



September 28, 2018

Via Electronic Mail

Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
Attention: Jennifer Jones, Counsel
OMB No. 3064-0185

Office of Information and Regulatory Affairs
Office of Management and Budget
New Executive Office Building
Washington, DC 20503
OMB No. 3064-0185

Re: **Agency Information Collection Activities: Proposed Collection Renewal; Comment Request (OMB No. 3064-0185)**

Ladies and Gentlemen:

The Bank Policy Institute (**BPI**) and the Securities Industry and Financial Markets Association (**SIFMA** and, together, the **Associations**)¹ appreciate the opportunity to respond to the Federal Deposit Insurance Corporation's (the **FDIC**) notice and request for comment on the proposal to renew the **IDI Rule's**² information collection requirement (the **Renewal Proposal**).³

¹ A description of each Association is provided in [Appendix A](#) of this letter.

² FDIC, Resolution Plans Required for Insured Depository Institutions with \$50 Billion or More in Total Assets, 77 Fed. Reg. 3075 (Jan. 23, 2012).

³ FDIC, Agency Information Collection Activities: Proposed Collection Renewal; Comment Request (OMB No. 3064-0185), 83 Fed. Reg. 36589 (July 30, 2018).

The Associations believe that:

- the FDIC staff should provide forward-looking guidance on **IDI Plan**⁴ requirements that is applicable to all filers on a public rather than confidential basis as is the practice for **165(d) Plans**,⁵ and
- the informational requirements for IDI Plans and 165(d) Plans should be harmonized, allowing filers to focus their resolution planning efforts on a single resolution plan filing containing information and analysis that is most applicable to their business model and risk profile while also lowering the burden of review by agency staff.⁶

Implementing these changes to the IDI Plan submission and feedback process will improve the usefulness of the information collected pursuant to the IDI Rule and minimize the associated burden on filers.

I. All IDI Plan Guidance Should Be Public

It is, unfortunately, impossible to fully respond to the Renewal Proposal due, in large part, to the FDIC staff's unusual decision to provide their most recent round of forward-looking guidance on IDI Plan requirements to the filers solely on a confidential basis as part of their feedback letters.⁷ While the members of the Associations would like to provide more detailed and helpful comments on ways to enhance the quality, utility and clarity of submitted IDI Plans and reduce the burden associated with producing them, the FDIC staff's decision to provide the most recent round of guidance on an entirely confidential basis has constrained their ability to do so, especially given the potential criminal penalties associated with improper disclosure of confidential supervisory information. This overreliance on confidential guidance lowers accountability and transparency. For example, the July 1, 2018 date of the IDI filing was kept out of the public domain for many months and, unlike in the Rule 165(d) Plans, Congress and the public did not know whether or to what extent the filings had to address guidance in addition to the IDI Rule requirements. By contrast, the trend towards public guidance by the FDIC and Board of Governors of the Federal Reserve System (the **Federal Reserve**) on 165(d) Plans has enhanced the ability of filers to engage with the FDIC and Federal Reserve, address common issues and improve the effectiveness of the resolution planning process.⁸ The approach that has been taken for the 165(d) Plans is a better one. Therefore, in order to facilitate a common understanding of the IDI Rule's requirements and enhance resolution planning effectiveness in general, the FDIC should transition to a more transparent process in delivering guidance and release the filers from existing confidentiality obligations with respect to forward-looking IDI Plan guidance that is applicable to all filers so that they can effectively engage in public comment.

⁴ Resolution plan of a covered insured depository institution, as defined in 12 C.F.R. 360.10(b)(4), required to be submitted to the FDIC pursuant to the IDI Rule.

⁵ Resolution plan of a covered company, as defined in 12 C.F.R. 343.2(f), required to be submitted to the Federal Reserve and the FDIC pursuant to § 165(d) of the Dodd-Frank Act.

⁶ See 83 Fed. Reg. 36589, 36590 (requesting comment on issues related to information collection).

⁷ This decision to provide guidance solely on a confidential basis was made before the recent FDIC leadership changes.

⁸ See, e.g., FDIC and Federal Reserve, Guidance for 2017 §165(d) Annual Resolution Plan Submissions By Domestic Covered Companies that Submitted Resolution Plans in July 2015 (**2017 Guidance**), available at <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20160413a1.pdf>; FDIC and Federal Reserve, Resolution Plan FAQs (sent to firms in response to frequently asked questions regarding the 2017 Guidance and publicly released to better inform the public about the resolution planning process), available at <https://www.federalreserve.gov/publications/files/resolution-plan-faqs.pdf>.

II. The Informational Requirements of 165(d) Plans and IDI Plans Should Be Harmonized

The informational burden from the two overlapping resolution rules is extensive and has become more acute recently. The fundamental goals of 165(d) Plans and IDI Plans are the same – to ensure that the filer has a credible, executable plan for resolution.⁹ In theory, the resolution plans produced for these two rules should be complementary and, in the aggregate, make clear a filer's overall resolution strategy and illustrate that the filer has the operational capacity required so that a resolution is feasible. The different underlying assumptions for the 165(d) Rule and the IDI Rule may, however, result in resolution plans that are highly duplicative in their informational content yet inconsistent in terms of the resolution strategy. For example, filers using a single point of entry (**SPOE**) resolution strategy must simultaneously show how a material bank subsidiary would be resolved under the Federal Deposit Insurance Act (**FDIA**) in their IDI Plan while separately showing how the same material bank subsidiary will remain open and operating in a resolution scenario in their 165(d) Plan.

The duplicative requirements for 165(d) Plans and IDI Plans create an unnecessary informational and compliance burden and lead to the creation of two separate plans that do not provide a complementary or cohesive picture of a filer's overall resolution plan and strategy or its operational capacity to execute that plan. The IDI Rule should be harmonized with the 165(d) Rule in a way that allows filers to produce one complete and cohesive resolution plan that satisfies both rules. The IDI Rule should be amended so that it does not apply to filers that have adopted SPOE as their preferred resolution strategy, as the failure of a large insured depository institution subsidiary is inconsistent with an overall SPOE resolution strategy.¹⁰ For those who have adopted a bridge bank or multiple point of entry (**MPOE**) strategy, the informational requirements of the IDI Plan should be harmonized with those of the 165(d) Plan, allowing filers to satisfy both rule requirements with one resolution plan which focuses on the information most relevant to the filer's business model, risk profile and resolution strategy. Aligning the IDI Plan's informational requirements with those of the 165(d) Plan would provide the FDIC with the material information it needs to evaluate the credibility and operational feasibility of the insured depository institution's resolution strategy, preserve the FDIC's ability to comment on a filer's resolution plan specifically with respect to the insured depository institution and minimize the burden of information collection pursuant to the IDI Rule.

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⁹ The 165(d) Plan focuses on the entire group, while the IDI Plan focuses on the insured depository institution.

¹⁰ For a more detailed discussion of the Associations' views on resolution planning, please see the SIFMA and BPI comment letter submitted to the Federal Reserve and FDIC on their proposed guidance for the 2019 and subsequent resolution plan submissions by the eight largest, complex U.S. banking organizations, *available at* <https://www.fdic.gov/regulations/laws/federal/2018/2018-proposed-guidance-eight-large-banking-organizations-165d-c-004.pdf>.

The Associations appreciate the opportunity to comment on the proposal. If you have any questions, please contact John Court by phone at +1(202)589-2409 or by email at john.court@bpi.com or Carter McDowell by phone at +1(202)962-7327 or by email at cmcdowell@sifma.org.

Respectfully submitted,



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**Appendix A to
BPI/SIFMA IDI Rule Information Collection Comment Letter**

A Description of Each Association

The Bank Policy Institute. The Bank Policy Institute is a nonpartisan public policy, research and advocacy group, representing the nation's leading banks and their customers. Our members include universal banks, regional banks and the major foreign banks doing business in the United States. Collectively, they employ almost 2 million Americans, make nearly half of the nation's small business loans, and are an engine for financial innovation and economic growth.

The Securities Industry and Financial Markets Association. SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate on legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (**GFMA**). For more information, visit <http://www.sifma.org>.