

[Banking and Finance Law Daily Wrap Up, FINANCIAL STABILITY—Fed, FDIC propose modifying resolution plan requirements for U.S., foreign banks, \(Apr. 8, 2019\)](#)

Banking and Finance Law Daily Wrap Up

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In their joint notice of proposed rulemaking, the Fed and FDIC propose amendments not only to account for changes to the application of resolution planning requirement made by the Economic Growth, Regulatory Relief, and Consumer Protection Act, but also to implement more tailored rules for domestic and foreign banking organizations—based on the agencies' experience.

The Federal Reserve Board and Federal Deposit Insurance Corporation are inviting public comment on a joint proposal to modify regulations implementing the resolution planning requirements of section 165(d) of the Dodd-Frank Act for U.S. and foreign banking organizations "to improve the resolution plan submission and review processes and timelines." The Fed's and FDIC's respective rule changes are intended to conform with 2018 amendments made by the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) to the Dodd-Frank Act, and to reflect desired improvements to resolution planning that the federal agencies have identified over the past several years. Principally, the agencies' proposal seeks to: establish "risk-based categories for determining the application of the resolution planning requirement to certain U.S. and foreign banking organizations," extend the "default resolution plan filing cycle," and allow for "more focused resolution plan submissions." According to the [draft notice](#) of the proposal, public comments are to be received by June 21, 2019.

The proposal pertains to the Fed's Regulation QQ—Resolution Plans (12 CFR Part 243)—as well as to the FDIC's comparable regulation on resolution plans (12 CFR Part 381).

Highlights. According to the draft proposal, the Fed and FDIC are seeking to achieve three main goals: (1) improve efficiency and balance the regulatory burden by "allowing more focused full resolution plan submissions, as well as periodic targeted resolution plan submissions for some filers, and reduced resolution plans for the remaining filers"; (2) set forth a biennial filing cycle for the U.S. global systemically important banks (GSIBs) and balance the regulatory burden by extending the filing cycle to every three years for all other filers; and (3) improve certain aspects of the regulation, "such as the process for identifying critical operations, based on the agencies' experience in applying the Rule over time." To facilitate an understanding of the resolution plan requirements for foreign and domestic banking organizations along these lines, the Fed has prepared [charts and tables](#).

Against this backdrop, the agencies maintain that the proposal:

- divides the firms that have resolution planning requirements, including those identified by the Fed in keeping with EGRRCPA, into groups of filers for "plan content tailoring" purposes;
- enhances transparency and provides greater predictability by formalizing the current reduced resolution plan category;
- establishes multi-year submission cycles for each group of filers;
- introduces a new category of plans distinguished by informational content;
- supersedes the existing "tailored plan category"; and
- updates certain procedural elements of the rule.

To facilitate public comments, the agencies pose a number of questions, including:

- What would be the advantages and/or disadvantages of having similar applicable resolution planning requirements for bank holding companies with total consolidated assets of \$100 billion or more, based on the proposed categories?
- For purposes of the Fed's discretion to apply the resolution planning requirement to U.S. firms with total consolidated assets of \$100 billion or more, but less than \$250 billion in total consolidated assets, what are the advantages and disadvantages of the proposed risk-based indicators?
- For purposes of the Fed's discretion to apply the resolution planning requirement to U.S. firms with total consolidated assets of \$100 billion or more, but less than \$250 billion in total consolidated assets, at what level should the threshold for each indicator be set, and why?
- If the Fed were to adopt additional indicators for purposes of identifying firms that should be subject to Category II standards, at what level should the threshold for each indicator be set, and why?
- For purposes of defining resolution plan filing groups, what are the advantages and disadvantages of the proposed risk-based indicators?
- For purposes of defining resolution plan filing groups, at what level should the threshold for each indicator be set for foreign banking organization's U.S. operations, and why?
- Are the risk-based indicators and thresholds appropriate for identifying and distinguishing between groups of resolution plan filers (i.e., biennial, triennial full, and triennial reduced)?
- In connection with the proposed resolution plan submission cycle, would a longer or shorter interval between submissions be appropriate for any group of resolution plan filers?

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