



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 Foreign Banking Organizations**

Ladies and Gentlemen:

The Bank Policy Institute, the Institute of International Bankers, 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)**).¹

In advance of submitting a full comment letter on the 165(d) Proposal, the Associations are submitting this narrow request for prompt clarification on the Agencies' expectations for (1) the foreign banking organizations (**FBOs**) with resolution plans due by December 31, 2019 (the **December 2019 FBO Filers**) and (2) the four FBOs with resolution plans due by July 1, 2020 (the **July 2020 FBO Filers**).² It is uncertain whether the December 2019 FBO Filers will be required to submit resolution plans this year and whether the July 2020 FBO Filers will need to submit full resolution plans next year.

¹ 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) (together, the **NPR**).

² The July 2020 FBO Filers are the four FBOs in the "Triennial Full Filers" category of the 165(d) Proposal with resolution plans due by July 1, 2020—Barclays PLC, Credit Suisse Group AG, Deutsche Bank AG and UBS AG. The December 2019 FBO Filers are the FBO filers in the "Triennial Full Filers" and "Triennial Reduced Filers" categories of the 165(d) Proposal with resolution plans due by December 31, 2019. NPR at 13.

The 165(d) Proposal, if finalized as proposed and effective before year-end, would eliminate the December 31, 2019 filing date for the December 2019 FBO Filers and would eliminate the July 1, 2020 filing date for the July 2020 FBO Filers.³ Notwithstanding the possible change in requirements under the 165(d) Proposal, the December 2019 FBO Filers and July 2020 FBO Filers must, however, prepare for the possibility that finalization of the 165(d) Proposal is delayed and that they remain subject to their original submission deadlines.

Without prompt clarification from the Agencies, the December 2019 FBO Filers will soon have to begin devoting meaningful resources and personnel to prepare for resolution plan submissions that may ultimately be unnecessary. Similarly, the July 2020 FBO Filers will soon have to determine what resources will be required for a possible July 1, 2020 full resolution plan submission. Adding to the uncertainty, the draft Preamble contains square brackets around the effective date clauses.⁴ Furthermore, the Economic Growth, Regulatory Relief, and Consumer Protection Act's (EGRRCPA) amendments to increase the threshold for applicability of Section 165(d) to \$250 billion in total consolidated assets do not provide any additional clarity to the December 2019 FBO Filers and the July 2020 FBO Filers because the threshold includes total consolidated assets of FBOs and not just their U.S. operations.⁵

The Associations therefore request that the Agencies promptly clarify that they do not expect the December 2019 FBO Filers to submit resolution plans by December 31, 2019 and they do not expect the July 2020 FBO Filers to submit a full resolution plan by July 1, 2020.

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³ NPR at 66. The Agencies' feedback letters to Barclays PLC, Credit Suisse Group AG, Deutsche Bank AG and UBS AG dated December 20, 2018 (the **Feedback Letters**) identified shortcomings to be addressed in their next resolution plans, due July 1, 2020. See FDIC & Federal Reserve, *Federal Reserve and FDIC announce resolution plan determinations for four foreign-based banks and finalize guidance for eight domestic banks* (Dec. 20, 2018), available at <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20181220c.htm>. The NPR states that the four July 2020 FBO Filers would still be expected to address their shortcomings and complete their project plans by July 1, 2020. Given that these are shortcomings, and not deficiencies that call into question whether those resolution plans are not credible, we submit that the project plans should be completed and the shortcomings should be addressed by their next resolution plans (i.e. July 1, 2021), as originally contemplated in their Feedback Letters. If the Agencies take the approach outlined in the NPR, they should clarify what kind of submission, if any, would be required by July 1, 2020.

⁴ 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]").

⁵ See EGRRCPA, Pub. L. No. 115-174 (2008), §§ 401(a)(1)(A) & 401(d)(1).

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, Stephanie Webster by phone at +1(646)213-1149 or by email at swebster@iib.org, or Carter McDowell by phone at +1(202)962-7327 or by email at cmcdowell@sifma.org.

Respectfully submitted,



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