

Statement of CFPB Director Rohit Chopra, Member, FDIC Board of Directors, on Megabank Living Wills

By Rohit Chopra - JUN 21, 2024

Over the last century, the United States has thrived and led the way when it comes to new discoveries and innovation across sectors of the economy. When the public props up companies that would otherwise fail, this impedes our progress as a country. Others around the world have designed their economies around supporting a handful of politically connected firms that seem to require an endless stream of subsidies, special exemptions, and bailouts.

The global financial crisis put into clear view how large, politically connected firms were protected from failing through a broad range of bailouts. In 2010, Congress sought to extinguish this approach by ending the existence of “too big to fail.” The law requires the Federal Deposit Insurance Corporation Board of Directors and the Federal Reserve Board of Governors to evaluate so-called “living wills.” If a massive financial conglomerate cannot fail in an orderly fashion under the U.S. Bankruptcy Code, this triggers a process to simplify, shrink, or ultimately break up the firm into separate components.

During the most recent cycle of living wills submissions, we increased the rigor of the review process, rather than signing off on multi-thousand-page consultant-drafted plans at face value. In this round, the FDIC and Federal Reserve tested and validated certain capabilities of the firms.

We simulated their failure and asked them to quickly execute parts of their plan. This is a good barometer of the credibility of the plans, which is one of two statutory considerations.¹ Can they actually do what they say they can do? The answer for several firms was a clear “no.”

Citigroup is a \$2.4 trillion financial conglomerate with 800 legal entities operating in more than 150 countries across the world. The firm spent decades building a sprawling empire as it sought to be a “financial supermarket” offering a wide range of financial products and services. During the 2008 financial crisis, the firm would have failed but for a \$45 billion direct bailout and tens of billions of dollars more in public guarantees and loans.

Fifteen years later, many of the firm’s internal problems persist. In 2020, the Federal Reserve Board of Governors and Office of the Comptroller of the Currency took enforcement actions against the firm for its inability to safely manage the risks it takes.²

The firm's internal processes and systems have been inadequate due to its complicated organizational structure, underinvestment in IT infrastructure, and patchwork integration of past acquisitions.

In 2022, the Federal Reserve Board of Governors and the FDIC Board of Directors expressed concern during the living wills review that the firm's panoply of weaknesses in normal times would be magnified in times of stress.³ For example, the inability of the firm to quickly generate reliable data on its capital and liquidity needs could render its living will meaningless. It would not know when to timely file for bankruptcy and would not be able to distribute the correct level of capital and liquidity resources throughout the organization.

In reviewing the latest living will submission, we tested the firm's capabilities and asked it to quickly unwind its derivatives portfolio. It could not do so. As expected, the firm produced materially inaccurate data during this test. The reliability and fragmentation of its internal systems could preclude the firm from credibly executing its living will. For these reasons, I will vote to find Citigroup's plan to be deficient.⁴

The agencies have also found certain weaknesses in the plans submitted by JPMorgan Chase, Bank of America, and Goldman Sachs.⁵

In conclusion, the largest financial institutions in the U.S. continue to pose serious threats to the global financial system in the event of their failure, absent government support. While there are an array of legal mechanisms to reduce risks from institutions that are too big to fail, ending that fundamental unfairness is still just an aspiration, rather than reality.

References

1. The second statutory consideration is whether the plan would facilitate an orderly resolution under the bankruptcy code. Given the size, complexity, and interconnectedness of the GSIBs, and the lack of a reliable bankruptcy financing mechanism, it is not realistic to conclude that they meet this standard.
 2. See www.occ.gov/news-issuances/news-releases/2020/nr-occ-2020-132.html (http://www.occ.gov/news-issuances/news-releases/2020/nr-occ-2020-132.html); www.federalreserve.gov/newsevents/pressreleases/enforcement20201007a.htm (https://www.federalreserve.gov/newsevents/pressreleases/enforcement20201007a.htm).
 3. See www.federalreserve.gov/newsevents/pressreleases/files/bcreg20221123a3.pdf (https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20221123a3.pdf).
 4. The Federal Reserve Board of Governors has not reached the same conclusion. Therefore, the process outlined in the statute for remedying these deficiencies will not be triggered.
 5. In certain plans, I would have also supported a formal finding of deficiency on credibility grounds.
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