Press Release

September 01, 2017

Opening Statement on the Consideration of a Final Rule Restricting Qualified Financial Contracts by Governor Jerome H. Powell

The final rule that we are considering today addresses a key pillar of post-crisis regulatory reform: improving the resolvability of the largest firms. The resolution planning process has required the largest U.S. banking firms to substantially improve their internal structures, governance, information systems, and allocation of capital and liquidity in ways that promote their resolvability. And the Board's total loss absorbing capacity, or TLAC, rule is helping ensure that the largest U.S. banking firms have enough "gone concern" loss absorbency to make resolution work.

This final rule on QFCs that we are considering today is an important element of our strategy to make large banking firms more resolvable. Without this final rule, the substantial numbers of QFCs that the largest firms have outstanding could be terminated when it or one of its affiliates enters bankruptcy, risking a systemic disruption. The FDIC's bank resolution authority under the Federal Deposit Insurance Act and the orderly liquidation authority included in Title II of the Dodd-Frank Act both provide for a short stay on the termination of QFCs, during which the resolution authority can transfer some or all of the failed firm's QFCs to a solvent party with the resources to perform on the obligations. This final rule would help ensure that appropriate temporary stays would apply to a broad range of the foreign and domestic QFCs of a failed GSIB, regardless of whether the resolution is conducted under the Federal Deposit Insurance Act, the Dodd-Frank Act, or the Bankruptcy Code. Accordingly, the final rule should help avoid the threat of a disorderly and mass unraveling of QFCs, as occurred in the case of Lehman Brothers, which intensified and prolonged the financial crisis.

The final rule is tailored to apply only to the global systemically important banks or GSIBs -- the banking organizations whose disorderly failure or severe distress would likely pose the greatest risk to U.S. financial stability and the broader economy. In the spirit of the Board's broader undertaking to thoroughly review the post-crisis regulatory reforms for both effectiveness and efficiency, we looked for opportunities to reflect common sense changes to the proposed rule without sacrificing our goal to improve financial stability. In particular, because this final rule requires GSIBs to amend a large number of their contracts, we modified the timeline from the proposal to adopt a phased-in approach to give more time to conform contracts with less complex and less risky counterparties, such as community banks, pension funds, and insurance companies. The final rule also excludes QFCs that do not contain the types of provisions that the final rule seeks to target, which will reduce the number of contracts that are affected by the final rule. Staff will detail these and other amendments from the proposal. Accordingly, by focusing this rule exclusively on the relevant QFCs of GSIBs and making other changes to balance the costs of compliance with the benefits of the rule, we are promoting financial stability without creating unnecessary burdens.

With that, I will turn to the Director of the Division of Supervision and Regulation, Mike Gibson.

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