pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 8, 2018.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Hometown Bancorp, Ltd., Fond du Lac, Wisconsin;* to acquire 100 percent of the voting shares of United Community Bank, Poynette, Wisconsin.

B. 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. *Cross County Bancshares, Wynne, Arkansas;* to acquire up to 35 percent of the voting shares of Central Bank, Little Rock, Arkansas.

2. *First Capital, Inc., Corydon, Indiana;* to acquire 5.15 percent of the voting shares of First Bancorp of Indiana, Inc., Evansville, Indiana; and thereby indirectly acquire First Federal Savings Bank, Evansville, Indiana.

Board of Governors of the Federal Reserve System, July 11, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–15108 Filed 7–13–18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1614]

FEDERAL DEPOSIT INSURANCE CORPORATION

Resolution Planning Guidance for Eight Large, Complex U.S. Banking Organizations

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

ACTION: Proposed guidance; request for comments.

SUMMARY: The Board and the FDIC (together, the ''Agencies'') are inviting comments on proposed guidance for the 2019 and subsequent resolution plan submissions by the eight largest, complex U.S. banking organizations (''Covered Companies'' or ''firms''). The proposed 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. The proposed guidance, which is largely based on prior guidance issued to these Covered Companies, 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; legal entity rationalization and separability; and derivatives and trading activities). The proposed guidance also updates certain aspects of prior guidance based on the Agencies' review of these firms' recent resolution plan submissions. The Agencies invite public comment on all aspects of the proposed guidance.

DATES: Comments should be received September 14, 2018.

ADDRESSES: Interested parties are encouraged to submit written comments jointly to both Agencies. Comments should be directed to: *Board:* You may submit comments, identified by Docket No. OP–1614, by any of the following methods:

• *Agency Website: http://www.federalreserve.gov*. Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm*.

• *Email: regs.comments@federalreserve.gov*. Include docket number in the subject line of the message.

• *Fax:* (202) 452–3819 or (202) 452–3102.

• *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments will be made available on the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfms* submitted, unless modified for technical reasons or to remove personal information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 3515, 1801 K Street NW (between 18th and 19th Street NW), between 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC: You may submit comments by any of the following methods:

• *Agency Website: https://www.fdic.gov/regulations/laws/federal*. Follow the instructions for submitting comments on the Agency Website.

• *Email: comments@fdic.gov*. Include ''Proposed 165(d) Guidance for the Domestic Firms'' on the subject line of the message.

• *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

• *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

• *Public Inspection:* All comments received, including any personal information provided, will be posted generally without change to *https://www.fdic.gov/regulations/laws/federal*.

FOR FURTHER INFORMATION CONTACT:

Board: Michael Hsu, Associate Director, (202) 452–4330, Division of Supervision and Regulation, Jay Schwarz, Senior Counsel, (202) 452–2970, Will Giles, Senior Counsel, (202) 452–3351, or Steve Bowne, Senior Attorney, (202) 452–3900, Legal Division. Users of Telecommunications Device for the Deaf (TDD) may call (202) 263–4869.

FDIC: Mike J. Morgan, Corporate Expert, *mimorgan@fdic.gov,* CFI Oversight Branch, Division of Risk Management Supervision; Alexandra Steinberg Barrage, Associate Director, Resolution Strategy and Policy, Office of Complex Financial Institutions, *abarrage@fdic.gov;* David N. Wall, Assistant General Counsel, *dwall@fdic.gov;* Pauline E. Calande, Senior Counsel, *pcalande@fdic.gov;* or Celia Van Gorder, Supervisory Counsel, *cvangorder@fdic.gov,* Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

Section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5365(d)) and the jointly issued implementing regulation, 12 CFR part 243 and 12 CFR part 381 (''the Rule''), requires certain financial companies to report periodically to the Board and the FDIC their plans for rapid and orderly resolution under the U.S. Bankruptcy Code in the event of material financial distress or failure.

Among other requirements, the Rule requires each financial company's resolution plan to include a strategic analysis of the plan's components, a description of the range of specific actions the company proposes to take in resolution, and a description of the company's organizational structure, material entities and interconnections and interdependencies. The Rule also requires that resolution plans include a confidential section that contains confidential supervisory and proprietary information submitted to the Board and the FDIC (together, the ''Agencies''), and a section that the Agencies make available to the public. Public sections of resolution plans can be found on the Agencies' websites.[1]

Objectives of the Resolution Planning Process

The goal of the Dodd-Frank Act resolution planning process is to help ensure that a firm's failure would not have serious adverse effects on financial stability in the United States. Specifically, the resolution planning process requires firms to demonstrate that they have adequately assessed the challenges that their structure and business activities pose to resolution and that they have taken action to address those issues. Management should also consider resolvability as part of day-to-day decision making, particularly those related to structure, business activities, capital and liquidity allocation, and governance. In addition, firms are expected to maintain a meaningful set of options for selling operations and business lines to generate resources and to allow for restructuring under stress, including through the sale or wind down of discrete businesses that could further minimize the direct impact of distress or failure on the broader financial system. While these measures cannot guarantee that a firm's resolution would be simple or smoothly executed, these preparations can help ensure that the firm could be resolved under bankruptcy without government support or imperiling the broader financial system.

The Rule describes an iterative process aimed at strengthening the resolution planning capabilities of each financial institution. With respect to the eight largest, complex U.S. banking organizations (''Covered Companies'' or ''firms''),[2] the Agencies have previously provided guidance and other feedback.[3] In general, the feedback was intended to assist firms in their development of future resolution plan submissions and to provide additional clarity with respect to the expectations against which the Agencies will evaluate the resolution plan submissions. The Agencies are now proposing to update aspects of prior guidance based on the Agencies' review of the firms' recent resolution plan submissions.[4] The Agencies reviewed the 2017 Plans and issued a letter to each firm indicating that it had taken important steps to enhance its resolvability and facilitate its orderly resolution in bankruptcy.[5] As a result of those reviews and following the Agencies' joint decisions in December 2017, the Agencies identified four areas where more work may need to be done to improve the resolvability of the firms.[6] As described below, the Agencies are proposing updates to two areas of the guidance regarding payment, clearing, and settlement services and derivatives and trading activities. The Agencies intend to provide additional information on the two other areas: Intra-group liquidity and internal loss absorbing capacity. The Agencies invite public comment on all aspects of the proposed guidance.

II. Overview of the Proposed Guidance

The proposed guidance is organized into six substantive areas, consistent with the guidance the Agencies provided to Covered Companies in April 2016 to assist in the development of their 2017 resolution plans, *Guidance for 2017 § 165(d) Annual Resolution Plan Submissions by Domestic Covered Companies that Submitted Resolution Plans in July 2015* (''2016 Guidance'').[7] These areas are:

1. Capital
2. Liquidity
3. Governance mechanisms
4. Operational
5. Legal entity rationalization and separability
6. Derivatives and trading activities

Each area is important to firms in resolution as each plays a part in helping to ensure that the firm can be resolved in an orderly manner. The guidance would describe the Agencies' expectations for each of these areas.

The proposed guidance is largely consistent with the 2016 Guidance, which the Covered Companies used to develop their 2017 resolution plan submissions. Accordingly, the firms have already incorporated significant aspects of the proposed guidance into their resolution planning. The proposal would update the derivatives and trading activities (DER), and payment, clearing, and settlement activities (PCS) areas of the 2016 Guidance based on the Agencies' review of the Covered Companies' 2017 plans. It would also make minor clarifications to certain areas of the 2016 Guidance. In general, the proposed revisions to the guidance are intended to streamline the firms' submissions and to provide additional clarity. The proposed 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.

Capital: The ability to provide sufficient capital to material entities without disruption from creditors is

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[1] See the public sections of resolution plans submitted to the Agencies at *www.federalreserve.gov/bankinforeg/resolutionplans.htm* and *www.fdic.gov/regulations/reform/resplans/.*

[2] Bank of America Corporation, The Bank of New York Mellon Corporation, Citigroup Inc., the Goldman Sachs Group, Inc., JPMorgan Chase & Co., Morgan Stanley, State Street Corporation and Wells Fargo & Company.

[3] This includes *Guidance for 2013 § 165(d) Annual Resolution Plan Submissions by Domestic Covered Companies that Submitted Initial Resolution Plans in 2012;* detailed guidance and firm-specific feedback in August 2014 and February 2015 for the development of firms' 2015 resolution plan submissions; and *Guidance for 2017 § 165(d) Annual Resolution Plan Submissions by Domestic Covered Companies that Submitted Resolution Plans in July 2015,* including the frequently asked questions that were published in response to the Guidance for the 2017 Plan Submissions (taken together, ''prior guidance'').

[4] Each firm's resolution strategy is designed to have the parent company recapitalize and provide liquidity resources to its material entity subsidiaries prior to entering bankruptcy proceedings. This strategy calls for material entities to be provided with sufficient capital and liquidity resources to allow them to avoid multiple competing insolvencies and maintain continuity of operations throughout resolution.

[5] *See* Letters dated December 19, 2017, from the Board and FDIC to Bank of America Corporation, The Bank of New York Mellon Corporation, Citigroup Inc., the Goldman Sachs Group, Inc., JPMorgan Chase & Co., Morgan Stanley, State Street Corporation and Wells Fargo & Company, *available at https://www.federalreserve.gov/supervisionreg/resolution-plans.htm.*

[6] *Id.*

[7] *Available at: https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20160413a1.pdf and at https://www.fdic.gov/news/news/press/2016/pr16031b.pdf.*

important in order to ensure that material entities can continue to provide critical services and maintain critical operations as the firm is resolved. The proposal describes expectations concerning the appropriate positioning of capital and other loss-absorbing instruments (e.g., debt that the parent may forgive or convert to equity) among the material entities within the firm (resolution capital adequacy and positioning or RCAP). The proposal also describes expectations regarding a methodology for periodically estimating the amount of capital that may be needed to support each material entity after the bankruptcy filing (resolution capital execution need or RCEN).

Liquidity: A firm's ability to reliably estimate and meet its liquidity needs prior to, and in, resolution is important to the execution of a Covered Company's resolution strategy in that it enables the firm to respond quickly to demands from stakeholders and counterparties, including regulatory authorities in other jurisdictions and financial market utilities. Maintaining sufficient and appropriately-positioned liquidity also allows the subsidiaries to continue to operate while the firm is being resolved in accordance with the firm's preferred resolution strategy.[8]

Governance Mechanisms: An adequate governance structure with triggers capable of identifying the onset of financial stress events is important to ensure that there is sufficient time to allow firms to prepare for resolution, and to ensure the timely execution of their preferred resolution strategies. The governance mechanism section proposes expectations that firms have playbooks that detail the board and senior management actions necessary to execute the firm's preferred strategy. In addition, the proposal describes expectations that firms have triggers that are linked to specific actions outlined in these playbooks to ensure the timely escalation of information to senior management and the board, to address the successful recapitalization of subsidiaries prior to the parent's bankruptcy to the extent called for by the firm's preferred resolution strategy, and to address how the firm would ensure the timely execution of a bankruptcy filing. The proposal also describes the expectations that firms identify and analyze potential legal challenges to the provision of capital and liquidity to subsidiaries that would precede the parent's bankruptcy filing, and any defenses and mitigants to such challenges. In addition, the proposal describes expectations that firms incorporate any developments from this analysis in their governance playbooks.

Legal entity rationalization and separability: It is important that firms maintain a structure that facilitates orderly resolution. To achieve this, the proposal states that a firm should develop criteria supporting the preferred resolution strategy and integrate them into day-to-day decision making processes. The criteria would be expected to consider the best alignment of legal entities and business lines and facilitate resolvability as a firm's activities, technology, business models, or geographic footprint change over time. In addition, the proposed guidance provides that the firm should identify discrete and actionable operations that could be sold or transferred in resolution to provide meaningful optionality for the resolution strategy under a range of potential failure scenarios.

Operational: The development and maintenance of operational capabilities is important to support and enable execution of a firm's preferred resolution strategy, including providing for the continuation of critical operations and preventing or mitigating adverse impacts on U.S. financial stability. The proposed operational capabilities include:

Possessing fully developed capabilities related to managing, identifying, and valuing the collateral that is received from, and posted to, external parties and its affiliates;

Having management information systems that readily produce key data on financial resources and positions on a legal entity basis, and that ensure data integrity and reliability;

Developing a clear set of actions to be taken to maintain payment, clearing and settlement activities and to maintain access to financial market utilities, as further discussed below; and

Maintaining an actionable plan to ensure the continuity of all of the shared and outsourced services that their critical operations rely on.

In addition, the proposed guidance provides that a firm should analyze and address legal issues that may arise in connection with emergency motions the firm anticipates filing at the outset of its bankruptcy case seeking relief needed to pursue its preferred resolution strategy, including legal precedent and evidentiary support the firm expects to provide in support of such motions, key regulatory actions, and contingency arrangements.

Derivatives and trading activities: It is important that a firm's derivatives and trading activities can be stabilized and de-risked during resolution without causing significant market disruption. As such, firms should have capabilities to identify and mitigate the risks associated with their derivatives and trading activities and with the implementation of their preferred strategies, as further discussed below.

Question 1: Do the topics in the proposed guidance discussed above represent the key vulnerabilities of the Covered Companies in resolution? If not, what key vulnerabilities are not captured?

III. Proposed Changes to Prior Guidance

In addition to making some clarifications, this proposal differs from prior guidance in that it reflects enhancements informed by the Agencies' review of the Covered Companies 2017 plans in the areas of DER and PCS.

The following description summarizes the changes relative to the topics outlined in the 2016 Guidance to which the Agencies are seeking comment and, where relevant, provides additional detail:

Operational: Payment, Clearing, and Settlement Activities

The provision of PCS by firms, financial market utilities (FMUs), and agent banks is an essential component of the U.S. financial system, and maintaining the continuity of PCS services is important for the orderly resolution of firms. Prior guidance from the Agencies indicated that a firm's resolution plan submissions should describe arrangements to facilitate continued access to PCS services through the firm's resolution.

Based upon recent resolution plan submissions and the Agencies' engagement with the firms, the Agencies believe that the firms have developed capabilities to identify and consider the risks associated with continuity of access to PCS services in resolution. All of the firms described methodologies to identify key FMUs and agent banks based on quantitative and qualitative criteria and included playbooks for identified key FMUs or agent banks. These playbooks described potential adverse actions that could be taken by the FMU or agent bank, described possible contingency arrangements, and discussed the operational and financial impacts of such actions or arrangements, all of which were

[8] The Agencies are currently taking steps to better understand the purpose and treatment of the firms' inter-affiliate transactions. The Agencies do not expect the firms to make major changes to their RLAP and RLEN models until after the Agencies have completed this review and provided further feedback.

enhanced by the firms' direct communications with these FMUs and agent banks. The proposed PCS guidance clarifies the expectations of the Agencies with respect to a firm's capabilities to maintain continued access to PCS services through a framework. Considering the firms' earlier resolution plan submissions, the firms have the methodologies and capabilities in place to address these expectations.

Framework. The proposal states that firms should demonstrate capabilities for maintaining continued access to PCS services through a framework that incorporates the identification of key clients,[9] FMUs, and agent banks, using both quantitative [10] and qualitative criteria, and the development of a playbook for each key FMU and agent bank. The proposed guidance builds upon existing guidance by specifying that the framework should consider key clients (which may include affiliates of the firm) and agent banks. The Agencies note that, although the existing guidance did not expressly suggest the identification of key agent banks and playbooks for such agent banks, the firms considered agent bank relationships and each provided a playbook for at least one key agent bank in its most recent resolution plan submission. Because agent bank relationships may essentially replicate PCS services provided by FMUs, the Agencies propose to revise the PCS guidance to include the identification and development of playbooks for key agent banks.

In applying the framework, the firm would be expected to consider its role as a user and/or a provider of PCS services. The proposal refers to a user of PCS services as a firm that accesses the services of an FMU through its own membership in that FMU or through the membership of another firm that provides PCS services on an agency basis. A firm is a provider of PCS services under the proposed guidance if it provides its clients with access to an FMU or agent bank through the firm's membership in or relationship with that service provider. A firm also would be a provider if it delivers PCS services critical to a client through the firm's own operations in a manner similar to an FMU.

The proposal provides that a firm's framework should take into account the various relationships the firm and its key clients have with those key FMUs and agent banks by providing a mapping of material entities, critical operations, core business lines, and key clients to key FMUs and agent banks. This framework would be expected to consider both direct relationships (e.g., firm's direct membership in the FMU, firm provides key clients with critical PCS services through its own operations, firm's contractual relationship with an agent bank) and indirect relationships (e.g., firm provides its clients with access to the relevant FMU or agent bank through the firm's membership in or relationship with that FMU or agent bank).

By developing and evaluating these activities and relationships through a framework that incorporates the elements above, a firm should be able to consider the issue of maintaining continuity of PCS services in a systematic manner.

Question 2: Is the guidance sufficiently clear with respect to the following concepts: Scope of PCS services, user vs. provider, direct vs. indirect relationships? What additional clarifications or alternatives concerning the proposed framework or its elements, if any, should the Agencies consider? For instance, would further examples of ways that firms may act as provider of PCS services be useful? Should the Agencies consider further distinguishing between providers based on the type of PCS service they provide?

Playbooks for Continued Access to PCS Services. Firms also would be expected to provide a playbook for each key FMU and agent bank that addresses financial considerations and includes operational detail that would assist the firm in maintaining continued access to PCS services for itself and its clients in stress and in resolution. Under the proposal, each key FMU and agent bank playbook would be expected to provide analysis of the financial and operational impact to the firm's material entities and key clients due to a loss of access to the FMU or agent bank. Each playbook also should discuss any possible alternative arrangements that would allow the firm and its key clients to maintain continued access to PCS services in resolution. However, the firm is not expected to incorporate a scenario in which it loses FMU or agent bank access into its preferred resolution strategy or its RLEN/RCEN estimates.

Firms communicated with key FMUs and agent banks in preparing their most recent resolution plan submissions and indicated that such communication was helpful in refining their analysis concerning potential adverse actions and contingency arrangements. Firms would be expected to continue to engage with key FMUs, agent banks, and clients, and playbooks would be expected to reflect any feedback received during such ongoing outreach. Firms are encouraged to continue engaging with each other, key FMUs and agent banks, and other stakeholders to identify possible initiatives or additional ways to support continued access to PCS services.

The proposed guidance differentiates the type of information to be included in a firm's key FMU and agent bank playbooks based on whether a firm is a user of PCS services with respect to that FMU or agent bank, a provider of PCS services with respect to that FMU or agent bank, or both. To the extent a firm is both a user and a provider of PCS services with respect to a particular FMU or agent bank, the firm would be expected to provide the described content for both users and providers of PCS services. A firm would be able to do so either in the same playbook or in separate playbooks included in its resolution plan submission.

Content related to Users of PCS Services. Under the proposal, each playbook for an individual FMU or agent bank should include, at a minimum, a description of the firm's relationship as a user with the key FMU or agent bank and an identification and mapping of PCS services to the associated material entities, critical operations, and core business lines that use those PCS services, as well as a discussion of the potential range of adverse actions that could be taken by that key FMU or agent bank in a period of stress for the firm or upon the firm's resolution.[11] Playbooks submitted as part of the firms' most recent resolution plan submissions mapped the PCS services provided to material entities, critical operations, and core business lines at a fairly granular level, which enhanced the utility of these playbooks.

In discussing the potential range of adverse actions that a key FMU or agent bank could take, each playbook would be expected to address the operational and financial impact of such actions on each material entity and discuss contingency arrangements that the firm may initiate in response to such actions by the key FMU or key agent bank. Operational impacts may include effects

[9] A client is an individual or entity, including affiliates of the firm, that relies upon continued access to the firm's PCS services and any related credit or liquidity offered in connection with those services. As a result, key clients may not necessarily be limited to wholesale clients.

[10] Examples of quantitative criteria include not only the aggregate volumes and values of all transactions processed through an FMU but also assets under custody with an agent bank, the value of cash and securities settled through an agent bank, and extensions of intraday credit.

[11] Potential adverse actions may include increased collateral and margin requirements and enhanced reporting and monitoring.

on governance mechanisms or resource allocation (including human resources), as well as any expected enhanced communication with key stakeholders (*e.g.,* regulators, FMUs and agent banks). Financial impacts may include those directly associated with liquidity or any additional costs incurred by the firm as a result of such adverse actions and contingency arrangements. The proposed PCS guidance specifies that each playbook should discuss PCS-related liquidity sources and uses in business-as-usual (BAU), in stress, and in the resolution period. Each firm would be expected to determine the relevant measurement points, and this information would be presented by currency type (with U.S. dollar equivalent) and by material entity. Each playbook also would be expected to describe any account features that might restrict the firm's ready access to its intraday liquidity sources, the firm's ability to control intraday liquidity outflows, and the firm's capabilities to identify and prioritize time-specific payments.

Content related to Providers of PCS Services. Under the proposal, a firm that is a direct or indirect provider of PCS services would be expected to identify key clients that rely upon PCS services provided by the firm in its playbook for the relevant FMU or agent bank. Playbooks would be expected to describe the scale and manner in which the firm's material entities, critical operations, and core business lines provide PCS services and any related credit or liquidity offered by the firm in connection with such services. Similar to the playbook content expected of users of PCS services, each playbook would be expected to include a mapping of the PCS services provided to each material entity, critical operation, core business line, and key clients. In the case where a firm is a provider of PCS services through its own operations, the firm would expected to produce a playbook for the material entity that provides those services, and the playbook would focus on continuity of access for its key clients.

The proposal states that playbooks should discuss the potential range of contingency arrangements available to the firm to minimize disruption to its provision of PCS services to its clients and the financial and operational impacts of such arrangements. Contingency arrangements may include viable transfer of client activity and any related assets or any alternative arrangements that would allow the firm's key clients to maintain continued access to critical PCS services. The playbook also would be expected to describe the range of contingency actions that the firm may take concerning its provision of intraday credit to key clients and to provide analysis quantifying the potential liquidity that the firm could generate by taking each such action in stress and in the resolution period. To the extent a firm would not take any such actions as part of its preferred resolution strategy, the firm would be expected to describe its reasons for not taking any contingency action.

Under the proposal, a firm should communicate the potential impacts of implementation of any identified contingency arrangements or alternatives to its key clients, and playbooks should describe the firm's methodology for determining whether it should provide any additional communication to some or all key clients (*e.g.,* due to the client's usage of that access and/or related extensions of credit), as well as the expected timing and form of such communication. The Agencies note that in their most recent submissions, all of the firms addressed the issue of client communications and provided descriptions of planned or existing client communications, with some firms submitting specific samples of such communication. Firms would be expected to consider any benefit of communicating this information in multiple forms (*e.g.,* verbal, written) and at multiple time periods (*e.g.,* BAU, stress, some point in time in advance of taking contingency actions) in order to provide adequate notice to key clients of the action and the potential impact on the client of that action. In making decisions concerning communications to its key clients, the proposal states that firms also should consider any benefit of tailoring communications to different subsets of clients (*e.g.,* based on different levels of activity or credit usage) in form, timing, or both. Playbooks may include sample client contracts or agreements containing provisions related to the firm's provision of intraday credit or liquidity.[12] Such sample contracts or agreements may be particularly important to the extent that the firm believes those documents sufficiently convey to clients the contingency arrangements available to the firm and the potential impacts of implementing such contingency arrangements.

Question 3: Are the Agencies' expectations with respect to playbook content for firms that are users or providers (or both) of PCS services sufficiently clear? What additional clarifications, alternatives, or additional information, if any, should the Agencies consider?

Question 4: Should the guidance indicate that providers of PCS activities are expected to expressly consider particular contingency arrangements (e.g., methods to transfer client activity to other firms with whom the clients have relationships, alternate agent bank relationships)? Should the guidance also indicate that firms should expressly consider particular actions they may take concerning the provision of intraday credit to affiliate and third-party clients, such as requiring pre-funding? If so, what particular actions should these firms address?

Question 5: Specifically for users of PCS activities, should the guidance indicate that firms are expected to expressly include particular PCS-related liquidity sources and uses such as client pre-funding, or specific abilities to control intraday liquidity inflows and outflows (e.g., throttling or prioritizing of payments)? If so, what particular sources and uses should firms be expected to include?

Question 6: Specifically for providers of PCS services are the Agencies' expectations concerning a firm's communication to its key clients (including affiliates as applicable) of the potential impacts of implementation of identified contingency arrangements sufficiently clear? What additional clarifications, if any, should the Agencies consider? Should the Agencies expect firms to communicate this information at specific times or in specific formats?

Derivatives and Trading Activities

This section of the proposed guidance is intended to explain expectations for Bank of America Corporation, Citigroup Inc., The Goldman Sachs Group, Inc., JP Morgan Chase & Co., Morgan Stanley, and Wells Fargo & Company (each, a "dealer firm").[13]

The size, scope, complexity, and opacity of a firm's global derivatives and trading activities may present

[12] If these sample client contracts or agreements are included separately as part of the firm's resolution plan submission, they may be incorporated into the playbook by reference.

[13] Dealer firms share many quantitative and qualitative characteristics. For example, each dealer firm is a Covered Company that (as of December 31, 2017) (i) has total derivatives notional values greater than $5 trillion, (ii) has global gross market value of derivatives greater than $20 billion, (iii) has a sum of global trading assets and trading liabilities greater than $110 billion (each on the basis of a 3-year rolling average), (iv) is subject to the GSIB Surcharge and all components of the CCAR quantitative assessment (*i.e.,* global market shock and counterparty default scenario components), and (v) is parent to a designated primary dealer.

significant risk to resolvability. To facilitate an orderly resolution, a dealer firm should be able to demonstrate the ability to stabilize and de-risk its derivatives and trading activities during resolution without posing a threat to U.S. financial stability. Therefore, dealer firms have developed capabilities to identify and mitigate the risks associated with their derivatives and trading activities and with the implementation of their preferred resolution strategies. These capabilities seek to facilitate a dealer firm's planning, preparedness, and execution of an orderly resolution. The proposed guidance would clarify the Agencies' expectations with respect to such capabilities and a firm's analysis of its preferred strategy. The proposed guidance also would eliminate the expectations of the 2016 Guidance that a dealer firm's resolution plan include separate passive and active wind-down scenario analyses, the agency-specified data templates, and rating agency playbooks.

Over the past several years, the Agencies have engaged significantly with dealer firms to assess their resolution capabilities and to provide feedback with respect to their resolution preparedness. As a group, dealer firms have made meaningful improvements over previous resolution plan submissions. These improvements include efforts by dealer firms to enhance their resolution capabilities related to derivatives and trading activities and to integrate those capabilities with their business-as-usual practices. The expectations set out in this section of the proposed guidance reflect many of those improvements. As described in more detail below, this section of the proposed guidance is organized in five subsections. The first four of the subsections describe expectations for resolution capabilities that are commensurate with the size, scope and complexity of a firm's derivatives portfolios and should help assure that dealer firms maintain the operational preparedness to implement an orderly resolution. The fifth subsection—derivatives stabilization and de-risking strategy—describes expectations for a dealer firm's analysis of its approach to managing its derivatives portfolios in an orderly resolution.

Booking practices. To minimize uncertainty and avoid excessive complexity and opacity that can frustrate a firm's resolution preparedness, a dealer firm's resolution capabilities should include booking practices commensurate with the size, scope and complexity of a firm's derivatives portfolios. Dealer firms are currently developing booking practices that provide timely and up-to-date information regarding the structure, risks and resource needs associated with the management of its derivatives activities under a broad range of potential stress and failure scenarios. Therefore, the proposed guidance would clarify the capabilities a dealer firm is expected to have related to its booking practices, including descriptions of its comprehensive booking model framework and demonstrations of its ability to identify, assess, and report on each entity with derivatives portfolios (a ''derivatives entity'').[14]

Inter-affiliate risk monitoring and controls. Affiliates of a derivatives entity may be forced to discontinue a trading relationship with that derivatives entity during resolution, which poses risks to the orderly resolution of a firm. The proposal describes the Agencies' expectations that a dealer firm address this risk by being able to provide timely transparency into the current risk transfers between affiliates and the resolvability risks related to such transfers, including expectations regarding an inter-affiliate market risk framework that enables the firm to monitor and limit the exposures a derivatives entity that is a material entity could experience in an extreme resolution scenario.

Portfolio segmentation and forecasting. The ability to quickly and reliably identify problematic derivatives positions and portfolios is critical to minimizing uncertainty and forecasting resource needs to enable an orderly resolution. Each dealer firm has developed various modeling approaches that are used to evidence the adequacy of the capabilities and resources needed to execute its preferred resolution strategy. The utility of these modeled results is often affected by the scope of readily available data on the underlying characteristics of a dealer firm's derivatives portfolios. Therefore, the proposal confirms that a dealer firm should have the capabilities to produce analysis that reflects granular portfolio segmentation and differentiation of assumptions taking into account trade-level characteristics. Similarly, the proposed guidance also provides additional detail regarding other segmentation and forecasting related capabilities that the dealer firm's resolution plan should describe and demonstrate. These capabilities include (i) a method and supporting systems capabilities for categorizing and ranking the ease of exit for its derivatives positions (''*ease of exit*'' *position analysis*), (ii) the systems capabilities to apply the firm's exit cost methodology to its firm-wide derivatives portfolio (*application of exit cost methodology*), (iii) capabilities to assess the operational resources and forecast the costs related to its current derivatives activities (*analysis of operational capacity*), and (iv) a method to apply sensitivity analyses to the key drivers of the derivatives-related costs and liquidity flows under its preferred resolution strategy (*sensitivity analysis*).

Prime brokerage customer account transfers. The rapid withdrawal from a firm by prime brokerage clients can contribute to a disorderly resolution. Dealer firms' resolution plans should address the risk that during a resolution the firm's prime brokerage clients may seek to withdraw or transfer customer accounts balances in rates significantly higher than normal business conditions. The proposed guidance confirms that dealer firms should have the capabilities to facilitate the orderly transfer of prime brokerage account balances to peer prime brokers and describes the Agencies' related expectations in greater detail. In particular, the proposed guidance clarifies that a dealer firm's resolution plan should describe and demonstrate its ability to segment and analyze the quality and composition of such account balances and to rank account balances according to their potential transfer speed.

Derivatives stabilization and de-risking strategy. A key risk to the orderly resolution of a dealer firm is a volatile and risky derivatives portfolio. In the event of material financial distress or failure, the resolvability risks related to a dealer firm's derivatives and trading activities would be a key obstacle to the firm's rapid and orderly resolution. Dealer firms' resolution plans should address this obstacle. The proposed guidance confirms that a dealer firm's plan should provide a detailed analysis of the strategy to stabilize and de-risk its derivatives portfolios (''derivatives strategy'') and provides additional detail regarding the Agencies' expectations.[15] In particular, the proposed guidance clarifies that a dealer firm should incorporate into its derivatives strategy

[14] Consistent with prior guidance, ''derivatives entities'' should include both material and non-material entities, in part because non-material entities, in the aggregate, may represent significant exposures.

[15] Subject to the certain constraints, a firm'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 executability of the chosen strategy.

assumptions consistent with the lack of access to the bilateral OTC derivatives market at the start of its resolution period. The proposed guidance also confirms or clarifies expectations related to other elements that should be addressed in the firm's analysis of its derivatives strategy, including the incorporation of resource needs into RLEN and RCEN (*forecast of resource needs*), an analysis of any potential derivatives portfolio remaining after the resolution period (*potential residual derivatives portfolio*), and the impact (including on non-U.S. jurisdictions) from the assumed failure of a material derivatives entity (*non-surviving material entity analysis*).[16]

Question 7: Do the proposed changes relative to the 2016 Guidance provide sufficient clarity or are additional clarifications required?

Consolidation of Existing Guidance

In addition to the 2016 Guidance, the Agencies have also issued: the *Guidance for 2013 § 165(d) Annual Resolution Plan Submissions by Domestic Covered Companies that Submitted Initial Resolution Plans in 2012* (the ''2013 Guidance''); firm-specific feedback letters issued in 2014 and 2016; and the February 2015 staff communication regarding the 2016 plan submissions. The Agencies are considering consolidating all applicable guidance into a single document, which would provide the public with one source of applicable guidance to which to refer. The Agencies would also expect to incorporate aspects of the *Resolution Plan Frequently Asked Questions* issued May 2017 that may remain applicable.[17] For example, the Agencies could add a section to the proposed guidance that includes the aspects of the 2013 Guidance that should remain applicable, such as the plan format description in the ''Format of 2013 Plan'' and ''Additional Format and Content Guidance'' sections, some of the central assumptions and stress scenarios in the ''Assumptions'' and ''Stress Scenarios'' sections, the process for addressing expected global cooperation described in the ''Global Cooperation'' section, and the considerations for identifying material entities in the ''Material Entities'' section.

Question 8: Should the Agencies consolidate all applicable guidance? If so, which aspects of the other guidance warrant inclusion, additional clarification or modification?

IV. Paperwork Reduction Act

Certain provisions of the Rule contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act (''PRA'') of 1995 (44 U.S.C. 3501 through 3521). In accordance with the requirements of the PRA, 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 believe that the proposed changes to the 2016 Guidance would not result in an increase in information collection burden to the Covered Companies. The Agencies invite public comment on this assessment.

TEXT OF PROPOSED RESOLUTION PLANNING GUIDANCE FOR EIGHT LARGE, COMPLEX U.S. BANKING ORGANIZATIONS

Resolution Planning Guidance for Eight Large, Complex U.S. Banking Organizations

I. Introduction

Resolution Plan Requirement: Section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5365(d)) requires certain financial companies (''Covered 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'') the Companies'[18] 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 (the ''Rule'') implementing the provisions of Section 165(d), 12 CFR parts 243 and 381.[19] Certain Covered Companies meeting criteria set out in the Rule must file a resolution plan (''Plan'') annually or at a different time period specified by the Agencies.

Overview of Guidance Document: This document is intended to assist the eight current U.S. Global Systemically Important Banks (''GSIBs'' or ''firms'')[20] in further developing their preferred resolution strategies. The document describes the expectations of the Agencies regarding these firms' resolution plans, and highlights 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 the preferred strategy.[21]

This document is organized around a number of key vulnerabilities in resolution (i.e., capital; liquidity; governance mechanisms; operational; legal entity rationalization and separability; and derivatives and trading activities) that apply across resolution plans. Additional vulnerabilities or

[16] From the perspective of protecting U.S. financial stability, the risk of adverse regulatory actions that could impede an orderly resolution increases where a material entity's failure would have extraordinary impacts on local markets. Therefore, analysis of non-surviving material entities located in a non-U.S. jurisdiction should contemplate the impact on local markets.

[17] *https://www.fdic.gov/resauthority/2017faqsguidance.pdf; https://www.federalreserve.gov/publications/files/resolution-plan-faqs.pdf.*

[18] Capitalized terms not defined herein have the meaning set forth in the Rule.

[19] 76 Fed. Reg. 67323 (November 1, 2011)

[20] Bank of America Corporation, the Bank of New York Mellon Corporation, Citigroup Inc., the Goldman Sachs Group, Inc., JPMorgan Chase & Co., Morgan Stanley, State Street Corporation and Wells Fargo & Company.

[21] The 2013 Guidance, the 2014 Letter, and the 2015 Communication, as described in the 2016 letters to the firms, continue to be applicable (relevant dates should be updated appropriately), except to the extent superseded or supplemented by the provisions of this document. See Letters dated April 12, 2016, from the Board and FDIC to Bank of America Corporation, The Bank of New York Mellon Corporation, Citigroup Inc., the Goldman Sachs Group, Inc., JPMorgan Chase & Co., Morgan Stanley, State Street Corporation, and Wells Fargo & Company, available at *https://www.federalreserve.gov/supervisionreg/resolution-plans.htm.*

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.

The Agencies will review the Plan to determine if it satisfactorily addresses key potential vulnerabilities, including those detailed 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

Resolution Capital Adequacy and Positioning (RCAP): To help ensure that a firm's material entities [22] could operate while the parent company is in bankruptcy, the firm should have an adequate amount of loss-absorbing capacity to recapitalize those material entities. Thus, a firm should have outstanding a minimum amount of total loss-absorbing capital, as well as a minimum amount of long-term debt, to help ensure that the firm has adequate capacity to meet that need at a consolidated level (external TLAC).[23]

A firm's external TLAC should be complemented by appropriate positioning of additional loss-absorbing capacity within the firm (internal TLAC). The positioning of a firm's internal TLAC should balance the certainty associated with pre-positioning internal TLAC directly at material entities with the flexibility provided by holding recapitalization resources at the parent (contributable resources) to meet unanticipated losses at material entities. That balance should take account of both pre-positioning at material entities and holding resources at the parent, and the obstacles associated with each. Accordingly, the firm should not rely exclusively on either full pre-positioning or parent contributable resources to recapitalize any material entity. The plan should describe the positioning of internal TLAC within the firm, along with analysis supporting such positioning.

Finally, to the extent that pre-positioned internal TLAC at a material entity is in the form of intercompany debt and there are one or more entities between that material entity and the parent, the firm should mitigate uncertainty related to potential creditor challenge; for example, by ensuring that the seniority and tenor of the intercompany debt is the same between all entities in the chain.

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

The firm's RCEN methodology should use conservative forecasts for losses and risk-weighted assets and incorporate estimates of potential additional capital needs through the resolution period,[24] consistent with the firm's resolution strategy. However, the methodology is not required to produce aggregate losses that are greater than the amount of external TLAC that would be required for the firm under the Board's rule.[25] The RCEN methodology should be calibrated such that recapitalized material entities have sufficient capital to maintain market confidence as required under the preferred resolution strategy. Capital levels should meet or exceed all applicable regulatory capital requirements for ''well-capitalized'' status and meet estimated additional capital needs throughout resolution. Material entities that are not subject to capital requirements may be considered sufficiently recapitalized when they have achieved capital levels typically required to obtain an investment-grade credit rating or, if the entity is not rated, an equivalent level of financial soundness. Finally, the methodology should be independently reviewed, consistent with the firm's corporate governance processes and controls for the use of models and methodologies.

III. LIQUIDITY

The firm should have the liquidity capabilities necessary to execute its preferred resolution strategy, including those described in SR Letter 14–1.[26] For resolution purposes, these capabilities should include having an appropriate model and process for estimating and maintaining sufficient liquidity at or readily available to material entities and a methodology for estimating the liquidity needed to successfully execute the resolution strategy, as described below.

Resolution Liquidity Adequacy and Positioning (RLAP): With respect to RLAP, the firm should be able to measure the stand-alone liquidity position of each material entity (including material entities that are non-U.S. branches)—i.e., the high-quality liquid assets (HQLA) at the material entity less net outflows to third parties and affiliates—and ensure that liquidity is readily available to meet any deficits. The RLAP model should cover a period of at least 30 days and reflect the idiosyncratic liquidity profile and risk of the firm. The model should balance the reduction in frictions associated with holding liquidity directly at material entities with the flexibility provided by holding HQLA at the parent available to meet unanticipated outflows at material entities. Thus, the firm should not rely exclusively on either full pre-positioning or the parent. The model [27] should ensure that the parent holding company holds sufficient HQLA (inclusive of its deposits at the U.S. branch of the lead bank subsidiary) to cover the sum of all stand-alone material entity net liquidity deficits. The stand-alone net liquidity position of each material entity (HQLA less net outflows) should be measured using the firm's internal liquidity stress test assumptions and should treat inter-affiliate exposures in the same manner as third-party exposures. For example, an overnight unsecured exposure to an affiliate should be assumed to mature. Finally, the firm should not assume that a net liquidity surplus at one material entity could be moved to meet net

[22] The terms ''material entities,'' ''critical operations,'' and ''core business lines'' have the same meaning as in the Agencies' Rule.

[23] 82 Fed. Reg. 8266 (January 24, 2017).

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

[25] *See* 12 CFR 252.60–.65; 82 Fed. Reg. 8266 (January 24, 2017).

[26] SR Letter 14–1, ''Heightened Supervisory Expectations for Recovery and Resolution Preparedness for Certain Large Bank Holding Companies—Supplemental Guidance on Consolidated Supervision Framework for Large Financial Institutions'' (Jan. 24, 2014), available at *http://www.federalreserve.gov/bankinforeg/srletters/sr1401.pdf.*

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

liquidity deficits at other material entities or to augment parent resources.

Additionally, the RLAP methodology should take into account (A) the daily contractual mismatches between inflows and outflows; (B) the daily flows from movement of cash and collateral for all inter-affiliate transactions; and (C) the daily stressed liquidity flows and trapped liquidity as a result of actions taken by clients, counterparties, key financial market utilities (FMUs), and foreign supervisors, among others.

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

The firm's RLEN methodology should:

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

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

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

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

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

The peak funding needs estimates should be projected for each material entity and cover the length of time the firm expects it would take to stabilize that material entity. Inter-affiliate funding frictions should be taken into account in the estimation process.

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

IV. GOVERNANCE MECHANISMS

Playbooks and Triggers: A firm should identify the governance mechanisms that would ensure execution of required board actions at the appropriate time (as anticipated under the firm's preferred strategy) and include pre-action triggers and existing agreements for such actions. Governance playbooks should detail the board and senior management actions necessary to facilitate the firm's preferred strategy and to mitigate vulnerabilities, and should incorporate the triggers identified below. The governance playbooks should also include a discussion of (A) the firm's proposed communications strategy, both internal and external; (B) the boards of directors' fiduciary responsibilities and how planned actions would be consistent with such responsibilities applicable at the time actions are expected to be taken; (C) potential conflicts of interest, including interlocking boards of directors; and (D) any employee retention policy. All responsible parties and timeframes for action should be identified. Governance playbooks should be updated periodically for all entities whose boards of directors would need to act in advance of the commencement of resolution proceedings under the firm's preferred strategy.

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

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

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

(C) The timely execution of a bankruptcy filing and related pre-filing actions.[28]

These triggers should be based, at a minimum, on capital, liquidity, and market metrics, and should incorporate the firm's methodologies for forecasting the liquidity and capital needed to operate as required by the preferred strategy following a parent company's bankruptcy filing. Additionally, the triggers and related actions should be specific.

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

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

[28] Key pre-filing actions include the preparation of any emergency motion required to be decided on the first day of the firm's bankruptcy. *See* ''*OPERATIONAL—Legal Obstacles Associated with Emergency Motions,*'' below.

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

As noted, the analysis should include mitigants to the potential challenges to the planned Support. The plan should include the mitigant(s) to such challenges that the firm considers most effective. In identifying appropriate mitigants, the firm should consider the effectiveness of a contractually binding mechanism (CBM), pre-positioning of financial resources in material entities, and the creation of an intermediate holding company. Moreover, if the plan includes a CBM, the firm should consider whether it is appropriate that the CBM should have the following: (A) clearly defined triggers; (B) triggers that are synchronized to the firm's liquidity and capital methodologies; (C) perfected security interests in specified collateral sufficient to fully secure all Support obligations on a continuous basis (including mechanisms for adjusting the amount of collateral as the value of obligations under the agreement or collateral assets fluctuates); and (D) liquidated damages provisions or other features designed to make the CBM more enforceable. The firm also should consider related actions or agreements that may enhance the effectiveness of a CBM. A copy of any agreement and documents referenced therein (e.g., evidence of security interest perfection) should be included in the resolution plan.

The governance playbooks included in the resolution plan should incorporate any developments from the firm's analysis of potential legal challenges regarding the Support, including any Support approach(es) the firm has implemented. If the firm analyzed and addressed an issue noted in this section in a prior plan submission, the plan may reproduce that analysis and arguments and should build upon it to at least the extent described above. In preparing the analysis of these issues, firms may consult with law firms and other experts on these matters. The Agencies do not object to appropriate collaboration between firms, including through trade organizations and with the academic community, to develop analysis of common legal challenges and available mitigants.

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,[29] or both, of PCS services. A firm should demonstrate capabilities[30] for continued access to PCS services essential to an orderly resolution through a framework to support such access by:

- Identifying key clients,[31] FMUs, and agent banks, using both quantitative (volume and value)[32] and qualitative criteria;
- Mapping material entities, critical operations, core business lines, and key clients to both key FMUs and agent banks; and
- Developing a playbook for each key FMU and agent bank reflecting the firm's role(s) as a user and/or provider of PCS services.

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

Playbooks for Continued Access to PCS Services. The firm is expected to provide a playbook for each key FMU and agent bank that addresses considerations that would assist the firm and its clients in maintaining continued access to PCS services in the period leading up to and including the firm's resolution. While the firm is not expected to incorporate a scenario in which it loses FMU or agent bank access into its preferred resolution strategy or its RLEN/RCEN estimates, each playbook should provide analysis of the financial and operational impact to the firm's material entities and key clients due to loss of access to the FMU or agent bank. Each playbook also should discuss any possible alternative arrangements that would allow the firm and its key clients continued access to PCS services in resolution. The firm should continue to engage with key FMUs, agent banks and clients, and playbooks should reflect any feedback received during such ongoing outreach.

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

- Description of the firm's relationship as a user with the key FMU or agent bank and the identification and mapping of PCS services to material entities, 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 agent bank when the firm is in resolution,[33] the operational and financial impact of such actions on each material entity, and contingency arrangements that may be initiated by the firm in response to potential adverse actions by the key FMU or key agent bank; and
- Discussion of PCS-related liquidity sources and uses in business-as-usual (BAU), in stress, and in the resolution period, presented by currency type (with U.S. dollar equivalent) and by material entity.
  - PCS Liquidity Sources: These may include the amounts of intraday extensions of credit, liquidity buffer, inflows from FMU participants, and client prefunded amounts in BAU, in stress, and in the resolution period. The playbook should also describe intraday credit arrangements (e.g., facilities of the FMU, agent bank, or a central bank) and any similar custodial arrangements that allow ready access to a firm's funds for PCS-related FMU and agent bank obligations (including margin requirements) in various currencies, including placements of firm liquidity at central banks, FMUs, and agent banks.
  - PCS Liquidity Uses: These may include firm and client margin, pre-funding and intraday extensions of credit, including incremental amounts required during resolution.

[29] A firm is a user of PCS services if it uses the services of a financial market utility (FMU) through its membership in that FMU or an agent bank. A firm is a provider of PCS services if it provides its clients with access to an FMU or agent bank through the firm's membership to or relationship with that service provider (including providing PCS services to its client as an agent bank) or if it provides key clients with critical PCS services (e.g., the suspension or termination of such services would impact the key client's continued access to PCS services) through the firm's own operations.

[30] These capabilities may include those described in SR Letter 14–1.

[31] For purposes of this section V, a client is an individual or entity, including affiliates of the firm, that relies upon continued access to the firm's PCS services and any related credit or liquidity offered in connection with those services.

[32] Examples of quantitative criteria include not only the aggregate volumes and values of all transactions processed through an FMU but also assets under custody with an agent bank, the value of cash and securities settled through an agent bank, and extensions of intraday credit.

[33] Potential adverse actions may include increased collateral and margin requirements and enhanced reporting and monitoring.

◦ 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 should also describe any account features that might restrict the firm's ready access to its liquidity sources.

Content Related to Providers of PCS Services. Individual FMU and agent bank playbooks [34] should include at a minimum:

- Identification and mapping of PCS services to the material entities, 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 that rely upon the firm to provide those 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 its clients, including the viability of transferring client activity and any related assets, as well as any alternative arrangements that would allow the firm's key clients continued access to critical PCS services if the firm could no longer provide such access (e.g., due to the firm's loss of FMU or agent bank access), and the financial and operational impacts of such arrangements;
- Description of the range of contingency actions that the firm may take concerning its provision of intraday credit to clients, including analysis quantifying the potential liquidity the firm could generate by taking such actions in stress and in the resolution period, such as (i) requiring clients to designate or appropriately pre-position liquidity, including through pre-funding of settlement activity, for PCS-related FMU and agent bank obligations at specific material entities of the firm (e.g., direct members of FMUs) or any similar custodial arrangements that allow ready access to clients' funds for such obligations in various currencies; (ii) delaying or restricting client PCS activity; and (iii) restricting, imposing conditions upon (e.g., requiring collateral), or eliminating the provision of intraday credit or liquidity to clients; and
- Description of how the firm will communicate to its key clients the potential impacts of implementation of any identified contingency arrangements or alternatives, including a description of the firm's methodology for determining whether any additional communication should be provided to some or all key clients (e.g., due to the client's BAU usage of that access and/or related intraday credit or liquidity), and the expected timing and form of such communication.

Managing, Identifying, and Valuing Collateral: The firm should have the capabilities described in SR Letter 14–1 related to managing, identifying, and valuing the collateral that it receives from and posts to external parties and its 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.[35]

Management Information Systems: The firm should have the management information systems (MIS) capabilities to readily produce data on a legal entity basis and have controls to ensure data integrity and reliability, as described in SR Letter 14–1. The firm also should perform a detailed analysis of the specific types of financial and risk data that would be required to execute the preferred resolution strategy and how frequently the firm would need to produce the information, with the appropriate level of granularity.

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

The firm should identify all critical outsourced services that support critical operations and 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 despite continued performance upon the parent's bankruptcy filing, and (B) update contracts to incorporate appropriate terms and conditions to prevent automatic termination and facilitate continued provision of such services during resolution. Relying on entities projected to survive during resolution to avoid contract termination is insufficient to ensure continuity. In

[34] Where a firm is a provider of PCS services through the firm's own operations, the firm is expected to produce a playbook for the material entity that provides those services, including contingency arrangements to permit the firm's key clients to maintain continued access to PCS services.

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

the plan, the firm should document the amendment of any such agreements governing these services.

Legal Obstacles Associated with Emergency Motions: The Plan should address legal issues associated with the implementation of the stay on cross-default rights described in Section 2 of the International Swaps and Derivatives Association 2015 Universal Resolution Stay Protocol (Protocol), similar provisions of any U.S. protocol,[36] or other contractual provisions that comply with the Agencies' rules regarding stays from the exercise of cross-default rights in qualified financial contracts, to the extent relevant.[37] Generally, the Protocol provides two primary methods of satisfying the stay conditions for covered agreements for which the affiliate in Chapter 11 proceedings has provided a credit enhancement (A) transferring all such credit enhancements to a Bankruptcy Bridge Company (as defined in the Protocol) (bridge transfer); or (B) having such affiliate remain obligated with respect to such credit enhancements in the Chapter 11 proceeding (elevation).[38] A firm must file a motion for emergency relief (emergency motion) seeking approval of an order to effect either of these alternatives on the first day of its bankruptcy case.

First-day Issues—For each alternative the firm selects, the resolution plan should present the firm's analysis of issues that are likely to be raised at the hearing on the emergency motion and its best arguments in support of the emergency motion. A firm should include supporting legal precedent and describe the evidentiary support that the firm would anticipate presenting to the bankruptcy court — e.g., declarations or other expert testimony evidencing the solvency of transferred subsidiaries and that recapitalized entities have sufficient liquidity to perform their ongoing obligations.

For either alternative, the firm should address all potential significant legal obstacles identified by the firm. For example, the firm should address due process arguments likely to be made by creditors asserting that they have not had sufficient opportunity to respond to the emergency motion given the likelihood that a creditors' committee will not yet have been appointed. The firm also should consider, and discuss in its plan, whether it would enhance the successful implementation of its preferred strategy to conduct outreach to interested parties, such as potential creditors of the holding company and the bankruptcy bar, regarding the strategy.

If the firm chooses the bridge transfer alternative, its analysis and arguments should address at a minimum the following potential issues: (A) the legal basis for transferring the parent holding company's equity interests in certain subsidiaries (transferred subsidiaries) to a Bankruptcy Bridge Company, including the basis upon which the Bankruptcy Bridge Company would remain obligated for credit enhancements; (B) the ability of the bankruptcy court to retain jurisdiction, issue injunctions, or take other actions to prevent third parties from interfering with, or making collateral attacks on (i) a Bankruptcy Bridge Company, (ii) its transferred subsidiaries, or (iii) a trust or other legal entity designed to hold all ownership interests in a Bankruptcy Bridge Company (new ownership entity); and (C) the role of the bankruptcy court in granting the emergency motion due to public policy concerns—e.g., to preserve financial stability. The firm should also provide a draft agreement (e.g., trust agreement) detailing the preferred post-transfer governance relationships between the bankruptcy estate, the new ownership entity, and the Bankruptcy Bridge Company, including the proposed role and powers of the bankruptcy court and creditors' committee. Alternative approaches to these proposed post-transfer governance relationships should also be described, particularly given the strong interest that parties will have in the ongoing operations of the Bankruptcy Bridge Company and the likely absence of an appointed creditors' committee at the time of the hearing.

If the firm chooses the elevation alternative, the analysis and arguments should address at a minimum the following potential issues: (A) The legal basis upon which the parent company would seek to remain obligated for credit enhancements; (B) the ability of the bankruptcy court to retain jurisdiction, issue injunctions, or take other actions to prevent third parties from interfering with, or making collateral attacks on, the parent in bankruptcy or its subsidiaries; and (C) the role of the bankruptcy court in granting the emergency motion due to public policy concerns—e.g., to preserve financial stability.

Regulatory Implications—The plan should include a detailed explanation of the steps the firm would take to ensure that key domestic and foreign authorities would support, or not object to, the emergency motion (including specifying the expected approvals or forbearances and the requisite format—i.e., formal, affirmative statements of support or, alternatively, ''non-objections''). The potential impact on the firm's preferred resolution strategy if a specific approval or forbearance cannot be timely obtained should also be detailed.

Contingencies if Preferred Structure Fails—The plan should consider contingency arrangements in the event the bankruptcy court does not grant the emergency motion—e.g., whether alternative relief could satisfy the Transfer Conditions and/or U.S. Parent debtor-in-possession (DIP) Conditions of the Protocol;[39] the extent to which action upon certain aspects of the emergency motion may be deferred by the bankruptcy court without interfering with the resolution; and whether, if the credit-enhancement-related protections are not satisfied, there are alternative strategies to prevent the closeout of qualified financial contracts with credit enhancements (or reduce such counterparties' incentives to closeout) and the feasibility of the alternative(s).

Format—If the firm analyzed and addressed an issue noted in this section in a prior plan submission, the plan may incorporate this analysis and arguments and should build upon it to at least the extent required above. A bankruptcy playbook, which includes a sample emergency motion and draft documents setting forth the post-transfer governance terms substantially in the form they would be presented to the bankruptcy court, is an appropriate vehicle for detailing the issues outlined in this section. In preparing analysis of these issues, the firm may consult with law firms and other experts on these matters. The Agencies do not object to appropriate collaboration among firms, including through trade organizations and with the academic community and bankruptcy bar, to develop analysis of common legal challenges and available mitigants.

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[36] U.S. protocol has the same meaning as it does at 12 CFR 252.85(a). *See also* 12 CFR 382.5(a) (including a substantively identical definition).

[37] See 12 CFR part 47, 252.81-.88, and part 382 (together, the ''QFC stay rules''). If the firm complies with the QFC stay rules other than through adherence to the Protocol, the plan also should explain how the alternative compliance method differs from Protocol, how those differences affect the analysis and other expectations of this ''Legal Obstacles Associated with Emergency Motions'' section, and how the firm plans to satisfy any different conditions or requirements of the alternative compliance method.

[38] Under its terms, the Protocol also provides for the transfer of credit enhancements to transferees other than a Bankruptcy Bridge Company.

[39] *See* Protocol sections 2(b)(ii) and (iii) and related definitions.

VI. LEGAL ENTITY RATIONALIZATION AND SEPARABILITY

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

Specifically, application of the criteria should:

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

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

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

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

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

Separability: The firm should identify discrete operations that could be sold or transferred in resolution, which individually or in the aggregate would provide meaningful optionality in resolution under different market conditions. The actionability of those options should be supported by the firm's criteria and analysis required by SR Letter 14–8.[40] Additionally, this analysis should facilitate buyer due diligence and include carve-out financial statements, valuation analysis, and a legal risk assessment. Further, the firm should establish a data room to collect and refresh annually the analyses above, as well as other information pertinent to a potential divestiture of the business.

Within the plan, the firm should demonstrate how the firm's LER Criteria and implementation efforts meet the guidance above. The plan should also provide the separability analysis noted above. Finally, the plan should include a description of the firm's legal entity rationalization governance process.

VII. DERIVATIVES AND TRADING ACTIVITIES

Applicability.

This section of the proposed guidance applies to Bank of America Corporation, Citigroup Inc., Goldman Sachs Group, Inc., JP Morgan Chase & Co., Morgan Stanley, and Wells Fargo & Company (each, a ''dealer firm'').

Booking Practices.

A dealer firm should have booking practices commensurate with the size, scope, and complexity of a firm's derivatives portfolios,[41] including systems capabilities to track and monitor market, credit, and liquidity risk transfers between entities. The following booking practices-related capabilities should be addressed in a dealer firm's resolution plan:

Derivatives booking framework. A dealer firm should have a comprehensive booking model framework that articulates the principles, rationales, and approach to implementing its firm-wide booking practices. The framework and its underlying components should be documented and adequately supported by internal controls (e.g., procedures, systems, and processes). Taken together, the derivatives 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 booked (e.g., legal entity/geography), (iii) by whom it is booked (e.g., business/trading desk); (iv) why it is booked that way (e.g., drivers/rationales); and (v) what controls are in place to monitor and manage those practices (e.g., governance/information systems)[42]. The dealer firm's resolution plan should include detailed descriptions of the framework and each of its material components. In particular, a dealer firm's resolution plan should include descriptions of the documented booking models covering its firm-wide derivatives portfolio.[43] The descriptions should provide clarity with respect to the underlying trade flows (e.g., the mapping of trade flows based on multiple trade characteristics as decision points that determine on which entity a trade is booked, if risk is transferred, and at which entity that risk is subsequently managed). For example, a firm may choose to incorporate decision trees that depict the multiple trade flows within each documented booking model.[44] Furthermore, a dealer firm's resolution plan should describe its end-to-end trade booking and reporting processes, including a description of the current scope of automation (e.g., automated trade flows and detective monitoring) for the systems controls applied to its documented booking models. The plan should also discuss why the firm believes its current (or planned) scope of automation is sufficient for managing its derivatives activities and executing its preferred resolution strategy.[45]

[40] SR Letter 14–8, ''Consolidated Recovery Planning for Certain Large Domestic Bank Holding Companies'' (Sept. 25, 2014), available at *http://www.federalreserve.gov/bankinforeg/srletters/sr1408.pdf.*

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

[42] The description of controls should include any components of the firm-wide market, credit, and liquidity risk management framework that are material to the management of its derivatives practices.

[43] The firm should at least document booking models that, in the aggregate, represent the vast majority of the firm's derivatives transactions, e.g., booking models that represent no less than 95% of a dealer firm's derivatives transactions measured by firm-wide derivatives notional and by firm-wide gross market value of derivatives. Presumably, each asset class/product would have a booking model that is a function of the firm's regulatory and risk management requirements, client's preference, and regulatory requirements specifically for the underlying asset class, and other transaction related considerations.

[44] Some firms use trader mandates or similar controls to constrain the potential trading strategies that can be pursued by a business and to monitor the permissibility of booking activity. However, the mapping of trader mandates alone, especially those mandates that grant broad permissibility, may not provide sufficient distinction between booking model trade flows.

[45] Effective preventative (up-front) and detective (post-booking) controls embedded in a dealer firm's derivatives booking processes can help avoid and/or timely remediate trades that do not align with a documented booking model or related risk limits. 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 derivatives booking practices. Nonetheless, non-automated methods can also be effective when supported by other internal controls (e.g., robust detective monitoring and escalation protocols).

Derivatives entity analysis and reporting. A dealer firm should have the ability to identify, assess, and report on each of its entities (material and non-material) with derivatives portfolios (a ''derivatives entity''). First, the firm's resolution plan should describe its method (that may include both qualitative and quantitative criteria) for evaluating the significance of each derivatives entity both with respect to the firm's current activities and to its preferred resolution strategy.[46] Second, a dealer firm's resolution plan should demonstrate (including through illustrative samples) its ability to readily generate current derivatives entity profiles that (i) cover all derivatives entities, (ii) are reportable in a consistent manner, and (iii) include information regarding current legal ownership structure, business activities/volume, and risk profile (including applicable risk limits).

Inter-Affiliate Risk Monitoring and Controls.

A dealer firm should be able to assess how the management of inter-affiliate risks can be affected in resolution, including the potential disruption in the risk transfers of trades between affiliate entities. Therefore, a dealer firm should have capabilities to provide timely transparency into the management of risk transfers between affiliates by maintaining an inter-affiliate market risk framework, consisting of at least the following two components[47]:

1. A method for measuring, monitoring, and reporting the market risk exposures for a given material derivatives entity resulting from the termination of a specific counterparty or a set of counterparties (e.g., all trades with a specific affiliate or with all affiliates in a specific jurisdiction)[48]; and

2. A method for identifying, estimating associated costs of, and evaluating the effectiveness of, a re-hedge strategy in resolution put on by the same material derivatives entity.[49]

In determining the re-hedge strategy, the firm should consider whether the instruments used (and the risk factors and risk sensitives controlled for) are sufficiently tied to the material derivatives entity's trading and risk-management practices to demonstrate its ability to execute the strategy in resolution using existing resources (e.g., existing traders and systems).

A dealer firm's resolution plan should describe and demonstrate its inter-affiliate market risk framework (discussed above). In addition, the firm's plan should provide detailed descriptions of its compression strategies used for executing its preferred strategy and how those strategies would differ from those used currently to manage its inter-affiliate derivatives activities. The plan should also include detailed descriptions of the firm's compression capabilities, the associated risks, and obstacles in resolution.

Portfolio Segmentation and Forecasting.

A dealer firm should have the capabilities to produce analysis that reflects derivatives portfolio segmentation and differentiation of assumptions taking into account trade-level characteristics. More specifically, a dealer firm should have the systems capabilities that would allow it to produce a spectrum of derivatives portfolio segmentation analysis using multiple segmentation dimensions, including (1) legal entity (and material entities that are branches), (2) trading desk and/or product, (3) cleared vs. clearable vs. non-clearable trades, (4) counterparty type, (5) currency, (6) maturity, (7) level of collateralization, and (8) netting set.[50] A dealer firm should also have the capabilities to segment and analyze the full contractual maturity (run-off) profile of its external and inter-affiliate derivatives portfolios. The dealer firm's resolution plan should describe and demonstrate the firm's ability to segment and analyze its firm-wide derivatives portfolio using the relevant segmentation dimensions and to report the results of such segmentation and analysis. In addition, the dealer firm's resolution plan should address the following segmentation and forecasting related capabilities:

''Ease of exit'' position analysis. A dealer firm should have, and its resolution plan should describe and demonstrate, a method and supporting systems capabilities for categorizing and ranking the ease of exit for its derivatives positions based on a set of well-defined and consistently applied segmentation criteria. These capabilities should cover the firm-wide derivatives portfolio and the resulting categories should represent a range in degree of difficulty (e.g., from easiest to most difficult to exit). The segmentation criteria should, at a minimum, reflect characteristics[51] that the firm believes could affect the level of financial incentive and operational effort required to facilitate the exit of derivatives portfolios (e.g., to motivate a potential step-in party to agree to the novation or an existing counterparty to bilaterally agree to a termination). Dealer firms should consider this methodology when separately identifying and analyzing the population of derivatives positions that it will include in the potential residual portfolio under the firm's preferred resolution strategy (discussed below).

Application of exit cost methodology. Each dealer firm should have a methodology for forecasting the cost and liquidity needed to exit positions (e.g., terminate/tear-up, sell, novate, and compress), and the operational resources related to those exits, under the specific scenario adopted in the firm's preferred resolution strategy. To help preserve sufficient optionality with respect to managing and de-risking its derivatives portfolios in a resolution, a dealer firm should have the systems capabilities to apply its exit cost methodology to its firm-wide derivatives portfolio, at the segmentation levels the firm would likely apply to exit the particular positions (e.g., valuation segment level). The dealer firm's plan should provide detailed descriptions of the forecasting methodology (inclusive of any challenge and validation processes) and data systems and reporting capabilities. The firm should also describe and demonstrate the application of the exit cost method and systems capabilities to the firm-wide derivatives portfolio.

[46] The firm should leverage any existing methods and criteria it uses for other entity assessments (e.g., legal entity rationalization and/or the pre-positioning of internal loss-absorbing resources). The firm's method for determining the significance of derivatives entities is allowed to diverge from the parameters for material entity designation under the Resolution Plan Rule (i.e., entities significant to the activities of a critical operation or core business line) but should be adequately supported and any differences should be explained.

[47] The inter-affiliate market risk framework is a supplement to the firm's systems capabilities to track and monitor market, credit, and liquidity risk transfers between entities.

[48] Firms may use industry market risk measures such as statistical risk measures (e.g., VaR or SVaR) or other risk measures (e.g., worst case scenario or stress test).

[49] A dealer firm's method may include an approach to identifying the risk factors and risk sensitivities, hedging instruments, and risk limits a derivatives entity would employ in its re-hedge strategy, and the quantification of any estimated basis risk that would result from hedging with only exchange-traded and centrally-cleared instruments in a severely adverse stress environment.

[50] The enumerated segmentation dimensions represent a minimum set of characteristics for differentiation of derivatives portfolios but are not intended as an exhaustive list of relevant dimensions. With respect to any product/asset class, a firm may have reasons for not capturing data on (or not using) one or more of the enumerated segmentation dimensions, but those reasons should be explained.

[51] Examples of characteristics that may affect the level of financial incentive and operational effort could include: product, size, clearability, currency, maturity, level of collateralization, and other risk characteristics.

Analysis of operational capacity. In resolution, a dealer firm should have the capabilities to forecast the incremental operational needs and expenses related to executing specific aspects of its preferred resolution strategy (e.g., executing timely derivatives portfolio novations). Therefore, a dealer firm should have, and its resolution plan should describe and demonstrate, the capabilities to assess the operational resources and forecast the costs (e.g., monthly expense rate) related to its current derivatives activities at an appropriately granular level and the incremental impact from executing its preferred resolution strategy.[52] In addition, a dealer firm should have the ability to manage the logistical and operational challenges related to novating (selling) derivatives portfolios during a resolution, including the design and adjustment of novation packages. A dealer firm's resolution plan should describe its methodology and demonstrate its supporting systems capabilities for timely segmenting, packaging, and novating derivatives positions. In developing its methodology, a dealer firm should consider the systems capabilities that may be needed to reliably generate preliminary novation packages tailored to the risk appetites of potential step-in counterparties (buyers), as well as the novation portfolio profile information that may be most relevant to such counterparties.

Sensitivity analysis. A dealer firm should have a method to apply sensitivity analyses to the key drivers of the derivatives-related costs and liquidity flows under its preferred resolution strategy. A dealer 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 operational and financial resource needs under the preferred resolution strategy. In addition, using its preferred resolution strategy as a baseline, the dealer 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.[53]

Prime Brokerage Customer Account Transfers.

A dealer firm should have the operational capacity to facilitate the orderly transfer of prime brokerage accounts to peer prime brokers in periods of material financial distress and in resolution. 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 facilitated by the firm, and the liquidity of clients' portfolios. The assessment should also analyze the risks of and mitigants to the loss of customer-to-customer internalization (e.g., the inability to fund customer longs with customer shorts), operational challenges, and insufficient staffing to effectuate the scale and speed of prime brokerage account transfers envisioned under the firm's preferred resolution strategy.

In addition, a dealer firm should describe and demonstrate its ability to segment and analyze the quality and composition of prime brokerage customer 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, and liquidity of underlying assets). The capabilities should cover the firm's prime brokerage customer account balances, and the resulting segments should represent a range in potential transfer speed (e.g., from fastest to longest to transfer, from most liquid to least liquid). The selected segmentation criteria should, at a minimum, reflect characteristics[54] that the firm believes could affect the speed at which the client account balance would be transferred to an alternate prime broker.

Derivatives Stabilization and De-risking Strategy.

A dealer firm's plan should provide a detailed analysis of the strategy to stabilize and de-risk its derivatives portfolios (''derivatives strategy'') that has been incorporated into its preferred resolution strategy.[55] In developing its derivatives strategy, a dealer firm should apply the following assumption constraints:

- *OTC derivatives market access:* At or before the start of the resolution period, each derivatives entity should be assumed to lack an investment-grade credit rating (e.g., unrated or downgraded below investment grade). The derivatives entity should also 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 a result of the lack of investment grade status, it should be further assumed that the derivatives entity has no access to the bilateral OTC derivatives markets and must use exchange-traded and/or centrally-cleared instruments where any new hedging needs arise during the resolution period. Nevertheless, a dealer 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.[56]
- *Early exits (break clauses).* A dealer firm should assume that counterparties (external or affiliates) will exercise any contractual termination right, consistent with any rights stayed by the ISDA 2015 Universal Resolution Stay protocol or other applicable protocols or amendments[57], (i) that is available to the counterparty at or following the start

[52] At a minimum, a dealer firm should have separate categories for fixed and variable expenses. For example, more granular operational expenses could roll-up into categories for (i) fixed-compensation, (ii) fixed non-compensation, and (iii) variable cost.

[53] For example, key drivers of derivatives-related costs and liquidity flows might include the timing of derivatives unwind, cost of capital-related assumptions (target ROE, discount rate, WAL, capital constraints, tax rate), operational cost reduction rate, and operational capacity for novations. Other examples of key drivers likely also include CCP margin flow assumptions and risk-weighted assets forecast assumptions.

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

[55] Subject to the relevant constraints, a firm'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., derivatives entities reestablish investment grade status and do not enter a 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 derivatives strategy. For example, the derivatives strategy could be a stabilization scenario for the lead bank entity and an accelerated de-risking scenario for the broker-dealer entities.

[56] 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 counterparty, bilateral OTC trades with the acquiring counterparty; and, (ii) inter-affiliate counterparties, where the trades with inter-affiliate counterparties (a) reduce the credit exposure of each participating counterparty and (b) do not materially increase the market risk of any such counterparty on a standalone basis, after taking into account hedging with exchange-traded and centrally-cleared instruments. The firm should demonstrate the risk-reducing nature of the trade on the basis of information that would be known to the firm at the time of the transaction.

[57] For each of the derivatives entities that have adhered to the Protocol, the dealer firm may assume that the protocol is in effect for all counterparties of that derivatives entity (except for any affiliated counterparty of the derivatives entity that has not yet adhered to the Protocol).

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 parent company bankruptcy filing and extends through the completion of the preferred resolution strategy.

A dealer firm's analysis of its derivatives strategy should, at a minimum, take into account (i) the starting profile of its derivatives portfolios (e.g., nature, concentration, maturity, clearability, and liquidity of positions); (ii) the profile and function of the derivatives entities during the resolution period; (iii) the means, challenges, and capacity for managing and de-risking 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 required to adequately support the firm's derivatives strategy should be incorporated into the firm's RCEN and RLEN estimates for its overall preferred resolution strategy. These include, for example, the costs and/or liquidity flows resulting from (i) the close-out of OTC derivatives, (ii) the hedging of derivatives portfolios, (iii) the quantified losses that could be incur 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) the operational costs.

Potential residual derivatives portfolio. A dealer firm's resolution plan should include a method for estimating the composition of any potential residual derivatives portfolio transactions remaining at the end of the resolution period under its preferred resolution strategy. The method may be a combination of approaches (e.g., probabilistic and deterministic) but should demonstrate the dealer firm's capabilities related to portfolio segmentation (discussed above). The dealer firm's plan should also provide detailed descriptions of the trade characteristics used to identify the potential residual portfolio and of the resulting trades (or categories of trades).[58] A dealer firm should assess the risk profile of the potential residual portfolio (including its anticipated size, composition, complexity, counterparties) and the potential counterparty and market impacts of non-performance on the stability of U.S. financial markets (e.g., on funding markets and the underlying asset markets and on clients and counterparties).

Non-surviving entity analysis. To the extent the preferred resolution strategy assumes a material derivatives entity enters its own resolution proceeding after the entry of the parent company into a bankruptcy proceeding (a ''non-surviving material derivatives entity''), the dealer firm should provide a detailed analysis of how the non-surviving material derivatives entity'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 to the orderly execution of the firm's preferred resolution strategy. In particular, the firm should provide an analysis of the potential impacts on funding markets and the underlying asset markets, on clients and counterparties (including affiliates), and on the preferred resolution strategy. If the non-surviving material derivatives entity is located in, or provides more than *de minimis* services to clients or counterparties located in, a non-U.S. jurisdiction, then the analysis should also specifically consider potential local market impacts.

VIII. 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 firm.

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.

By the Board of Governors of the Federal Reserve System, June 28, 2018.

Ann E. Misback,

Secretary of the Board.

Dated at Washington, DC on June 28, 2018.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Valerie Jean Best,

Assistant Executive Secretary.

[FR Doc. 2018–15066 Filed 7–13–18; 8:45 am]

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[58] If under the firm's preferred 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 should nonetheless be included within the firm's potential residual portfolio analysis.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: The meeting will be held on Wednesday, July 18, 2018, from 8:30 a.m. to 2:45 p.m.

ADDRESSES: The meeting will be held at AHRQ, 5600 Fishers Lane, Rockville, Maryland, 20857.

FOR FURTHER INFORMATION CONTACT: Jaime Zimmerman, Designated Management Official, at the Agency for Healthcare Research and Quality, 5600 Fishers Lane, Mail Stop 06E37A, Rockville, Maryland 20857, (301) 427–