



May 1, 2019

*Via Electronic Mail*

Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue, NW  
Washington, D.C. 20551  
Attention: Ann E. Misback, Esq., Secretary

Federal Deposit Insurance Corporation  
550 17th Street NW  
Washington D.C. 20429  
Attention: Robert E. Feldman, Executive Secretary

Re: **165(d) Proposal and Timing for December 2019 Filers**

Ladies and Gentlemen:

The Bank Policy Institute and the Securities Industry and Financial Markets Association (together, the **Associations**) appreciate the opportunity to comment on the Board of Governors of the Federal Reserve System's (the **Federal Reserve**) and the Federal Deposit Insurance Corporation's (the **FDIC** and, together, the **Agencies**) proposal (the **165(d) Proposal**) to amend and restate the jointly issued regulation (the **165(d) Rule**) implementing the resolution planning requirements of section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (**Section 165(d)**).<sup>1</sup>

In advance of submitting a full comment letter on the 165(d) Proposal, the Associations are submitting this narrow, but important, request for prompt clarification on the Agencies' expectations for the domestic banking organizations with resolution plans currently due on or before December 31, 2019 (the **December 2019 Filers**).<sup>2</sup> It is

---

<sup>1</sup> Federal Reserve, *Regulation QQ: Resolution Plans Required* (notice of proposed rulemaking, April 8, 2019) (to be codified at 12 C.F.R. pt. 243) and FDIC, *Regulation QQ: Resolution Plans Required* (notice of proposed rulemaking, April 16, 2019) (to be codified at 12 C.F.R. pt. 381) [hereinafter and together, the **NPR**].

<sup>2</sup> Ally Financial Inc., American Express Company, BB&T Corporation, Capital One Financial Corporation, Citizens Financial Group, Inc., Discover Financial Services, Fifth Third Bancorp, Huntington Bancshares Incorporated, KeyCorp, M&T Bank Corporation, Northern Trust Corporation, Regions Financial Corporation, SunTrust Banks, Inc., The PNC Financial Services Group, Inc., and U.S. Bancorp. See Federal Reserve and FDIC, Joint Press Release, *Regulators Extend the Next Resolution Plan Filing Deadline for 14 Domestic Firms* (July 2, 2018), available at <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20180702a.htm> and <https://www.fdic.gov/news/news/press/2018/pr18041.html>; see Federal Reserve and FDIC, Joint Press Release, *Agencies Complete Evaluation of 2017 Resolution Plans for 14 Large Domestic Banking Organizations and Issue*

uncertain whether the December 2019 Filers will be required to submit resolution plans this year. Without prompt clarification from the Agencies, December 2019 Filers will be required to continue devoting substantial resources and personnel to prepare for a resolution plan submission that would become unnecessary under the 165(d) Proposal.

Specifically, the Agencies have proposed to make the 165(d) Proposal effective no later than November 24, 2019 and, once finalized, the proposal would eliminate the December 31, 2019 filing date for all of the December 2019 Filers.<sup>3</sup> Despite the Agencies' clear intention in the 165(d) Proposal, December 2019 Filers that would be Category II or III firms under the Federal Reserve's domestic tailoring proposal<sup>4</sup> must nonetheless prepare for the possibility that they remain subject to a December 31, 2019 deadline. And the December 2019 Filers that would be neither Category II nor Category III firms<sup>5</sup> must prepare for the possibility that the Federal Reserve acts pursuant to the Economic Growth, Regulatory Relief, and Consumer Protection Act (**EGRRCPA**) by issuing a rule or order that makes them subject to Section 165(d) requirements.<sup>6</sup> Adding to the uncertainty facing these firms is the fact that the draft Preamble contains square brackets around the effective date clauses.<sup>7</sup>

The Associations therefore request that the Agencies promptly clarify that, consistent with the intent of the 165(d) Proposal, they do not expect the December 2019 Filers to submit resolution plans by December 31, 2019. Absent such prompt clarification, the December 2019 Filers will out of prudence have to continue to invest the significant resources required to prepare a submission, despite the possibility that the requirement to make such a submission will be terminated just over a month from the deadline.

\* \* \* \* \*

---

*Expectations for 2019 Resolution Plans* (March 29, 2018), available at <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190329a.htm> and <https://www.fdic.gov/news/news/press/2019/pr19027.html>.

<sup>3</sup> NPR, at 66.

<sup>4</sup> Federal Reserve, *Prudential Standard for Large Bank Holding Companies and Savings and Loan Holding Companies*, 83 Fed. Reg. 61,408 (Nov. 29, 2018) (to be codified at 12 C.F.R. pts. 225, 238, 242, and 252). Of the December 2019 Filers, these would be Capital One Financial Corporation, Northern Trust Corporation, The PNC Financial Services Group, and U.S. Bancorp.

<sup>5</sup> Of the December 2019 Filers, these would be Ally Financial Inc., American Express Company, BB&T Corporation, Discover Financial Services, Fifth Third Bancorp, Huntington Bancshares Incorporated, KeyCorp, M&T Bank Corporation, Regions Financial Corporation and SunTrust Banks, Inc.

<sup>6</sup> See EGRRCPA, Pub. L. No. 115-174 (2018), § 401(a)(1)(C), allowing the Federal Reserve to apply Section 165(d) requirements to firms with between \$100 billion and \$250 billion dollars by issuing a rule or order. Agency rules and orders are subject to the requirements of Sections 553 and 554 of the Administrative Procedure Act, respectively. 5 U.S.C §§ 551-59.

<sup>7</sup> NPR at 65 ("Under the proposal, the rule would take effect on [the earlier of (a) the first day of the first calendar quarter after the issuance of the final rule (effective date) and (b) November 24, 2019]").

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](mailto:john.court@bpi.com) or Carter McDowell by phone at +1(202)962-7327 or by email at [cmcdowell@sifma.org](mailto:cmcdowell@sifma.org).

Respectfully submitted,



---

John Court  
Senior Vice President, Deputy General Counsel  
*Bank Policy Institute*



---

Carter McDowell  
Managing Director and Associate General Counsel  
*Securities Industry and Financial Markets Association*