for its entire information collection would be 216,129 hours and the total FDIC estimated burden would be 210,844 hours.

The following table presents only the change in the estimated burden hours, as amended by the final guidance, broken out by agency. The table does not include a discussion of the remaining estimated burden hours, which remain unchanged.[58] As shown in the table, the triennial full filers' resolution plan submissions would be estimated more granularly according to SPOE and MPOE resolution strategies.

FR QQ	*Estimated number of respondents*	*Estimated annual frequency*	*Estimated average hours per response*	*Estimated annual burden hours*
		Board Burdens		
Current				
Triennial Full:				
Complex Foreign	1	1	9,777	9,777
Foreign and Domestic	7	1	4,667	32,669
Current Total				*42,446*
Final				
Triennial Full:				
FBO SPOE*	2	1	11,848	23,696
FBO MPOE	3	1	5,939	17,817
Domestic MPOE	3	1	5,285	15,855
Final Total				*57,368*

[58] In addition to the revisions to the estimations for triennial full filers, the agencies have revised the estimation for biennial filers from 40,115 hours per response to 39,550 hours per response to align with burden estimation methodology with what was used for triennial full filers under the final guidance. Specifically, the agencies removed a component for a biennial filer's analysis of its critical operations as part of its submission of targeted and full resolution plans, because this critical operations analysis is integrated in the preparation of such plans.

FDIC Burdens				
Current				
Triennial Full:				
Complex Foreign	1	1	9,777	9,777
Foreign and Domestic	6	1	4,667	28,002
Current Total				*37,779*
Final				
Triennial Full:				
FBO SPOE	2	1	11,848	23,696
FBO MPOE	3	1	5,939	17,817
Domestic MPOE	2	1	5,285	10,570
Final Total				*52,083*

*There are currently no domestic triennial full filers utilizing an SPOE strategy. Estimated hours per response for a domestic SPOE triennial full filer would be 10,535 hours.

V. Text of the Final Guidance

Guidance for Resolution Plan Submissions of Domestic Triennial Full Filers

I. Introduction

Section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5365(d)) requires certain financial companies to report periodically to the Board of Governors of the Federal Reserve System (the Board) and the Federal Deposit Insurance Corporation (the FDIC) (together, the agencies) their plans for rapid and orderly resolution in the event of material financial distress or failure. On November 1, 2011, the agencies promulgated a joint rule implementing the provisions of Section 165(d).[1] Subsequently, in November 2019, the agencies finalized amendments to the joint rule addressing amendments to the Dodd-Frank Act made by the Economic Growth, Regulatory Relief, and Consumer Protection Act and improving certain aspects of the joint rule based on the agencies' experience implementing the joint rule since its adoption.[2] Financial companies meeting criteria set out in the Rule must file a resolution plan (Plan) according to the schedule specified in the Rule.

This document is intended to provide guidance to certain domestic financial companies required to submit Plans to assist their further development of a Plan for their 2025 and subsequent Plan submissions. Specifically, the guidance applies to any domestic covered company that is a triennial full filer under the Rule[3] because it is subject to Category II or III standards in accordance with the Board's tailoring rule (specified firms or firms).[4] The Plan

[1] Resolution Plans Required, 76 FR 67323 (Nov. 1, 2011).
[2] Resolution Plans Required, 84 FR 59194 (Nov. 1, 2019). The amendments became effective December 31, 2019. "Rule" means the joint rule as amended in 2019. Terms not defined herein have the meanings set forth in the Rule.
[3] *See* 12 CFR 243.4(b)(1) and 12 CFR 381.4(b)(1).
[4] Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, and Foreign Banking Organizations, 84 FR 59032 (Nov. 1, 2019).

for a specified firm would address the subsidiaries and operations that are domiciled in the United States as well as the foreign subsidiaries, offices, and operations of the covered company.

The document does not have the force and effect of law.[5] Rather, it describes the agencies' expectations and priorities regarding the specified firms' Plans and the agencies' general views regarding specific areas where additional detail should be provided and where certain capabilities or optionality should be developed and maintained to demonstrate that each firm has considered fully, and is able to mitigate, obstacles to the successful implementation of their resolution strategy.

When a domestic banking organization first becomes a specified firm,[6] this document will apply to the firm's next resolution plan submission that is due at least 12 months after the date the firm becomes a specified firm. If a specified firm ceases to be subject to Category II or III standards, it will no longer be a specified firm, and this document would no longer apply to that firm.

In general, this document is organized around a number of key challenges in resolution (capital; liquidity; governance mechanisms; operational; legal entity rationalization and separability; and insured depository institution resolution, if applicable) that apply across resolution plans, depending on their strategy. Additional challenges or obstacles may arise based on a firm's particular structure, operations, or resolution strategy. Each firm is expected to satisfactorily address these vulnerabilities in its Plan. In addition, each topic of this guidance is separated into expectations for a specified firm that adopts a single point of entry (SPOE) resolution strategy for its Plan and expectations for a specified firm that adopts a

[5] *See* 12 CFR 262.7 and Appendix A to Part 262; 12 CFR part 302.
[6] *See* 12 CFR 252.5(c)–(d).

multiple point of entry (MPOE) resolution strategy for its Plan.

Under the Rule, the agencies will review a Plan to determine if it satisfactorily addresses key potential challenges, including those specified below. If the agencies jointly decide that an aspect of a Plan presents a weakness that individually or in conjunction with other aspects could undermine the feasibility of the Plan, the agencies may determine jointly that the Plan is not credible or would not facilitate an orderly resolution under the U.S. Bankruptcy Code. The agencies may not take enforcement actions or issue findings based on this guidance.

II. Capital

SPOE

The firm should have the capital capabilities necessary to execute its resolution strategy, including the modeling and estimation process described below.

Resolution Capital Adequacy and Positioning (RCAP). In order to help ensure that a firm's material entities[7] could operate while the parent company is in bankruptcy, the firm should have an adequate amount of loss-absorbing capacity to recapitalize those material entities. Thus, a firm should have outstanding a minimum amount of loss-absorbing capacity, including long-term debt, to help ensure that the firm has adequate capacity to meet that need at a consolidated level (external LAC).[8]

A firm's external LAC should be complemented by appropriate positioning of loss-absorbing capacity within the firm (i.e., internal LAC), consistent with any applicable rules

[7] The terms "material entities," "identified critical operations," and "core business lines" have the same meaning as in the Rule.

[8] Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations, 82 FR 8266 (Jan. 24, 2017); LTD proposal.

requiring prepositioned resources at IDIs in the form of long-term debt. After adhering to any requirements related to prepositioning long-term debt at IDIs, the positioning of a firm's remaining resources should balance the certainty associated with pre-positioning resources directly at material entities with the flexibility provided by holding recapitalization resources at the parent (contributable resources) to meet unanticipated losses at material entities. That balance should take account of both pre-positioning at material entities and holding resources at the parent, and the obstacles associated with each. With respect to material entities that are not U.S. IDIs subject to pre-positioned long-term debt requirements, the firm should not rely exclusively on either full pre-positioning or parent contributable resources to recapitalize such entities. The Plan should describe the positioning of resources within the firm, along with analysis supporting such positioning.

Finally, to the extent that pre-positioned resources at a material entity are in the form of intercompany debt and there are one or more entities between that material entity and the parent, the firm should structure the instruments so as to ensure that the material entity can be recapitalized.

Resolution Capital Execution Need (RCEN). To the extent necessitated by the firm's resolution strategy, material entities need to be recapitalized to a level that allows them to operate or be wound down in an orderly manner following the parent company's bankruptcy filing. The firm should have a methodology for periodically estimating the amount of capital that may be needed to support each material entity after the bankruptcy filing (RCEN). The firm's positioning of resources should be able to support the RCEN estimates. In addition, the RCEN estimates should be incorporated into the firm's governance framework to ensure that the parent company files for bankruptcy at a time that enables execution of the preferred

strategy.

The firm's RCEN methodology should use conservative forecasts for losses and risk-weighted assets and incorporate estimates of potential additional capital needs through the resolution period,[9] consistent with the firm's resolution strategy. The RCEN methodology should be calibrated such that recapitalized material entities will have sufficient capital to maintain market confidence as required under the preferred resolution strategy. Capital levels should meet or exceed all applicable regulatory capital requirements for "well-capitalized" status and meet estimated additional capital needs throughout resolution. Material entities that are not subject to capital requirements may be considered sufficiently recapitalized when they have achieved capital levels typically required to obtain an investment-grade credit rating or, if the entity is not rated, an equivalent level of financial soundness. Finally, the methodology should be independently reviewed, consistent with the firm's corporate governance processes and controls for the use of models and methodologies.

MPOE

N/A.

III. Liquidity

SPOE

The firm should have the liquidity capabilities necessary to execute its preferred resolution strategy. For resolution purposes, these capabilities should include having an appropriate model and process for estimating and maintaining sufficient liquidity at or readily available to material entities and a methodology for estimating the liquidity needed to successfully execute the resolution strategy, as described below.

[9] The resolution period begins immediately after the parent company bankruptcy filing and extends through the completion of the preferred resolution strategy.

Resolution Liquidity Adequacy and Positioning (RLAP). With respect to RLAP, the firm should be able to measure the stand-alone liquidity position of each material entity (including material entities that are non-U.S. branches)—i.e., the high-quality liquid assets (HQLA) at the material entity less net outflows to third parties and affiliates—and ensure that liquidity is readily available to meet any deficits. The RLAP model should cover a period of at least 30 days and reflect the idiosyncratic liquidity profile and risk of the firm. The model should balance the reduction in frictions associated with holding liquidity directly at material entities with the flexibility provided by holding HQLA at the parent available to meet unanticipated outflows at material entities. Thus, the firm should not rely exclusively on either full pre-positioning or an expected contribution of liquid resources from the parent. The model[10] should ensure that the parent holding company holds sufficient HQLA (inclusive of its deposits at the U.S. branch of the lead bank subsidiary) to cover the sum of all stand-alone material entity net liquidity deficits. The stand-alone net liquidity position of each material entity (HQLA less net outflows) should be measured using the firm's internal liquidity stress test assumptions and should treat inter-affiliate exposures in the same manner as third-party exposures. For example, an overnight unsecured exposure to an affiliate should be assumed to mature. Finally, the firm should not assume that a net liquidity surplus at one material entity could be moved to meet net liquidity deficits at other material entities or to augment parent resources.

Additionally, the RLAP methodology should take into account: (A) the daily contractual mismatches between inflows and outflows; (B) the daily flows from movement of

[10] "Model" refers to the set of calculations estimating the net liquidity surplus/deficit at each legal entity and for the firm in aggregate based on assumptions regarding available liquidity, e.g., HQLA, and third-party and interaffiliate net outflows.

cash and collateral for all inter-affiliate transactions; and (C) the daily stressed liquidity flows and trapped liquidity as a result of actions taken by clients, counterparties, key financial market utilities (FMUs), and foreign supervisors, among others.

Resolution Liquidity Execution Need (RLEN). The firm should have a methodology for estimating the liquidity needed after the parent's bankruptcy filing to stabilize the surviving material entities and to allow those entities to operate post-filing. The RLEN estimate should be incorporated into the firm's governance framework to ensure that the firm files for bankruptcy in a timely way, i.e., prior to the firm's HQLA falling below the RLEN estimate.

The firm's RLEN methodology should:

(A) Estimate the minimum operating liquidity (MOL) needed at each material entity to ensure those entities could continue to operate post-parent's bankruptcy filing and/or to support a wind-down strategy;

(B) Provide daily cash flow forecasts by material entity to support estimation of peak funding needs to stabilize each entity under resolution;

(C) Provide a comprehensive breakout of all inter-affiliate transactions and arrangements that could impact the MOL or peak funding needs estimates; and

(D) Estimate the minimum amount of liquidity required at each material entity to meet the MOL and peak needs noted above, which would inform the firm's board(s) of directors of when they need to take resolution-related actions.

The MOL estimates should capture material entities' intraday liquidity requirements, operating expenses, working capital needs, and inter-affiliate funding frictions to ensure that material entities could operate without disruption during the resolution. The peak funding needs estimates should be projected for each material entity and cover the length of time the

firm expects it would take to stabilize that material entity. Inter-affiliate funding frictions should be taken into account in the estimation process.

The firm's forecasts of MOL and peak funding needs should ensure that material entities could operate through resolution consistent with regulatory requirements, market expectations, and the firm's post-failure strategy. These forecasts should inform the RLEN estimate, i.e., the minimum amount of HQLA required to facilitate the execution of the firm's strategy. The RLEN estimate should be tied to the firm's governance mechanisms and be incorporated into the playbooks as discussed below to assist the board of directors in taking timely resolution-related actions.

MPOE

The firm should have the liquidity capabilities necessary to execute its preferred resolution strategy. A Plan with an MPOE resolution strategy should include analysis and projections of a range of liquidity needs during resolution, including intraday; reflect likely failure and resolution scenarios; and consider the guidance on assumptions provided in Section VIII, Format and Structure of Plans; Assumptions.

IV. Governance Mechanisms

SPOE

Playbooks and Triggers. A firm should identify the governance mechanisms that would ensure execution of required board actions at the appropriate time (as anticipated under the firm's preferred strategy) and include pre-action triggers and existing agreements for such actions. Governance playbooks should detail the board and senior management actions necessary to facilitate the firm's preferred strategy and to mitigate vulnerabilities, and should incorporate the triggers identified below. The governance playbooks should also include a

discussion of: (A) the firm's proposed communications strategy, both internal and external;[11] (B) the boards of directors' fiduciary responsibilities and how planned actions would be consistent with such responsibilities applicable at the time actions are expected to be taken; (C) potential conflicts of interest, including interlocking boards of directors; and (D) any employee retention policy. All responsible parties and timeframes for action should be identified. Governance playbooks should be updated periodically for all entities whose boards of directors would need to act in advance of the commencement of resolution proceedings under the firm's preferred strategy.

The firm should demonstrate that key actions will be taken at the appropriate time in order to mitigate financial, operational, legal, and regulatory vulnerabilities. To ensure that these actions will occur, the firm should establish clearly identified triggers linked to specific actions for:

(A) The escalation of information to senior management and the board(s) to potentially take the corresponding actions at each stage of distress leading eventually to the decision to file for bankruptcy;

(B) Successful recapitalization of subsidiaries prior to the parent's filing for bankruptcy and funding of such entities during the parent company's bankruptcy to the extent the preferred strategy relies on such actions or support; and

(C) The timely execution of a bankruptcy filing and related pre-filing actions.[12]

These triggers should be based, at a minimum, on capital, liquidity, and market metrics, and should incorporate the firm's methodologies for forecasting the liquidity and capital needed to

[11] External communications include those with U.S. and foreign authorities and other external stakeholders, such as large depositors and shareholders.

[12] Key pre-filing actions include the preparation of any emergency motion required to be decided on the first day of the firm's bankruptcy.

operate as required by the preferred strategy following a parent company's bankruptcy filing. Additionally, the triggers and related actions should be specific.

Triggers linked to firm actions as contemplated by the firm's preferred strategy should identify when and under what conditions the firm, including the parent company and its material entities, would transition from business-as-usual conditions to a stress period and from a stress period to the recapitalization/resolution periods. Corresponding escalation procedures, actions, and timeframes should be constructed so that breach of the triggers will allow prerequisite actions to be completed. For example, breach of the triggers needs to occur early enough to ensure that resources are available and can be downstreamed, if anticipated by the firm's strategy, and with adequate time for the preparation of the bankruptcy petition and first-day motions, necessary stakeholder communications, and requisite board actions. Triggers identifying the onset of stress and recapitalization/resolution periods, and the associated escalation procedures and actions, should be discussed directly in the governance playbooks.

Pre-Bankruptcy Parent Support. The Plan should include a detailed legal analysis of the potential state law and bankruptcy law challenges and mitigants to planned provision of capital and liquidity to the subsidiaries prior to the parent's bankruptcy filing (Support). Specifically, the analysis should identify potential legal obstacles and explain how the firm would seek to ensure that Support would be provided as planned. Legal obstacles include claims of fraudulent transfer, preference, breach of fiduciary duty, and any other applicable legal theory identified by the firm. The analysis also should include related claims that may prevent or delay an effective recapitalization, such as equitable claims to enjoin the transfer (e.g., imposition of a constructive trust by the court). The analysis should apply the actions

contemplated in the Plan regarding each element of the claim, the anticipated timing for commencement and resolution of the claims, and the extent to which adjudication of such claim could affect execution of the firm's preferred resolution strategy.

The analysis should include mitigants to the potential challenges to the planned Support. The Plan should identify the mitigant(s) to such challenges that the firm considers most effective. In identifying appropriate mitigants, the firm should consider the effectiveness of a contractually binding mechanism (CBM), pre-positioning of financial resources in material entities, and the creation of an intermediate holding company. Moreover, if the Plan includes a CBM, the firm should consider whether it is appropriate that the CBM should have the following:

(A) Clearly defined triggers;

(B) Triggers that are synchronized to the firm's liquidity and capital methodologies;

(C) Perfected security interests in specified collateral sufficient to fully secure all Support obligations on a continuous basis (including mechanisms for adjusting the amount of collateral as the value of obligations under the agreement or collateral assets fluctuates); and

(D) Liquidated damages provisions or other features designed to make the CBM more enforceable.

The firm also should consider related actions or agreements that may enhance the effectiveness of a CBM. A copy of any agreement and documents referenced therein (e.g., evidence of security interest perfection) should be included in the Plan.

The governance playbooks included in the Plan should incorporate any developments from the firm's analysis of potential legal challenges regarding the Support, including any

Support approach(es) the firm has implemented. If the firm analyzed and addressed an issue noted in this section in a prior plan submission, the Plan may reproduce that analysis and arguments and should build upon it to at least the extent described above, including ensuring that, as with all other aspects of the Plan, it remains accurate and up to date. In preparing the analysis of these issues, firms may consult with law firms and other experts on these matters. The agencies do not object to appropriate collaboration between firms, including through trade organizations and with the academic community, to develop analysis of common legal challenges and available mitigants.

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N/A.

V. Operational

SPOE

Payment, Clearing, and Settlement Activities Framework. Maintaining continuity of payment, clearing, and settlement (PCS) services is critical for the orderly resolution of firms that are either users or providers,[13] or both, of PCS services. A firm should demonstrate capabilities for continued access to PCS services essential to an orderly resolution through a framework to support such access by:

- Identifying clients,[14] FMUs, and agent banks as key from the firm's perspective for the firm's material entities, identified critical operations, and core business lines,

[13] A firm is a user of PCS services if it accesses PCS services through an agent bank or it uses the services of a financial market utility (FMU) through its membership in that FMU or through an agent bank. A firm is a provider of PCS services if it provides PCS services to clients as an agent bank or it provides clients with access to an FMU or agent bank through the firm's membership in or relationship with that service provider. A firm is also a provider if it provides clients with PCS services through the firm's own operations (e.g., payment services or custody services).

[14] For purposes of this section, a client is an individual or entity, including affiliates of the firm, to whom the firm provides PCS services and any related credit or liquidity offered in connection with those services.

using both quantitative (volume and value)[15] and qualitative criteria;

- Mapping material entities, identified critical operations, core business lines, and key clients to both key FMUs and key agent banks; and
- Developing a playbook for each key FMU and key agent bank essential to an orderly resolution under its preferred resolution strategy that reflects the firm's role(s) as a user and/or provider of PCS services.

The framework should address direct relationships (e.g., a firm's direct membership in an FMU, a firm's provision of clients with PCS services through its own operations, or a firm's contractual relationship with an agent bank) and indirect relationships (e.g., a firm's provision of clients with access to the relevant FMU or agent bank through the firm's membership in or relationship with that FMU or agent bank).

Playbooks for Continued Access to PCS Services. The firm is expected to provide a playbook for each key FMU and key agent bank that addresses considerations that would assist the firm and its key clients in maintaining continued access to PCS services in the period leading up to and including the firm's resolution. Each playbook should provide analysis of the financial and operational impact to the firm's material entities and key clients due to adverse actions that may be taken by a key FMU or a key agent bank and contingency actions that may be taken by the firm. Each playbook also should discuss any possible alternative arrangements that would allow continued access to PCS services for the firm's material entities, identified critical operations and core business lines, and key clients, while the firm is in resolution. The

[15] In identifying entities as key, examples of quantitative criteria may include: for a client, transaction volume/value, market value of exposures, assets under custody, usage of PCS services, and any extension of related intraday credit or liquidity; for an FMU, the aggregate volumes and values of all transactions processed through such FMU; and for an agent bank, assets under custody, the value of cash and securities settled, and extensions of intraday credit.

firm is not expected to incorporate a scenario in which it loses key FMU or key agent bank access into its preferred resolution strategy or its RLEN and RCEN estimates. The firm should continue to engage with key FMUs, key agent banks, and key clients, and playbooks should reflect any feedback received during such ongoing outreach.

Content Related to Users of PCS Services. Individual key FMU and key agent bank playbooks should include:

- Description of the firm's relationship as a user with the key FMU or key agent bank and the identification and mapping of PCS services to material entities, identified critical operations, and core business lines that use those PCS services;
- Discussion of the potential range of adverse actions that may be taken by that key FMU or key agent bank when the firm is in resolution,[16] the operational and financial impact of such actions on each material entity, and contingency arrangements that may be initiated by the firm in response to potential adverse actions by the key FMU or key agent bank; and
- Discussion of PCS-related liquidity sources and uses in business-as-usual (BAU), in stress, and in the resolution period, presented by currency type (with U.S. dollar equivalent) and by material entity.
    - PCS Liquidity Sources: These may include the amounts of intraday extensions of credit, liquidity buffer, inflows from FMU participants, and key client prefunded amounts in BAU, in stress, and in the resolution period. The playbook also should describe intraday credit arrangements (e.g., facilities of the key FMU, key agent bank, or a central bank) and any similar custodial

[16] Examples of potential adverse actions may include increased collateral and margin requirements and enhanced reporting and monitoring.

arrangements that allow ready access to a firm's funds for PCS-related key FMU and key agent bank obligations (including margin requirements) in all currencies relevant to the firm's participation, including placements of firm liquidity at central banks, key FMUs, and key agent banks.

- PCS Liquidity Uses: These may include firm and key client margin and prefunding and intraday extensions of credit, including incremental amounts required during resolution.
- Intraday Liquidity Inflows and Outflows: The playbook should describe the firm's ability to control intraday liquidity inflows and outflows and to identify and prioritize time-specific payments. The playbook also should describe any account features that might restrict the firm's ready access to its liquidity sources.

Content Related to Providers of PCS Services.[17] Individual key FMU and key agent bank playbooks should include:

- Identification and mapping of PCS services to the material entities, identified critical operations, and core business lines that provide those PCS services, and a description of the scale and the way in which each provides PCS services;
- Identification and mapping of PCS services to key clients to whom the firm provides such PCS services and any related credit or liquidity offered in connection with such services;
- Discussion of the potential range of firm contingency arrangements available to

[17] Where a firm is a provider of PCS services through the firm's own operations, the firm is expected to produce a playbook for the material entities that provide those services, addressing each of the items described under "Content Related to Providers of PCS Services," which include contingency arrangements to permit the firm's key clients to maintain continued access to PCS services.

minimize disruption to the provision of PCS services to its key clients, including the viability of transferring key client activity and any related assets, as well as any alternative arrangements that would allow the firm's key clients continued access to PCS services if the firm could no longer provide such access (e.g., due to the firm's loss of key FMU or key agent bank access), and the financial and operational impacts of such arrangements from the firm's perspective;

- Descriptions of the range of contingency actions that the firm may take concerning its provision of intraday credit to key clients, including analysis quantifying the potential liquidity the firm could generate by taking such actions in stress and in the resolution period, such as: (i) requiring key clients to designate or appropriately pre-position liquidity, including through prefunding of settlement activity, for PCS-related key FMU and key agent bank obligations at specific material entities of the firm (e.g., direct members of key FMUs) or any similar custodial arrangements that allow ready access to key clients' funds for such obligations in all relevant currencies of key clients of the firm's operations; (ii) delaying or restricting key client PCS activity; and (iii) restricting, imposing conditions upon (e.g., requiring collateral), or eliminating the provision of intraday credit or liquidity to key clients; and
- Descriptions of how the firm will communicate to its key clients the potential impacts of implementation of any identified contingency arrangements or alternatives, including a description of the firm's methodology for determining whether any additional communication should be provided to some or all key clients (e.g., due to the key client's BAU usage of that access and/or related intraday credit or liquidity), and the expected timing and form of such communication.

Capabilities. The firm is expected to have and describe capabilities to understand, for each material entity, the obligations and exposures associated with PCS activities, including contractual obligations and commitments. The firm should be able to:

- Track the following items by: (i) material entity; and (ii) with respect to customers, counterparties, and agents and service providers, location and jurisdiction:
    - PCS activities, with each activity mapped to the relevant material entities, identified critical operations, and core business lines;[18]
    - Customers and counterparties for PCS activities, including values and volumes of various transaction types, as well as used and unused capacity for all lines of credit;[19]
    - Exposures to and volumes transacted with FMUs, nostro agents, and custodians; and[20]
    - Services provided and service level agreements, as applicable, for other current agents and service providers (internal and external).[21]
- Assess the potential effects of adverse actions by FMUs, nostro agents, custodians, and other agents and service providers, including suspension or termination of membership or services, on the firm's operations and customers and counterparties of those operations;[22]
- Develop contingency arrangements in the event of such adverse actions;[23] and
- Quantify the liquidity needs and operational capacity required to meet all PCS

[18] 12 CFR 243.5(e)(12) and 12 CFR 381.5(e)(12).
[19] *Id*.
[20] 12 CFR 252.34(h).
[21] 12 CFR 243.5(f)(l)(i) and 12 CFR 381.5(f)(1)(i).
[22] 12 CFR 252.34(f).
[23] *Id*.

obligations, including any change in demand for and sources of liquidity needed to meet such obligations.

Managing, Identifying, and Valuing Collateral. The firm is expected to have and describe its capabilities to manage, identify, and value the collateral that it receives from and posts to external parties and affiliates. Specifically, the firm should:

- Be able to query and provide aggregate statistics for all qualified financial contracts concerning cross-default clauses, downgrade triggers, and other key collateral-related contract terms—not just those terms that may be impacted in an adverse economic environment—across contract types, business lines, legal entities, and jurisdictions;
- Be able to track both collateral sources (i.e., counterparties that have pledged collateral) and uses (i.e., counterparties to whom collateral has been pledged) at the CUSIP level on at least a t+1 basis;
- Have robust risk measurements for cross-entity and cross-contract netting, including consideration of where collateral is held and pledged;
- Be able to identify CUSIP and asset class level information on collateral pledged to specific central counterparties by legal entity on at least a t+1 basis;
- Be able to track and report on inter-branch collateral pledged and received on at least a t+1 basis and have clear policies explaining the rationale for such inter-branch pledges, including any regulatory considerations; and
- Have a comprehensive collateral management policy that outlines how the firm as a whole approaches collateral and serves as a single source for governance.[24]

Management Information Systems. The firm should have the management information

[24] The policy may reference subsidiary or related policies already in place, as implementation may differ based on business line or other factors.

systems (MIS) capabilities to readily produce data on a legal entity basis and have controls to ensure data integrity and reliability. The firm also should perform a detailed analysis of the specific types of financial and risk data that would be required to execute the preferred resolution strategy and how frequently the firm would need to produce the information, with the appropriate level of granularity. The firm should have the capabilities to produce the following types of information, as applicable, in a timely manner and describe these capabilities in the Plan:

- Financial statements for each material entity (at least monthly);
- External and inter-affiliate credit exposures, both on- and off-balance sheet, by type of exposure, counterparty, maturity, and gross payable and receivable;
- Gross and net risk positions with internal and external counterparties;
- Guarantees, cross holdings, financial commitments and other transactions between material entities;
- Data to facilitate third-party valuation of assets and businesses, including risk metrics;
- Key third-party contracts, including the provider, provider's location, service(s) provided, legal entities that are a party to or a beneficiary of the contract, and key contractual rights (for example, termination and change in control clauses);
- Legal agreement information, including parties to the agreement and key terms and interdependencies (for example, change in control, collateralization, governing law, termination events, guarantees, and cross-default provisions);
- Service level agreements between affiliates, including the service(s) provided, the legal entity providing the service, legal entities receiving the service, and any termination/transferability provisions;

- Licenses and memberships to all exchanges and value transfer networks, including FMUs;
- Key management and support personnel, including dual-hatted employees, and any associated retention agreements;
- Agreements and other legal documents related to property, including facilities, technology systems, software, and intellectual property rights. The information should include ownership, physical location, where the property is managed and names of legal entities and lines of business that the property supports; and
- Updated legal records for domestic and foreign entities, including entity type and purpose (for example, holding company, bank, broker dealer, and service entity), jurisdiction(s), ownership, and regulator(s).

Shared and Outsourced Services. The firm should maintain a fully actionable implementation plan to ensure the continuity of shared services that support identified critical operations or core business lines, or are material to the execution of the resolution strategy, and robust arrangements to support the continuity of shared and outsourced services, including, without limitation, appropriate plans to retain key personnel relevant to the execution of the firm's strategy. For example, specified firms should evaluate internal and external dependencies and develop documented strategies and contingency arrangements for the continuity or replacement of the shared and outsourced services that are necessary to maintain identified critical operations or core business lines, or are material to the execution of the resolution strategy. Examples may include personnel, facilities, systems, data warehouses, intellectual property, and counsel and consultants involved in the preparation for and filing of bankruptcy. Specified firms also should maintain current cost estimates for implementing such strategies

and contingency arrangements.

The firm should (A) maintain an identification of all shared services that support identified critical operations or core business lines, or are material to the execution of the resolution strategy;[25] (B) maintain a mapping of how/where these services support its core business lines and identified critical operations; (C) incorporate such mapping into legal entity rationalization criteria and implementation efforts; and (D) mitigate identified continuity risks through establishment of service-level agreements (SLAs) for all shared services that support identified critical operations or core business lines, or are material to the execution of the resolution strategy.

SLAs should fully describe the services provided, reflect pricing considerations on an arm's-length basis where appropriate, and incorporate appropriate terms and conditions to (A) prevent automatic termination upon certain resolution-related events and (B) achieve continued provision of such services during resolution. The firm should also store SLAs in a central repository or repositories in a searchable format, develop and document contingency strategies and arrangements for replacement of critical shared services, and complete re-alignment or restructuring of activities within its corporate structure. In addition, the firm should ensure the financial resilience of internal shared service providers by maintaining working capital for six months (or through the period of stabilization as required in the firm's preferred strategy) in such entities sufficient to cover contract costs, consistent with the preferred resolution strategy.

The firm should identify all critical service providers and outsourced services that support identified critical operations or core business lines, or are material to the execution of

[25] This should be interpreted to include data access and intellectual property rights.

the resolution strategy, and identify any that could not be promptly substituted. The firm should (A) evaluate the agreements governing these services to determine whether there are any that could be terminated upon commencement of any resolution despite continued performance, and (B) update contracts to incorporate appropriate terms and conditions to prevent automatic termination upon commencement of any resolution proceeding and facilitate continued provision of such services. Relying on entities projected to survive during resolution to avoid contract termination is insufficient to ensure continuity. In the Plan, the firm should document the amendment of any such agreements governing these services.

Qualified Financial Contracts. The Plan should reflect how the early termination of qualified financial contracts triggered by the parent company's bankruptcy filing could impact the resolution of the firm's operations, including potential termination of any contracts that are not subject to statutory, contractual or regulatory stays of direct default or cross-default rights. A Plan should explain and support the firm's strategy for addressing the potential disruptive effects in resolution of early termination provisions and cross-default rights in existing qualified financial contracts at both the parent company and material entity subsidiaries. This discussion should address, to the extent relevant for the firm, qualified financial contracts that include limitations of standard contractual direct default and cross default rights by agreement of the parties.

MPOE

Payment, Clearing, and Settlement Activities Capabilities. The firm is expected to have and describe capabilities to understand, for each material entity, the obligations and exposures associated with PCS activities, including contractual obligations and commitments. For example, firms should be able to:

- As users of PCS services:
    - Track the following items by: (i) material entity; and (ii) with respect to customers, counterparties, and agents and service providers, location and jurisdiction:
        - PCS activities, with each activity mapped to the relevant material entities, identified critical operations, and core business lines;
        - Customers and counterparties for PCS activities, including values and volumes of various transaction types, as well as used and unused capacity for all lines of credit;
        - Exposures to and volumes transacted with FMUs, nostro agents, and custodians; and
        - Services provided and service level agreements, as applicable, for other current agents and service providers (internal and external).
    - Assess the potential effects of adverse actions by FMUs, nostro agents, custodians, and other agents and service providers, including suspension or termination of membership or services, on the firm's operations and customers and counterparties of those operations;
    - Develop contingency arrangements in the event of such adverse actions; and
    - Quantify the liquidity needs and operational capacity required to meet all PCS obligations, including intraday requirements.
- As providers of PCS services:
    - Identify their PCS clients and the services they provide to these clients, including volumes and values of transactions;

- Quantify and explain time-sensitive payments; and
- Quantify and explain intraday credit provided.

Managing, Identifying and Valuing Collateral. The firm is expected to have and describe its capabilities to manage, identify and value the collateral that it receives from and posts to external parties and affiliates, including tracking collateral received, pledged, and available at the CUSIP level and measuring exposures.

Management Information Systems. The firm should have the management information systems (MIS) capabilities to readily produce data on a legal entity basis and have controls to ensure data integrity and reliability. The firm also should perform a detailed analysis of the specific types of financial and risk data that would be required to execute the preferred resolution strategy. The firm should have the capabilities to produce the following types of information, as applicable, in a timely manner and describe these capabilities in the Plan:

- Financial statements for each material entity (at least monthly);
- External and inter-affiliate credit exposures, both on- and off-balance sheet, by type of exposure, counterparty, maturity, and gross payable and receivable;
- Gross and net risk positions with internal and external counterparties;
- Guarantees, cross holdings, financial commitments and other transactions between material entities;
- Data to facilitate third-party valuation of assets and businesses, including risk metrics;
- Key third-party contracts, including the provider, provider's location, service(s) provided, legal entities that are a party to or a beneficiary of the contract, and key contractual rights (for example, termination and change in control clauses);
- Legal agreement information, including parties to the agreement and key terms and

interdependencies (for example, change in control, collateralization, governing law, termination events, guarantees, and cross-default provisions);

- Service level agreements between affiliates, including the service(s) provided, the legal entity providing the service, legal entities receiving the service, and any termination/transferability provisions;
- Licenses and memberships to all exchanges and value transfer networks, including FMUs;
- Key management and support personnel, including dual-hatted employees, and any associated retention agreements;
- Agreements and other legal documents related to property, including facilities, technology systems, software, and intellectual property rights. The information should include ownership, physical location, where the property is managed and names of legal entities and lines of business that the property supports; and
- Updated legal records for domestic and foreign entities, including entity type and purpose (for example, holding company, bank, broker dealer, and service entity), jurisdiction(s), ownership, and regulator(s).

Shared and Outsourced Services. The firm should maintain robust arrangements to support the continuity of shared and outsourced services that support any identified critical operations or are material to the execution of the resolution strategy, including appropriate plans to retain key personnel relevant to the execution of the firm's strategy. For example, specified firms should evaluate internal and external dependencies and develop documented strategies and contingency arrangements for the continuity or replacement of the shared and outsourced services that are necessary to maintain identified critical operations or are material to the

execution of the resolution strategy. Examples may include personnel, facilities, systems, data warehouses, intellectual property, and counsel and consultants involved in the preparation for and filing of bankruptcy. Specified firms also should maintain current cost estimates for implementing such strategies and contingency arrangements.

The firm should: (A) maintain an identification of all shared services that support identified critical operations or are material to the execution of the resolution strategy; and (B) mitigate identified continuity risks through establishment of SLAs for all shared services supporting identified critical operations or are material to the execution of the resolution strategy. SLAs should fully describe the services provided and incorporate appropriate terms and conditions to: (A) prevent automatic termination upon certain resolution-related events; and (B) achieve continued provision of such services during resolution.

The firm should identify all critical service providers and outsourced services that support identified critical operations or are material to the execution of the resolution strategy. Any of these services that cannot be promptly substituted should be identified in a firm's Plan. The firm should: (A) evaluate the agreements governing these services to determine whether there are any that could be terminated upon commencement of any resolution despite continued performance; and (B) update contracts to incorporate appropriate terms and conditions to prevent automatic termination upon commencement of any resolution proceeding and facilitate continued provision of such services. Relying on entities projected to survive during resolution to avoid contract termination is insufficient to ensure continuity. In the Plan, the firm should document the amendment of any such agreements governing these services.

VI. Legal Entity Rationalization

SPOE

Legal Entity Rationalization Criteria (LER Criteria). A firm should develop and implement legal entity rationalization criteria that support the firm's preferred resolution strategy and minimize risk to U.S. financial stability in the event of the firm's resolution. LER Criteria should consider the best alignment of legal entities and business lines to improve the firm's resolvability under different market conditions. LER Criteria should govern the firm's corporate structure and arrangements between legal entities in a way that facilitates the firm's resolvability as its activities, technology, business models, or geographic footprint change over time. Specifically, application of the criteria should:

(A) Facilitate the recapitalization and liquidity support of material entities, as required by the firm's resolution strategy. Such criteria should include clean lines of ownership, minimal use of multiple intermediate holding companies, and clean funding pathways between the parent and material operating entities;

(B) Facilitate the sale, transfer, or wind-down of certain discrete operations within a timeframe that would meaningfully increase the likelihood of an orderly resolution of the firm, including provisions for the continuity of associated services and mitigation of financial, operational, and legal challenges to separation and disposition;

(C) Adequately protect the subsidiary insured depository institutions from risks arising from the activities of any nonbank subsidiaries of the firm (other than those that are subsidiaries of an insured depository institution); and

(D) Minimize complexity that could impede an orderly resolution and minimize redundant and dormant entities.

These criteria should be built into the firm's ongoing process for creating, maintaining, and

optimizing its structure and operations on a continuous basis.

Finally, the Plan should include a description of the firm's legal entity rationalization governance process.

MPOE

Legal Entity Structure. A firm should maintain a legal entity structure that supports the firm's preferred resolution strategy and minimizes risk to U.S. financial stability in the event of the firm's failure. The firm should consider factors such as business activities; banking group structures and booking models and practices; and potential sales, transfers, or wind-downs during resolution. The Plan should describe how the firm's legal entity structure aligns core business lines and any identified critical operations with the firm's material entities to support the firm's resolution strategy. To the extent a material entity IDI relies upon an affiliate that is not the IDI's subsidiary during resolution, including for the provision of shared services, the firm should discuss its rationale for the legal entity structure and associated resolution risks and potential mitigants.

The firm's corporate structure and arrangements among legal entities should be considered and maintained in a way that facilitates the firm's resolvability as its activities, technology, business models, or geographic footprint change over time.

VII. Insured Depository Institution (IDI) Resolution

MPOE

Least-cost requirement analysis. If the Plan includes a strategy that contemplates the separate resolution of a U.S. IDI that is a material entity, the Plan should explain how the resolution could be achieved in a manner that is consistent with the overall objective of the Plan to substantially mitigate the risk that the failure of the specified firm would have serious

adverse effects on financial stability in the United States while also complying with the statutory and regulatory requirements governing IDI resolution.

This explanation does not include an expectation that firms provide a complete least-cost analysis. A complete least-cost analysis would, for example, include a comparison of the preferred strategy for resolving an IDI that is a material entity against every other possible resolution method available for that IDI.

To explain how a firm's preferred strategy could potentially enable the FDIC to resolve the failed bank in a manner consistent with the FDIC's statutory least-cost requirement, the firm could instead compare the estimated costs to the DIF of the firm's preferred resolution strategy to a payout liquidation and, for strategies involving a BDI, explain how the inclusion or exclusion of uninsured deposits within the BDI would impact the estimated overall costs to the DIF.

Firms should address the following matters as applicable to their strategy:

- Payout Liquidation: If the Plan envisions a payout liquidation for the IDI, with or without use of a Deposit Insurance National Bank or a paying agent, the Plan should explain how the deposit payout and asset liquidation process would be executed in a manner that substantially mitigates the risk of serious adverse effects on U.S. financial stability.
- P&A Transaction: If the Plan assumes a weekend P&A strategy, the plan should first demonstrate the ready availability of this option under severely adverse economic scenario, assuming that markets are functioning and competitors are in a position to take on business. The Plan may demonstrate a weekend P&A strategy is available by discussing evidence of several potential

buyers supported by information indicating that these potential buyers could reasonably be expected to have sufficient financial resources to complete the transaction in a severely adverse scenario and the expertise to incorporate the business of the failed bank. The plan should also address how such a merger can be completed with these potential acquirers considering any applicable approvals that would be required for the proposed transaction. Additionally, a P&A strategy should explain how it either (1) results in no loss to the DIF or (2) despite its resulting in a loss to the DIF, the loss is less than would be incurred through a payout liquidation.

- All-Deposit BDI: If the Plan contemplates a strategy involving an all-deposit BDI, the Plan should include an analysis that shows that the incremental estimated cost to the DIF of transferring all uninsured deposits to the BDI is offset by the preservation of franchise value and other benefits connected to the uninsured deposits (such as the franchise value derived from retaining full banking relationships).
- BDI with Partial Uninsured Deposit Transfers: A Plan may demonstrate the feasibility of a strategy involving a BDI that assumes (1) all insured deposits or (2) only a portion of uninsured deposits (e.g. an advance dividend to uninsured depositors for a portion of their deposit claim) by showing that the incremental estimated cost to the DIF of transferring the portion of uninsured deposits to the BDI is offset by the preservation of franchise value connected to those uninsured deposits (such as the franchise value derived from retaining full banking relationships).

In all cases, the Plan should discuss how the implementation of the Plan's resolution strategy, including the impact on any depositors whose accounts are not transferred in whole or in part to a BDI, would not be likely to create the risk of serious adverse effects on U.S. financial stability.

Valuation. Regardless of the strategy chosen, the Plan should demonstrate reasonable and well-supported assumptions that support the valuation of the failed IDI's assets and business franchise under the firm's preferred strategy that are drawn from comparable transactions or other inputs observable in the marketplace. A firm's franchise value is generally understood to be the value of the bank as an operating company relative to the value of the firm's individual assets minus its liabilities. In assessing the franchise value of the firm's business, the Plan could provide support through relevant inputs such as the revenue generated by the account relationships; the efficiencies in administrative costs associated with servicing large deposits/large relationships; the elimination of barriers to entry or the reduction in customer acquisition costs; growth history and prospects for the products or business activity; market trading or sales multiples; or any other factors the firm believes appropriate. Asset values should be representative of the bank's asset mix under the appropriate economic conditions and of sufficient distress as to result in failure.

Exit from BDI. A Plan should include a discussion of the eventual exit from the BDI. A Plan could support the feasibility of an exit strategy by, for example, describing an actionable process, based on historical precedent or otherwise supportable projections, that winds down certain businesses, includes the sale of assets and the transfer of deposits to one or multiple acquirers, or culminates in a capital markets transaction, such as an initial public offering or a private placement of securities.

VIII. Format and Structure of Plans; Assumptions

SPOE & MPOE

Format of Plan.

Executive Summary. The Plan should contain an executive summary consistent with the Rule, which must include, among other things, a concise description of the key elements of the firm's strategy for an orderly resolution. In addition, the executive summary should include a discussion of the firm's assessment of any impediments to the firm's resolution strategy and its execution, as well as the steps it has taken to address any identified impediments.

Narrative. The Plan should include a strategic analysis consistent with the Rule. This analysis should take the form of a concise narrative that enhances the readability and understanding of the firm's discussion of its strategy for an orderly resolution in bankruptcy or other applicable insolvency regimes (Narrative).

Appendices. The Plan should contain a sufficient level of detail and analysis to substantiate and support the strategy described in the Narrative. Such detail and analysis should be included in appendices that are distinct from and clearly referenced in the related parts of the Narrative (Appendices).

Public Section. The Plan must be divided into a public section and a confidential section consistent with the requirements of the Rule.

Other Informational Requirements. The Plan must comply with all other informational requirements of the Rule. The firm may incorporate by reference previously submitted information as provided in the Rule.

Guidance Regarding Assumptions.

1. The Plan should be based on the current state of the applicable legal and policy frameworks. Pending legislation or regulatory actions may be discussed as additional considerations.
2. The firm must submit a Plan that does not rely on the provision of extraordinary support by the United States or any other government to the firm or its subsidiaries to prevent the failure of the firm.[26] The firm should not submit a Plan that assumes the use of the systemic risk exception to the least-cost test in the event of a failure of an IDI requiring resolution under the FDI Act.
3. The firm should not assume that it will be able to sell identified critical operations or core business lines, or that unsecured funding will be available immediately prior to filing for bankruptcy.
4. The Plan should assume the Dodd-Frank Act Stress Test (DFAST) severely adverse scenario for the first quarter of the calendar year in which the Plan is submitted is the domestic and international economic environment at the time of the firm's failure and throughout the resolution process.
5. The resolution strategy may be based on an idiosyncratic event or action, including a series of compounding events. The firm should justify use of that assumption, consistent with the conditions of the economic scenario.
6. Within the context of the applicable idiosyncratic scenario, markets are functioning and competitors are in a position to take on business. If a firm's Plan assumes the sale of assets, the firm should take into account all issues surrounding its ability to sell in market conditions present in the applicable economic condition at the time of sale (i.e.,

[26] 12 CFR 243.4(a)(4)(ii) and 12 CFR 381.4(a)(4)(ii).

the firm should take into consideration the size and scale of its operations as well as issues of separation and transfer.).

7. For a firm that adopts an MPOE resolution strategy, the Plan should demonstrate and describe how the failure event(s) results in material financial distress.[27] In particular, the Plan should consider the likelihood that there would be a diminution of the firm's liquidity buffer in the stress period prior to filing for bankruptcy from high unexpected outflows of deposits and increased liquidity requirements from counterparties. Though the immediate failure event may be liquidity-related and associated with a lack of market confidence in the financial condition of the covered company or its material legal entity subsidiaries prior to the final recognition of losses, the demonstration and description of material financial distress may also include depletion of capital. Therefore, the Plan should also consider the likelihood of the depletion of capital.
8. The firm should not assume any waivers of section 23A or 23B of the Federal Reserve Act in connection with the actions proposed to be taken prior to or in resolution.
9. The Plan should support any assumptions that the firm will have access to the Discount Window and/or other borrowings during the period immediately prior to entering bankruptcy. To the extent the firm assumes use of the Discount Window, Federal Home Loan Banks, and/or other borrowings, the Plan should support that assumption with a discussion of the operational testing conducted to facilitate access in a stress environment, placement of collateral, and the amount of funding accessible to the firm. The firm may assume that its depository institutions will have access to the Discount

[27] See Section 11(c)(5) of the FDI Act, codified at 11 U.S.C. 1821(c)(5), which details grounds for appointing the FDIC as conservator or receiver of an IDI.

Window only for a few days after the point of failure to facilitate orderly resolution. However, the firm should not assume its subsidiary depository institutions will have access to the Discount Window while critically undercapitalized, in FDIC receivership, or operating as a bridge bank, nor should it assume any lending from a Federal Reserve credit facility to a non-bank affiliate.

Financial Statements and Projections. The Plan should include the actual balance sheet for each material entity and the consolidating balance sheet adjustments between material entities as well as pro forma balance sheets for each material entity at the point of failure and at key junctures in the execution of the resolution strategy. It should also include statements of projected sources and uses of funds for the interim periods. The pro forma financial statements and accompanying notes in the Plan should clearly evidence the failure trigger event; the Plan's assumptions; and any transactions that are critical to the execution of the Plan's preferred strategy, such as recapitalizations, the creation of new legal entities, transfers of assets, and asset sales and unwinds.

Material Entities. Material entities should encompass those entities, including foreign offices and branches, which are significant to the maintenance of an identified critical operation or core business line. If the abrupt disruption or cessation of a core business line might have systemic consequences to U.S. financial stability, the entities essential to the continuation of such core business line should be considered for material entity designation. Material entities should include the following types of entities:

1. Any U.S.-based or non-U.S. affiliates, including any branches, that are significant to the activities of an identified critical operation.
2. Subsidiaries or foreign offices whose provision or support of global treasury

operations, funding, or liquidity activities (inclusive of intercompany transactions) is significant to the activities of an identified critical operation.

3. Subsidiaries or foreign offices that provide material operational support in resolution (key personnel, information technology, data centers, real estate or other shared services) to the activities of an identified critical operation.
4. Subsidiaries or foreign offices that are engaged in derivatives booking activity that is significant to the activities of an identified critical operation, including those that conduct either the internal hedge side or the client-facing side of a transaction.
5. Subsidiaries or foreign offices engaged in asset custody or asset management that are significant to the activities of an identified critical operation.
6. Subsidiaries or foreign offices holding licenses or memberships in clearinghouses, exchanges, or other FMUs that are significant to the activities of an identified critical operation.

For each material entity (including a branch), the Plan should enumerate, on a jurisdiction-by-jurisdiction basis, the specific mandatory and discretionary actions or forbearances that regulatory and resolution authorities would take during resolution, including any regulatory filings and notifications that would be required as part of the preferred strategy, and explain how the Plan addresses the actions and forbearances. The Plan should describe the consequences for the covered company's resolution strategy if specific actions in a non-U.S. jurisdiction were not taken, delayed, or forgone, as relevant.

IX. Public Section

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The purpose of the public section is to inform the public's understanding of the firm's

resolution strategy and how it works.

The public section should discuss the steps that the firm is taking to improve resolvability under the U.S. Bankruptcy Code. The public section should provide background information on each material entity and should be enhanced by including the firm's rationale for designating material entities. The public section should also discuss, at a high level, the firm's intra-group financial and operational interconnectedness (including the types of guarantees or support obligations in place that could impact the execution of the firm's strategy).

The discussion of strategy in the public section should broadly explain how the firm has addressed any deficiencies, shortcomings, and other key vulnerabilities that the agencies have identified in prior plan submissions. For each material entity, it should be clear how the strategy provides for continuity, transfer, or orderly wind-down of the entity and its operations. There should also be a description of the resulting organization upon completion of the resolution process.

The public section may note that the Plan is not binding on a bankruptcy court or other resolution authority and that the proposed failure scenario and associated assumptions are hypothetical and do not necessarily reflect an event or events to which the firm is or may become subject.

By order of the Board of Governors of the Federal Reserve System.
Ann E. Misback,
Secretary of the Board.

Federal Deposit Insurance Corporation.
By order of the Board of Directors.
Dated at Washington, DC, on [*] 2024.
James P. Sheesley,
Assistant Executive Secretary.

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