FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than January 6, 2021.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Charles Taff Cross and John Fuller Cross, Jr., both of Eureka Springs, Arkansas;* to acquire additional voting shares of Eureka Bancshares, Inc., and thereby indirectly acquire voting shares of CS Bank (fka Cornerstone Bank), all of Eureka Springs, Arkansas.

Board of Governors of the Federal Reserve System, December 17, 2020.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2020–28186 Filed 12–21–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1699]

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064–ZA15

Guidance for Resolution Plan Submissions of Certain Foreign-Based Covered Companies

AGENCY: 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 2021 and subsequent resolution plan submissions by certain foreign banking organizations (FBOs). 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 (Dodd-Frank Act). The final guidance reflects a number of changes to the proposal in response to comments received by the agencies and further analysis by the agencies. The scope of application of the final guidance is FBOs that are Category II firms according to their combined U.S. operations under the Board's tailoring ruleand are required to have a U.S. intermediate holding company (IHC) under the Board's Regulation YY (the Specified FBOs) as published in 84 FR 59032 (November 1, 2019). In addition to the three firms(Barclays PLC, Credit Suisse Group AG, and Deutsche Bank AG (the Proposed FBOs) that would have been within the scope of application under the methodology utilized in the proposal, one additional firm, Mitsubishi UFJ Financial Group, Inc. (MUFG), is within the scope for application of the final guidance at the time of its issuance. Consequently, MUFG will have a transition period to consider the application of the final guidance to its resolution plan submission, as further described below. The final guidance describes the agencies' expectations 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, branches, legal entity rationalization, and derivatives and trading activities). 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 U.S. operations of large and complex FBOs.

DATES: The final guidance is available on December 22, 2020.

FOR FURTHER INFORMATION CONTACT:

Board: Mona Elliot, Deputy Associate Director, (202) 452–4688, Catherine Tilford, Deputy Associate Director, (202) 452–5240, Division of Supervision and Regulation, Laurie Schaffer, Deputy General Counsel, (202) 452–2272, Jay Schwarz, Special Counsel, (202) 452–2970, Steve Bowne, Senior Counsel, (202) 452–3900, or Sarah Podrygula, Attorney, (202) 912–4658, Legal Division; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

FDIC: Alexandra Steinberg Barrage, Associate Director, Policy and Data Analytics, *abarrage@fdic.gov;* Yan Zhou, Acting Associate Director, Data Analytics, *yazhou@fdic.gov;* Catherine Needham, Advisor, *cneedham@fdic.gov;* Ronald W. Crawley, Jr., Senior Resolution Policy Specialist, *rcrawley@fdic.gov,* Division of Complex Institution Supervision and Resolution; David N. Wall, Assistant General Counsel, *dwall@fdic.gov;* Celia Van Gorder, Senior Counsel, 202–898–6749, *cvangorder@fdic.gov;* or Esther Rabin, Counsel, *erabin@fdic.gov,* Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

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I. Introduction

a. Background

Section 165(d) of the Dodd-Frank Act [1] and the jointly issued implementing regulation (the Rule) [2]

[1] 12 U.S.C. 5365(d).

[2] 12 CFR part 243 and 12 CFR part 381, as amended.

require certain financial companies, including certain foreign-based firms, to report periodically to the agencies 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. With respect to a covered company [3] that is organized or incorporated in a jurisdiction other than the United States (other than a bank holding company) or that is an FBO, the Rule requires that the firm's U.S. resolution plan include specified information with respect to the subsidiaries, branches, and agencies, and identified critical operations and core business lines, as applicable, that are domiciled in the United States or conducted in whole or material part in the United States.[4] The Rule also requires, among other things, each covered company's full resolution plan to include 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 structure, material entities, and interconnections and interdependencies.[5] In addition, the Rule requires that all resolution plans include a confidential section that contains any confidential supervisory and proprietary information submitted to the agencies as part of the resolution plan and a separate section that the agencies make available to the public. Public sections of resolution plans can be found on the agencies' websites.[6]

Objectives of the Resolution Planning Process

The goal of the Dodd-Frank Act resolution planning process is to help ensure that a covered company's failure would not have serious adverse effects on financial stability in the United States. Specifically, the resolution planning process requires covered companies to demonstrate that they have adequately assessed the challenges that their structures and business activities pose to an orderly resolution and that they have taken action to address those issues. For FBOs, the resolution planning process focuses on their U.S. subsidiaries and operations.

The agencies recognize that the preferred resolution outcome for many FBOs is a successful home country resolution using a single point of entry (SPOE) resolution strategy where U.S. material entities are provided with sufficient capital and liquidity resources to allow them to stay out of resolution proceedings and maintain continuity of operations throughout the parent's resolution. However, because support from the foreign parent in stress cannot be ensured, the Rule provides that the U.S. resolution plan for foreign-based covered companies should specifically address a scenario where the U.S. operations experience material financial distress, and the plan should not assume that the covered company takes resolution actions outside the United States that would eliminate the need for any U.S. subsidiaries to enter resolution proceedings.[7] Nonetheless, the Rule also provides firms with appropriate flexibility to construct a U.S. resolution strategy in a way that is not inconsistent with a firm's global resolution strategy, as long as assumptions consistent with the firm's global strategy support the firm's U.S. resolution strategy and adhere to the required and prohibited assumptions articulated in the Rule.

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. The final guidance is based on the *Guidance for 2018 § 165(d) Annual Resolution Plan Submissions By Foreign-based Covered Companies that Submitted Resolution Plans in July 2015* (2018 FBO guidance).[8] The 2018 FBO guidance was provided to four FBOs.[9] The agencies also have previously provided feedback on several occasions to the four FBOs that at present are in scope for the final guidance.[10] In general, the guidance and feedback were intended to assist the recipients in their development of future resolution plan submissions and to provide additional clarity with respect to the agencies' expectations for the filers' future progress. The 2018 FBO guidance and the feedback letters were made available to the public.

Several developments inform the final guidance:

• The agencies' consideration of comments to the proposed guidance (as defined below);

• The agencies' review of certain FBOs' 2018 resolution plans and the issuance of individual letters communicating the agencies' views on and shortcomings contained in the 2018 resolution plans filed by the firms subject to the 2018 FBO guidance (2018 feedback letters); [11]

• Revisions to the content related to payment, clearing, and settlement (PCS) activities and derivatives and trading activities in the updated guidance for the resolution plan submissions by the eight largest, most complex U.S. banking organizations in February 2019 (2019 domestic guidance); [12]

• The 2019 amendments to the Rule (2019 Rule revisions), which included the clarification that FBOs should not assume that its foreign parent company takes resolution actions outside of the United States that would eliminate the need for any U.S. subsidiaries to enter into resolution proceedings; [13] and

• An analysis of the current risk profiles of the large, complex FBOs subject to resolution planning requirements.

The preamble to the 2019 Rule revisions indicated that the agencies would make any future resolution guidance available for comment,[14] and in March 2020 the agencies invited comments on proposed guidance for the 2021 and subsequent resolution plan submissions by certain FBOs (proposed guidance).[15]

Under the 2019 Rule revisions, each Specified FBO will be a triennial full filer and will be required to submit a resolution plan every three years, alternating between a full resolution plan and a targeted resolution plan. The 2019 Rule revisions require all triennial full filers to submit a targeted resolution plan on or before July 1, 2021, followed by a full resolution plan in 2024. In addition, the agencies indicated in the 2019 Rule revisions that they would strive to provide final general guidance at least a year before the next resolution

[3] The terms ''covered company,'' ''material entities,'' ''identified critical operations,'' ''core business lines,'' and similar terms used throughout this guidance all have the same meaning as in the Rule. *See generally* 12 CFR 243.2; 12 CFR 381.2.

[4] 12 CFR 243.5(a)(2)(i); 12 CFR 381.5(a)(2)(i).

[5] Under the Rule, all filers must submit a full resolution plan, either every other time a resolution plan submission is required or as a firm's initial resolution plan submission. *See* 12 CFR 243.4(a)(5)–(6), (b)(4)–(5), and (c)(4)–(5); 12 CFR 381.4(a)(5)–(6), (b)(4)–(5), and (c)(4)–(5).

[6] The public sections of resolution plans submitted to the agencies are available at *https://www.federalreserve.gov/supervisionreg/resolution-plans.htm* and *www.fdic.gov/regulations/reform/resplans/.*

[7] 12 CFR 243.4(h)(3); 12 CFR 381.4(h)(3).

[8] Available at *www.federalreserve.gov/newsevents/pressreleases/files/bcreg20170324a21.pdf and www.fdic.gov/resauthority/2018subguidance.pdf.*

[9] Barclays PLC, Credit Suisse Group AG, Deutsche Bank AG, and UBS AG.

[10] *See infra* Section III.c (*Consolidation of Prior Guidance*).

[11] Available at *www.federalreserve.gov/newsevents/pressreleases/bcreg20181220c.htm.*

[12] Final Guidance for the 2019, 84 FR 1438 (February 4, 2019).

[13] Resolution Plans Required, 84 FR 59194 (November 1, 2019). The amendments became effective on December 31, 2019.

[14] 84 FR 59204.

[15] Guidance for Resolution Plan Submissions of Certain Foreign-Based Covered Companies, 85 FR 15449 (March 18, 2020).

plan submission date of firms to which the general guidance is directed.

On May 6, 2020, the agencies extended the 2021 resolution plan submission date for Category II and III firms, including those firms who are currently Specified FBOs, from July 1 to September 29.[16] In accordance with the expectation set out in the preamble to the 2019 Rule revisions, the agencies are further extending the 2021 resolution plan submission deadline for the firms that are currently Specified FBOs and were previously subject to the 2018 FBO guidance to December 17, 2021, to provide the firms with sufficient time to develop their targeted resolution plans in light of the final guidance. In addition, as discussed in more detail below, a Specified FBO that was not subject to the 2018 FBO guidance for its most recent resolution plan submission will not be expected to have taken the final guidance into consideration in developing its targeted plan submission due in 2021. Instead, such a firm should consider the final guidance in connection with developing its next full resolution plan submission due in 2024.

International Cooperation on Resolution Planning

The 2018 feedback letters also noted the importance of the agencies' engagement with non-U.S. regulators. The Specified FBOs are subject to their home country resolvability frameworks, in addition to section 165(d) of the Dodd-Frank Act and the Rule. Resolution of the U.S. operations of a firm domiciled outside the United States with significant global activities (*e.g.,* the Specified FBOs) will require substantial coordination between home and host country authorities, just as resolution of the foreign operations of a U.S. G–SIB would. The agencies identified three areas in the 2018 feedback letters (legal entity rationalization, PCS, and derivatives booking practices) where enhanced cooperation between the agencies and each firm's home country regulatory authorities would maximize resolvability under both the U.S. and home country resolution strategies.[17] The agencies will continue to coordinate with non-U.S. authorities regarding these and other resolution matters (*e.g.,* resources in resolution, communications), including developments in the U.S. and home country resolution capabilities of the Specified FBOs.

b. Proposed Guidance

In March 2020, the agencies invited public comment on the proposed guidance, which was proposed to apply beginning with the subject firms' 2021 resolution plan submissions. The proposed guidance began with a description of the proposed scoping methodology and was then organized into eight substantive areas, consistent with the 2018 FBO guidance. These areas were: Capital, liquidity, governance mechanisms, operational, branches, group resolution plan, legal entity rationalization and separability, and derivatives and trading activities. The proposed guidance described the agencies' proposed expectations for each of these areas.

The proposal was largely consistent with the 2018 FBO guidance and the 2019 domestic guidance. Accordingly, the agencies expected that the Proposed FBOs had already incorporated significant aspects of the proposed guidance into their resolution planning. With respect to the 2019 domestic guidance, the proposed guidance differed in certain respects, given the circumstances under which a foreign-based covered company's U.S. resolution plan is most likely to be relevant. The proposal was tailored for large, complex FBOs as compared to the U.S. global systemically important banks (G–SIBs) to account for differences between U.S. G–SIBs' and FBOs' U.S. footprints and operations. The proposal updated the PCS and derivatives and trading activities areas of the 2018 FBO guidance to reflect the agencies' review of certain FBOs' 2018 resolution plans and revisions contained in the 2019 domestic guidance. It also made minor clarifications to certain areas of the 2018 FBO guidance in light of the 2019 Rule revisions. In general, the proposed revisions to the guidance were intended to streamline the firms' submissions and to provide additional clarity. In addition, the proposed guidance would have consolidated all guidance applicable to the Proposed FBOs into a single document, which would provide the industry and public with one source of applicable guidance to which to refer.

The agencies invited comments on all aspects of the proposed guidance. The agencies also specifically requested comments on a number of issues, including whether the topics in the proposed guidance represented the key vulnerabilities of the covered companies in resolution, whether the proposed scope of applicability was appropriate, and whether the proposed guidance was sufficiently clear.

II. Overview of Comments

The agencies received and reviewed seven comment letters on the proposed guidance. Commenters included various financial services trade associations, a financial market utility, and two FBOs. In addition, the agencies met with industry representatives and FBOs at their request to discuss issues relating to the proposed guidance.[18] 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, including any changes that the agencies have made to the proposed guidance in response to comments.

Further Tailoring of Proposal Due to Reduced Size and Risk

Most commenters suggested that the proposed guidance should be further tailored for the Proposed FBOs. They asserted that these firms have reduced the size and systemic risk profiles of their U.S. operations since resolution guidance was originally issued, and the guidance should be commensurately streamlined. Therefore, commenters questioned the appropriateness of issuing guidance to the Proposed FBOs—which they noted were Category III firms, as calculated using the assets and activities of each firm's top tier U.S. intermediate holding company—that would be similar to the guidance provided to the U.S. G–SIBs, which are Category I covered companies. Commenters argued that, in some cases, the proposed guidance was even more expansive than the guidance issued to the U.S. G–SIBs. Certain commenters also stated that the proposal failed to articulate a clear distinction in the expectations applicable to Category I firms and to Category II/III firms. In addition, commenters asserted that the proposal, if finalized, would have resulted in disparate treatment among firms in Category II and Category III.

Home Country Considerations

Some commenters disagreed with the proposal's view on resolution planning for the Proposed FBOs, which these commenters described as narrowly focused on the resolution of U.S. operations independent of home country measures or foreign parent support. The commenters noted that these firms have been subject to extensive home country frameworks,

[16] *See https://www.federalreserve.gov/newsevents/pressreleases/bcreg20200506a.htm* and *https://www.fdic.gov/news/news/press/2020/pr20057.html.*

[17] Available at *www.federalreserve.gov/newsevents/pressreleases/bcreg20181220c.htm.*

[18] Summaries of those meetings and copies of the comments can be found on each agency's website.

which include global SPOE strategies. These commenters asserted that the resolution plans for the U.S. operations of these firms should be considered in this context and should not have requirements equivalent to the U.S. G–SIBs.

Some commenters cited prior comments by the Vice Chair for Supervision of the Board in which he encouraged host regulators to recognize their interests in the success of the foreign parent company's SPOE strategy and to provide further flexibility for the parent to move resources as necessary within the organization. The commenters offered resource pre-placement requirements for FBOs, which exceed those required by similarly sized U.S. firms, as an example of how the proposed guidance would be inconsistent with these principles.

Scoping Methodology

The commenters generally opposed the proposed use of the second methodology (method 2) of the G–SIB surcharge framework as the scoping methodology for the proposal. The commenters made a number of assertions about the proposed scoping methodology, including:

• Method 2 does not accurately reflect the reduced systemic risk of the Proposed FBOs due to shortcomings in the metric as applied to firms other than the U.S. G–SIBs. As a result, the method 2 scores for the Proposed FBOs are inappropriately inflated.

• Method 2 was not intended to be applied to FBOs as a scoping methodology, but rather was designed to calculate the G–SIB capital surcharge.

• Using method 2 as the scoping methodology for the guidance would be inconsistent with the approach taken by the agencies to use the tailoring framework to determine resolution plan submission requirements, especially since the agencies previously rejected using the G–SIB surcharge framework for that purpose.

Some commenters suggested a number of alternatives to method 2 as the scoping methodology. One suggestion was to use the tailoring categories established for enhanced prudential standards, specifically having the proposal only apply to Category II firms, as calculated using the assets and activities of each firm's top tier U.S. intermediate holding company. Two commenters suggested, as an alternative, that the agencies use a modified version of method 2 or method 1 G–SIBs' surcharge scores.

Payment, Clearing, and Settlement Services

Several commenters asserted that the proposed guidance for PCS services raised issues of extraterritoriality. They argued that the PCS guidance regarding non-U.S. affiliates should be addressed as part of the group resolution planning process or supervision and any related information request would be outside the scope of the Title I resolution plan requirements. They also proposed that the agencies obtain this information through home-host supervisor cooperation. Commenters also argued that the proposed PCS expectations were even more extensive than the guidance provided to the U.S. G–SIBs on this topic.

One commenter supported certain portions of the PCS services section, but also suggested changes, including aligning the guidance with certain expectations of the European Banking Union's resolution authority, enhancing communication strategies, and clarifying terms used in the proposed guidance.

Derivatives and Trading Activities

A number of comments concerning the proposed derivatives guidance were similar to those made for the PCS section in asserting that the proposed information requests presented concerns of extraterritoriality and were outside the scope of the Title I resolution plan requirements. Commenters argued that the proposal called for strategies regarding and data on the activities of non-U.S. affiliates and non-U.S. transactions. They noted that these items are generally addressed in home country resolution plans or supervision and suggested that the related information could be requested from home country regulators. Some commenters maintained that the proposed guidance on derivatives was broader than the guidance issued to the U.S. G–SIBs and should be tailored for the Proposed FBOs. For example, the proposal would have established expectations for non-derivatives trading activities, such as securities financing transactions.

Contractually Binding Mechanisms

A few commenters provided views concerning contractually binding mechanisms (CBMs), which are intended to ensure that sufficient capital and liquidity are provided to material entity subsidiaries in a timely manner. These commenters generally agreed that the agencies should continue to allow firms flexibility to create support arrangements that work best for their structures and global and U.S. resolution plans. They asserted that, accordingly, the guidance should continue to focus on the need to mitigate the risks of creditor challenges and on how well the strategy selected by the firm satisfies the policy objectives of the agencies, rather than specifying a particular mechanism.

Capital and Liquidity

The agencies received a number of comments on the capital and liquidity sections of the proposed guidance. With regard to the capital section of the proposed guidance, commenters argued 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. Most of these commenters asserted that streamlining the multiple capital measures would reduce burden on the firms. Further, two commenters asserted that the proposal would have reduced the flexibility for firms to position their capital most effectively in stress. With regard to the liquidity section of the proposed guidance, commenters suggested there is redundancy between the proposal and existing regulatory requirements and also recommended removing the guidance on resolution liquidity adequacy and positioning (RLAP) from the final guidance.

III. Final Guidance

After considering the comments, conducting additional analysis, and further assessing the business and risk profiles of the U.S. operations of large and complex FBOs, the agencies are issuing final guidance that includes certain modifications and clarifications. In particular, the scope, capital, liquidity, governance mechanisms, PCS, and derivatives and trading activities sections of the final guidance reflect changes from the proposed guidance. Other sections, such as group resolution plan, and sub-sections such as management information systems, qualified financial contracts (QFCs), and mapping of branch activities, were determined to be duplicative of existing regulatory requirements and accordingly, have been eliminated from the guidance. The intent of these changes is to clarify expectations, more closely align expectations with the current business and risk profiles of the Specified FBOs' U.S. operations, and recognize that the preferred resolution strategy for the Specified FBOs is a successful home country resolution. The agencies are also eliminating expectations that relate to information that, in the agencies' experience, may be obtained through other existing and effective mechanisms, such as home/host coordination and supervisory information sharing. In addition, the final guidance consolidates all prior resolution planning guidance for the firms in one document and clarifies that any prior guidance not included in the final guidance has been superseded. These changes are discussed in more detail below.

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 and that should be factored into the firm's submission. Moreover, the final guidance does not contain certain expectations in the proposed guidance and in the 2018 FBO guidance, including certain expectations relating to capital, liquidity, governance mechanisms, PCS, and derivatives and trading activities. The agencies do not expect that the Specified FBOs' resolution plans will continue to address the elements that have been removed from the guidance. However, the agencies note that the Specified FBOs' resolution plans, like the plans for all covered companies, are still required to meet all of the informational requirements of the Rule notwithstanding these changes to the guidance.[19]

The agencies note that commenters described certain expectations that are set forth in the guidance as ''requirements.'' The agencies are clarifying that 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.[20]

a. Scope of Application.

The agencies received numerous comments objecting to the scope of application of the proposed guidance, which proposed using the method 2 G–SIB surcharge framework [21] to determine the Proposed FBOs. Specifically, commenters argued that the proposed scope of application appeared to be inconsistent with the principles of tailoring established in the Board's tailoring rule.[22] In addition, commenters asserted that the method 2 G–SIB framework was not designed to be a scoping mechanism outside of certain requirements for U.S. G–SIBs, has never been applicable to IHCs, and inappropriately weights the short-term wholesale funding (STWF) factor. Commenters also questioned the proposal's justification for why a method 2 score of 250 was chosen as the threshold for purposes of scope of application. Furthermore, several commenters asserted that the proposed guidance did not adequately recognize that the Proposed FBOs have reduced risk at their U.S. operations, are smaller and less systemically important than the U.S. G–SIBs, and are subject to robust global resolution planning requirements, and so should not be subject to similar expectations as the U.S. G–SIBs.

Commenters suggested that the agencies consider alternative scoping methodologies, including those that were discussed in the proposal's preamble. Some commenters suggested that the agencies adopt a scope based on the Board's tailoring categories, with some commenters recommending that the guidance apply only to firms subject to Category II standards while others recommended that the final guidance should be similar to expectations for domestic firms subject to Category II and III standards. Other commenters suggested different potential options to modify or replace the proposed method 2 G–SIB surcharge framework, such as using method 1 G–SIB surcharge scores, that the commenters asserted would more appropriately balance the agencies' guidance expectations with the actual risk profile of the Proposed FBOs. Even if an alternative scoping methodology were adopted, some commenters asked the agencies to consider tailoring the guidance to what they viewed as the Proposed FBOs' reduced risk and stronger capital and liquidity positions, and recommended that the final guidance not introduce new expectations beyond those already in effect.

In their consideration of the commenters' feedback, the agencies have sought to align resolution plan supervisory expectations with the current business and risk profiles of the Specified FBOs' U.S. operations through the simple, transparent, and predictable mechanism of the Board's tailoring framework. The agencies also acknowledge that relevant resolution plan information can be obtained via other means, such as through engagement with home country regulators and supervisory information sharing. The agencies appreciate the analyses provided by the commenters that compared the operations of U.S. G–SIBs to the reduced U.S. footprint of Proposed FBOs with large U.S. operations. The agencies continue to believe that the scope of heightened resolution planning expectations applicable to FBOs should align with the Specified FBOs' systemic risk profile and relevant resolution challenges, and the final guidance should be consistent with the principles of national treatment and equality of competitive opportunity.

The agencies acknowledge commenters' meaningful input on certain methodological traits in the method 2 G–SIB surcharge framework, in particular the STWF factor weight, which could distort the liquidity risk and systemic relevance of FBOs relative to U.S. G–SIBs. Liquidity risk is just one of several important factors in a resolution scenario, and the measure of liquidity risk should not solely determine scoping of the guidance; rather, scoping should be determined holistically. Therefore, the final guidance applies to FBOs that are subject to Category II standards according to their combined U.S. operations pursuant to the Board's tailoring rule [23] and that are also required to form IHCs.[24]

Using the tailoring categories in this context also will promote uniform scoping between resolution expectations and regulatory requirements. As stated in the preamble to the Rule, the agencies believe that the risk-based indicators identified in the Board's tailoring rule are an effective means of dividing firms into groups for the purposes of determining the frequency and informational content of resolution plans. The indicators-based approach for application of Category II, III, and IV standards provides a simple framework

[19] *See* 12 CFR 243.5 and 243.6; 12 CFR 381.5 and 381.6.

[20] *See generally,* Interagency Statement Clarifying the Role of Supervisory Guidance (Sept. 11, 2018), available at *https://www.federalreserve.gov/supervisionreg/srletters/sr1805a1.pdf. See also* Role of Supervisory Guidance, 85 FR 70512 (Nov. 5, 2020).

[21] 12 CFR 217.405.

[22] Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, and Foreign Banking Organizations, 84 FR 59032 (November 1, 2019).

[23] Category II FBOs are defined as those with (1) ≥$700 billion average combined U.S. assets or (2) ≥$100 billion average combined U.S. assets with ≥$75b in average cross-jurisdictional activity.

[24] The formula defining Category II in the Board's tailoring rule does not include formation of an IHC as a requirement. The final guidance diverges from the Board's tailoring rule in this respect because an IHC formed pursuant to the Board's Regulation YY indicates the materiality of the FBO's U.S. operations that would go through bankruptcy under the Bankruptcy Code or other ordinary U.S. resolution regime. The agencies note that Category II is not limited to FBOs. The final guidance, however, is directed only to FBOs that meet the criteria noted above and not to domestic banking organizations.

that supports the objectives of risk sensitivity and transparency and thus is an appropriate mechanism for scoping the application of the final guidance.

Size and operational complexity are also factors in the decision to apply the guidance to FBOs subject to Category II standards. As indicated in the preamble to the Board's tailoring rule, the failure or distress of the U.S. operations of a FBO that is subject to Category II standards could impose significant costs on the U.S. financial system and economy. In addition, increased levels of cross-jurisdictional activity, an indicator for Category II firms, could increase the operational complexity of a resolution, as it may be more difficult to resolve or unwind a firm's positions due to the involvement of multiple jurisdictions and regulatory authorities. As such, FBOs subject to Category II standards merit the application of more detailed expectations than those FBOs that are smaller or that do not share the same indicators of operational risk. The agencies also believe this modification to the scope appropriately focuses on the largest and most complex FBOs with U.S. IHCs without losing the focus on cross-jurisdictional activities.

While the proposal relied only to a limited extent on the Board's tailoring rule for scoping the proposed guidance—noting that the tailoring categories were developed to determine application of a broad range of enhanced prudential standards and were not explicitly focused on determining which covered companies should be subject to more detailed resolution planning guidance—the agencies have concluded that the benefits of employing the tailoring categories—clear, predictable scoping based on publicly reported quantitative data—outweigh any concerns related to using them for this purpose.

Consistent with the Rule, the final guidance takes into account a Specified FBO's entire U.S operations, including branches and agencies (*i.e.,* combined U.S. operations), when determining scope of applicability. As discussed in the preamble to the 2019 Rule revisions, reference to combined U.S. operations is appropriate as the resolution planning requirement applies to a firm's entire U.S. operations. Moreover, U.S. branches, agencies, and offices constitute a significant share of these foreign banking organizations' presence in the United States and the agencies' experience reviewing resolution plans demonstrates that there are interconnections and dependencies between a foreign firm's U.S. branches, agencies, and offices and its U.S. subsidiaries, core business lines, and critical operations. Thus, the inclusion of U.S. branches, agencies, and offices in determining the scope of application of the final guidance is not only consistent with the Rule, but it is also appropriate in order to measure the operational complexity and full scope of potential risks to U.S. financial stability that a FBO may pose.

Finally, while the method 1 G–SIB surcharge score methodology could potentially address the concerns raised on STWF, the agencies believe the risk-based indicator approach in the Board's tailoring rule further simplifies application of the guidance.

b. Transition Period

The proposed guidance did not describe how the guidance would be applied to FBOs that become covered by its scope, but it did request comment on the methodology and process for determining the FBOs to which the guidance should apply, including whether the agencies should specify an implementation period for any FBOs that are designated as Specified FBOs under the final guidance. Some commenters requested that the agencies provide clarity on a transition period for firms that may newly fall under the scope of the guidance, and, conversely, on an exit process for firms that may no longer be covered.

To provide certainty to FBOs, the final guidance includes transition periods for Specified FBOs that were not previously within the scope of the 2018 FBO guidance and for firms that become Specified FBOs after December 22, 2020. A firm that is currently a Specified FBO, but was not previously the subject of guidance for its most recent resolution plan, will not be expected to have taken the final guidance into consideration in developing its targeted plan submission due in 2021. Rather, such a firm will be expected to consider the final guidance in developing its next full resolution plan submission, so long as the firm is a Specified FBO as of the submission date for that plan.

The final guidance also states that when an FBO becomes a Specified FBO, 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 FBO.[25] If a Specified FBO ceases to be subject to Category II standards or to the Board's requirement to form an intermediate holding company, it will no longer be considered a Specified FBO, and the guidance will no longer be applicable to that firm as of the date the firm ceases to be subject to Category II standards.

c. Consolidation of Prior Guidance and Format and Structure of Plans

One commenter supported, and no commenters opposed, the agencies' proposal to consolidate prior guidance. Accordingly, the final guidance includes, as proposed, a section regarding the format, assumptions, and structure of resolution plans, which includes the aspects of previous guidance that remain applicable to resolution planning. In light of the changes in the final guidance to the areas of capital, liquidity, governance mechanisms, and separability, the agencies have reviewed the Frequently Asked Questions (FAQs) contained in the proposed guidance. The FAQs appended to the final guidance contain those FAQs that continue to be applicable to resolution planning, with appropriate modifications to reflect the changes to the final guidance. Consistent with the proposal, to the extent not incorporated in or appended to the final guidance, prior guidance[26] is superseded.

d. Capital and Liquidity

While the proposed guidance would have maintained substantially all of the expectations in the capital and liquidity sections that were included in the 2018 FBO guidance,[27] the final guidance, in contrast to the proposal, does not include expectations for RCAP, RLAP, and certain liquidity capabilities. These changes were made to more closely align guidance expectations with the current business and risk profiles of the Specified FBOs' U.S. operations and in recognition of the overlap between those concepts and certain other regulatory provisions, as discussed below. As noted in the proposed guidance, the agencies continue to evaluate the relationship between the capital and liquidity sections of the final guidance and other capital and liquidity regulatory provisions. The agencies expect that any further changes to the

[25] 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.

[26] In addition to the 2018 FBO guidance, the agencies have also issued and provided to certain FBOs: The *Guidance for 2013 § 165(d) Annual Resolution Plan Submissions by Foreign-Based Covered Companies that Submitted Initial Resolution Plans in 2012;* the February 2015 staff communication regarding the 2016 plan submissions; the July 2017 *Resolution Plan Frequently Asked Questions;* and feedback letters issued to Barclays PLC, Credit Suisse Group AG, Deutsche Bank AG, and UBS AG in December 2018 and in August 2014 and feedback letters issued to Mitsubishi UFJ Financial Group in July 2019, January 2018, and July 2015.

[27] Section II and Section III of the proposal.

remaining guidance in these areas would be adopted following notice and comment.

i. Capital

The final guidance does not include expectations for RCAP but retains proposed expectations for resolution capital execution need (RCEN). Several commenters requested that the agencies remove RCAP expectations from the guidance because of the reduced U.S. systemic risk of the Proposed FBOs and the potential redundancy with other regulatory provisions, such as the Board's rule on total loss absorbing capacity (TLAC). Commenters also suggested that RCAP expectations are redundant with TLAC requirements for local, bail-in-able resources to recapitalize an FBO's U.S. operations, and one commenter further asserted that RCAP constrains a firm's ability to position capital within the U.S. IHC entities in a manner that allows for the most flexibility and efficiency in a stress scenario. One commenter expressed support for maintaining expectations for RCEN. Some commenters also suggested that the guidance should take into account the positioning of financial resources in the United States in light of the positioning of resources in the firm's non-U.S. operations and that the agencies should reconsider expectations for resource preplacement within the United States to encourage more flexibility at the international level.

The final guidance does not include RCAP expectations concerning the appropriate positioning of capital and other loss-absorbing instruments among the U.S. IHC and its subsidiaries because existing TLAC requirements applicable to the U.S. IHC provide a backstop of resources that is appropriate to the size and complexity of the Specified FBOs. The final guidance, consistent with one commenter's recommendation, maintains the RCEN expectations regarding a methodology for periodically estimating the amount of capital that may be needed to support each U.S. IHC subsidiary after the U.S. IHC's bankruptcy filing. RCEN helps the firm and the agencies determine when the U.S. IHC is approaching a situation where it will not have sufficient resources to conduct a successful resolution.

Several commenters requested that the agencies reconsider requirements and expectations for resource preplacement within the United States, such as internal TLAC requirements applicable to the U.S. IHC, that are not set by the guidance. As these requirements and expectations are outside the scope of the guidance, the final guidance does not address these requests.

ii. Liquidity

The final guidance retains the proposed expectations for resolution liquidity execution need (RLEN) but does not include expectations for liquidity capabilities and RLAP. Several commenters requested that the agencies remove RLAP expectations from the guidance, in consideration of factors including the reduced U.S. systemic risk of the Proposed FBOs and potential redundancy with other regulatory provisions, such as the Net Stable Funding Ratio (NSFR) and internal liquidity stress testing. One commenter suggested that the agencies conduct an assessment of the cumulative effect of liquidity and capital expectations and requirements, specifically between RLEN and NSFR and between RLAP and TLAC. Another commenter suggested integrating the RLAP liquidity expectations in the proposal into regulatory liquidity requirements via the rulemaking process. This commenter also expressed concern about the potential additive requirements and expectations of RLAP relative to the NSFR. Finally, one commenter expressed support for maintaining RLEN expectations.

Like the rationale for eliminating RCAP from the final guidance, because of the Specified FBOs' relatively simple U.S. legal entity structures and reduced risk profiles, the final guidance does not include RLAP expectations concerning the appropriate positioning of liquidity among the U.S. IHC and its subsidiaries. However, a firm's ability to reliably estimate and meet the liquidity needs of the U.S. IHC and its subsidiaries prior to, and in, resolution remains important to the execution of a Specified FBO's U.S. resolution strategy, as reflected in the Rule.[28] The final guidance therefore incorporates only expectations for RLEN. The final guidance also eliminates references to RLAP.

The agencies do not believe there will be significant overlap between RLEN expectations and the NSFR rule because the regulation implicates long-term liquidity risks and stability of funding sources, while the guidance focuses on liquidity needs during a resolution scenario, which are shorter-term in nature. Further, liquidity needs in a resolution scenario may be driven by highly idiosyncratic factors. These factors can be incorporated into a firm's RLEN framework, but would not necessarily be addressed in a standardized measure like the NSFR. The agencies' decision not to include expectations for RLAP in the final guidance obviates the need to analyze interaction between RLAP and TLAC. Separately, the suggestion to incorporate liquidity expectations into existing regulatory requirements is outside the scope of the current guidance-making.

[28] *See* 12 CFR 243.5(c)(1)(iii); 12 CFR 381.5(c)(1)(iii).

e. Governance Mechanisms

i. Playbooks

The proposed guidance outlined an expectation for Proposed FBOs to develop governance playbooks that detail specific actions that the board of directors and senior management of U.S. non-branch material entities would take under the firm's U.S. resolution strategy. The expectations related to communication and escalation protocols were contingent on triggers, which are firm-defined financial metrics reflecting the U.S. IHC's financial condition. In addition, the proposed guidance called for playbooks to address, among other things, the fiduciary responsibilities of boards of directors, potential conflicts of interest, and employee retention policies. One commenter suggested that the agencies streamline playbook expectations to focus only on governance and escalation procedures as well as capabilities to produce key information and data that support timely and informed decision-making. The commenter argued that outlining details about specific decisions management would have to make would be of limited value given that resolution-related actions would be driven by the circumstances and market conditions present at the time of financial stress. The agencies are finalizing this aspect of the guidance as proposed as the agencies believe that the suggested additional information would have important value in a resolution scenario.

ii. Triggers

The agencies received no comments about the expectations in the proposed guidance regarding triggers. That said, recognizing that the preferred resolution outcome for the Specified FBOs is a successful home country resolution, the final guidance does not include expectations regarding triggers or escalation protocols based on the U.S. IHC's financial condition. The final guidance, however, retains the broader expectation that firms have in place mechanisms to ensure that timely communication and coordination occurs between and among the boards of the U.S. IHC, U.S. IHC subsidiaries, and the foreign parent to facilitate the provision of financial support.

iii. Potential Mechanisms for Parent Support

Having a structure in place that facilitates the transmission of resources to an FBO's U.S. material entity subsidiaries and mitigates against potential legal challenges is an important component for resolution plans that contemplate the provision of such support. Neither the proposed guidance nor the Rule endorses a specific strategy for the provision of such support. Rather, under the proposal, firms would have been expected to (i) develop a mechanism for planned foreign parent support of U.S. non-branch material entities to meet those entities' liquidity needs and (ii) include in their resolution plan submissions analysis of potential challenges to planned foreign parent support and associated mitigants. Further, the proposal provided that if a plan anticipates the provision of capital and liquidity by a U.S. material entity (*e.g.,* the U.S. IHC) to its U.S. affiliates prior to the U.S. IHC's bankruptcy filing, the plan should also include a detailed legal analysis of the potential state law and bankruptcy law challenges and mitigants to the provision of resources. To date, some Specified FBOs have relied on CBMs for the timely provision of capital and liquidity from a U.S. material entity (*e.g.,* the U.S. IHC) to its U.S. affiliates prior to the U.S. IHC commencing a bankruptcy case and to mitigate potential legal challenges to the provision of such support. In addition, the agencies solicited comment on the benefits and costs and the relative advantages and disadvantages of two approaches currently used by FBOs to assist the agencies in deciding whether to endorse a specific approach in finalizing the guidance.

Commenters urged against imposing specific requirements or expectations regarding CBMs and supported maintaining flexibility for firms to determine the particular form and structure of CBMs based on a firm's structure, resolution strategy, and global capital and liquidity planning needs. Commenters further recommended that the agencies evaluate CBMs based on their effectiveness in mitigating creditor challenges. One commenter suggested that the agencies' assessment of the effectiveness of various CBMs should take into consideration the nature of the Proposed FBOs, specifically that: (i) All of the Proposed FBOs in the proposed guidance have global SPOE strategies that do not contemplate the insolvency of the U.S. IHC or any other U.S. entity; (ii) internal TLAC requirements have been complied with and incentivize the firms to recapitalize their U.S. operations to avoid the costs, operational burdens, and other consequences associated with bankruptcy proceedings; and (iii) the Board has the authority to trigger the conversion of internal TLAC in the form of long-term debt into equity to recapitalize an IHC without the need for a U.S. bankruptcy proceeding. This commenter also argued that the agencies should provide a threshold for determining whether a CBM sufficiently mitigates the risk of creditor challenges that is materially lower than for U.S. BHCs for which a bankruptcy proceeding is a primary resolution strategy. This commenter also stated that the agencies had already been provided with substantial legal analyses supporting the workability of existing CBMs and urged the agencies to engage with the Proposed FBOs prior to providing specific requirements regarding CBMs.

One commenter cautioned that the proposed CBM guidance may impede capital and liquidity placed in the U.S. IHC from being returned to the parent for efficient deployment globally, and that a CBM developed only to support a U.S. resolution may trap financial resources in the IHC. Separately, another commenter requested that the agencies engage with the Proposed FBOs and consider alternative approaches to ensure the timely availability of capital and liquidity support. Suggestions included reducing or amending internal TLAC requirements, allowing use of internal TLAC to satisfy the demands of Comprehensive Capital Analysis and Review, and eliminating the requirement in the Rule that firms must assume the bankruptcy of a U.S. entity.

Consistent with the comments received, and to maintain flexibility for firms, the agencies are finalizing the guidance without including additional expectations regarding the use and structure of CBMs. This lack of specific, additional expectations related to CBMs should not be interpreted as an expression of the agencies' view on the feasibility of current support mechanisms. Additionally, no revisions have been made in response to a comment that urged the agencies to describe, *ex ante,* a particular threshold for what constitutes an effective CBM. Furthermore, the agencies have not made changes in response to the comment recommending amendments to various rules, as revisions to regulatory requirements are outside the scope of the present guidance. The agencies refer to the above discussion about capital and liquidity in response to concerns about the placement and availability of capital and liquidity.[29]

In addition, the final guidance removes the expectation for the resolution plan to include an analysis of the potential challenges to the planned foreign parent support to U.S. non-branch material entities, and the planned provision of capital and liquidity by a U.S. material entity to its U.S. affiliates prior to the U.S. IHC's bankruptcy filing. This approach gives due consideration to the arguments put forth by commenters that the Specified FBOs should have flexibility to determine the particular form and structure of the framework developed to support its particular resolution strategy and needs, that the preferred resolution outcome for the Specified FBOs is a successful home country resolution, and that internal TLAC resources are available for conversion to support IHC recapitalization outside of bankruptcy.

f. Operational

i. Payment, Clearing and Settlement Activities

Scope of PCS Activities: Most commenters requested that the scope of the guidance be limited to U.S. material entities, core business lines, and critical operations domiciled in the U.S. and resolved under the U.S. Bankruptcy Code, and that guidance should not include indirect PCS relationships through non-U.S. affiliates. Commenters contended that the proposal would subject the Proposed FBOs to expectations that are essentially the same as, and in some ways more extensive than, the expectations for PCS activities applicable to U.S. G–SIBs. Commenters also claimed that the proposal would be potentially extraterritorial in its coverage of non-U.S. branches and affiliates and contrary to the Rule and Title I of the Dodd-Frank Act. These commenters also asserted that because non-U.S. affiliate relationships were covered under home country regulatory frameworks, inclusion of information about these relationships in U.S. resolution planning would be duplicative and the information should be obtained via home-host supervisor cooperation. One commenter suggested that indirect access to PCS services through non-U.S. affiliates does not raise significant U.S. resolution concerns. Another commenter claimed that a U.S. material entity would not have the ability to distinguish activity specific to its clients

[29] *See supra* Section III.d (Capital and Liquidity).

or counterparties with the indirect financial market utility (FMU), as this activity is typically subject to netting by the non-U.S. affiliate, and that a U.S. material entity of a Proposed FBO would not have the authority to make decisions on contingency actions involving an FMU that is accessed via a non-U.S. affiliate. These commenters suggested that the guidance be tailored to fit the Proposed FBOs' reduced U.S. footprint and their limited role in this space, relative to U.S. G–SIBs.

As a preliminary matter, the agencies note that the Rule requires full resolution plan submissions by foreign-based covered companies to include information on ''the interconnections and interdependencies among the U.S. subsidiaries, branches, and agencies, and between those entities and . . . [a]ny foreign-based affiliate.'' [30] In addition, each full resolution plan is required to ''identify each trading, payment, clearing, or settlement system of which the covered company, directly or indirectly, is a member and on which the covered company conducts a material number or value amount of trades or transactions.'' [31] These provisions, together, provide the agencies the authority to set forth the expectation that a firm's PCS framework address its indirect access to PCS services through non-U.S. affiliates. The proposed guidance was therefore consistent with the Rule and Title I of the Dodd-Frank Act. The agencies reiterate that continuity of access arrangements provided indirectly by non-U.S. affiliates to support a Specified FBO's U.S. operations and key clients are an important part of a Specified FBO's U.S. resolution planning.

The agencies acknowledge, however, that commenters' feedback that a non-U.S. affiliate's ability to maintain access to key FMUs and key agent banks to support indirect PCS relationships through non-U.S. affiliates may be addressed in the firm's group resolution plan or in other information provided to home country regulators. As such, expectations that Specified FBOs submit detailed information related to non-U.S. affiliates' support of their U.S. operations may be duplicative. In recognition of this feedback and in an effort to more closely align expectations with the business and risk profiles of the Specified FBOs' U.S. operations, the final guidance does not include expectations that firms provide information regarding indirect access to key FMUs and agent banks provided by non-U.S. branches and affiliates. As further suggested by commenters and consistent with prior statements by the agencies, the agencies expect to engage with the Specified FBOs and their home country authorities.

Providers of PCS Services: Two commenters recommended clarifying the term ''provider of PCS services'' to include other key roles in which a firm may act, and to provide further examples where a firm may act as provider (or recipient) of PCS services. One commenter also recommended that the term ''agent bank'' should be clarified to specifically include ''nostro banks.'' One commenter also suggested that firms be encouraged to amend their bilateral contracts with agent banks, including contracts with nostro agents, to facilitate continuity of access to PCS services. The final guidance does not include additional clarification or examples as the agencies do not intend the guidance to be prescriptive. Rather, the final guidance is intended to provide a firm with flexibility to define and identify PCS services, as well as the instances where the firm is a provider of such PCS services to its clients. Regarding the amendment of bilateral contracts, the agencies believe that the expectations regarding establishment of service-level agreements (SLAs) in the Shared and Outsourced Services section of the final guidance address the commenter's suggestions.

One commenter also recommended that the proposal recognize that many FMUs and agent banks do not implement bilateral SLAs for core clearing and custody services. The agencies have clarified the final guidance by adding 'as applicable' to the relevant capability in the guidance text.

Playbooks for Continued Access to PCS Services: One commenter stated that FMU playbooks should be streamlined to include only critical information necessary to facilitate an orderly resolution (*e.g.,* management information, liquidity considerations, key governance, and responsible parties) and that firms should not be expected to include information regarding FMU membership rules or expected behavior. Another commenter stated that to the extent such critical information had already been provided to the agencies through prior exam processes, firms should be able to reference such items instead of including them in playbooks. Separately, another commenter recommended that the final guidance direct firms to maintain lists of key resolution contacts for their key FMUs and key agent banks and provide equivalent contact information to key FMUs and key agent banks. This commenter also suggested that the guidance put additional emphasis on the importance of continued firm engagement with key external stakeholders and that the agencies consider adding expectations for firm communication with key FMUs and key agent banks during stress and resolution. The agencies also were encouraged by this commenter to develop their own communication strategies for key stakeholders and vet them with relevant firms and FMUs. The commenter further suggested that firms should identify, *ex ante,* services they would likely cease to provide in a resolution and plan for actions they would take to mitigate any resulting adverse systemic impact. Finally, a commenter stated that the guidance should recognize that there is specific, industry-wide default guidance already in place for certain FMUs (*e.g.,* central counterparties) that would apply to a Proposed FBO's activities in a resolution.

The agencies are finalizing these elements of the guidance as proposed. The expectations in the final guidance call for playbooks that address specifically how firms would maintain access to PCS services but that do not necessarily include a discussion of FMU rules around a member firm's default. The final guidance aims to provide firms flexibility in determining how they would best maintain access to PCS services in a stress scenario and to clarify that playbooks are not expected to include a scenario in which the firm loses access to an agent bank or FMU. The proposed guidance contained expectations for firms to engage with key external stakeholders and reflect any feedback received during such ongoing outreach, and the agencies are retaining those expectations in the final guidance. To the extent that certain playbook information may be addressed in other sections of the firm's submission, the firm may include a specific cross-reference to that content in the appropriate playbook. While the agencies are not expecting firms to model expected FMU behaviors, firms are expected to consider operational and financial resources that would be needed to respond to adverse actions and execute any contingency arrangement. In addition, given the joint nature of the resolution plan process, the final guidance, like the Rule, provides for incorporation of previously submitted resolution plan information by reference.

The comment suggesting that the agencies develop their own communication strategies for key stakeholders is not applicable to the

[30] 12 CFR 243.5(a)(2)(i); 12 CFR 381.5(a)(2)(i).

[31] 12 CFR 243.5(e)(12); 12 CFR 381.5(e)(12).

content in a firm's resolution plan; therefore, no changes have been made to address the comment. The agencies already proactively engage with firms and key stakeholders through various fora, including direct engagement, crisis management groups, and international working groups focused on crisis management under the Financial Stability Board. The agencies also encourage firms and their agent banks to continue engaging and communicating with each other, key FMUs, agent banks, and clients, and other stakeholders to identify possible ways to support continued access to PCS services.

While expressing general support for the expectations in the proposed guidance related to PCS-related Liquidity Sources and Uses, a commenter suggested that the sentence related to ''PCS Liquidity Sources'' be revised from ''various currencies'' to ''all currencies relevant to banks' participation'' in FMUs, to be consistent with international expectations. The agencies are adopting this suggestion in the final guidance. The commenter also suggested that the final guidance clarify that firms should assess their key FMU and key agent bank liquidity needs in the aggregate so that firms account for the availability of funds across more than one key FMU or agent bank. Regarding intraday liquidity, this commenter suggested that the final guidance be amended to include additional specific expectations for playbooks beyond describing capabilities to control intraday liquidity inflows and outflows, and to identify and prioritize time-specific payments. The agencies are not adopting these suggestions in the final guidance to allow the Specified FBOs flexibility to tailor and streamline playbook content based on the actual profile of their PCS activities relevant to their U.S. operations.

Key Client Contingency Arrangements: Two commenters questioned the benefit of expectations related to the identification and mapping of PCS services to key clients and the description of contingency actions that the firm may take concerning provision of intraday credit to key clients since most clients have other relationships. Another commenter suggested that the final guidance contain examples of particular actions and arrangements that the agencies expect the firms to consider around the provision of intraday credit to affiliate and third-party clients. The agencies are not modifying the final guidance in response to these comments. The final guidance contains expectations that firms maintain continuity of access to PCS services for key clients in the Unites States. The final guidance is not prescriptive, and each firm is expected to determine the relevant contingency actions and arrangements that are specific to maintaining continuity of access to its PCS activities. Firms have the discretion to tailor the discussion to client impacts specific to the PCS services provided by such firms. The agencies are not modifying provisions related to the identification and mapping of PCS services to key clients as this information helps the agencies understand the ecosystem of provision of PCS services.

Adverse Actions: A commenter expressed support for the expectation for playbooks to assess the range of adverse actions that may be taken by key FMUs or key agent banks but indicated that the term ''adverse actions'' may be incorrectly interpreted and suggested using ''risk-mitigating actions,'' which would be more consistent with a home country authority's guidance. The agencies are not making any changes to the final guidance because ''adverse actions'' includes not only ''risk mitigating actions,'' but also a broader set of actions that could be taken by key FMUs or key agent banks.

Loss of Access: One commenter suggested that there was a contradiction in the proposed guidance and requested clarification about whether there was an expectation for a firm to contemplate a scenario where it loses access to a key FMU or key agent bank. The agencies are finalizing the guidance as proposed. The final guidance specifies that a firm is not expected to incorporate a scenario in which it loses FMU or agent bank access into its U.S. resolution strategy. However, in support of maintaining continuity of access to PCS services, playbooks should provide analysis of the financial and operational impacts to the firm's material entities and key clients due to adverse actions that may be taken by an FMU or agent bank, and the contingency actions that may be taken by the filer.

ii. Management Information Systems

The agencies received no comments regarding the management information systems (MIS) section of the proposed guidance. The expectations contained in the proposed guidance articulate general expectations for firms to have the requisite MIS capabilities to produce timely, accurate financial and risk data on a U.S. legal entity basis. The agencies determined that the expectations and capabilities are addressed in the Rule [32] and thus the final guidance does not include a section on MIS.

iii. Managing, Identifying, and Valuing Collateral

The agencies received no comments regarding the managing, identifying, and valuing collateral section of the proposed guidance and are finalizing the section as proposed.

iv. Shared and Outsourced Services

The agencies received no comments regarding the shared and outsourced services section of the proposed guidance and are finalizing the section as proposed.

v. Qualified Financial Contracts

The agencies received no comments regarding the QFC section of the proposed guidance, which sets forth expectations for firms to articulate their progress in implementing requirements regarding contractual stays in qualified financial contracts. However, the agencies are not including this subsection in the final guidance due to the progress made by the Specified FBOs in complying with the QFC stay rules of the Board, the Office of the Comptroller of the Currency, and the FDIC.[33]

g. Branches

The agencies received no comments regarding the branches section of the proposed guidance. However, the agencies are removing expectations from the final guidance that are viewed as duplicative to existing rules or repeat, without elaboration, components of the Rule. Specifically, mapping expectations for U.S. branches that are material entities are specified in the Rule.[34] In addition, expectations for a liquidity buffer are addressed in the Board's Regulation YY.[35] Neither subsection of the proposed guidance was intended to expand upon or clarify existing rules and thus it is appropriate to remove them from the final guidance. The remaining parts of the Branches section regarding expectations for supporting assumptions on continuity of operations and analyzing the impact of cessation of operations remain unchanged from the proposed guidance.

h. Group Resolution Plan

The agencies received no comments regarding the group resolution section of the proposed guidance, which set forth expectations for firms to address how

[32] *See* 12 CFR 243.5(f); 12 CFR 381.5(f).

[33] 12 CFR part 47 (Office of the Comptroller of the Currency); 12 CFR part 252, subpart I (Board); and 12 CFR part 382 (FDIC).

[34] *See* 12 CFR 243.5(a)(2), (g); 12 CFR 381.5(a)(2), (g).

[35] *See* 12 CFR 252.

resolution planning in the U.S. is integrated into the group resolution plan. However, in recognition that the preferred resolution outcome for many Specified FBOs is a successful home country resolution using an SPOE resolution strategy, the agencies expect to supplement their understanding of the impact on U.S. operations of executing a firm's group resolution plan through international collaboration with home country regulators and therefore such a section is unnecessary. The agencies determined that as this item is addressed by the Rule,[36] the final guidance does not include a section on group resolution.

i. Legal Entity Rationalization and Separability

The agencies received no comments regarding the legal entity rationalization and separability section of the proposed guidance. However, consistent with agencies' efforts to more closely align guidance expectations with the current business and risk profiles of the Specified FBOs' U.S. operations, the final guidance does not include the separability expectations, which would have suggested that firms identify discrete U.S. operations that would be sold or transferred in a resolution scenario. Given that the U.S. operations of the Specified FBOs are a subcomponent of a larger FBO, for which the preferred resolution approach is a home-country SPOE resolution, the agencies have found that the separability options within the United States are few and that their inclusion in resolution plans has yielded limited new insights. Moreover, the agencies expect that such information is obtainable through international collaboration with home country regulators. As such, the agencies have eliminated these expectations from the final guidance.

j. Derivatives and Trading Activities

The agencies received a number of comments on the Derivatives and Trading Activities section of the proposed guidance. Overall, commenters supported the proposed elimination of the active and passive wind-down scenario analyses and rating agency playbooks, and recommended certain additional modifications and clarifications to streamline the resolution plan submissions and provide further clarity.

After reviewing the comments, the agencies have adopted final guidance that includes several adjustments to address matters raised by the commenters. Specifically, the final guidance does not include elements from the proposal related to derivatives and trading activities originated in the U.S. and booked directly to non-U.S. affiliates. Commenters argued that the derivatives guidance should not include U.S. derivatives and trading activities or prime brokerage customer account balances booked directly to non-U.S. affiliates because they are beyond the scope of the Rule and the information is better gathered through collaboration with home country regulators. Commenters suggested that the derivatives guidance focus solely on derivatives and trading activities and prime brokerage customer account balances that are booked to U.S. material entities and related to core business lines and critical operations.[37] Further, commenters suggested that the guidance should not include the identification, assessment, or reporting on risk transfer arrangements with non-U.S. affiliates and also argued that the proposed guidance would result in firms having to create reporting processes for activities booked in non-U.S. affiliates. Commenters also suggested that the proposed guidance would subject the Proposed FBOs to expectations greater than, or similar to, those imposed on U.S. G–SIBs and that transactions booked outside the U.S. fall under the purview of home country authorities, are best addressed in the global resolution plan, and are outside the scope of the Rule and Title I of the Dodd-Frank Act.

As a preliminary matter, similar to the discussion in the PCS section of this preamble, the agencies note that the Rule requires full resolution plan submissions by foreign-based covered companies to include information ''with respect to the subsidiaries, branches and agencies, and identified critical operations and core business lines, as applicable, that are domiciled in the United States or conducted in whole or material part in the United States.'' [38] This provision provides the agencies the authority to set forth the expectation that a resolution plan include information about the firm's derivatives and trading activities, including derivatives and trading activities originated from U.S. entities that are booked directly into a non-U.S. affiliate, because those activities occur in material part in the United States. Accordingly, the proposed guidance was consistent with the Rule and Title I of the Dodd-Frank Act.

However, after considering commenters' views, and in an effort to more closely align expectations with the current business and risk profiles of the Specified FBOs, the final guidance does not include expectations concerning derivatives and trading activities that originate from U.S. entities but are booked into non-U.S. affiliates. Because the booking of U.S. derivatives and trading activities regularly occurs across jurisdictions and creates interconnections and interdependencies among and between a firm's U.S. entities and its non-U.S. affiliates, the agencies expect to coordinate with home country authorities to collect information about derivatives booking activities that occur across jurisdictions in order to understand any related risks to the execution of the firm's U.S. resolution strategy. This approach is consistent with the 2018 Title I feedback letters to some Specified FBOs, in which the agencies indicated their intent to engage with the FBO and home authorities regarding derivatives booking practices.

The agencies also have made several adjustments and clarifications in the final guidance to address other matters raised by the commenters. Commenters argued that the proposal inappropriately applied the derivatives guidance to non-derivatives trading activities (*e.g.,* securities financing transactions). The agencies acknowledge that the Specified FBOs have drastically decreased their exposures to securities financing transactions, while the U.S. G–SIBs have increased their exposures. Therefore, the final guidance only covers derivatives and linked non-derivatives.

Commenters also suggested that a Proposed FBO should be allowed to define linked non-derivatives trading positions based on its overall business and resolution strategy trading positions. The agencies agree with this comment, and the final guidance allows for linked non-derivatives trading positions to be defined based on the Specified FBO's overall business and resolution strategy. Finally, some commenters suggested that the scope for

[36] *See* 12 CFR 243.5(a)(2)(ii); 12 CFR 381.5(a)(2)(ii).

[37] The agencies note that based on the Specified FBOs' most recent resolution plans, each of the Specified FBOs identifies certain U.S. derivatives and trading activities (including U.S. prime brokerage services) as an identified critical operation or core business line.

[38] 12 CFR 243.5(a)(2)(i); 12 CFR 381.5(a)(2)(i). *See also* 12 CFR 243.5(a)(2)(ii); 12 CFR 381.5(a)(2)(i) (requiring each full resolution plan to include a ''detailed explanation of how resolution planning for the subsidiaries, branches and agencies, and identified critical operations and core business lines of the foreign-based covered company that are domiciled in the United States or conducted in whole or material part in the United States is integrated into the foreign-based covered company's overall resolution or other contingency planning process.'').

the prime brokerage subsection of the proposal was either unclear or overly broad. As suggested, the final guidance clarifies that a U.S. prime brokerage client should be a client who signs a prime brokerage agreement with a U.S. material entity. Further, the agencies are not finalizing aspects of the proposed guidance regarding requests for information and reporting related to prime brokerage activities that are booked to non-U.S. entities, as stated above.

Some commenters recommended the agencies adjust certain expectations that are not specified in the proposed guidance. The agencies have determined not to modify the guidance in these instances. For example, commenters stated that development of a plan for resolution of positions of non-U.S. affiliates is beyond the scope of the Rule. The agencies note, as described above, that the proposed guidance did not set out expectations that the Proposed FBOs develop a plan for the resolution of derivatives and trading activities booked to non-U.S. entities. The scope of the stabilization and de-risking strategy subsection applies only to U.S. derivatives portfolios booked to U.S. entities.

The agencies received comments related to tailoring derivatives expectations. For example, commenters suggested the segmentation analysis and analysis of de-risking strategy provisions of the proposal were neither warranted nor sufficiently clear for Proposed FBOs because their derivatives exposures are significantly smaller than those of U.S. G–SIBs. After considering multiple relevant factors, the agencies have not modified the guidance in response to these comments. The ability to identify, quickly and reliably, problematic derivatives positions and portfolios is foundational to minimizing uncertainty and estimating resource needs for an orderly resolution of a firm's U.S. entities. Further, in the event of material financial distress or failure, the resolvability risks related to a firm's U.S. derivatives and trading activities could be a key obstacle to the firm's orderly resolution of any U.S. IHC subsidiary with a derivatives portfolio. As a result, the final guidance confirms that a firm's plan should provide a detailed analysis of its strategy to stabilize and de-risk any derivatives portfolio of any U.S. IHC subsidiary that continues to operate after the U.S. IHC enters into a U.S. bankruptcy proceeding. The agencies also note that the portfolio segmentation subsection applies only to U.S. derivatives positions that are booked to U.S. entities.

Finally, commenters suggested tailoring the scope of applicability of the derivatives section using a threshold, such as the Volcker Rule's proprietary trading categories. The agencies do not believe that the compliance thresholds and the associated calculation methodology (total trading assets and liabilities) established under the Volcker Rule accurately capture the size and complexity of a firm's derivatives activities for resolution purposes and thus are an inappropriate scoping mechanism for the guidance. Therefore, the final guidance does not incorporate compliance thresholds, such as those established by the Volcker Rule.

k. Additional Comments

i. Comments About the Development of the Proposal

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

One commenter claimed that the agencies' proposed guidance did not reflect internationally agreed upon approaches to home and host authority responsibility with regard to resolution planning, with the proposal's continued emphasis on a separate U.S. strategy, which the commenter argued is largely duplicative of home country requirements. Other commenters criticized the proposed guidance for not reflecting any reliance on supervisory colleges and crisis management groups, or on the capital markets and resolution rules and requirements of the Securities and Exchange Commission, Financial Industry Regulatory Authority, or the Commodity Futures Trading Commission.

The agencies do not agree with these comments. Since the enactment of section 165(d) of the Dodd-Frank Act, the agencies have worked bilaterally and multilaterally with relevant domestic and foreign authorities and in various international fora to understand risks to the firms' orderly resolution under the U.S. Bankruptcy Code, as well as to share resolution planning expertise. In addition, the agencies have established resolution-related information-sharing arrangements with both domestic and foreign authorities in an effort to enhance the prospects for a successful cross-border resolution of the Specified FBOs. Moreover, the agencies note that both section 165(d) of the Dodd-Frank Act and the Rule require all large bank holding companies, including FBOs, to file resolution plans.

Another commenter encouraged the agencies to consider aligning their guidance with the resolution-related guidance issued by the European Single Resolution Board. The agencies recognize that international coordination in resolution-related matters is important to ensuring that home and host country regulators have sufficient understanding of the resolvability of internationally active financial companies. The purpose and general subject matter of the final guidance are generally consistent with those of the Single Resolution Board's Expectations for Banks. Both the final guidance and the Single Resolution Board document describe the respective authorities' expectations regarding a number of key vulnerabilities in resolution (*e.g.,* governance mechanisms, operational, capital, liquidity, and legal entity rationalization). The agencies will continue to work with international counterparts to build a shared understanding around resolution-related matters through participation in firm-specific, cross-border crisis management groups, as both home authorities and host authorities.

Other commenters suggested that the proposed guidance did not adequately recognize foreign parents as sources of strength to the U.S. operations of Proposed FBOs, but instead appeared to treat the non-U.S. parent and affiliates only as sources of risk for U.S. material entities. The agencies understand that the preferred resolution outcome for many Specified FBOs is a successful home country resolution using a SPOE resolution strategy where U.S. material entities are provided with sufficient capital and liquidity resources to allow them to stay out of resolution proceedings and maintain continuity of operations throughout the parent's resolution. The Rule balances this recognition with the concern that support from a foreign parent in stress cannot be ensured. The final guidance, in turn, lays out expectations that reflect a number of key vulnerabilities associated with an orderly resolution under the U.S. Bankruptcy Code.

Certain commenters suggested that the agencies streamline plan submissions to make the documents more actionable and reduce the time the agencies may need to review and challenge the submissions. These commenters also encouraged the agencies to leverage information provided by firms through existing bank supervision and exam processes to collect information relevant to the agencies' review of resolution planning. The agencies note that the scope and informational content of resolution plan submissions are dictated by the Rule. That said, the agencies have endeavored in this final guidance to tailor expectations for the Specified FBOs' resolution plans to be commensurate to and address risks posed by key vulnerabilities of the Specified FBOs in resolution. The agencies also have made a number of modifications to the final guidance with the express purpose of streamlining plan expectations and, where appropriate, leveraging existing supervisory relationships with home and host country authorities to collaboratively obtain information about the resolution planning and resolvability of the firms.

ii. Comments About General Concerns With the Proposal

Some commenters asserted that the proposed guidance exceeded the scope of the Rule or Title I of the Dodd-Frank Act, introduced definitions and expectations that were inconsistent with the Rule, and created issues of extraterritoriality and duplication of information that may already be covered under home country regulations. Some commenters also objected to expectations pertaining to the identification, assessment, or reporting of indirect relationships through non-U.S. affiliates, or risk transfer arrangements with non-U.S. affiliates. These comments are addressed in the individual sections of this preamble to which they relate.

Another commenter recommended modifying resolution guidance and requirements to emphasize firms maintaining resolution capabilities that remain available during business as usual. This comment generally aligns with the agencies' approach to resolution planning expectations, and the final guidance emphasizes that the Specified FBOs should have effective capabilities and well-developed plans. That said, the agencies do not believe that any specific revisions are necessary to respond to this comment; rather, the agencies will continue to deliberate how to ensure that resolution planning can be facilitated by and integrated into the firm's business-as-usual practices.

iii. Comments About Resolution Planning Generally

The agencies received several comments about the broader supervisory landscape related to resolution planning. Certain commenters recommended that the agencies, in addition to deepening home and host country regulatory relationships, engage bilaterally with the Proposed FBOs to clarify outstanding concerns about the resolvability of the firms' U.S. operations, as well as any concerns about the firms' reliance on home country resolution strategies.

These comments do not directly relate to the guidance and, as a result, the agencies are not making any changes to the final guidance. Relatedly, one commenter asked the agencies to clearly identify residual concerns with respect to each Proposed FBO and then tie resolution planning guidance to those concerns. The agencies expect that overall engagement and ongoing dialog and feedback with each of the Specified FBOs will continue to provide clarity on any outstanding concerns with respect to resolution capabilities. The agencies also note that the final guidance takes into consideration the agencies' experience in reviewing prior resolution plan submissions. No specific changes have been made to the final guidance in response to this comment.

iv. Comments Outside the Scope of Guidance-Making

One commenter requested that the agencies also incorporate that commenter's thoughts into future changes to guidance for U.S. G–SIBs, while another commenter argued for the removal of the Proposed FBOs from the Board's Large Institution Supervision Coordinating Committee (LISCC) portfolio. The final guidance does not apply to U.S. G–SIBs, who remain subject to heightened resolution plan supervisory expectations given their size and risk profile, and the composition of the LISCC portfolio of firms is similarly outside the scope of this final guidance. Accordingly, the agencies have not made any changes to the guidance to address these comments.[39]

IV. Paperwork Reduction Act

Certain provisions of the guidance contain ''collection of information'' provisions within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA). In accordance with the requirements of the PRA, the agencies may not conduct or sponsor, and a 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 reviewed the final guidance and determined that it would revise the reporting provisions that have been previously approved by OMB under the Board's OMB control number 7100–0346 (Reporting Requirements Associated with Regulation QQ; FR QQ) and the FDIC's control number 3064–0210 (Reporting Requirements Associated with Resolution Planning). The Board has reviewed the final guidance under the authority delegated to the Board by OMB. The agencies' information collections will be extended for three years, with revision.

Current Actions

The proposed guidance stated that the proposed changes to the 2018 FBO guidance would not revise the reporting provisions that have been previously cleared by the OMB under the Board's control number 7100–0346 and the FDIC's control number 3064–0210. The agencies did not receive any comments on the PRA determination in the proposed guidance.

However, as indicated above, the final guidance includes certain modifications and clarifications to the proposed guidance. In particular, the scope, capital, liquidity, governance mechanisms, PCS, and derivatives and trading activities sections of the final guidance reflect changes from the proposal. Other sections or sub-sections, such as group resolution plan, management information systems, QFCs, separability, and mapping of branch activities, were determined not to be necessary as they are duplicative of existing regulatory requirements or not reflective of the Specified FBOs' current business models and accordingly have been eliminated from the guidance. The intent of these changes is to clarify expectations, more closely align expectations with the current business and risk profiles of the Specified FBOs' U.S. operations, and recognize that the preferred resolution strategy for the Specified FBOs is a successful home country resolution. The final guidance also eliminates expectations for information that, in the agencies' experience, may be obtained through other existing and effective mechanisms.

As a result of these changes, the final guidance reduces the existing estimated burden for a triennial full complex filer from 13,135 hours to 9,916 hours per year. This reduction is driven mainly by significant reductions in the burdens related to capital, liquidity, separability, and governance mechanisms. These burden savings are borne by the Proposed FBOs.

One FBO is no longer classified as a triennial full complex filer and thus

[39] The agencies note that, on November 6, 2020, the Board announced that it is updating the list of firms supervised by the LISCC Program. *See https://www.federalreserve.gov/newsevents/pressreleases/bcreg20201106a.htm.*

saves the total burden associated with filing a triennial full complex resolution plan. However, another FBO is newly classified as a triennial full complex filer and must bear the burden. The agencies estimate the annual burden for this new triennial full complex filer as 9,767 hours per year. This estimate differs from the burden for the Proposed FBOs for primarily two reasons: (1) The agencies estimate that the new triennial full complex filer will incur some start-up costs in preparing its first full resolution plan that is subject to the final guidance; and (2) the agencies estimate that the burden for the new triennial full complex filer's 2021 targeted resolution plan will be less than the burdens for the three Proposed FBOs because the new triennial complex filer will not be expected to consider the final guidance for its 2021 targeted resolution plan (unlike the three other covered companies).

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. The FDIC has agreed to take the burden of the new triennial full complex filer and one Proposed FBO whereas the Board will take the burden for the remaining two Proposed FBOs. Specially, as a result of this split and these revisions, there will be a net decrease in the overall estimated burden of 6,438 hours for the Board and 6,587 hours for the FDIC. Therefore, the total Board estimated burden for its entire information collection (7100–0346) is 209,168 hours and the total FDIC estimated burden for its entire information collection (3064–0210) is 203,332 hours.

Proposed Information Collection

Title of Information Collection: Reporting Requirements Associated with Resolution Planning.

Agency Form Number: FR QQ.

Frequency of Response: Biennially, Triennially.

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, 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.

The following table presents only the change in the estimated burden hours, as amended by this final guidance, broken out by agency. The table does not include a discussion of the remaining estimated burden hours, which remain unchanged.

TABLE 1—BURDEN HOUR ESTIMATES UNDER CURRENT REGULATIONS AND UNDER THE FINAL GUIDANCE

FR QQ	Number of respondents	Annual frequency	Estimated average hours per response *	Estimated annual burden hours
Board Burdens				
2019 Rule Revisions:				
Triennial Full Complex Foreign	2	1	13,135	26,270
Board Total				26,270
Final Guidance:				
Triennial Full Complex Foreign	2	1	9,916	19,832
Board Total				19,832
FDIC Burdens				
2019 Rule Revisions:				
Triennial Full Complex Foreign	2	1	13,135	26,270
FDIC Total				26,270
Final Guidance:				
Triennial Full Complex Foreign	1	1	9,916	9,916
Triennial Full Complex Foreign (new)	1	1	** 9,767	9,767
FDIC Total				19,683

* Hours are calculated as the hours to prepare and submit one full resolution plan and one targeted resolution plan, annualized over 6 years.

** Includes one-time start-up burdens for new triennial full complex foreign filers and excludes guidance-based burdens for the new triennial full complex filer's 2021 targeted resolution plan, as the filer is not expected to consider the guidance for that plan.

V. Final Guidance

Guidance for Resolution Plan Submissions of Certain Foreign-Based Covered Companies

I. Introduction
II. Capital
III. Liquidity
IV. Governance Mechanisms
  a. Playbooks
V. Operational
  a. Payment, Clearing and Settlement Activities
  b. Managing, Identifying, and Valuing Collateral
  c. Shared and Outsourced Services
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IX. Format and Structure of Plans
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Appendix: Frequently Asked Questions

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 Federal Reserve or 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 foreign banking organizations (FBOs) that are required to submit Plans regarding development of their respective U.S. resolution strategies (Specified FBOs or firms). Specifically, the guidance applies to any FBO that is subject to Category II standards according to its combined U.S. operations in accordance with the Board's tailoring rule[3] and that is required to form an intermediate holding company.[4]

When an FBO first becomes a Specified FBO,[5] 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 FBO. If a Specified FBO ceases to be subject to Category II standards or to the Board's requirement to form an intermediate holding company, it will no longer be a Specified FBO, and this document will no longer apply to that firm.

The document is intended to assist these firms in further developing their U.S. resolution strategies. The document does not have the force and effect of law. Rather, it describes the Agencies' expectations and priorities regarding these 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 U.S. resolution strategy.[6]

The Agencies are providing guidance to the Specified FBOs to assist their further development of a resolution plan for their U.S. operations for their 2021 and subsequent resolution plan submissions. This guidance for Specified FBOs builds upon the guidance issued in December 2018 for certain U.S.-based covered companies, taking into account the circumstances under which a U.S. resolution plan is most likely to be relevant for an FBO. The U.S. resolution plan for a Specified FBO would address a scenario where the U.S. operations experience material financial distress and the foreign parent is unable or unwilling to provide sufficient financial support for the continuation of U.S. operations, and at least the top tier U.S. Intermediate Holding Company (U.S. IHC) files for bankruptcy under Title 11, United States Code. Under such a scenario, the Plan should provide for the orderly resolution of the Specified FBO's U.S. material entities[7] and operations.

In general, this document is organized around a number of key vulnerabilities in resolution (*e.g.,* capital; liquidity; governance mechanisms; operational; legal entity rationalization; and derivatives and trading activities) that apply across resolution plans. Additional vulnerabilities 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—*e.g.,* by developing sensitivity analysis for certain underlying assumptions, enhancing capabilities, providing detailed analysis, or increasing optionality development, as indicated below.

Under the Rule, the Agencies will review the Plan to determine if it satisfactorily addresses key potential vulnerabilities, including those specified below. If the Agencies jointly decide that these matters are not satisfactorily addressed in 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.

II. Capital

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

To the extent required by the firm's U.S. resolution strategy, U.S. non-branch material entities need to be recapitalized to a level that allows for an orderly resolution. The firm should have a methodology for periodically estimating the amount of capital that may be needed to support each U.S. IHC subsidiary after the U.S. IHC bankruptcy filing (Resolution Capital Execution Need or RCEN). The firm's positioning of IHC total loss absorbing capacity (TLAC)[8] should be able to support the RCEN estimates.

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 for its U.S. operations. The methodology is not required to produce aggregate losses that are greater than the amount of IHC TLAC that would be required for the firm under the Board's final rule.[10] The RCEN methodology should be calibrated such that recapitalized U.S. IHC subsidiaries have sufficient capital to maintain market confidence as required under the U.S 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. U.S. IHC subsidiaries that are not subject to capital requirements may be considered

[1] 76 FR 67323 (November 1, 2011), codified at 12 CFR parts 243 and 381.

[2] Resolution Plans Required, 84 FR 59194 (November 1, 2019). The amendments became effective December 31, 2019. ''Rule'' means the joint rule as amended in 2019. Capitalized terms not defined herein have the meanings set forth in the Rule.

[3] Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, and Foreign Banking Organizations, 84 FR 59032 (Nov. 1, 2019).

[4] *See* 12 CFR part 252.

[5] *See* 12 CFR 252.5(c).

[6] This guidance consolidates the *Guidance for 2018 § 165(d) Annual Resolution Plan Submissions by Foreign-Based Covered Companies that Submitted Resolution Plans in July 2015;* the July 2017 *Resolution Plan Frequently Asked Questions;* feedback letters issued to Barclays PLC, Credit Suisse Group AG, Deutsche Bank AG, and UBS AG in December 2018 and in August 2014 and feedback letters issued to Mitsubishi UFJ Financial Group in July 2019, January 2018, and July 2015; the communications the Agencies made to certain foreign-based Covered Companies in February 2015; and the *Guidance for 2013 § 165(d) Annual Resolution Plan Submissions by Foreign-Based Covered Companies that Submitted Initial Resolution Plans in 2012* (taken together, prior guidance). To the extent not incorporated in or appended to this guidance, prior guidance is superseded.

[7] The terms ''material entities,'' ''identified critical operations,'' and ''core business lines'' have the same meaning as in the Rule. The term ''U.S. material entity'' means any subsidiary, branch, or agency that is a material entity and is domiciled in the United States. The term ''U.S. non-branch material entity'' means a material entity organized or incorporated in the U.S. including, in all cases, the U.S. IHC. The term ''U.S. IHC subsidiaries'' means all U.S. non-branch material entities other than the U.S. IHC.

[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 (January 24, 2017).

[9] The resolution period begins immediately after the U.S. IHC bankruptcy filing and extends through the completion of the U.S. resolution strategy.

[10] 82 FR 8266 (January 24, 2017).

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.

III. Liquidity

The firm should have the liquidity capabilities necessary to execute its U.S. resolution strategy. In particular, the firm should have a methodology for estimating the liquidity needed after the U.S. IHC's bankruptcy filing to stabilize any surviving U.S. IHC subsidiaries and to allow those entities to operate post-filing, in accordance with the U.S. strategy (Resolution Liquidity Execution Need or RLEN).

The firm's RLEN methodology should:

(A) Estimate the minimum operating liquidity (MOL) needed at each U.S. IHC subsidiary to ensure those entities could continue to operate, to the extent relied upon in the U.S. resolution strategy, after implementation of the U.S. resolution strategy and/or to support a wind-down strategy;

(B) Provide daily cash flow forecasts by U.S. IHC subsidiary 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 for the U.S. IHC subsidiaries; and

(D) Estimate the minimum amount of liquidity required at each U.S. IHC subsidiary to meet the MOL and peak needs noted above, which would inform the provision of financial resources from the foreign parent to the U.S. IHC, or if the foreign parent is unable or unwilling to provide such financial support, any preparatory resolution-related actions.

The MOL estimates should capture U.S. IHC subsidiaries' intraday liquidity requirements, operating expenses, working capital needs, and inter-affiliate funding frictions to ensure that U.S. IHC subsidiaries could operate without disruption during the resolution.

The peak funding needs estimates should be projected for each U.S. IHC subsidiary and cover the length of time the firm expects it would take to stabilize that U.S. IHC subsidiary. 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 U.S. IHC subsidiaries 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 high-quality liquid assets (HQLA) required to facilitate the execution of the firm's strategy for the U.S. IHC subsidiaries.

For non-surviving U.S. IHC subsidiaries, the firm should provide analysis and an explanation of how the material entity's resolution could be accomplished within a reasonable period of time and in a manner that substantially mitigates the risk of serious adverse effects on U.S. financial stability. For example, if a U.S. IHC subsidiary that is a broker-dealer is assumed to fail and enter resolution under the Securities Investor Protection Act, the firm should provide an analysis of the potential impacts on funding and asset markets and on prime brokerage clients, bearing in mind the objective of an orderly resolution.

IV. Governance Mechanisms

A firm should identify the governance mechanisms that would ensure that communication and coordination occurs between the boards of the U.S. IHC or a U.S. IHC subsidiary and the foreign parent to facilitate the provision of financial support, or if not forthcoming, any preparatory resolution-related actions to facilitate an orderly resolution.

Playbooks: Governance playbooks should detail the board and senior management actions of U.S. non-branch material entities that would be needed under the firm's U.S. resolution strategy. The governance playbooks should also include a discussion of (A) the firm's proposed U.S. communications strategy, both internal and external; [11] (B) the fiduciary responsibilities of the applicable board(s) of directors or other similar governing bodies 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; (D) any employee retention policy; and (E) any other limitations on the authority of the U.S. IHC and the U.S. IHC subsidiary boards and senior management to implement the U.S. resolution strategy. All responsible parties and timeframes for action should be identified. Governance playbooks should be updated periodically for each entity whose governing body would need to act under the firm's U.S. resolution strategy.

In order to meet liquidity needs at the U.S. non-branch material entities, the firm may either fully pre-position liquidity in the U.S. non-branch material entities or develop a mechanism for planned foreign parent support, of any amount not pre-positioned, for the successful execution of the U.S. strategy. Mechanisms to support readily available liquidity may include a term liquidity facility between the U.S. IHC and the foreign parent that can be drawn as needed and as informed by the firm's RLEN estimates and liquidity positioning. The plan should include analysis of how the U.S. IHC/foreign parent facility is funded or buffered for by the foreign parent. The sufficiency of the liquidity should be informed by the firm's RLEN estimate for the U.S. non-branch material entities.

V. Operational

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,[12] or both, of PCS services. A firm should demonstrate capabilities for continued access to PCS services essential to an orderly resolution under its U.S. resolution strategy through a framework to support such access by:

- Identifying clients,[13] financial market utilities (FMUs), and agent banks as key from the firm's perspective for the firm's U.S. material entities, identified critical operations, and core business lines, using both quantitative (volume and value) [14] and qualitative criteria;

[11] External communications include those with U.S. and foreign authorities and other external stakeholders.

[12] A firm is a user of PCS services if it accesses PCS services through an agent bank or it uses the services of an 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 in the United States (*e.g.,* payment services or custody services).

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

[14] 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 if credit or liquidity is offered, 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

• Mapping U.S. material entities, identified critical operations, core business lines, and key clients of the firm's U.S. operations 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 U.S. 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 in the United States, 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, or a firm's U.S. affiliate and branch provision of U.S. material entities and key clients of the firm's U.S. operations with access to an FMU or agent bank). The framework also should address the potential impact of any disruption to, curtailment of, or termination of such direct and indirect relationships on the firm's U.S. material entities, identified critical operations, and core business lines, as well as any corresponding impact on key clients of the firm's U.S. operations.

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 key clients of the firm's U.S. operations in maintaining continued access to PCS services in the period leading up to and including the firm's resolution under its U.S. resolution strategy. Each playbook should provide analysis of the financial and operational impact of 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 U.S. material entities, identified critical operations and core business lines, and key clients of the firm's U.S. operations, while the firm is in resolution under its U.S. resolution strategy. The firm is not expected to incorporate a scenario in which it loses key FMU or key agent bank access into its U.S. resolution strategy or its RLEN and RCEN estimates. The firm should continue to engage with key FMUs, key agent banks, and key clients of the firm's U.S. operations, 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:

• Descriptions of the firm's relationship as a user, including through indirect access, with the key FMU or key agent bank and the identification and mapping of PCS services to the firm's U.S. 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 under its U.S. resolution strategy,[15] the operational and financial impact of such actions on the firm's U.S. material entities, identified critical operations, and core business lines, 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 U.S. material entity.

○ PCS Liquidity Sources: These may include the amounts of intraday extensions of credit, liquidity buffer, inflows from FMU participants, and prefunded amounts of key clients of the firm's U.S. operations 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 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 margin and prefunding by the firm and key clients of the firm's U.S. operations, 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.[16] Individual key FMU and key agent bank playbooks should include:

• Identification and mapping of PCS services to the firm's U.S. 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 of the firm's U.S. operations to whom the firm's U.S. material entities, identified critical operations, and core business lines provide 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 minimize disruption to the provision of PCS services to key clients of the firm's U.S. operations, including the viability of transferring activity and any related assets of key clients of the firm's U.S. operations, as well as any alternative arrangements that would allow the key clients of the firm's U.S. operations 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 of the firm's U.S. operations, 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 of the firm's U.S. operations 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 funds for such obligations in all relevant currencies of key clients of the firm's U.S. operations; (ii) delaying or restricting PCS activity

cash and securities settled, and extensions of intraday credit.

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

[16] Where a firm is a provider of PCS services through the firm's own operations in the United States, the firm is expected to produce a playbook for the U.S. 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 of the firm's U.S. operations to maintain continued access to PCS services.

of key clients of the firm's U.S. operations; and (iii) restricting, imposing conditions upon (*e.g.,* requiring collateral), or eliminating the provision of intraday credit or liquidity to key clients of the firm's U.S. operations; and

• Descriptions of how the firm will communicate to key clients of the firm's U.S. operations 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 of the firm's U.S. operations (*e.g.,* due to BAU usage of that access and/or related intraday credit or liquidity of the key client of the firm's U.S. operations), and the expected timing and form of such communication.

Capabilities. Firms are expected to have and describe capabilities to understand, for each U.S. material entity, its obligations and exposures associated with PCS activities, including contractual obligations and commitments. For example, firms should be able to:

• Track the following items by U.S. material entity and, with respect to customers, counterparties, and agents and service providers, by location/jurisdiction:

○ PCS activities, with each activity mapped to the relevant material entities and core business lines; [17]

○ 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; [18]

○ Exposures to and volumes transacted with FMUs, nostro agents, and custodians; and [19]

○ Services provided and service level agreements, as applicable, for other current agents and service providers (internal and external).[20]

• 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 U.S. operations and customers and counterparties of those U.S. operations; [21]

• Develop contingency arrangements in the event of such adverse actions; [22] and

• Quantify the liquidity needs and operational capacity required to meet all PCS 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 the U.S. non-branch material entities receive from and post 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 firm 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.[23]

In addition, as of the conclusion of any business day, the firm should be able to:

• Identify the legal entity and geographic jurisdiction where counterparty collateral is held;

• Document all netting and re-hypothecation arrangements with affiliates and external parties, by legal entity; and

• Track and manage collateral requirements associated with counterparty credit risk exposures between affiliates, including foreign branches.

At least on a quarterly basis, the firm should be able to:

• Review the material terms and provisions of International Swaps and Derivatives Association Master Agreements and the Credit Support Annexes, such as termination events, for triggers that may be breached as a result of changes in market conditions;

• Identify legal and operational differences and potential challenges in managing collateral within specific jurisdictions, agreement types, counterparty types, collateral forms, or other distinguishing characteristics; and

• Forecast changes in collateral requirements and cash and non-cash collateral flows under a variety of stress scenarios.

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 [24] 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. If a material entity provides shared services that support identified critical operations,[25] and the continuity of these shared services relies on the assumed cooperation, forbearance, or other non-intervention of regulator(s) in any jurisdiction, the Plan should discuss the extent to which the resolution or insolvency of any other group entities operating in that same jurisdiction may adversely affect the assumed cooperation, forbearance, or other regulatory non-intervention. If a material entity providing shared services that support identified critical operations is located outside of the United States, the Plan should discuss how the firm will ensure the operational continuity of such shared services through resolution.

The firm should (A) maintain an identification of all shared services that support identified critical operations; (B) maintain a mapping of how/where these services support U.S. 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 critical shared services.

SLAs should fully describe the services provided, reflect pricing considerations on an arm's-length basis where appropriate, and incorporate

[17] 12 CFR 243.5(e)(12); 12 CFR 381.5(e)(12).

[18] *Id.*

[19] 12 CFR 252.156(g).

[20] 12 CFR 243.5(f)(l)(i); 12 CFR 381.5(f)(1)(i).

[21] 12 CFR 252.156(e).

[22] *Id.*

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

[24] "Shared services that support identified critical operations" or "critical shared services" are those that support identified critical operations conducted in whole or in material part in the United States.

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

appropriate terms and conditions to (A) prevent automatic termination upon certain resolution-related events and (B) achieve continued provision of such services during resolution.[26] The firm should also store SLAs in a central repository or repositories located in or immediately accessible from the U.S. at all times, including in resolution (and subject to enforceable access arrangements) in a searchable format. 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 U.S. resolution strategy) in such entities sufficient to cover contract costs, consistent with the U.S. resolution strategy. The firm should demonstrate that such working capital is held in a manner that ensures its availability for its intended purpose.

The firm should identify all service providers and critical outsourced services that support identified critical operations 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. The Plan must also discuss arrangements to ensure the operational continuity of shared services that support identified critical operations in resolution in the event of the disruption of those shared services.

A firm is expected to have robust arrangements in place for the continued provision of shared or outsourced services needed to maintain identified critical operations. For example, 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.[27] Examples may include personnel, facilities, systems, data warehouses, and intellectual property; and
- Maintain current cost estimates for implementing such strategies and contingency arrangements.

VI. Branches

Continuity of Operations: If the Plan assumes that federal or state regulators, as applicable, do not take possession of any U.S. branch that is a material entity, the Plan must support that assumption.

For any U.S. branch that is significant to the activities of an identified critical operation, the Plan should describe and demonstrate how the branch would continue to facilitate FMU access for identified critical operations and meet funding needs. Such a U.S. branch would also be required to describe how it would meet supervisory requirements imposed by state regulators or the appropriate Federal banking agency, as appropriate, including maintaining a net due to position and complying with heightened asset maintenance requirements.[28] In addition, the plan should describe how such a U.S. branch's third-party creditors would be protected such that the state regulator or appropriate Federal banking agency would allow the branch to continue operations.

Impact of the Cessation of Operations: The firm must provide an analysis of the impact of the cessation of operations of any U.S. branch that is significant to the activities of an identified critical operation on the firm's FMU access and identified critical operations, even if such scenario is not contemplated as part of the U.S. resolution strategy. The analysis should include a description of how identified critical operations could be transferred to a U.S. IHC subsidiary or sold in resolution, the obstacles presented by the cessation of shared services that support identified critical operations provided by any U.S. branch that is a material entity, and mitigants that could address such obstacles in a timely manner.

VII. Legal Entity Rationalization

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

Specifically, application of the criteria should:

(A) Ensure that the allocation of activities across the firm's U.S. branches and U.S. non-branch material entities support the firm's U.S. resolution strategy and minimize risk to U.S. financial stability in the event of resolution;

(B) Facilitate the recapitalization and liquidity support of U.S. IHC subsidiaries, as required by the firm's U.S. resolution strategy. Such criteria should include clean lines of ownership and clean funding pathways between the foreign parent, the U.S. IHC, and U.S. IHC subsidiaries;

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

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

(E) Minimize complexity that could impede an orderly resolution in the United States and minimize redundant and dormant entities.

These criteria should be built into the firm's ongoing process for creating, maintaining, and optimizing the firm's U.S. structure and operations on a continuous basis.

VIII. Derivatives and Trading Activities

A Specified FBO's plan should address the following areas.

Booking Practices

A firm should have booking practices commensurate with the size, scope, and complexity of its U.S. derivatives and trading activities.[29] The following

[26] The firm should consider whether these SLAs should be governed by the laws of a U.S. state and expressly subject to the jurisdiction of a court in the U.S.

[27] 12 CFR 243.5(g); 12 CFR 381.5(g).

[28] Firms should take into consideration historical practice, by applicable regulators, regarding asset maintenance requirements imposed during stress.

[29] "U.S. derivatives and trading activities'', means all derivatives and linked non-derivatives trading

Continued

booking practices-related capabilities should be addressed in a firm's resolution plan:

Derivatives and trading booking framework. A firm should have a comprehensive booking model framework that articulates the principles, rationales, and approach to implementing its booking practices for all of its U.S. derivatives and trading activities. The framework and its underlying components should be documented and adequately supported by internal controls (*e.g.,* procedures, systems, processes). Taken together, the booking framework and its components should provide transparency with respect to (i) what is being booked (*e.g.,* product, counterparty), (ii) where it is being originated and booked (*e.g.,* legal entity), (iii) by whom it is booked (*e.g.,* business or trading desk), (iv) why it is booked that way (*e.g.,* drivers or rationales for that arrangement), and (v) what controls the firm has in place to monitor and manage those practices (*e.g.,* governance or information systems).[30]

The firm's resolution plan should include detailed descriptions of the framework and each of its material components. In particular, a firm's resolution plan should include descriptions of documented booking models covering its U.S. derivatives and trading activities.[31] These descriptions should provide clarity with respect to the underlying booking flows (*e.g.,* the mapping of trade flows based on multiple trade characteristics as decision points that determine on which entity a trade is directly booked and the applicability of any risk transfer arrangements). Furthermore, a firm's resolution plan should describe its end-to-end booking and reporting processes, including a description of the current scope of automation (*e.g.,* automated trade flows, detective monitoring) of the systems controls applied to the firm's documented booking models. The plan should also discuss why the firm believes its current (or planned) scope of automation is sufficient for managing its U.S. derivatives and trading activities during the execution of its U.S. resolution strategy.[32]

Derivatives and trading entity analysis and reporting. A firm should have the ability to identify, assess, and report on each U.S. entity that originates or otherwise conducts (in whole or in material part) any significant aspect of the firm's U.S. derivatives and trading activities (a derivatives or trading entity). First, the firm's resolution plan should describe its method (which may include both qualitative and quantitative criteria) for evaluating the significance of each derivatives or trading entity both with respect to the firm's current U.S. derivatives and trading activities and its U.S. resolution strategy.[33] Second, a firm's resolution plan should demonstrate (including through use of illustrative samples) the firm's ability to readily generate current derivatives or trading entity profiles that (i) cover all derivatives or trading entities, (ii) are reportable in a consistent manner, and (iii) include information regarding current legal ownership structure, business activities and volume, and risk profile of the entity (including relevant risk transfer arrangements).

U.S. Activities Monitoring

A firm should be able to assess how the management of U.S. derivatives and trading activities could be affected in the period leading up to and during the execution of its U.S. resolution strategy, including disruptions that could affect materially the funding or operations of the U.S. entities that conduct the U.S. derivatives and trading activities or their clients and counterparties. Therefore, a firm should have capabilities to provide timely transparency into the management of its U.S. derivatives and trading activities, in the period leading up to and during the execution of its U.S. resolution strategy by maintaining a monitoring framework for U.S. derivatives and trading activities, which consists of at least the following two components:

1. A method for identifying U.S. derivatives and trading activities, and measuring, monitoring, and reporting on those activities on a business line and legal entity basis; and

2. A method for identifying, assessing, and reporting the potential impact on (i) clients and counterparties of U.S. entities that conduct the U.S. derivatives and trading activities and (ii) any related risk transfer arrangements[34] among and between U.S. entities and their non-U.S. affiliates.

Prime Brokerage Customer Account Transfers

A firm should have the operational capacity to facilitate the orderly transfer of U.S. prime brokerage accounts,[35] to peer prime brokers in periods of material financial distress and during the execution of its U.S. resolution strategy. The firm's plan should include an assessment of how it would transfer such accounts. This assessment should be informed by clients' relationships with other prime brokers, the use of automated and manual transaction processes, clients' overall long and short positions as facilitated by the firm, and the liquidity of clients' portfolios. The assessment should also analyze the risks and loss mitigants of customer-to-customer internalization (*e.g.,* the inability to fund customer longs with customer shorts) and operational challenges (including insufficient staffing) that the firm may experience in effecting the scale and speed of prime brokerage account transfers envisioned under the firm's U.S. resolution strategy.

In addition, a firm should describe and demonstrate its ability to segment and analyze the quality and composition of U.S. prime brokerage account balances based on a set of well-defined and consistently applied segmentation criteria (*e.g.,* size, single-prime, platform, use of leverage, non-rehypothecatable securities, liquidity of underlying assets). The capabilities should cover U.S. prime brokerage account balances and the resulting segments should represent a range in

activities conducted on behalf of the firm, its clients, or its counterparties that are booked into the firm's U.S. IHC subsidiaries and material entity branches (U.S. entities). The firm may define linked non-derivatives trading activities based on its overall business and resolution strategy.

30 The description of controls should include any components of any market, credit, or liquidity risk management framework that is material to the management of the firm's U.S. derivatives and trading activities.

31 The booking models should represent the vast majority (*e.g.,* 95 percent) of a firm's U.S. derivatives and trading activities, measured by, for example, trade notional and gross market value (for derivatives) and client positions and balances (for prime brokerage client accounts).

32 Effective preventative (up-front) and detective (post-booking) controls embedded in a firm's booking processes can help avoid and/or timely remediate trades that do not align with a documented booking model or related risk limit. Firms typically use a combination of manual and automated control functions. Although automation may not be best suited for all control functions, as compared to manual methods, it can improve consistency and traceability with respect to booking practices. However, non-automated methods also can be effective when supported by other internal controls (*e.g.,* robust detective monitoring, escalation protocols).

33 The firm should leverage any existing methods and criteria it uses for other entity assessments (*e.g.,* legal entity rationalization or the prepositioning of internal loss-absorbing resources). The firm's method for determining the significance of derivatives or trading entities may diverge from the parameters for material entity designation under the Rule (*i.e.,* entities significant to the activities of an identified critical operation or core business line); however, any differences should be adequately supported and explained.

34 For example, risk transfer arrangements might include transfer pricing, profit sharing, loss limiting, or intragroup hedging arrangements.

35 "U.S. prime brokerage account" or "U.S. prime brokerage account balances" should include the account positions and balances of a client of the firm's U.S. prime brokerage business who signs a prime brokerage agreement with a U.S. material entity.

potential transfer speed (*e.g.,* from fastest to longest to transfer, from most liquid to least liquid). The selected segmentation criteria should reflect characteristics [36] that the firm believes could affect the speed at which the U.S. prime brokerage account would be transferred to an alternate prime broker.

Portfolio Segmentation

A firm should have the capabilities to produce analysis that reflects derivatives portfolio [37] segmentation and differentiation of assumptions, taking into account trade-level characteristics. More specifically, a firm should have systems capabilities that would allow it to produce a spectrum of derivatives portfolio segmentation analysis using multiple segmentation dimensions for each U.S. entity with a derivatives portfolio—namely, (1) trading desk or product, (2) cleared vs. clearable vs. non-clearable trades, (3) counterparty type, (4) currency, (5) maturity, (6) level of collateralization, and (7) netting set.[38] A firm should also have the capabilities to segment and analyze the full contractual maturity (run-off) profile of the derivatives portfolios in its U.S. entities. The firm's resolution plan should describe and demonstrate the firm's ability to segment and analyze the derivatives portfolios booked into its U.S. entities using the relevant segmentation dimensions and to report the results of such segmentation and analysis.

Derivatives Stabilization and De-Risking Strategy

To the extent the U.S. resolution strategy assumes the continuation of a U.S. IHC subsidiary with a derivatives portfolio after the entry of the U.S. IHC into a U.S. bankruptcy proceeding (surviving derivatives subsidiary), the firm's plan should provide a detailed analysis of the strategy to stabilize and de-risk any derivatives portfolio of the surviving derivatives subsidiary (U.S. derivatives strategy) that has been incorporated into its U.S. resolution strategy.[39] In developing its U.S. derivatives strategy, a firm should apply the following assumption constraints:

- *OTC derivatives market access:* At or before the start of the resolution period, each surviving derivatives subsidiary should be assumed to lack an investment grade credit rating (*e.g.,* unrated or downgraded below investment grade). Each surviving derivatives subsidiary also should be assumed to have failed to establish or reestablish investment grade status for the duration of the resolution period, unless the plan provides well-supported analysis to the contrary. As the subsidiary is not investment grade, it further should be assumed that each surviving derivatives subsidiary has no access to bilateral OTC derivatives markets and must use exchange-traded or centrally cleared instruments for any new hedging needs that arise during the resolution period. Nevertheless, a firm may assume the ability to engage in certain risk-reducing derivatives trades with bilateral OTC derivatives counterparties during the resolution period to facilitate novations with third parties and to close out inter-affiliate trades.[40]
- *Early exits (break clauses):* A firm should assume that counterparties (both external and affiliates) will exercise any contractual termination or other right, including any rights stayed by contract (including amendments) or in compliance with the rules establishing restrictions on qualified financial contracts of the Board, the FDIC, or the Office of the Comptroller of the Currency [41] or any other regulatory requirements, (i) that is available to the counterparty at or following the start of the resolution period; and (ii) if exercising such right would economically benefit the counterparty (counterparty-initiated termination).
- *Time horizon:* The duration of the resolution period should be between 12 and 24 months. The resolution period begins immediately after the U.S. IHC bankruptcy filing and extends through the completion of the U.S. resolution strategy.[42]

A firm's analysis of its U.S. derivatives strategy should take into account (i) the starting profile of any derivatives portfolio of each surviving derivatives subsidiary (*e.g.,* nature, concentration, maturity, clearability, liquidity of positions); (ii) the profile and function of any surviving derivatives subsidiary during the resolution period; (iii) the means, challenges, and capacity of the surviving derivatives subsidiary to manage and de-risk its derivatives portfolios (*e.g.,* method for timely segmenting, packaging, and selling the derivatives positions; challenges with novating less liquid positions; re-hedging strategy); (iv) the financial and operational resources required to effect the derivatives strategy; and (v) any potential residual portfolio (further discussed below). In addition, the firm's resolution plan should address the following areas in the analysis of its derivatives strategy:

Forecasts of resource needs. The forecasts of capital and liquidity resource needs of U.S. IHC subsidiaries required to support adequately the firm's U.S. derivatives strategy should be incorporated into the firm's RCEN and RLEN estimates for its overall U.S. resolution strategy. These include, for example, the costs and liquidity flows resulting from (i) the close-out of OTC derivatives, (ii) the hedging of derivatives portfolios, (iii) the quantified losses that could be incurred due to basis and other risks that would result from hedging with only exchange-traded and centrally cleared instruments in a severely adverse stress environment, and (iv) operational costs.[43]

Sensitivity analysis. A firm should have a method to apply sensitivity

[36] For example, relevant characteristics might include product, size, clearability, currency, maturity, level of collateralization, and other risk characteristics.

[37] A firm's derivatives portfolios include its derivatives positions and linked non-derivatives trading positions.

[38] The enumerated segmentation dimensions are not intended as an exhaustive list of relevant dimensions. With respect to any product or asset class, a firm may have reasons for not capturing data on (or not using) one or more of the enumerated segmentation dimensions. In that case, however, the firm should explain those reasons.

[39] Subject to the relevant constraints, a firm's U.S. derivatives strategy may take the form of a going-concern strategy, an accelerated de-risking strategy (*e.g.,* active wind-down) or an alternative, third strategy so long as the firm's resolution plan adequately supports the execution of the chosen strategy. For example, a firm may choose a going-concern scenario (*e.g.,* surviving derivatives subsidiary reestablishes investment grade status and does not enter any wind-down) as its derivatives strategy. Likewise, a firm may choose to adopt a combination of going-concern and accelerated de-risking scenarios as its U.S. derivatives strategy. For example, the U.S. derivatives strategy could be a stabilization scenario for the U.S. bank entity and an accelerated de-risking scenario for U.S. broker-dealer entities.

[40] A firm may engage in bilateral OTC derivatives trades with, for example, (i) external counterparties, to effect the novation of the firm's side of a derivatives contract to a new, acquiring counterparty; and (ii) inter-affiliate counterparties, where the trades with inter-affiliate counterparties do not materially increase either the credit exposure of any participating counterparty or the market risk of any such counterparty on a standalone basis, after taking into account any hedging with exchange-traded and centrally-cleared instruments. The firm should provide analysis to support the risk of the trade on the basis of information that would be known to the firm at the time of the transaction.

[41] *See* 12 CFR part 47 (OCC); part 252, subpart I (Board); part 382 (FDIC).

[42] The firm may consider a resolution period of less than 12 months as long as the length of the resolution period is adequately supported by the firm's analysis of the size, composition, complexity, and maturity profile of the derivatives portfolios in its U.S. IHC subsidiaries.

[43] A firm may choose not to isolate and separately model the operational costs solely related to executing its derivatives strategy. However, the firm should provide transparency around operational cost estimation at a more granular level than material entity (*e.g.,* business line level within a material entity, subject to wind-down).

analyses to the key drivers of the derivatives-related costs and liquidity flows under its U.S. resolution strategy. A firm's resolution plan should describe its method for (i) evaluating the materiality of assumptions and (ii) identifying those assumptions (or combinations of assumptions) that constitute the key drivers for its forecasts of derivatives-related operational and financial resource needs under the U.S. resolution strategy. In addition, using its U.S. resolution strategy as a baseline, the firm's resolution plan should describe and demonstrate its approach to testing the sensitivities of the identified key drivers and the potential impact on its forecasts of resource needs.[44]

Potential residual derivatives portfolio. A firm's resolution plan should include a method for estimating the composition of any potential residual derivatives portfolio transactions booked in a U.S. IHC subsidiary remaining at the end of the resolution period under its U.S. resolution strategy. The firm's plan also should provide detailed descriptions of the trade characteristics used to identify such potential residual portfolio and of the resulting trades (or categories of trades).[45] A firm should assess the risk profile of such potential residual portfolio (including its anticipated size, composition, complexity, and counterparties), and the potential counterparty and market impacts of non-performance by the firm on the stability of U.S. financial markets (*e.g.,* on funding markets, on underlying asset markets, on clients and counterparties).

Non-surviving entity analysis. To the extent the U.S. resolution strategy assumes a U.S. IHC subsidiary with a derivatives portfolio enters its own resolution proceeding after the entry of the U.S. IHC into a U.S. bankruptcy proceeding (a non-surviving derivatives subsidiary), the firm should provide a detailed analysis of how the non-surviving derivatives subsidiary's resolution can be accomplished within a reasonable period of time and in a manner that substantially mitigates the risk of serious adverse effects on U.S. financial stability and on the orderly execution of the firm's U.S. resolution strategy. In particular, the firm should provide an analysis of the potential impacts on funding markets, on underlying asset markets, on clients and counterparties (including affiliates), and on the firm's U.S. resolution strategy.

IX. Format and Structure of Plans

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 U.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 U.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 U.S. strategy for orderly resolution in bankruptcy or other applicable insolvency regimes (Narrative). The Narrative also should include a high-level discussion of how the firm is addressing key vulnerabilities jointly identified by the Agencies. This is not an exhaustive list and does not preclude identification of further vulnerabilities or impediments.

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.

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

7. 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.

8. The firm may assume that its depository institutions will have access to the Discount 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 projected statements of sources and uses of funds for the interim periods. The pro forma financial statements and accompanying notes in the Plan must clearly evidence the failure trigger event; the Plan's

[44] For example, key drivers of derivatives-related costs and liquidity flows might include the timing of derivatives unwind, cost of capital-related assumptions (*e.g.,* target return on equity, discount rate, weighted average life, capital constraints, tax rate), operational cost reduction rate, and operational capacity for novations. Other examples of key drivers likely also include central counterparty margin flow assumptions and risk-weighted asset forecast assumptions.

[45] If, under the firm's U.S. resolution strategy, any derivatives portfolios are transferred during the resolution period by way of a line of business sale (or similar transaction), then those portfolios nonetheless should be included within the firm's potential residual portfolio analysis.

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 subsidiaries, branches and agencies (collectively, Offices), which are significant to the activities 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:

a. Any Office, wherever located, that is significant to the activities of an identified critical operation.

b. Any Office, wherever located, 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.

c. Any Office, wherever located, that would 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.

d. Any Office, wherever located, that is 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.

e. Any Office, wherever located, engaged in asset custody or asset management that are significant to the activities of an identified critical operation.

f. Any Office, wherever located, 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 U.S. resolution strategy, and explain how the Plan addresses the actions and forbearances. The Plan should describe the consequences for the firm's U.S. resolution strategy if specific actions in each jurisdiction were not taken, delayed, or forgone, as relevant.

X. Public Section

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). There should also be a high-level discussion of the liquidity resources and loss-absorbing capacity of the U.S. IHC.

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 resolution 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.

Appendix: Frequently Asked Questions

In March 2017, the Agencies issued guidance for use in developing the 2018 resolution plan submissions by certain foreign banking organizations.

In response to frequently asked questions regarding that guidance from the recipients of that guidance, Board and FDIC staff jointly developed answers and provided those answers to the guidance recipients in 2017 so that they could take this information into account in developing their next resolution plan submissions.[46]

[46] The FAQs represent the views of staff of the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation and do not bind the Board or the FDIC.

The questions in this Appendix:

• Comprise common questions asked by different covered companies. Not every question is applicable to every firm; not every aspect of the guidance applies to each firm's preferred strategy/structure; and

• Reflect updated references to correspond to this final guidance for the Specified FBOs (Final Guidance).

As indicated below, those questions and answers that are deemed to be no longer meaningful or relevant have not been consolidated in this Appendix and are superseded.

Capital

CAP 1. Not consolidated

CAP 2. Definition of ''Well-Capitalized'' Status

Q. How should firms apply the term ''well-capitalized''?

A. U.S. non-branch material entities must comply with the capital requirements and expectations of their primary regulator. U.S. non-branch material entities should be recapitalized to meet jurisdictional requirements and to maintain market confidence as required under the U.S. resolution strategy.

CAP 3. RCEN Relationship to DFAST Severely Adverse Scenario

Q. How should the firm's RCEN and RLEN estimates relate to the DFAST Severely Adverse scenario? Can those estimates be recalibrated in actual stress conditions?

A. For resolution plan submission purposes, the estimation of RLEN and RCEN should assume macroeconomic conditions consistent with the DFAST Severely Adverse scenario. However, the RLEN and RCEN methodologies should have the flexibility to incorporate macroeconomic conditions that may deviate from the DFAST Severely Adverse scenario in order to facilitate execution of the U.S. resolution strategy.

CAP 4. Not Consolidated

Liquidity

LIQ 1. Inter-Company ''Frictions''

Q. Can the Agencies clarify what kinds of frictions might occur between affiliates beyond regulatory ring-fencing?

A. Frictions are *any* impediments to the free flow of funds, collateral and other transactions between material entities. Examples include regulatory, legal, financial (*i.e.,* tax consequences), market, or operational constraints or requirements.

LIQ 2. Distinction between Liquidity Forecasting Periods

Q1. How long is the stabilization period?

A1. The stabilization period begins immediately after the U.S. IHC bankruptcy filing and extends until each material entity reestablishes market confidence. The stabilization period may not be less than 30 days. The reestablishment of market confidence may be reflected by the maintaining, reestablishing, or establishing of investment grade ratings or the equivalent financial condition for each entity. The stabilization period may vary by material entity, given differences in regulatory, counterparty, and other stakeholder interests in each entity.

Q2. Not Consolidated.

Q3. What is the resolution period?

A3. The resolution period begins immediately after the U.S. IHC's bankruptcy filing and extends through the completion of the U.S. strategy. After the stabilization period (see ''LIQ 2. Distinction between Liquidity Forecasting Periods,'' Question 1, regarding ''stabilization period''), financial statements and projections may be provided at quarterly intervals through the remainder of the resolution period.

LIQ 3. Inter-Affiliate Transaction Assumptions

Q. Does inter-affiliate funding refer to all kinds of intercompany transactions, including both unsecured and secured?

A. Yes.

LIQ 4. RLEN and Minimum Operating Liquidity (MOL)

Q1. How should firms distinguish between the minimum operating liquidity (MOL) and peak funding needs during the RLEN period?

A1. The peak funding needs represent the peak cumulative net out-flows during the stabilization period. The components of peak funding needs, including the monetization of assets and other management actions, should be transparent in the RLEN projections. The peak funding needs should be supported by projections of daily sources and uses of cash for each U.S. IHC subsidiary, incorporating inter-affiliate and third-party exposures. In mathematical terms, RLEN = MOL + peak funding needs during the stabilization period. RLEN should also incorporate liquidity execution needs of the U.S. resolution strategy for derivatives (*see* Derivatives and Trading Activities section).

Q2. Should the MOL per entity make explicit the allocation for intraday liquidity requirements, inter-affiliate and other funding frictions, operating expenses, and working capital needs?

A2. Yes, the components of the MOL estimates for each surviving U.S. IHC subsidiary should be transparent and supported.

Q3. Can MOLs decrease as surviving U.S. IHC subsidiaries wind down?

A3. MOL estimates can decline as long as they are sufficiently supported by the firm's methodology and assumptions.

LIQ 5. Not Consolidated

LIQ 6. Inter-Affiliate Transactions with Optionality

Q. How should firms treat an inter-affiliate transaction with an embedded option that may affect the contractual maturity date?

A. For the purpose of calculating a firm's net liquidity position at a material entity, the RLEN model should assume that these transactions mature at the earliest possible exercise date; this adjusted maturity should be applied symmetrically to both material entities involved in the transaction.

LIQ 7. Stabilization and Regulatory Liquidity Requirements

Q. As it relates to the RLEN model and actions necessary to re-establish market confidence, what assumptions should firms make regarding compliance with regulatory liquidity requirements?

A. Firms should consider the applicable regulatory expectations for each U.S. IHC subsidiary to achieve the stabilization needed to execute the U.S. resolution strategy. Firms' assumptions in the RLEN model regarding the actions necessary to reestablish market confidence during the stabilization period may vary by U.S. IHC subsidiary, for example, based on differences in regulatory, counterparty, other stakeholder interests, and based on the U.S. resolution strategy for each U.S. IHC subsidiary. See also ''LIQ 2. Distinction between Liquidity Forecasting Periods.''

LIQ 8. HQLA and Assets Not Eligible as HQLA in the RLEN Model

Q. The Final Guidance states the RLEN estimate should be based on the minimum amount of HQLA required to facilitate the execution of the firm's U.S. resolution strategy. How should firms incorporate any expected liquidity value of assets that are not eligible as HQLA (non-HQLA) into the RLEN model?

A. For a firm's RLEN model, firms may incorporate conservative estimates of potential liquidity that may be generated through the monetization of non-HQLA. The estimated liquidity value of non-HQLA should be supported by thorough analysis of the potential market constraints and asset value haircuts that may be required. Assumptions for the monetization of non-HQLA should be consistent with the U.S. resolution strategy for each U.S. IHC subsidiary.

LIQ 9. Components of Minimum Operating Liquidity

Q. Do the agencies have particular definitions of the ''intraday liquidity requirements,'' ''operating expenses,'' and ''working capital needs'' components of minimum operating liquidity (MOL) estimates?

A. No. A firm may use its internal definitions of the components of MOL estimates. The components of MOL estimates should be well-supported by a firm's internal methodologies and calibrated to the specifics of each U.S. IHC subsidiary.

LIQ 10. RLEN Model and Net Revenue Recognition

Q. Can firms assume in the RLEN model that cash-based net revenue generated by U.S. IHC subsidiaries after the U.S. IHC's bankruptcy filing is available to offset estimated liquidity needs?

A. Yes. Firms may incorporate cash revenue generated by U.S. IHC subsidiaries in the RLEN model. Cash revenue projections should be conservatively estimated and consistent with the operating environment and the U.S. strategy for each U.S. IHC subsidiary.

LIQ 11. RLEN Model and Inter-Affiliate Frictions

Q. Can a firm modify its assumptions regarding one or more inter-affiliate frictions during the stabilization or post-stabilization period in the RLEN model?

A. Once a U.S. IHC subsidiary has achieved market confidence necessary for stabilization consistent with the U.S. resolution strategy, a firm may modify one or more inter-affiliate frictions, provided the firm provides sufficient analysis to support this assumption.

LIQ 12. RLEN Relationship to DFAST Severely Adverse scenario

(See ''CAP 3. RCEN Relationship to DFAST Severely Adverse Scenario'' in the Capital section.)

LIQ 13. Liquidity Positioning and Foreign Parent Support

Q1. May firms consider available liquidity at the foreign parent for meeting RLEN estimates for U.S. non-branch material entities?

A1. To meet the liquidity needs informed by the RLEN methodology, firms may either fully pre-position liquidity in the U.S. non-branch material entities or develop a mechanism for planned foreign parent support of any amount not pre-positioned for the successful execution of the U.S. strategy. Mechanisms to support readily available liquidity may include a term liquidity facility between the U.S. IHC and the foreign parent that can be drawn as needed. If a firm's plan relies on foreign parent support, the plan should include analysis of how the U.S. IHC/foreign parent facility is funded or buffered for by the foreign parent.

LIQ 14. Not consolidated

LIQ 15. Not consolidated

LIQ 16. Not consolidated

Operational: Shared Services

OPS SS 1. Not Consolidated

OPS SS 2. Working Capital

Q1. Must working capital be maintained for third party and internal shared service costs?

A1. Where a firm maintains shared service companies to provide services to affiliates, working capital should be maintained in those entities sufficient to permit those entities to continue to provide services for six months or through the period of stabilization as required in the firm's U.S. resolution strategy.

Costs related to third-party vendors and inter-affiliate services should be captured through the working capital element of the MOL estimate (RLEN).

Q2. When does the six month working capital requirement period begin?

A2. The measurement of the six month working capital expectation begins upon the bankruptcy filing of the U.S. IHC. The expectation for maintaining the working capital is effective upon the July 2018 submission.

OPS SS 3. Not Consolidated

OPS SS 4. Not Consolidated

Operations: Payments, Clearing and Settlement

To the extent relevant, the PCS FAQs have been consolidated into the updated section of the Final Guidance.

Legal Entity Rationalization

LER 1. Not consolidated

LER 2. Legal Entity Rationalization Criteria

Q. Is it acceptable to take into account business-related criteria, in addition to the resolution requirements, so that the LER Criteria can be used for both resolution planning and business operations purposes?

A. Yes, LER criteria may incorporate both business and resolution considerations. In determining the best alignment of legal entities and business lines to improve the firm's resolvability under different market conditions, business considerations should not be prioritized over resolution needs.

LER 3. Creation of Additional Legal Entities

Q. Is the addition of legal entities acceptable, so long as it is consistent with the LER criteria?

A. Yes.

LER 4. Clean Funding Pathways

Q1. Can you provide additional context around what is meant by clean lines of ownership and clean funding pathways in the legal entity rationalization criteria? Additionally, what types of funding are covered by the requirements?

A1. The funding pathways between the foreign parent, U.S. IHC, and U.S. IHC subsidiaries should minimize uncertainty in the provision of funds and facilitate recapitalization. Also, the complexity of ownership should not impede the flow of funding to a U.S. non-branch material entity under the firm's U.S. resolution strategy. Potential sources of additional complexity could include, for example, multiple intermediate holding companies, tenor mismatches, or complicated ownership structures (including those involving multiple jurisdictions or fractional ownerships). Ownership should be as clean and simple as practicable, supporting the U.S. strategy and actionable sales, transfers, or wind-downs under varying market conditions. The clean funding pathways expectation applies to all funding provided to a U.S. non-branch material entity regardless of type and should not be viewed solely to apply to internal TLAC.

Q2. The Final Guidance regarding legal entity rationalization criteria discusses "clean lines of ownership" and "clean funding pathways." Does this statement mean that firms' legal entity rationalization criteria should require funding pathways and recapitalization to always follow lines of ownership?

A2. No. However, the firm should identify and address or mitigate any legal, regulatory, financial, operational, and other factors that could complicate the recapitalization and/or liquidity support of U.S. non-branch material entities.

LER 5. Not consolidated

LER 6. Not consolidated

LER 7. Application of Legal Entity Rationalization Criteria

Q1. Which legal entities should be covered under the LER framework?

A1. The scope of a firm's LER criteria should apply to the entire U.S. operations.

Q2. To the extent a firm has a large number of similar U.S. non-material entities (such as single-purpose entities formed for Community Reinvestment Act purposes), may a firm apply its legal entity rationalization criteria to these entities as a group, rather than at the individual entity level?

A2. Yes.

LER 8. Application of LER Criteria.

Q. Under the Final Guidance, is there an expectation that the LER criteria be applied to the legal structure outside of the U.S. operations (e.g., outside of the U.S. IHC or U.S. branch)?

A. The LER criteria serve to govern the corporate structure and arrangements between U.S. subsidiaries and U.S. branches in a manner that facilitates the resolvability of U.S. operations. The Final Guidance is not intended to govern the corporate structure in jurisdictions outside the U.S. The application of the LER criteria should, among other things, ensure that the allocation of activities across the firm's U.S. branches and U.S. non-branch material entities support the firm's US resolution strategy and minimize risk to US financial stability in the event of resolution.

Moreover, LER works with other components to improve resolvability. For example, with regard to shared services the firm should identify all shared services that support identified critical operations, maintain a mapping of how/where these services support core business lines and identified critical operations, and include this mapping into the legal rationalization criteria and implementation efforts.

Derivatives and Trading Activities

To the extent relevant, the derivatives and trading FAQs have been consolidated into the updated section of the Final Guidance.

Legal

LEG 1. Not consolidated.

LEG 2. Contractually Binding Mechanisms

The Final Guidance does not specifically reference consideration of a contractually binding mechanism. However, the following questions and answers may be useful to a firm that chooses to consider a contractually binding mechanism as a mitigant to the potential challenges to the planned Support.

Q1. Do the Agencies have any preference as to whether capital is down-streamed to key subsidiaries (including an IDI subsidiary) in the form of capital contributions vs. forgiveness of debt?

A1. No. The Agencies do not have a preference as to the form of capital contribution or liquidity support.

Q2. Should a contractually binding mechanism relate to the provision of capital or liquidity? What classes of assets would be deemed to provide capital vs. liquidity?

A2. Contractually binding mechanism is a generic term and includes the down-streaming of capital and/or liquidity as contemplated by the U.S. resolution strategy. Furthermore, it is up to the firm, as informed by any relevant guidance of the Agencies, to identify what assets would satisfy a U.S. affiliate's need for capital and/or liquidity.

Q3. Is there a minimum acceptable duration for a contractually binding mechanism? Would an ''evergreen'' arrangement, renewable on a periodic basis (and with notice to the Agencies), be acceptable?

A3. To the extent a firm utilizes a contractually binding mechanism, such mechanism, including its duration, should be appropriate for the firm's U.S. resolution strategy, including adequately addressing relevant financial, operational, and legal requirements and challenges.

Q4. Not consolidated.

Q5. Not consolidated.

Q6. The firm may need to amend its contractually binding mechanism from time to time resulting potentially from changes in relevant law, new or different regulatory expectations, etc. Is a firm able to do this as long as there is no undue risk to the enforceability (e.g., no signs of financial stress sufficient to unduly threaten the agreement's enforceability as a result of fraudulent transfer)?

A6. Yes, however the Agencies should be informed of the proposed duration of the agreement, as well as any terms and conditions on renewal and/or amendment. Any amendments should be identified and discussed as part of the firm's next U.S. resolution plan submission.

Q7. Not consolidated.

Q8. Should firms include a formal regulatory trigger by which the Agencies can directly trigger a contractually binding mechanism?

A8. No

General

None of the general FAQs were consolidated.

By order of the Board of Governors of the Federal Reserve System.

Ann Misback,

Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on or about December 7, 2020.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2020–28155 Filed 12–21–20; 8:45 am]

BILLING CODE 6210–01– 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than January 6, 2021.

A. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Steven and Laurel Klefstad, Forman, North Dakota;* to join the McLaen family shareholder group, a group acting in concert, to retain voting shares of Napoleon Bancorporation, Inc., Napoleon, North Dakota, and thereby indirectly retain voting shares of Stock Growers Bank, Forman, North Dakota.

Board of Governors of the Federal Reserve System, December 17, 2020.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2020–28199 Filed 12–21–20; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice-PBS–2020–11; Docket No. 2020–0002; Sequence No. 41]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Master Plan for the U.S. Food and Drug Administration Muirkirk Road Campus (Prince George's County, Laurel, MD)

AGENCY: National Capital Region, General Services Administration (GSA).

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality Regulations, GSA Order, ADM 1095.1F, Environmental Considerations in Decision Making, dated October 19, 1999, and the GSA Public Buildings Service NEPA Desk Guide, GSA plans to prepare an EIS for a proposed Master Plan for the U.S. Food and Drug Administration's (FDA) Muirkirk Road Campus (MRC), in Laurel, Maryland, located in Prince George's County. The Master Plan will provide FDA with a structured framework for developing the MRC over the next 20 years.

DATES: *Applicable:* December 22, 2020.

FOR FURTHER INFORMATION CONTACT: Marshall Popkin, Office of Planning and Design Quality, Public Buildings Service, GSA, National Capital Region, at 202–919–0026.

SUPPLEMENTARY INFORMATION: The GSA intends to prepare an EIS to analyze the potential impacts resulting from the proposed Master Plan to support the FDA MRC, in Laurel, Maryland, located in Prince George's County. GSA will analyze four alternatives for the proposed MRC Master Plan: (1) No Action Alternative; (2) Development at the Mod 1/Mod 2 site; (3) Hybrid of Alternatives 2 and 4; and (4) Development at the Beltsville Research Facility site. The proposed action is anticipated to impact soils and topography; traffic and transit; water resources; vegetation; wildlife; air quality; greenhouse gases and climate; utilities; and waste management. No permits are required to adopt the Master Plan. Implementation of the Master Plan in the future could require the following permits and authorizations:

- Dredge or fill permit under Section 404 of the Clean Water Act
- Coastal Zone Management Consistency Determination
- State and local permits, including water and wastewater permits,