FEDERAL DEPOSIT INSURANCE CORPORATION

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SYSTEMIC RESOLUTION ADVISORY COMMITTEE

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MEETING

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THURSDAY,

APRIL 14, 2016

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The Advisory Committee convened at 9:00 a.m. in the Federal Deposit Insurance Corporation Board Room, 550 17th Street, N.W., Room 6010, Washington, D.C., Martin J. Gruenberg, Chairman, presiding.

PRESENT:

MARTIN J. GRUENBERG, Chairman
ANAT R. ADMATI, George G.C. Parker Professor of Finance and Economics, Graduate School of Business, Stanford University
CHARLES A. BOWSHER, Former Comptroller General of the United States
MICHAEL BRADFIELD, Former General Counsel, FDIC and Federal Reserve Board
H. RODGIN COHEN, Senior Chairman, Sullivan & Cromwell, LLP
THOMAS J. CURRY, Comptroller of the Currency
WILLIAM H. DONALDSON, Former Chairman, U.S. Securities and Exchange Commission (SEC)
PETER R. FISHER, Senior Fellow, Center for Global Business and Government at the Tuck School of Business at Dartmouth University
RICHARD J. HERRING, Co-Director, The Wharton Financial Institutions Center and Professor of Finance, The Wharton School, University of Pennsylvania
THOMAS H. JACKSON, Distinguished University Professor and President Emeritus, Simon Graduate School of Business, University of Rochester
SIMON JOHNSON, Ronald A. Kurtz Professor of Entrepreneurship, Massachusetts Institute of Technology, Sloan School of Management
DONALD KOHN, Former Vice Chairman, Board of Governors of the Federal Reserve System and Senior Fellow, Economic Studies Program, Brookings Institution
DOUGLAS L. PETERSON, President and Chief Executive Officer, McGraw Hill Financial
JOHN S. REED, Former Chairman and CEO of Citigroup and Former Chairman, Corporation of Massachusetts Institute of Technology

C-O-N-T-E-N-T-S

P-R-O-C-E-E-D-I-N-G-S

9:06 a.m.

CHAIRMAN GRUENBERG: Good morning, everybody. You know, timing is everything.

(Laughter.)

So, we want to welcome you to this meeting of our Systemic Resolution Advisory Committee. I think we have an exceptionally-interesting program to go through today. I think the work we are doing, the FDIC is doing, in regard to help the living will authority under Title I of Dodd-Frank, as well as the orderly liquidation authority under Title II of Dodd-Frank, is really quite exceptional and moving the ball forward on this broad issue, like the resolution of systemically-important financial institutions.

I will keep my remarks very brief and just walk through the agenda for today. First, we are going to have a presentation of the results of the living will review that were just announced yesterday, actually, by the FDIC and

Federal Reserve.

Then we will walk through both the results of the review and the process by which the outcomes were reached and which we think very important. A particular effort was made, if I may say, and as I hope will become apparent, that we made a real effort in regard to transparency relating to this process, to explain clearly how the results were arrived at and the basis for the results.

So, the staff, which has really done, I think, extraordinary work here, will walk you through it and will very much welcome your questions, reactions, and input on the work which has been done.

And then, following that, we will have a presentation on the work we have been engaged in relating to the orderly liquidation authority under Title II of the Dodd-Frank Act. We will go over some of the internal operational exercises we have been undertaking to develop increased capability for us to execute our authorities under Title II, discuss some of the important cross-border work we have been doing with the key foreign jurisdictions in regard to resolution planning and outline the further development in our thinking relating to our public resolution authorities, the orderly liquidation authority under Title II.

And then, after lunch, we will be very fortunate to have with us Elke Konig who, as you know, is the Chair of the new Single Resolution Board for the European Banking Union. The SRB, as it is called, is a new creation of the European Union. It spent last year in a setup phase in which the FDIC made a particular effort to provide support. We have already developed a very close working relationship with the SRB. They actually opened their doors for business on January 1. And we are really fortunate to have Elke with us here this afternoon to talk about the important work that she and her Board are undertaking.

So, I think this will be an

interesting and informative day. During the course of it, we will welcome your questions and input on the work that is being done.

I am very pleased that Comptroller Curry could be here today to take part in this meeting.

And if there are no other comments or questions to open the program, I will turn it over to Art Murton, the Director of our Office of Complex Financial Institutions, to begin the presentations.

MR. MURTON: Great. Thank you.

So, this first panel is going to focus on the work we just released on the resolution plans. I am joined here by Brent Hoyer, Rick Delfin, and David Wall. These are the people who led that work.

What I want to do, before I turn it over to them, is just sort of account how we got to this point, starting with what the requirements are under the Dodd-Frank Act, Section 165(d) of Title I of the Dodd-Frank Act.

What that does is require that firms submit plans that show that there could be a rapid and orderly liquidation of the plan under the Bankruptcy Code. This is a joint authority between the Federal Reserve and the FDIC. After receiving the plans, the agencies may determine that the plan is not credible or would not facilitate orderly resolution under the Bankruptcy Code. If both agencies make such a determination, they are required to issue a Notice of Deficiencies to the firm. This indicates what the weaknesses of the plan were, and the firm is given an opportunity to respond to that Notice of Deficiencies.

If that response is inadequate, the agencies may, again, jointly determine that further actions are necessary, such as higher requirements for capital and liquidity or restrictions on operations or activities or growth. If that set of measures proves to be inadequate after two years, the final stage is that the agencies could jointly, again, require divestiture of assets or operations.

So, that is the framework that the statute laid out. We will talk about our recent findings and where we are with respect to different firms.

But I want to go back and just, again, review how we got here. After the law was enacted, the agencies in 2011 issued a joint rule laying out the process and what we were looking for. We asked that in their plans, the first plans, that the firms describe their structure, their operations, their interconnectedness, describe their strategy for resolution, and also required that the plans have a public portion that would be available.

The firms submitted their first plans in 2012. And the agencies did not review those plans under the standard. We were taking them in and, basically, forming our view of the next steps.

In 2013, in the spring of 2013, the agencies jointly released public guidance to the firms for their next submissions. In that guidance, the meat of that was that the agencies identified five obstacles to orderly resolution under the Bankruptcy Code. Those obstacles were capital and liquidity, global cooperation, counterparty actions, continuity of operations, and the possibility of multiple competing insolvencies.

So, the firms were asked in their next plans to address those obstacles. We received those plans in October of 2013. We reviewed them, and in August of 2014, we released the findings. I think it was this Committee last met in December of 2014. So, it was not long after the review was made public.

In the review, the findings of the agencies were that the firms tried to overcome those obstacles, largely by relying on what we viewed an unrealistic assumptions, and that they failed to make or even identify the changes that would facilitate an orderly resolution under bankruptcy.

And so, the letters to the firms of August of 2014 indicated that the firms had to act on five different action areas, including legal entity rationalization, aligning legal entities with business lines; having a holding company structure that facilitates resolution; thirdly, amending financial contracts to avoid the early termination of these contracts that caused such disruption in 2008, and the ability to continue to shared services that provide support-critical operations. And then, finally, having information systems that would facilitate resolution.

So, that is what we asked of the firms, indicated that they needed to make demonstrable progress in their next plans on those fronts, and, also, asked for improvements in their public plans. I think it was generally viewed that the public plans portions up to that point had not been very complete or fulsome.

I should also mention that in the fall, later in the fall of 2014, we made a finding on the plan of Wells Fargo, one firm. I should step back a minute and just say that, in August, the FDIC Board made the determination under the statute that the plans were not credible or would not facilitate resolution. Our Board made that finding, but it wasn't a joint finding.

In the fall, our Board did not make such a finding for the Wells Fargo plan and indicated that it formed the basis, which it further developed, to provide for orderly resolution.

So, we also promised in the letters more engagement with the firms in the process. I think it was fair to say that, up until August 2014, the engagement between the agencies and the firms had been less than ideal, and we committed to heightened engagement. I think it is fair to say that that took place. We had multiple meetings with the firms, I would say dozens and dozens in some cases with various firms.

We also allowed them to preview their

submissions at the end of 2014. In February, we issued staff guidance, further guidance to the firms. So, we think there was much more engagement with them.

Then, the plans came in in July of 2015. That is what we are about to talk about. But, as I had said, we had asked for a more fulsome public portion of the plans. I think, if you will recall, at the last Committee meeting this Committee discussed that. Dick Herring made a presentation on that. And so, we received those public plans.

I think I would like to ask Dick his view of it. I just would mention that we asked the firms to provide more information about their structure, indicate their strategy and the steps that they had taken to improve resolvability, and, also, what they pictured the firm looking like as it exited resolution.

MEMBER KOHN: Art, could you say something about how this works with the Federal Reserve? So, are these meetings joint between the Fed and the FDIC?

MR. MURTON: In almost all cases they were, yes. I think it is fair to say there has been active involvement and engagement between the agencies on that.

MR. HOYER: Yes, maybe just a little more detail on that, and we will get into the review process in a little while.

But, to Art's point, after the 2014 communication that both Boards voted on, we communicated to all of the firms that we wanted to actively engage at whatever level they wanted to. And so, it was really kind of up to the firms to reach out to us and set that up.

The majority of those were joint, so that you could ensure that a common message was sent. Obviously, there are times where we have individual meetings, and so on. But I want to separate the interim process of between 2014 and the July submission. In the July submission we will talk about how the review process worked there, which is collaborative as well.

But think of it as a mix, but at all occasions we have continuous weekly, if not more frequent, meetings with our Fed counterparts throughout the entire cycle.

MR. MURTON: Yes, yes. Yes. And so, on the public plans, I think two things. I will just make two observations before I turn it over to Dick.

I think it showed that the majority of the firms chose a strategy that looks similar to what we call our single-point-of-entry strategy. They attempted this, something like this, under bankruptcy.

Also, the public plans indicated that the firms coming out resolution looked significantly different from what entered the bankruptcy proceedings, smaller spinoffs and a much smaller organization.

So, with that, I would ask Dick to let us know how we did.

(Laughter.)

MEMBER HERRING: Everybody has had

access to them. I really don't like talking about the public plans, which I have been following with particular interest because I have been curious about what really is going on. This is a window, and I would also add it is a unique window.

It is something we don't see about foreign banks. But the U.S. regulators, although I wish they were still little more transparent, by the way, there is nothing we really know about what is going on with living will processes in other countries.

The public sections of the living wills that we saw in July last year were dramatically better in some respects. I can give you both a half-full and a half-empty response. But the half-full response is that there was certainly more quantity. Many of the submissions were at least three times as long as they had been before. Now that itself is not a hallmark of improved disclosure, but they really did have qualitatively more substantive, more responsive disclosures.

We did have a good sense of the resolution strategy. They were much more clear about structure. They had, I think, a better description of the organizational structure. But -- and here is where I wish for still more -- we really are lacking some details that would enable us to see how particular institutions have progressed over time and how they look relative to each other. The problem is we don't have a standardized quantitative measure.

Let me just give you an example of something that I looked up last night, which is a very simple fix that could be made. I am not quite clear why it isn't.

But, if you look at JPMorgan Chase -- and I am not picking on them; it is just they are top of the list I looked at -- I looked up last night what the Fed and the National Information Center says is their full set of entities. The number of 5,280. If you look at their SEC filing, there are 42 entities. If you look at their living will filing, there are 25 material entities.

This raises real questions about well-aligned their legal structure is with their business structure. I suspect that a lot of this is unnecessary. What I would like to see in a future document would be taking the National Information Center data, which are the best public data we have got, and reconciling them to what goes into the living will report.

I am sure that a huge number of the 5,280 legal entities are simply irrelevant. But it would be very simple to have a reconciliation in which the bank simply listed the entities that would pose no threat to an orderly resolution and why, and perhaps maybe have three or four different categories that they fall into.

And if we had the satisfaction that they were adding up, you would have a lot more confidence in the identification method. Moreover, you would be able to tell what was happening over time. Have we actually whittled it down? Are we getting a better integration of legal and business structures?

So far, we really can't tell because the definition of material entity is not really standardized, and companies seem to change over time with what they regard as a material entity. Some of the things that we raised questions about on the first-round filings have now shown up as material entities. They weren't before, but we are not quite sure what happened with the transition. We could have a lot more clarity in the process.

And I guess one other thing I would mention is that, as I understand it, the agencies did provide guidance for improving the living wills. I think that is very commendable. I am pleased they are doing it. But I think that should be publicly released. I can't imagine it has any proprietary information in it, but it would enhance the transparency of the whole process for us to know what the dialog is like.

I really there are enormous gains to

be made both by the agencies and the banks in improving the transparency of the process. I do believe a lot of progress has been made, but it is difficult to sort it out in the available data.

MR. MURTON: Okay. Thank you. Thanks.

I will take a glass half-full right now at this point.

(Laughter.)

MR. DELFIN: Briefly, as Dick pointed out, we hadn't in the past put out specific guidance, but I think in your binders you will note that part of the public release that the agencies did yesterday included the new guidance that the agencies issued.

MR. MURTON: Excellent.

MR. DELFIN: Included in that is a description, actually, of the public section and improvements that can be made there, not to cut to the end, but --

MR. HOYER: You probably haven't had

a chance to read the public section. It is in the back of it. I would like to tell you that it goes as far as you asked, but it specifically does go a little farther on material entities.

MR. MURTON: Great.

MR. HOYER: So, it will help incrementally get you closer to where you are at.

MR. DELFIN: And financial interconnections are also in there, I think.

MR. MURTON: Great. Yes.

So, before I turn it over to my colleagues, I just should mention that you may have seen the GAO released a report earlier this week on the process that the Fed and the FDIC have been using for the resolution plans. I think, by and large, it was positive on our process and our framework for doing that, and it did have a couple of recommendations that are worth noting.

The first was that we be more transparent about our process and our framework. As we just indicated, I think the Boards this week released information about the process and the findings that really sets a new level of transparency for the agencies. I hope you feel the same way about it.

They also recommended that we, in a sense, lengthen the cycle for this review process, that an annual cycle is, in a sense, too challenging for both the agencies and the firms. I think we welcome both those recommendations. I think the first was already well in process.

MEMBER JOHNSON: I'm sorry, can I ask about that cycle point that you brought up? I mean, one question that has already arisen with regard to this round of reporting on living wills is whether or not they are still current and whether or not they reflect the current situation of these entities. And specifically, there is some commentary, which I don't know if it is right or not, saying that foreign banks, for example, have moved on and are in a different position.

If you are going to address the cycle,

I think you have to also address the lag between when the reports come out and when your determinations are public.

MR. MURTON: I think that is fair. I think we have engagement with the firms throughout the process. So, I think we are aware of changes in the firms as this has happened.

MR. HOYER: Yes, it is a great point that you make, Simon, of course, and particularly with the duration of the review process, as everyone is well aware of here.

While during the review process the level of engagement with the firms is more focused on the plan they submitted, as you can imagine, at the senior-most level there are continued meetings with the heads of resolution planning for the firms as well as senior staff on continued progress.

So, yes, the firms do not, nor would the agencies expect, that they submit their plan on July 1st and they stop. They have a very good idea of, and we were very clear with them, on the project plans that we think are the appropriate plans, and they should continue to close. And they have a very good idea on the areas that they need to continue to develop.

So, your point is taken, but by no means do the agencies encourage, nor do the firms stop their process along the way. You will find, and we do greatly expect, that some of the things that were in the July submissions of 2015 have progressed over the last several months.

MEMBER ADMATI: Can I ask a question? So, I didn't have a chance to look at the most recent thing. But I was just quoting from the August 5th, 2014, some of the things that you said they needed to improve, like having made unrealistic or inadequately-supported assumptions; for example, bad behavior of customers, counterparties, investors, central clearing facilities, and regulators.

So, especially like the counterparties, because the counterparties are usually each other, so what I am wondering about always is the system. These paths are just individual.

My question fundamentally is, how are they able to make the assumptions? How are the companies themselves having enough information to answer questions, you know, asking them? So, when they say, "This is impossible to do. We don't know how to pass," I kind of have sympathy with that because I don't know how they can actually pass that. I mean, if I am a teacher, I will give exams. So, it is like, are we admitting that it is really very difficult --

MR. HOYER: Yes.

MEMBER ADMATI: -- even for them? You know, so you can press all you want, but it is like, do they know enough about their counterparties and their counterparties' counterparties to actually answer that question?

You didn't mention here assumptions about other nations' insolvency laws or in subsidiaries or the cross-border issues, which are not even mentioned here, but counterparties sometimes are abroad or the subsidiary is abroad, or whatever.

So, my question is, just how are they really able or how are you able to, then, be comfortable with that? Or is it fundamentally kind of too difficult because of interconnectedness?

MR. HOYER: Yes, so it is a great question. It is a really broad question. It covers a lot of categories. And we will touch upon many of those components today.

But, just to kind of briefly have that conversation now -- and I will use one example. You brought up counterparties. You think about counterparties along multiple lines, whether it be funding, right, whether it will be collateral, et cetera.

And so, this process is really meant to leverage off of existing business-as-usual systems when they are making those sorts of assumptions. They understand a great degree the counterparties that they deal with, the clients that they deal with. This is really looking at kind of the array of possibilities.

We are looking for, it is an FDIC consideration, that this strategy work under a range of plausible failure scenarios. One thing we know for certain. We will give you the one certainty. We don't know what the next stress will look like. We do not know how it will flow throughout that particular firm.

So, we want it to work under a range of plausible failure scenarios and we want it to work under a range of different market conditions. The one thing that all the large firms have is they have a series of stress tests. They have stress tests on capital, one being run right now by the Federal Reserve. They have stress tests on liquidity. They have contingency funding plans.

So, the understanding of stresses that have occurred in the past, not that the history is necessarily indicative of what is going to go forward, tweaking those assumptions to understand, well, what is the sensitive to that; what is my break-even point; is it substantially mitigated or am I vulnerable?

So, there is, actually, a great deal of knowledge. There is the part about understanding the assumptions and think about it relative to what is the sensitivity. Are you very, very close and very little adjustment could cause failure of your strategy or do you have a pretty good gap there? So, that would be kind of one component I would discuss, and we will get into that a little bit more in detail relative to our framework discussion.

And the second thing is absolutely a valid point, is MIS capabilities. Do we have the ability to produce the information, produce the data in firms of this size and of this magnitude? That is something that I would recognize kind of two fronts on that. Obviously, all of the agencies, the OCC, the Federal Reserve, the FDIC, have been pushing MIS capabilities across the firms for quite some time.

Secondly, there are systems capabilities checks. The Federal Reserve has SR 14-1 that is specifically around MIS capabilities across the various components. You mentioned one of the components being a counterparty.

So, it is a difficult thing. These are complex firms with difficult challenges. And those are all key vulnerabilities to overcome, but there are ways to accomplish it.

MR. WALL: I was going to say, one other thing you asked about the cross-border implementations, and that is, indeed, one of the items that we have been particularly strong in requiring the firms to analyze. They need to look at the legal regimes, legal frameworks, in the countries in which they operate. And they need to be in communication with the regulatory supervisory authorities in those jurisdictions that would be implicated in a resolution scenario. So, that has been a focal point for our analysis.

MR. MURTON: Yes. So, again, great point.

I'm sorry.

MEMBER BOWSHER: Yes, I read The Financial Times this morning. Of course, you are the lead article on the front page there. But the thing that jumped out was when they reported that the FDIC went one way on the Goldman Sachs and the Fed went the other, and then, vice versa, for Morgan Stanley. And so, for the laypeople, how do you explain that two agencies have that much difference?

MR. MURTON: So, we are going to talk about our framework and our findings.

CHAIRMAN GRUENBERG: Take my word, we will get to that.

MEMBER BOWSHER: Oh, okay.

CHAIRMAN GRUENBERG: I think maybe it will help with that process.

MEMBER BOWSHER: Okay.

MR. HOYER: Yes, we have received that question a lot.

(Laughter.)

MR. MURTON: Yes, yes.

MEMBER BOWSHER: That's what jumped out at me.

MR. MURTON: Yes. So, just a final point on transparency, again, we think it has been much improved. We have released the guidance to the firms. We have released a comprehensive report on our framework and our findings. These are public documents. And the Federal Reserve Board released redacted letters that the agency sent to the firms. So, I think there has been a great deal of transparency on this, and we really look forward to the feedback from the Committee on the work that we have done.

If I may, I might just suggest that we try to focus the discussion on the framework and the guidance and avoid delving into firm-specific issues. But that last question was, obviously, one that comes up, and we will address it.

With that, let me turn it over to Brent, Rick, and David to continue what is already started.

MR. HOYER: All right. Thank you, Art.

Good morning, Committee Members.

Maybe the first thing we should do, we will go through and introduce and, then, we will just kind of tag-team this next area.

So, I am Brent Hoyer. I'm Deputy Director for Risk Management Supervision's Complex Financial Institution's Group.

MR. DELFIN: And I am Ricardo Delfin. I'm the Deputy Director for Policy in the Office of Complex Financial Institutions.

MR. WALL: And I am David Wall, Assistant General Counsel in the Legal Division for Complex Financial Institutions.

I think this is Brent's first time and Rick's first time, but I have been here before.

(Laughter.)

MR. HOYER: All right. So, following kind of a sequence, I know everyone is anxious to get to the results. We will cover the other "R" word first, the review. But, as we are going through this, please feel free to ask questions, as you have thus far.

As Art had mentioned, it is important when you are thinking about the sequence of what has occurred here, this really started with the release of the August 2014 letters. After that point, it was very clear in the letters, it was made very clear to the firms, that the agencies would be willing to engage at whatever level they wanted to engage.

We, then, had, as you saw in the -- I refer to it as the public narrative -- the 2015 communication where we reemphasized that communication engagement as well. And many of the firms engaged in an extremely material way. We used that particular process, as you would expect, to provide input, direction, to review certain aspects to get comfort level with. That obviously helped in the scoping process, not only within a particular firm, but from a horizontal perspective.

MEMBER REED: Is there anybody been at the Board level to talk to?

MR. HOYER: At the Board level, for a firm, no. No, it was generally senior staff is the way you can think about this. All of the agencies have quarterly, if not more frequent, meetings with the senior-most executive officers for the banks in the corporate area. They typically in and hit all three. During the peak of the resolution cycle, the heads of resolution planning is really what you can think about, and their core staff, they may be coming in to present on a certain area and they will bring staff with that, but not within, not Board members, no.

In discussing the review that we do, I think it is really probably helpful to kind of break it up into two components, if you will. There is the process itself, kind of what we do, and there is the framework that guides the process.

I know there have been a lot of

documents released in the last 48 hours, and you may or may not have had a chance to read through the GAO report that Art previously mentioned. Our framework and our process, as well as our Federal Reserve counterpart's process, is briefly discussed in there. And so, I will give you kind of a quick overview of that.

From a framework standpoint, as I mentioned, supervision. I have been supervision my whole career. So, it probably is no surprise that the framework that I would design for this particular process would be very supervision-like. And so, to the extent that you are familiar with the CAMELS process, this very much mirrors that.

There are five core components. We call them pillars. And those components really capture everything that you could imagine from the statute to the rule, to the letters, any guidance, any communications. So, it is holistic across those particular components.

Underneath those components are a

series of factors for assessment. And then, underneath that are a series of assessment criteria to guide consistency among the process that we will discuss in just a little while.

The one thing that I would say is don't think about this. You know, when you start seeing factors and criteria, people can think, well, it is a checklist. It is absolutely not. These are very, very in-depth types of assessment factors. If I was going to give you one example that we will talk about a little bit later today, I will match it up to something that Rick or I will talk about.

If we were in the world of operational readiness, is this strategy something that can be implemented? Something that is near and dear to the FDIC's heart is optionality. As we mentioned before, we don't know what the stress will look like. We don't know how it will flow through the organization.

And so, to the extent that we are looking at what sorts of options the firm has for separating business lines, entities, and actually executing sales. So, you can see the assessment criteria, the factors, going through a series of questions of how they identified certain objects of sale. So, that would be kind of a step one. Early you can see a series of questions around that.

Step two, how meaningful are they? What does it represent for revenue, for assets, for equity? What does it represent on business lines?

Then, you can see it going into the next step of, can they execute on them? There is a difference between identifying an object of sale, knowing how meaningful it is, and then, actually being able to pull the trigger in a timeframe that is relative to your preferred strategy.

So, they thought through the processes of the people associated with it, the systems associated with it, the financials, et cetera. You know, is it a particular building; they have got to deal with lease? And then, it moves on into what is the timeline for executing that potential buyer. So, it is a very, very in-depth analytical process that could be tailored to any particular firm, their plan, their particular strategy.

That framework has been trained to all the staff that were associated with that review. The Comptroller, I am glad that he is here today. He supplied supporting personnel to the review this year as well, which were greatly welcomed, and they have participated in that training program as well and the framework.

The framework is a living document. It is constantly being updated to capture information relative to changes in firms' strategies and things of that nature. And so, it will be retrained every year across the core team.

So, from a process standpoint, to facilitate it, the framework is really the guiding document that does the heavy lifting.

So, how do we, then, facilitate that particular framework? You can really think about it along two lines. There is a vertical approach and a horizontal approach.

And so, from the vertical approach, this is a multidisciplined team. As you can imagine, this is looking at the largest, most complex global firms that we have here in the United States. And so, when we are putting together the teams of individuals to assess these plans, they contain individuals from my unit that are familiar, knowledgeable with large banks, how they operate, how they work, the entities, et cetera. That is supplemented with OCC examiners, as I mentioned before, that bring that type of expertise as well.

Within the resolution world of Art's particular area, there is policy, there is international, there is resolution expertise, there is legal expertise. While there is a core team, there is a body of experts behind them where questions are funneled, and so on.

So, the vertical teams are responsible for just their firm, applying that particular framework to their firm and really understanding every aspect of that. The vertical teams are responsible -- I kind of think of it as the three "F's": applying the framework, communicating and engaging with the firm, and collaborating with the Federal Reserve counterparts.

That way, by the time everything gets done, there should be no surprises as to what issues may exist, maybe not the level of the issue, right? And there should be no disconnect on the fact pattern with our Federal Reserve counterparts. So, everything is a collaborative process from the ground up at that level.

The review teams are also supplemented, as you can imagine. In addition -- we will talk about the horizontals later -- you can have a vertical slice, which is helpful because you have to go deep. Across the five components, we have groups that we call pillar leads. And so, as they are looking at common strategies, common operating businesses, those pillar leads, those component leads are ensuring consistency of application, consistency of questions.

So, if I were to use an example, I know we are not calling out firms here, but let's just say if were in the universal -- I think we are fine here -- if we are in the universal firms, the large wholesale and retail organizations that use a particular strategy. Let's say they used an SP, single-point-of-entry strategy. You can imagine the teams coming together and coordinating across each pillar to ensure X saw this, Y saw this, how did you apply it, and so on.

So, the vertical component also has a horizontal component across the pillars.

Go ahead.

MEMBER JOHNSON: This is very helpful to understand this level of granularity. Are foreign supervisors involved in any, hopefully, seamless fashion in these conversations, the UK or the Europeans or anywhere else?

MR. HOYER: Not at this point in the review process, no.

MR. DELFIN: We have to break it into component parts. So, we work with foreign regulation on things called CMGs, Crisis Management Groups. We all get together and discuss individual firms and resolution planning strategies.

Then, the Title I discussion is actually something that we talk about so that folks are aware. We also make sure they have had access to the plans, if they have the firms. And also, they have the other plans, in addition. So, there is that, but they are not involved in the plan review process.

MEMBER JOHNSON: I am glad we are going to hear from the Europeans directly this afternoon. But I think there is a very big set of concerns about their strategy for dealing with failure, which is based, as I understand it, including having been there recently and talked to them about this, on resolution, not bankruptcy. Whereas, what we are talking about and what the living wills is supposed to assure us is that we can have bankruptcy in the United States.

I don't think, if we put one of these, my understanding is if we put one of these large entities into bankruptcy here, that is not going to mesh well with what the Europeans are going to do. Title II I think will mesh more easily with resolution. That is fine. But we really focused on the living wills which are about bankruptcy. And then, if their supervisors are not involved or can't be involved in that conversation, it just reinforces my concern.

MR. DELFIN: Well, it is different. We should break it into component parts. So, obviously, there are challenges associated with having a bankruptcy that would not exist under a Title II process. And the firms under their plans need to address those obstacles. Some of those obstacles are, obviously, multiple competing insolvencies, as I have pointed out, the risk of ring-fencing.

And so, what they need to do in their plans and in their planning process is either ensure that ring-fencing won't take place or provide necessary capital and liquidity to make ring-fencing irrelevant or provide some sense of comfort that, whether it happens or not, their plan will not --

MEMBER JOHNSON: I don't think firms can determine that ring-fencing won't take place. That is not their decision. It is not even the decision of the regulator in other jurisdictions. It is a matter of the legal code, right?

MR. DELFIN: That's true, but they can address the obstacle or the risk associated with that, associated with capital and liquidity.

MR. HOYER: So, a couple of points on that, and we will get into the liquidity aspect, which is fair, before we delve too far into ring-fencing.

So, relative to their participation in

the review process, your direction question, no, that does not occur. Routine conversations with them. I think it is important to point out, though, that members of various European groups have come over and participated in work sessions here. During that period of time, I personally brief them on our framework in detail, share with them the framework in detail.

Also, there have been members of the FDIC that have been on assignment in their particular agencies as well, and there have been presentations made from the standpoint of knowing our framework, being able to even leverage it or use it. At least they understand what we are applying at a very, very detailed level. So, that is one connection point.

MR. DELFIN: And there is a lot of information on what Brent just said. Would it help to step back and big-picture it for a second?

So, a plan comes in, and what we do is we create, as pointed out, vertical teams and horizontal teams. And they are implementing a tool that we call the framework. And so, the framework is designed to address all the issues and things that you would think about when looking at a plan. Plans have different strategies. They offer it in different jurisdictions. There are different components. And so, the framework is designed to allow the reviewer to really think through each issue.

When we say vertical, that is firm-specific. So, there will be a team on X firm, let's say Lehman Brothers. That is the one that I use because it no longer exists.

(Laughter.)

So, there is a Lehman Brothers team, and they have this framework. That framework allows them to break up the plan into component parts, and each one owns those component parts. Brent mentioned there is a pillar lead. That person knows this part of the plan and can compare that part with every other plan's part, so that we can ensure some consistency across those component parts.

Yes, sir?

MEMBER FISHER: I just want to ask a different question.

MR. DELFIN: Sure.

MEMBER FISHER: If you could talk to me, before we get to termination, how do you prioritize the feedback you are given by the firms? Let me give a context. Because, as a Board member of a non-bank SIFI, so not in this process but earlier in the foods chain, I observe through the process of being on the Board that the staff of both the firm and the regulators are driven to the facts, things that can be known. It is a big detective story to find out everything you can drilling down.

MR. HOYER: Uh-hum.

MEMBER FISHER: Which makes it is less time, it seems to me, for the things that we don't know about how could we simplify the process. That is, there are questions that staff can't answer about what could be done to simplify a big holding company. And that gets squeezed out in deference to the detailed questions/feedback coming from the agencies, which I understand the need for, but it is a very awkward thing, as a Board member -- and I just speak for myself in this capacity -- to see the tide of specific detailed questions, which I understand the need for, drives out time management and what the Board can spend on how do we simplify this function.

And it doesn't drive it -- and I just want to be careful -- but the feedback tends to come in laundry-list form, at least as it is presented to a board. And it is very hard to see there is enough time set aside for the hard questions of how do we rationalize and lots of time set aside for the specific details of how the bankruptcy laws are going to interact with some foreign jurisdiction, which the staff are driven to the specificity of that.

So, I would just ask you to talk to me a little about how you prioritize the feedback.

Or is it really flowing through the senior management and they are spending time on the things where they can make a difference?

MR. HOYER: It is a great question. It is like the third area we are going to get to here, but I am going to go ahead and kind of jump ahead just a little bit. We are going to walk through the process, explain how that process rolls up, explain how we coordinate with the Federal Reserve to get to those priority areas. So, I will get into how we manifest the priority, if you will, of the issues.

But, relative to the point of the details and how that occurs, I would suggest two particular aspects. So, one, the onsite portion, if you will, of the reviews this year, I think it is laid out in the GAO report, roughly 60 to 75 days. The staff is actively engaged with the firms, the heads of resolution planning, their particular areas for those components where they have questions.

As you can imagine, as they are

engaging those particular firm-level counterparts, when questions are asked, "Do you have this?", "Does this do this?", it becomes pretty obvious as to what is missing and what is needed. And those discussions ensue, as they would in the normal supervisory process.

And so, the list starts to grow. It becomes very apparent to the individuals on both sides of the table as to -- because if we find something is missing, something we need to close out, and the firm can't provide it, it is pretty obvious that they are going to need to do that next year.

We roll that up to the end of the process and, as we mentioned, following August 2014, I will use one example. There was one firm that we engaged 65 times between August 2014 and the July 1st submission. There is active engagement. There are monthly, in some cases weekly, meetings with firms to have very detailed discussion with whatever senior-level executives they want on any particular issue.

So, there are sort of two venues, if you will, to escalate, whether it be the detail of a specific item or go beyond what is in the letter, through the review process, as that dialog is taking place every day, and then, after the review process until the next plan submission.

Now, as far as how the agencies prioritize what is going to get into the feedback letter, as I go through the rest of the discussion here, I will kind of raise that.

Do you want to --

MR. DELFIN: Yes, I would just add on I am not from the supervision side. And so, part of this process is not a compliance exercise. What we are trying to engage here is a problem-solving exercise. And so, the firms' engagement with us is the firms come into us with questions about how they would overcome their particular obstacles that are associated with their structure, their strategy, their organization. And so, we try to give them guidance and feedback on that.

But in the area you mentioned specifically, which was corporate structure, we will talk about it in a little bit. We call it legal entity rationalization in the guidance. But that is actually fairly indicative of the approach here. Under the Title I process, firms need to have a criteria, their own criteria -- we don't set it; we don't put it on them -- a criteria that is tailored to their structure, their operations, and their firms. And then, they need to implement that criteria in a way that works for them, that works with their strategy, and overcomes the obstacles like the obstacles that Simon addressed.

We can look at that criteria, see how they execute it, test it to see if it is actually synched-up. And we did and we provided guidance on it.

But we are not going to them with "You must do this," and taking all their Board's time with solving our little problems. It is more helping them on the problem-solving exercise of overcoming all the obstacles that obviously exist and we have pointed out in our previous guidance.

MR. HOYER: And for many of the firms, they have been very good about bringing in, really tailoring the individual discussions with the staff that are applicable with executing on it. And so, to Rick's point, using legal entity criteria, some firms would set up a specific meeting just on that to just talk about it and the folks that are dealing with that.

Then, of course, it is within the governance process of the individual institution to escalate that through for approval all the way up to its Board.

MEMBER JOHNSON: It is amazing, given the late interaction you are describing, that so many of these banks failed this round in living wills on so many dimensions.

MR. HOYER: I didn't say every firm engaged 65 times.

(Laughter.)

MEMBER ADMATI: Before doing the horizontal, can you describe this horizontal?

MR. HOYER: Sure. Yes, that was next. Thank you for bringing this back up.

MEMBER BRADFIELD: I want to ask an embarrassing question, and I want to give you an opportunity to answer it. What you have presented in public is that, of the eight firms, seven have failed to provide adequate plans and only one is at least on the path. Now it is five years, five-and-a-half years since Dodd-Frank, and you have been in this process for two years. And it seems you are not getting very far.

Is this a reflection on the willingness of the banks to participate or are they gaming the system? Is it a reflection on the real possibility of developing living wills? Is it a real reflection on the possibility of making Title I work?

MR. HOYER: So, I am going to hit that question real short, and we will go through the review process. When we get into the conclusions, maybe we can reframe how you pose the question relative to how you interpreted conclusions.

We will clarify the actual conclusions of the eight firms, and then, we can discuss the fact that, as was released in the public narrative and with what the Federal Reserve released with the letters, it discusses the progress the firms have made, and for certain firms how seriously they have taken it, integrated it into their frameworks.

But let us finish the review process. When we get past the review process and we get into the results, we will reframe how you have viewed the outcome. And that way, it is very clear as to what that was.

MEMBER COHEN: Sorry for pulling you off, but just a quick recommendation. John started and raised the question about the Board. Peter picked it up. Ultimately, I think all three prudential regulators have direct roundtables which I find most directors believe are highly successful. Recommendation to consider maybe holding a directors roundtable on the resolution plans.

MR. HOYER: Yes. No, I think it is a great idea, Rodgin. Some of the firms have engaged the agencies before, where we have routine meetings with outside directors from the supervisory standpoint. And so, there would be absolutely no reason why we wouldn't do it on this front as well.

COMPTROLLER CURRY: I think that is a great idea, Rodgin. We actually have sessions for independent directors aside from the interaction that we have during an examination of sort of the ordinary crisis supervision.

MEMBER COHEN: That is what I am referring to. The directors come back thinking they have learned a lot.

COMPTROLLER CURRY: It makes sense to do so on an interagency basis.

MR. HOYER: All right. So, we will pivot back to the review process. We will speed through it. I knew that everybody would be anxious about results. And so, putting review in front was, I would say, tactical, but maybe not.

(Laughter.)

So, back to horizontal real quickly. We have the horizontal area, as I said, in the engagements that we had with the firms that kind of helped lay out areas that we wanted to engage horizontally across all the firms. That is really laid out, many of those categories are laid out on page 9 of the public narrative, things like legal entity rationalization, governance mechanisms, liquidity, et cetera, et cetera.

And so, those horizontal teams were put together, and they were really looking at the range of practice across each of the firms for similarly-situated strategies. That information is coordinated back and forth with the vertical teams. And so, this is really looking at level of granularity, strengths, weaknesses, progress, and so on, from a comparative standpoint. Both the vertical and the horizontals, as you can imagine, have core sets of deliverables that really help kind of finalize or conclude the process that they have there.

Moving more quickly into the governance process that we, then, have --

MEMBER KOHN: I wondered about the interactions.

MR. HOYER: Uh-hum.

MEMBER KOHN: If in the horizontal reviews you see some firms seem to have solved problems that others are struggling with --

MR. HOYER: Absolutely.

MEMBER KOHN: -- I assume that --

MR. HOYER: Yes.

MEMBER KOHN: -- the vertical guys say to the firm, others firms have -- or "Here are some suggestions about how you" --

MR. HOYER: Exactly. No, exactly as you would expect.

This is a perfect segue into the governance process. So, the vertical teams and the horizontals are in constant communication as to what is going on and what they are seeing. The pillar leads are guiding those particular discussions within their components.

And then, what we had sitting on top of that from a pyramid standpoint is the oversight group. As you can imagine, Art, myself, Rick, David Walls are members of the oversight group.

On a routine basis, vertical teams with the horizontal teams with the pillar leads were providing status updates, conversations about any item they saw. So, there are multiple points along the way to ensure, if you will, cross-coordination on issues, application, et cetera, to do that.

And this really kind of all culminated into one final discussion where the oversight group met and we spent in some cases half-a-day with each team, with each component there, as far as the vertical teams, the horizontals, and the pillar leads really having a vetting session across all the dynamics of strengths, weaknesses, progress, and so on. We got to really facilitate it.

MR. MURTON: We got to sit on that side of the table.

MR. HOYER: Yes, yes. We have got to turn around and do that back the other way. We are not looking forward to that.

All that information, that is the staff-level framework for assessing, right, the plans and the information within the plans. That, then, rolls up into what we call our assessment framework. That assessment framework is also communicated in the GAO report.

The primary objective, of course, that we are trying to achieve here is the statutory standard, right, really determining whether the resolution plan is not credible or would not facilitate an orderly resolution of bankruptcy.

This assessment framework really rolls up into three primary components. Straightforward, I think when you think about resolution planning, the first one is strategy. It is really, does the firm provide a strategy that has a credible path towards resolution in bankruptcy? We are looking at those common elements of, did it substantially mitigate systemic risk transmission? Are the assumptions around all of its various component parts reasonable and supported? Are the obstacles that Art mentioned and its key vulnerabilities, have they been addressed, substantially mitigated?

As I mentioned before, very, very important to us, is it flexible? Will it work under various failure scenarios, under various market conditions? We do not want a very sequenced kind of plan that I need this entity to fail first. If any other entity fails, it doesn't work. Or I need these funds to be able to move to here. We need it to be flexible. And that is a key component that we are looking for.

The second element within our assessment framework is operational readiness, plain and simple. Can they execute on it? And this gets to the components we mentioned before around MIS and other core operational components to execute on it.

And the last piece really within that that I would mention are a combination of governance mechanisms. Are all the Board actions there, all the things that they would need to do at the moment that they need to do it? Are there triggers corresponding to those actions -- and I don't want to steal much of what we will talk about later -- to ensure that, to the extent they have a good working knowledge of what is going on, what they need to do, and it will help facilitate from communication strategies to financial execution, and so on?

And the last piece within that is the optionality, as I mentioned before, and separability. Do they have identified objects of sale that help promote that particular flexibility?

The last, the third and final piece, is governance and responsiveness. This is particular typical for most supervision. You know, have they done what we told them to do? Have they met the statutory requirements? Have they demonstrated progress on all the prior elements? And very, very important to both of the agencies, have they really integrated this into their overall governance structure? Is it part of their day-to-day who they are, and so on?

And then, to the point, Peter, that you raised, that information, then, is all rolled up. The oversight group, then, begins the conversation. We are having routine conversations with our Federal Reserve counterparts all along the way from the staff level. So that by the time it works up to this point, the facts, everyone is in command of the facts of what the list of weaknesses are. Everyone is in command of the facts of the progress, the strengths, potential guidance considerations, and so on.

That rolls up to the Oversight Committee, where we begin at our level, coordinating with Federal Reserve counterparts at our level, to discuss communication. What do we put into guidance? What do we put into letters? How do we get that out, and so on?

So, that kind of flows you through. I kind of expedited it since we had some good questions along the way. But it flows you through the framework that we use, the vertical and horizontal components, the pyramid approach of governance up to the oversight, to the ultimate release of the communication.

Yes, any other questions?

MEMBER ADMATI: I have one important question about the process actually here. And it is related, again, to what the firms know and what you know, because you see all the other living wills. And also, you are on the other hat of FDIC anyway. In your office you are Title II, actually, and this is Title I.

So, when somebody makes an assumption, you might be in a better position to evaluate, I mean you are in a better position to evaluate that assumption. So, my question is, when you say -- and this is picking up on your flexibility thing -- how specific is that exercise? Because when I was looking for, when you said a horizontal, it is not just so consistency across, but interactions between.

MR. HOYER: Exactly.

MEMBER ADMATI: In other words, one feeds into another because the counterparty is this other person that submitted another living will. So, how much do you do across the living will?

Because I go back to the very first meeting of this Committee where Paul Volcker, who is not here today, you were presenting to us -- you were not there, Rick, but the people who were there. It was back to Wiggins' day. But you were doing Lehman. Okay? So, that was kind of the first document that was presented to this Committee.

And I remember Paul Volcker's first question, and I think it may have been the first question anybody on this Committee has asked, was, so what would you do on day two, three, and four, after you did Lehman in one night? What would happen with Citi, et cetera? Would it also be in your Title II resolution?

So now, Title I. Maybe one of them goes to Title I, but, then, the others go to Title II or any of the combinations there, if bankruptcy was ever a possibility, which I think many of us don't believe. But, then, we are back in Title II, which I know is not living wills.

Still, in other words, in this FDIC and in your office, there is sort of the various work you do on Title II and you see all of those firms. So, what does, then, the system look like in a scenario? That is sort of where I am interested in, and I understand the legal processes, that you have to give them feedback, et cetera, but you, yourself, have more information than they do in evaluating whether their assumptions, together with everything else that you know about, because when they say assumptions about regulators, it is assumptions about you, about the Fed, about everybody else. You know, is that likely? Is that possible, what they are assuming, et cetera?

And so, just to say my other questions that we can defer until later, you keep talking about progress. And so, my question is, you know, is any progress good enough? In other words, when you said in August 2014 they have to make significant progress towards X, Y, Z, now we have another -- are you telling us that they made some progress, any progress, enough progress? And what will it take in five months when you now give them, you know -- so, we can defer that until later. But the word "progress" seems to be so vague that it seems like any kind of progress is good enough, and we can iterate kind of forever on this process. Because it is part of the process, in other words.

MR. DELFIN: One way is horizontal.

MEMBER ADMATI: Yes.

MR. DELFIN: So, the outline, the

structure that Brent just described is our internal FDIC approach. If you look at the GAO report, the Fed has its approach, which is also pretty similar and connected.

So, at each point in our process we are trying to make sure that on the key issues that are two independent sets of eyes looking at it, verifying it, checking it, and just doing it. Our vertical team looks at it; our horizontal team looks at it, looks at it across firms, and then, presents to our oversight group, and it can be distilled.

When they do those presentations, they do them together, so that similarly-situated strategies in firms, if they are leads, not the firms themselves, are hearing the issues and can make sure that, "Oh, we had that same issue" or "No, this firm solved that problem in this way." So now, we can ensure that we have got additional levels of consistency in our own organization, the way we are thinking about these plans.

That all rolls up and, then, we match

it with the Federal Reserve. We make sure that we agree on the facts, the weaknesses, the issues. That distills down into what we have here, shortcomings and deficiencies. And that lays out, ultimately, into the letter.

So, at each point in this process there is a check, a recheck, a distillation, that leads ultimately to the letters that just came out. So, that is step one.

Then, you asked about the relationship between Title I and Title II.

MR. HOYER: Exactly.

MR. DELFIN: So, obviously, these are different paradigms, but they go to address the fundamental issues that were laid out, which is lack of preplanning and ability and authority to address the resolution of a large systemic institution that existed during the financial crisis.

And so, Title I is obviously the first step under the statute. Firms needs to show under 165 that that firm can fail in bankruptcy.

That is what we are doing here today. That is what we are discussing. There is a backstop under Title II that exists.

Obviously, we have tools, the FDIC has tools under Title II that are not available to the firm under Title I, which is why they have these additional obstacles, obstacles like liquidity and working with foreign regulators that are much easier for the FDIC under Title II. The firms need to overcome that in their strategies.

Now these two things work together because all the progress we can make on Title II, obviously, helps us because those are obstacles that might exist. The progress we can make under Title II helps us if we ever need to do a backstop or if a failure scenario is different than the one that might have been addressed under Title I. So, those two work together, and the Title II team will talk about that. So, I think that is the next part of that.

MR. HOYER: Yes, there are kind of two

components I would come off of, because it was a long, multifaceted question for like a meta-Senate panel.

(Laughter.)

The use of the Title I information integrate into Title I. As you can imagine, it is highly connected, right? There are a lot of common issues there.

So, as you would expect, all of us are steeped not just in Title I, but in Title II, and they are core aspects that the industry is working through from a Title I standpoint that also has Title II ramifications. So, absolutely, we would be utilizing that.

I think the second part of your question that I heard -- and maybe I misinterpreted this -- was that, when we are running our horizontals, absolutely, we are looking for range of practices; absolutely, we are looking for does this help facilitate the strategy.

But the one thing that I want to make

clear is that we are not looking to make everybody the same. So, I want to make sure that it is relative to their strategy. And I will give you like one specific example in their business operations.

So, let's just say that they chose a single point of entry in Title I, bankruptcy, not Title II. And they have multiple aspects they are going to have to deal with. But let's just talk about the financial aspect of downstreaming resources.

They can choose whether they want to leave money at the top of the house, and when the parent fails, try to downstream those. They can choose to preposition those funds. They can choose a balanced approach.

And so, when we are looking at who did what, how, and what sort of obstacles they needed to mitigate, obviously, a consistency approach across governance mechanisms to capture that, obviously, a consistency approach across financial to capture that.

But, if we did have one firm, let's say, that was more prepositioned with some flexibility at the top, it is a different consideration than someone who is completely reliant upon all the money being downstream, has a much bigger obstacle.

So, I didn't want it to, when I heard the consistency, yes, absolutely, we look across those big-ticket items to understand how they address that vulnerability, but we are absolutely by no means looking to make everybody the same because they fundamentally operate differently.

MR. WALL: I think one other aspect to what you are concerned about, a very good question, a very good issue that we need to address, I think as you were indicating, is the central interconnectedness amongst institutions. And I think you will see -- and I don't frontrun our subsequent discussion -- but I think you will see that there is a renewed emphasis in the guidance that we have put out for the firms about making the plans have what we call optionality to address a range of adverse scenarios, so that firms can't just rely on a very rosy, single, idiosyncratic scenario, but the plans must be able to address states of the system in which there are perhaps other issues going on.

And it is a very hard thing to do that because, if you were to assume the full range of possible scenarios, you would have a plan that would take over the world. But I think we have done that. We have recognized that that is an issue and our guidance this year takes that into account.

MEMBER JOHNSON: Are they allowed to say or how impressed are you when they say, "We will sell this or that asset."? I mean, do the states work with --

MEMBER DONALDSON: We are going to talk about that in detail.

MEMBER JOHNSON: All right. All right.

MEMBER DONALDSON: In detail.

(Laughter.)

That is a key question.

MEMBER JOHNSON: That was the best terms in the Lehman plan, too, right?

MEMBER DONALDSON: There are key issues that we are going to identify. Maybe we can like, because we are running out of time, maybe we will have David talk about the determinations. We might catch a break. And then, we will go into --

MEMBER JOHNSON: Of course.

MEMBER REED: Do you use governance and management as the same? In other words, are you looking at the managerial structure or the legal governance?

MR. DELFIN: I think we break it into component parts.

MEMBER REED: I never have seen the word "management".

MR. HOYER: You are going to see two words come up. First, I want to back up and say you will see us reference governance. What you think about is overall corporate governance, which is the boards, senior management, et cetera.

MEMBER REED: And legal.

MR. HOYER: Exactly, everything that you would typically think about within a banking organization, falling under its corporate governance structure. And we want to see resolution planning integrated into that, no different than we want to see risk management or audit.

You are also going to see reference to a term which is different around governance mechanisms. So now, what are the mechanisms to facilitate Board actions, triggers, et cetera, which we will talk about a little later?

MEMBER BOWSHER: Can I just raise an issue? Referring to the GAO report -- and I heard it a few times -- would it be good if all the members got a copy of it?

MR. DELFIN: I think it is in your binder.

MEMBER BOWSHER: Oh, it is in the

binder?

MR. DELFIN: Yes.

MEMBER BOWSHER: Oh, good. Okay.

MR. DELFIN: And I think pages 19 to 21, or so, is a real detailed discussion of the frameworks that the agencies would use and their approaches.

MEMBER BOWSHER: Oh, yes. I would like to raise one other issue. I have served, because of my background on audit, as chairman of many audit committees of main boards and a couple of banks, too. I would be very worried at this point because the chairman of the audit committee always gets the opportunity to appear before Congress when the bank really gets in big trouble, along generally with the CEO.

And so, have you had much contact with audit committees as you issue these reports? Because it would seem to me the boards now must be concerned that they are not getting on top of this. I mean, the audit committee, I would think, would be one of the focal points.

MR. HOYER: Yes, absolutely. I would address that question from two standpoints.

So, first off, every institution has its corporate governance process. Relative to how they close out or address a weakness will typically run through an audit review, as you can imagine. Whenever they put together their resolution plan or anything that is going up the senior management chain or out to regulators goes through a corporate governance process, which includes audit.

Now, relative to whether it be the interactions that we have during the review process or interactions that we have beyond the review process, it is really, I would say, up to the firms sometimes. When they have come in to meet with me, they absolutely have had members of the audit team there, and sometimes they have not.

But the governance process they have for closing out and addressing a weakness, no different than they would with BSA/AML or anything else, runs through audit. And the preparation of the resolution plan does as well.

MEMBER KOHN: So, any plan you get has gone to and been approved by the board of directors of the firms submitting?

MR. HOYER: That is a requirement of the rule.

MEMBER KOHN: So, you may not be interacting directly with the Board --

MR. HOYER: They have seen it.

MEMBER KOHN: -- but the Board has seen it?

MR. HOYER: Yes.

MEMBER KOHN: They have debated it? They have spent a lot of time on it?

MEMBER REED: Maybe.

(Laughter.)

MEMBER PETERSON: I heard that some of these plans are stacks this high, 2,000, 3,000 pages. How do you reconcile a 3,000-page document, so that it is actually something you can implement; it is actionable?

MR. HOYER: Yes, that is a great question. The first thing I would say is that your range is a little short.

(Laughter.)

But I would say that you can kind of envision anywhere from 1,000 pages to upwards of 100,000 pages. But bear in mind that, yes, bear in mind that there are two aspects to think about here.

The strategy, when you back up to Title I, what Title I is really about, right, and I know the lawyers will want to say it differently, but it is about mitigating systemic risk transmission, right? How do you wind yourself down or how do you continue operations, one or the other?

And so, the critical operations that can result in that are a known set. They can move around, but for most of these large organizations they do not. It always has to be reevaluated from time to time.

Material entities, to Dick Herring's

point earlier, don't tend to change a lot as to what the substance of the organization is and where the critical operations are. So, there are core foundational elements that don't change year-to-year that you can simply look at, have they changed anything, and move on quickly. And so, can the firms in the production of that.

The other thing is the firms, as you would expect, as they are trying to meet a rather large, comprehensive rule, include things such as policies, procedures, things that we have every day at our disposal through normal supervisory and monitoring efforts.

And so, what I would characterize is that the core crux of the strategy, the core crux of what gets past the foundational elements that we have been dealing with for several years, can really be condensed down to a much smaller group of pages.

MEMBER HERRING: But could I follow up on that, because I think the two points are highly related? If you really expect meaningful oversight by the Board, you can't hand them several thousand pages. There are just too many other things they have to do.

MR. HOYER: Right, and so, the firms -- no, it is a great question -- the firms will put together what they will call a narrative section, right? They will have an executive summary, but they will have a narrative. And the narrative really walks you through the quick and dirty of the strategy. They may call it something different plan-to-plan, but it will be like a narrative.

That is where I am focused, if I am a Board member, and I would ask questions: if you know what your particular entities are, your critical ops are, and so on, which will be laid out in the narrative. But the narrative tells you the story.

MEMBER KOHN: To get to Peter's earlier point, that is the point at which the Board ought to be doing the top-down.

MR. HOYER: Uh-hum. That's right. It

would be no different than any other supervisory matter that would make its way to a board. What were the issues before? How did we address those issues before we signed off on it?

MEMBER FISHER: If I could, I was really trying to make a much simpler point, which is both junior management in the firms and the agencies are complicit in letting things that are easy and fact-based to identify by about things that are difficult and judgmental.

And it has happened, and I am looking for you to be a little understanding of the agencies' complicity in that process. By the time it gets up to the Board, the subject is 9,000 pages long and a 100-page summary. And the question is, should I go on a diet? Knowing how much fat is in my pinkie and how much fat is in my baby toe doesn't really help us figure out what is the right diet for me.

CHAIRMAN GRUENBERG: If I could just ask staff to address what I think, Peter, you are asking. At the staff-level interaction both with the agency and the company, the facts to deal with can become so overwhelming that in a sense you would lose track of the big picture, and at the staff level before it gets to the Board, you don't yet put the pieces together and, from a broader perspective, look at what should the overall picture for the fund be.

MEMBER FISHER: And we are all complicit in that. The system is --

CHAIRMAN GRUENBERG: And I think if I could just ask maybe staff to respond to it?

MEMBER BRADFIELD: Just like the court sets limits on the number of pages, why don't you set limits on the number of pages and say, "Your plan can't be more than 25 pages. You can have all the annexes you want, but your plan has to be 25 pages."?

MR. WALL: Most of the pages are annexes, yes, or tables, some of which are repeated.

MR. DELFIN: And I do think we have tried. Certainly, in our interactions with firms and in our letters, in our guidance, it is to focus on the big issues. There is not a lot of small-time, "Oh, on page 257...," but, rather on the major issues of how you get the capital liquidity where it needs to be, how to make the decisions, and how to structure your operations, I think is how we are trying to approach it.

MR. HOYER: Maybe speak indirectly to the Chairman's point and Peter's point in telling Peter at this time we get it. We are not attempting to dodge it. There is a suggestion that was put on the table earlier, which I think is a fantastic suggestion. It is that we do deal in the weeds as well as the high level with the senior officials at the firms that are going to be addressing this. And having that similar conversation for the firms that want to engage the Board, we more than welcome that at our side, so that you can fully understand that. We can do that at any juncture along the way.

And then, as it pertains to submission materials, you know, that is a conversation we can definitely engage in as well.

CHAIRMAN GRUENBERG: I think as we come to the actual discussion relating to the determinations, it will become pretty apparent that the focus here is on the four strategic issues --

MR. HOYER: Yes, that's right.

CHAIRMAN GRUENBERG: -- impacting the operations of the firm; that the preoccupation was not, frankly, with details, but with the core obstacles to resolvability for the funds and directing the firms to address in a meaningful way those obstacles. Well, we will come to that.

MR. WALL: So, in that vein, talking about what we actually did, I think it would be worthwhile going over briefly in summary what the agencies found and what actions the agencies took over the last couple of days.

So, Art already gave you sort of a refresher, briefly went over the legal framework of the statute and what the agencies are obligated to do. As you know, plans that are submitted by firms that are subject to the heightened prudential supervision of the Federal Reserve are required to be reviewed by the Federal Reserve and the FDIC. As a result of that review, the agency, either agency or both agencies, may make a finding that the plan is not credible or would not facilitate an orderly resolution under bankruptcy.

With respect to the plans that were submitted for review in July 2015 by the eight largest domestic bank holding companies, the Board and the FDIC, first of all, did review all eight of those plans and, as a result of that review, jointly determined that each of the plans submitted by five firms, Bank of America, Bank of New York Mellon, JPMorgan, State Street, and Wells Fargo, were not credible or would not facilitate an orderly resolution under bankruptcy. In addition, the agencies identified, jointly identified, deficiencies in those plans and issued joint Notices of Deficiency to each of those firms.

So now, with respect to two of the firms, the agencies did not make a joint determination. For Goldman Sachs, the FDIC determined that its plan was not credible or would not facilitate an orderly resolution under bankruptcy. And for Morgan Stanley, the Federal Reserve determined that its plan was not credible or would not facilitate an orderly resolution under bankruptcy. But, since there were no joint determinations in those two cases, there was no joint Notice of Deficiencies issued to the firm.

Finally, with respect to one firm, Citigroup, neither agency made a determination that the plan was credible or would not facilitate an orderly resolution.

In addition, the agencies, with respect to seven of the eight plans, one exception being that of Wells Fargo, the agencies determined that each of those seven plans had specific weaknesses in the plans that, while not rising to the level of deficiencies, constituted specific shortcomings in the plans that the firms would be required to remediate.

Finally, as we noted earlier in the discussion, the agencies prepared and have issued a guidance document of general applicability to the firms. The document is intended to assist the firms in further developing their resolution strategies. It describes what the agencies expect from the firms' next full-plan submission, which is due in July of 2017.

So, a little bit about the response timing to these determinations. Yesterday the agencies issued joint letters to each firm containing the Notices of Deficiency or identifying shortcomings, or both, as applicable to the particular firm and, in addition, issued the guidance document.

In the letters the agencies directed the firms to make the following response: for those firms whose plans were found not credible or would not facilitate an orderly resolution, and therefore, which the agencies issued Notices of Deficiency contained in the letters, the firms are required to submit the revised plans remediating the deficiencies by October 1st of this year, so October 1st, 2016.

And I do note that the rule, actually, provides a 90-day return date. So, we are giving firms an extra three months to do their remediation.

For each of the firms that received a letter identifying shortcomings, which is just that seven of the eight firms, they must submit to the agencies by October 1st a report of the progress they have made in addressing the shortcomings. So, some of the firms will be submitting a report that just addresses shortcomings, and some will be submitting a report that contains, hopefully, remediated deficiencies as well as progress on --

MEMBER JACKSON: A question maybe out of ignorance.

MR. HOYER: Sure.

MEMBER JACKSON: What is the difference between a deficiency and a shortcoming, given that both need to be addressed? The deficiencies probably are more serious, which is why you are requiring them to be addressed earlier.

MR. HOYER: Uh-hum.

MEMBER JACKSON: But, since both need to get addressed, can you give me a brief -- I don't need an example, but --

MR. HOYER: Sure.

MEMBER JACKSON: -- what is a deficiency versus what is a shortcoming?

MR. HOYER: Yes, I will take that. I know everyone has had so much time to read all the documents that are out there.

(Laughter.)

I don't necessarily want to say it is a definition, but at least, if you will, a guiding principle on how we think about deficiencies and shortcomings is in the public narrative. So, you can find that.

But, real quickly, the way to think about it is, this is an aspect -- and I am talking about a deficiency -- this is an aspect of the plan that, first and foremost, the agencies jointly agree upon the materiality of that particular aspect; that it will or could undermine the feasibility of the strategy. So, that is kind of the first point, is that it is joint. Secondly, we both feel that it could undermine the feasibility of the strategy.

And a third point -- and I know you have talked about this before -- is in the 2014 letters we were very clear that we wanted to see demonstrable progress. And so, as we were looking for that progress made from the 2014 and 2015 communication, that could also be an aspect that could result in a joint deficiency finding.

Contrast that to a shortcoming. Before I go there, I do want to say all weaknesses matter. All weaknesses have to be addressed. And so, when we get to a shortcoming, it could be -- think about the components I just walked through -- it could be that the agencies didn't agree on the materiality of it. It could be that we did agree upon it, but felt that it just really raised questions about the particular strategy, but maybe couldn't necessarily undermine at this particular point or the progress was there.

So, that gives you kind of the guiding principle. The word-for-word sort of definitions, you will find those in there.

MEMBER BRADFIELD: Do they have different legal consequences?

MR. HOYER: Absolutely.

MR. WALL: That is a very good point. Coming at it from the legal viewpoint, a deficiency, if not remediated by October 1st, could provide the basis for further joint action by the agencies, if the agencies were jointly to determine that the lack of remediation was sufficient to justify the imposition of further prudential requirements, as provided for in the statute. No guarantee, nothing that says that that has to happen, but that is a possibility with respect to an unremediated deficiency.

The shortcomings are required to be addressed by the next plan submission in July. If they are not adequately addressed at that point, they could, then, become deficiencies and be subject to a requirement for remediation. As I said, the deadline for the next full-plan submission is July 1st of 2017.

And I think I should mention one last, but really very important item. As we have referred to earlier -- and you have a copy of it in your binder -- the agencies have released to the public a report entitled, "Resolution Plan Assessment Framework and Firm Determinations 2016". It is designed to be a descriptive title. I don't know if we succeeded or not.

But the point of that document is to lay before the public the resolution planning requirement that we are fulfilling and to provide further information on the agencies' processes for reviewing the plans. And we believe it is a big step forward in promoting the transparency of this process.

MEMBER ADMATI: I have a quick question. I just didn't read the documents right or about this one specific piece of it that I just became more aware of recently.

In the plan how did they and how did you address central clearing? Because my understanding is, from just reading, actually, a recent article about this, that central clearing, CCPs actually don't have an insolvency plan. Of course, in the scenarios of failure, there would be a CCP member that is defaulting somewhere in there.

But the CCPs, I can tell you from knowing some from the CFDC, you know, their risk management and their stress testing is not that transparent, either. But they also don't have an insolvency procedure because they say probably bankruptcy certainly won't work for them, but Title II is also not going to work them. So, what was assumed by the firms and by you about that?

MR. DELFIN: Let's think of which lens

we are looking through.

MEMBER ADMATI: Uh-hum.

MR. DELFIN: So, this panel is on Title I. We are looking at the lens, looking at the potential failure in bankruptcy of a USG, say.

MEMBER ADMATI: Right.

MR. DELFIN: So, if the plan requires that, let's say, material entities continue to operate and function, a key component of their ongoing functioning is access --

MEMBER ADMATI: Right.

MR. DELFIN: -- through a payment clearance and settlement systems. So, one of the obstacles that they need to overcome in their plan -- and we provide more guidance -- is on ensuring that they can achieve access if their parent were to file bankruptcy. That is the lens through which we are viewing this conversation right here and the living will for those individual firms.

In the next panel, they are going to

take off their Title I hat and put on their Title II hat and in that panel discuss how we use our authorities under resolution to deal with failures of other potentially systemic entities, including potentially those failures, but those firms are not part of the Title I process.

MEMBER ADMATI: But in the Title I they had to make assumptions about CCPs. I mean, you, yourself, said that it was deficient and --

MR. DELFIN: Right, they make assumptions, but not about a CCP failure. They make assumptions about a parent bankruptcy of a USG and the ability to give access to a CCP for a subsidiary.

MEMBER ADMATI: But in that scenario that they are failing, what if the CCP is failing? I mean, that's my question.

MR. DELFIN: Right. So, they are assuming a severely-adverse scenario, right? The world is not in great shape.

MEMBER ADMATI: Right.

MR. DELFIN: The USG scene is going

down.

MEMBER ADMATI: Right.

MR. DELFIN: But they don't have to assume that every other pillar of the financial economy --

MEMBER ADMATI: But they, themselves, would default on the CCP in that case?

MR. DELFIN: No.

MEMBER ADMATI: They would not?

MR. DELFIN: No, no, no.

MEMBER ADMATI: But the subsidiary --

MR. DELFIN: Therein lies the issue. One of the questions the firm has to overcome is whether it is going to transmit systemic rights. So, they need to solve both their transmission to CCPs and other counterparties as well as their access in order to continue operations.

CHAIRMAN GRUENBERG: Let's interrupt for just a minute because we were scheduled to have a break at this time, but the conversation seems to be moving forward. So, if everybody is agreeable, we will just keep going to try to get through the agenda for this panel.

MR. HOYER: Yes, if I could just make one additive point, everything obviously Rick said is absolutely correct. And so, you will hear about that, I assume, on the next panel.

But, as was provided in the 2014 guidance and as you will see conversations in the 2015 guidance that is out on the public sites relative to this, the firms have multiple ways. Optionality is a key thing for the FDIC and the Federal Reserve on this front.

And so, in addition to determining the potential mitigants from a financial standpoint for continuing to engage a CCP, there is also communication around alternative strategies. And so, those alternative strategies could also -- I mean, while they could be used if they can't engage a CCP for their own purposes -- could also be used if, for example, the CCP itself failed, but that is not the primary purpose.

But know that that alternative strategy is being worked through as well as playbooks associated with that, but it would be whether it is the Title I/Title II of the CCP occurring simultaneously to effectuate that transaction.

MEMBER PETERSON: Well, one of the areas that markets are most interested in right now relate to TLAC --

MR. HOYER: Uh-hum.

MEMBER PETERSON: -- and how do you define different sorts of bonds. What are the terms and conditions which would allow you to bail in or to use them as a capital injection, so to speak?

Some of the older senior debt which has been issued before by the bank holding companies, there is questions as to whether or not you would be able to use it. There are new rules coming out. At our agency we have been defining our own definition of what we call ALAC, which is basically available capacity.

So, I would be interested to know, how are you seeing that in each of these different worlds and what are some of the implications of what we seem to be back to the markets on on TLAC?

MR. DELFIN: I think there are two pieces to that. One is actually the Federal Reserve has put out a rule, and the Federal Reserve is going through that rulemaking process and receiving comments and deciding on how they want to define certain components. So, we can't get into their rule.

But, obviously, in the Title I process, the parent's ability to file bankruptcy and have some lawsuits over incapacity that they can use to recapitalize the material entities comes from their losses or incapacity, which would be defined or further enumerated by what happens with that long-term debt rule.

And so, certainly, to the extent holding companies have sufficient losses or incapacity that they can use to recap the subs, that makes their plans more or less reasonable, depending on the strategy that they use. So, if they used the recap, then that would be a key component.

MR. MURTON: I would note there are other things to flag for it.

MR. HOYER: We will discuss a little bit more, and it is in the guidance. After the break, we are going to move into sort of those key components, and we will talk about resources. But, relative to what qualifies and what does not, as you know, as a rule-based measure versus getting into the components of that, thinking about we will have, if you will, a defined amount. That is what is available. And we will be thinking about more the obstacles of, where is it, what is it, how do they get it where it needs to be, and what do they need?

But it is a great question, but until the rules are finalized, what qualifies will be subject to a --

MEMBER JOHNSON: Yes, but I think you are on a slippery slope here if you are deferring to the rule and deferring to some legal issue.

This is back to the bigger point made by Anat, right? Which is with the living will, you are looking at living wills individually, but what matters is the system.

So, if Bear Stearns had had some TLAC in early 2008, would it have made much difference at all? Maybe no, because the issue was what any bail-in of any trader would do to the system and how that would spread through the system. So, there is a systemwide component to this, right? Who holds that debt? Who is going to get written down? What is the potential contagion?

And I am afraid that -- and I understand the living will -- but that matters because you are not supposed to have a big systemic effect.

MR. DELFIN: Yes. So, the challenge is to the extent to which they have mitigated that risk. Let's use Lehman as an example. They failed in bankruptcy. If you look at the Valukas Report on Lehman's failure, I think Alvarez and Marcellus made that, roughly, $75 billion was lost to the market because of their rushed and lack of planned bankruptcy process. That is systemic contagion, just from lack of planning.

To that, they didn't have a strategy to mitigate that risk. So, what we would need to do is apply what would happen if Lehman Brothers had done the planning, gone through the living will process, built out a structure, addressed or tried to address the capital liquidity to each of the components we identify today, and then, see to what degree would they have mitigated systemic risk.

There was no, is there protocol? There was no long-term debt. There was no capital liquidity position. There were none of these rules.

And so, we don't know what the future looks like. I don't want to say the future is bright or not. All I am saying is that, to me, is the more appropriate test, as opposed to what would have happened there.

MR. HOYER: Yes, one other -- oh,

sorry -- just one other point I wanted to make in case it was assumed that we had deferred to TLAC or the long-term debt rule that is being developed.

So, in the assessment of this particular plan, the 2015 plan, the firms had to demonstrate the capability of recap if they chose an SPOE strategy, not based on some future requirement. We didn't pass on capital if that had come out that particular way. They still had to demonstrate at this particular time. As was provided in the 2014 letter and the 2015 communication, they had to identify those gaps and demonstrate how those gaps would be closed.

Sorry, Rodgin.

MEMBER COHEN: I was just going to offer one observation and, then, a recommendation, the observation being that I think, Simon, and picking up with Anat said, is absolutely correct. You are looking at individual institutions, but the issue is systemic.

So, the faster that the agencies, I guess the Fed in this case, can move on TLAC and single counterparty credit limit, because TLAC also has a severe limitation on the ability of other financial institutions to hold the bailable debt, and the sooner that gets in, the single counterparty credit limit gets in, the better defenses will be to restrain.

The comment is -- and since it has been touched on, I can't resist any longer -- that is the issue of the balloon goes up, and now in bankruptcy, which I would suggest is a form, at least in its present incarnation, ill-suited to this. There is the question of, notwithstanding everything that is there, will a bankruptcy court intervene and create a real problem?

MR. WALL: Rodgin, I think that is an excellent question. It is one that has consumed a lot of our attention and a lot of the attention of the firms.

MEMBER COHEN: And it has, and it will

continue, from what I have read in the letters. So, one thought would be to go in, take the source-of-strength language in Dodd-Frank and amend it to make it a preemptive source-of-strength obligation. So, you knock out the possibility of state law here and a bunch of hedge funds going in, buying the debt, and then, holding up the whole process.

There are going to be efforts made -- the word "flexibility" I heard a lot -- but a legislative solution, as difficult as that might be, would be the most effective here.

MEMBER BRADFIELD: Is short-term debt, following on Simon's question, is short-term debt a factor in your consideration of the sufficiency of a living will plan?

MR. HOYER: So, I hit it from a couple of angles. We have been discussing capital. We have been discussing TLAC. We have been discussing long-term debt. And in that same vein, from the 2014 and 2015 discussions that are in the public narrative, clean top-tier holding company.

Given the implications of short-term debt on the marketplace and systemic disruption, short-term -- again, we will see where the final rule is -- does not qualify for that particular aspect.

MEMBER COHEN: But you should take more credit for this because, as a result of what you did in reviewing earlier plans, there is basically no short-term debt left --

MR. HOYER: That's correct. Yes.

MEMBER COHEN: -- at the G-SIFI.

MR. HOYER: Yes. At the parent.

MEMBER COHEN: Yes, at the parent level, yes. Correct.

MR. HOYER: So, given a single point-of-entry in Title I under bankruptcy, under the assumption the parent company fails, there would be no short-term debt defaulted upon, and therefore, the holders of those would not be affected.

MEMBER KOHN: And enough credit at the

holding company to keep those operating subs --

MR. HOYER: Right.

MEMBER KOHN: -- that are itching. That is the key systemic --

MR. HOYER: Yes, right.

MEMBER KOHN: I mean, it is to access to short-term wholesale funding, and there has to be enough at the top under either Title I or Title II to keep those subs, give them access. That would be the absolute bedrock for this.

MR. HOYER: Right. Uh-hum.

MEMBER KOHN: But you have to meet that.

MEMBER JOHNSON: It is enough of what? It is going to be enough that you can be bailed in without that bail-in creating a significant negative --

MEMBER KOHN: Right.

MEMBER JOHNSON: -- spillover contagion effect, right? In any market, surely, certainly any derivative market, it would be a major concern.

MEMBER HERRING: I get a little concerned with these arguments about we couldn't possibly get bond-holders. I think that was one thing to talk about subordinated debt-holders before this. But, once we have identified bonds that you are buying with the firm understanding they will be bailed-in, I think you are in a very different ball game.

I think that is not what worries me as much, although spillovers for sure are of concern. What worries me most in the process, frankly, is the delay in starting, because the longer the delay, the bigger the losses; the bigger the losses, the bigger the potential spillovers.

What I have seen very little of in all of these discussions is how prompt resolution or prompt bankruptcy procedures started. That, to me, has been a consistent problem in the whole system over the last --

MR. DELFIN: So, we are actually going to segue. We are going to talk about governance mechanisms. There was going to be a breaking point.

MR. HOYER: Let's plow through.

MR. DELFIN: Do we want to close out discussions on the conclusion aspect first of all?

MEMBER ADMATI: I just want to throw in one other question because we keep talking about the holding company, which, again, I worry, sitting in FDIC, you obviously need to worry. Again, it is another hat you wear about the bank's subsidiary.

And so, what is the assumption about the bank's subsidiary? Because that is where the short-term debt and that is where the derivatives are still right now. And so, what happens? What is the assumption in this scenario, that the bank's subsidiaries are fine, or what?

MR. DELFIN: Why don't we walk through that and walk through the issues and, then, game it out? Maybe that would help.

So, at this point we wanted to talk

about some of the key issues that the agencies identified in their feedback and in the guidance in the report. These are the big-ticket items, for lack of a better word.

To help put those into perspective, I thought maybe we might walk through just the general strategy that a number of firms, although not all, put forth in their plan, which is a single point-of-entry in bankruptcy strategy. If we walk through that strategy, we might be able to piece-in each of these issues and why they matter and what the complexities are associated with them.

So, under a simple -- and this is a very simple -- SPOE in bankruptcy approach, you would have some sort of shock or series of shocks, combinations, losses, that puts a G-SIFI on the path of distress. We, when we review these plans, don't care about the shock. All we want to do is see how a failure state and the strategy the firm has set forth would flow through the structure of that firm.

We know the future is not anything like the hypothetical scenario they put forth. So, we just assume it. The firm has taken whatever recovery items it can take, but it is now clearly on the path toward bankruptcy filing.

Around this point, and it could be just prior to bankruptcy filing when we are downstream sufficient capital liquidity to its material entities, to its key subsidiaries in order to ensure that those entities could continue operating while the parent goes into bankruptcy.

When the parent is in bankruptcy, those entities would operate. They would wind-down, they be sold off, or they would re-enter the market at the end of the bankruptcy proceeding.

That is the big-picture vision of SPOE in bankruptcy. Now let's put forth those big-picture items that you talked about.

So, the obvious No. 1 big-picture item is the financial resources. That is, how do you have enough capital and liquidity to ensure that those material items are going to be able to operate throughout the bankruptcy process. And Brent is going to talk about that in more detail in just a second. That is question No. 1.

Question No. 2 is, how do you ensure that the decisions that need to be made are made at the time required? If your plan is based on the downstreaming at an appropriate time or the filing of bankruptcy at an appropriate time before a window closes, then you need to have a system in place, what we call a governance mechanism, for ensuring that those decisions are made when they are supposed to be made.

Then, let's say you go into bankruptcy. There is obviously a host of operational and structural challenges associated with filing. And Rodgin pointed out there are legal challenges. How do you overcome the obvious legal challenges that are going to take place? We need to discuss those, and there is guidance on those.

There are issues about whether or not shared services can be provided among entities, and there are key questions about the structure of your corporation and whether or not it has built itself toward resolvability and provides real actionable objects of sale to facilitate the sale and transfer of these entities. Because, obviously, there are a number of key things that can go wrong, and having optionality and separability provides a great deal more flexibility to the structure than operating just under a single hypothetical.

Lastly is there is a specific challenge associated with winding down a large derivatives book, which the agencies also identified.

So, with that, I will turn it over to Brent to talk about the financial issues.

MR. HOYER: I am going to expedite the financial issues because we have spent some time talking about capital already. So, I won't revisit a lot of the discussion.

The one thing I would say, I know we keep pointing to this, but I want to recognize the fact that it is there. Obviously, since we have spent a great deal of time with our Federal Reserve counterparts writing it, we think it is really good stuff. So, we want to encourage you to read it.

But the guidance that we put out, the first eight, nine pages are dedicated to just the financial resources as far as the expectations. And I will briefly hit upon it without going into details.

So, we already talked about, obviously, the firm is under severe distress, right? Capital is impaired. Liquidity is strained. There is market uncertainty around it, and so on.

And Rick has talked about the elements within a single point-of-entry Title I bankruptcy sort of aspect. And so, the decision points are the same whether it is capital or liquidity. It is sort of the entity location. You know, are you prepositioned? Are you putting the funding at the top of the house or are you balanced?

What you will find within the guidance that the agencies have put out on both parts is that we are looking for more of that balanced opportunity, because whether it is capital or liquidity that you will be using, it is that prepositioning, obviously, can avoid certain types of other vulnerabilities that we will talk about later, like fraudulent conveyance. But, if you preposition, you have to get it right every single time because how do you get it back up and over, right? So, having some sort of balance to how you think about your funding is very critical.

I think the message there is that you may be able to overcome one obstacle and create another. So, you have to always keep in mind all the particular obstacles.

Decision points on entity location, when did they take the actions as far as what Board actions are there associated with the financial aspect and what triggers do they have to actually prompt that to ensure, kind of to Dick's point, that they will take it and that there is sufficient timing, that there is a buffer of flexibility. Obviously, the larger the buffer they go in with, the more successful the outcome could be. If they do need to get the proceeds, again capital or liquidity where they need it, do they have the mechanisms to get it there?

So, we have already had a good conversation on TLAC and long-term debt around the capital standpoint, and what the guidance provides, what the expectations are from the agencies, of course, is that the firms have the capability of maintaining a methodology that can size at the material entity level what is needed from a capital standpoint to recapitalize those entities, to get them to a point where the market is confident, counterparties are confident they can make it through kind of that destabilization period after the point of failure.

That methodology, of course, is bumped against -- let's just do a forward look, Simon, to kind of the counterpoints you had raised, that whether it is TLAC, whether it is long-term debt, whatever the mechanism would be for the recap, we know what the defined resource is that the firm will have at that point in time, and they have the measurement system to say what they need under multiple plausible failure scenarios, as we have talked about, various different market conditions that could occur.

And so, obviously, those two have to be compared. At no point can what you need exceed what you have, right? And that gets to the key of the triggers we will talk about at a certain point and, then, the sensitivity analysis around that we discussed earlier based on a question that Anat raised.

This is really making sure that we understand under what particular circumstances does that strategy break. Is it something that it is really going to require something unprecedented beyond any historical levels that we have seen? Or is it something that is very vulnerable within an entity or across the firm?

So, that is kind of a real quick, expedited way of you know what you are going to have, the methodology and what you need, under those various market conditions, bumping those up. We will talk about the triggers, the Board playbooks. We will talk about the mechanisms to get it.

So, moving on into funding, it very much works the same way, but I would kind of add a little more detail on certain aspects of the methodology, so the same aspect of balanced. While the financial condition is likely in most cases invoked about some sort of uncertainty in the balance sheet and some sort of uncertainty with the capital, ultimately, in our experience it is liquidity that ultimately results in the failure and the distress.

And so, ensuring that you have sufficient funding to execute your strategy is key. Ensuring that you have sufficient funding to restabilize and meet those counterparties' needs are key.

And so, having that measurement system that can size the outflow through that runway period to that point of non-viability and really at the end measuring what do we need to execute this, and you will find in the guidance this year we have been very prescriptive to the firms on this. We need them to build a size at the material entity level, the minimum operating liquidity for each entity. So, what is its working capital? What is its daily estimates that it needs for any kind of stabilization to continue to survive, operating expenses, inter-affiliate funds flows. We have talked about ring-fencing. The frictions aren't just limited to ring-fencing and external parties, but also internal, across affiliates on moving funds.

And so, the minimum operating liquidity need that they would need, in addition to the peak funding requirement for any firm or any entity within the firm, whether it be a broker/dealer, whether it be the bank, at that point of non-viability, as they move into that resolution period, there will be a point in time, day two, day three, day seven, where there is a peak funding need. And they are going to need that minimum operating liquidity plus that peak funding need, providing those daily cashflows, so that they can see what that is.

As you can imagine, that calculation on what that need is is moving as the firm changes day to day and does its normal business. The liquidity that they have, the HQLA that they have available is moving as the firm operates day to day. So, having a good measurement system, a very good, robust MIS system to measure that, to understand it, to understand, as I said, with capital, the sensitivities, under what circumstances would this work, would this not work, and bumping that against the HQLA on a very routine basis to know when are we getting within the threshold, back to Dick's point, of making sure we take our actions in a timely manner. Because once we cross that point, based on the calculations, the strategy is no longer going to work.

MEMBER KOHN: That is a key difference between Title I and Title II, I guess

MR. HOYER: Yes. Yes.

MEMBER KOHN: In Title II there is a source of funding. In Title I --

MR. HOYER: Absolutely. Couldn't have said it better myself. I always hate to say it, but it is the bottom line: there is lots of vulnerabilities, but the financial vulnerability is key. And it is not only in the capital front, the vulnerabilities there, but the liquidity front there.

But, also to that, you can measure it. You can understand what it is. You can understand your sensitivities to it and that it may work under circumstances that we have never yet seen. As we have talked about, maybe we will see that.

But, at the end of the day, if you also don't have the mechanisms to actually execute it or the ability to do that, that is a challenge, too.

Sorry, Simon.

MEMBER JOHNSON: So, isn't every financial collapse that we have ever seen triggered by the liquidity?

MR. HOYER: Yes.

MEMBER JOHNSON: Just to be a slight more constructive, what if you go back and look at Bear Stearns or Thornburg Mortgage, or any of the other people that were collapsing in the last crisis? Can you look at the extent to which they had liquidity and tell them that they didn't? And then, if there had been a living wills requirement, ask the question, could they have satisfied you a week before they collapsed or a month before they collapsed, based on your criteria? Because, if they could have satisfied you -- and you could do this based on the public records probably -- if they could have satisfied you, then that is a problem.

MR. HOYER: Yes. No, it is a very fair question and it is absolutely an exercise that not only from a regulatory standpoint we have thought, but, as you can imagine, from an industry standpoint, as they are going through their own contingency funding plans, their own stress tests, their stress tests are very much keyed off of real examples, historical examples of what has occurred through time, as well as constantly looking at what could be the next potential crisis.

But you are absolutely correct, if we took Lehman, if we took Bear, and under this particular example, let's assume that they had a methodology. We will talk in the liquidity world. Let's assume they had a methodology to look across their material entities, and that methodology true did capture. What do we need for today? What do we need for operating expenses? What do we need for working capital?

Let's say it was robust. That's X.

What is our peak funding, which for them would have been pretty high day one, day two, day three, based on their operations. And they knew we have to take that action with some sort of buffer prior to that.

Then, in theory, it would have worked, but you have to have all those components and you have to have a Board that will take those actions at that point. That is a fair question, and it is exercises that have been done.

MR. DELFIN: And that is why so much of our guidance is focused on nailing down, because it is critically important.

MR. HOYER: I would love to sit here and tell you that I think it is one of the fundamental things that we always point back to, is that the rule reads, the statute reads, it is substantially mitigating the risk. It is no different than the question that was raised with CCPs, access to FMUs, TLAC. Every one of these assumptions we have locked down; it is 100-percent certainty it will work, we are not going to sit here and tell you that. We are looking for the firms to understand those vulnerabilities, deal with those vulnerabilities, and work towards the best-possible outcome to substantially mitigate it under a range of scenarios and a range of market conditions.

But, yes, you can look at any particular point and say, if an asteroid hit the earth, would that work? And so, there will always be some level of probability. There is never a 100-percent certainty across any particular aspect.

We are looking for really good, comprehensive analysis that provides the best-possible outcome under the greatest extent of circumstances.

MEMBER JOHNSON: Has there ever been a self-funded bankruptcy restructuring by a large financial company in the history of the world?

MR. DELFIN: Well, I think the point of this process is for firms to overcome the obstacles associated with their potential failure. And Congress has created a process for them to do that and they have set forth rules with a strategy and overcoming these obstacles. We have evaluated that and set forth back to them a guidance.

CHAIRMAN GRUENBERG: Never before in our regulatory history in the United States has there been a set of requirements like this. So, in some sense, what we are trying to introduce is a new set of standards and regulatory requirements within our framework to at least permit a possibility of this outcome, combined with a public bankruptcy backstop in the event that the bankruptcy option appears unworkable and the combination of the two is really an entirely new framework within our regime to try to see if we can have a different outcome, whether it is the bankruptcy or the Orderly Liquidation Authority, than we had previously, which was an open institution support for the company.

MEMBER JOHNSON: I understand what you are doing, Marty, and I support Title II, as you know. But it also requires a viable, feasible failure under Title I. I think you are trying to change the laws of physics here. Because, as I understand the historical record, firms fail when they run out of liquidity and only when they run out of liquidity. We don't trigger, we don't have corrective interventions ever, right?

And they are failing because they are running out of liquidity, and now you are having them produce out of a hat magically the liquidity that is going to finance the restructuring. That is very hard to believe.

MR. HOYER: If I could back you up just a bit, the way the sequencing of the stages goes for financial institutions, let's just say we are in business as usual, were today. The eight firms are operating fine. They will encounter a stress period, and those stress periods actually occur quite frequently, and they move in and out of them just fine.

There is a recovery period that they can enter into. The OCC recently issued recovery planning guidance. Recovery plans have been provided for the firms for quite some time. The firms have sets of actions that they will take to try to bend that curve.

And so, the whole time the agencies from a supervisory standpoint are monitoring the progress of that. There is a point, though, where you start to move into where recovery is no longer successful.

At the same time, that firm is measuring this is what we need to execute our resolution plan. They cannot cross that point. So, as they are entering into recovery mode, they are trying to take certain actions. They may be successful on that front. Many firms have been in the past. They may hit that point where they cannot, and this is a way for them to achieve potentially an order resolution. So, versus just saying it can't work, this is a potential mechanism to achieve that.

MEMBER COHEN: Brent, in this context, I have thought, maybe incorrectly, that Title I and Title II are not totally "either/or". So, if you filed in bankruptcy and that was not working, that you would have the right, then, to come in under Title II and have --

MR. HOYER: That is absolutely correct and an excellent point, Rodgin, yes.

MR. MURTON: I don't think the authorities would have the capability to go to Title II. You can't request --

MR. HOYER: But, if Title I was not successful, you could then do --

MEMBER JACKSON: Rodgin, while I think that is right, and this is one of my hobby horses, I think the problem is the disconnect between Title I, living will, and all the great work that the FDIC has done under Title II. Title I does not ask them to be resolved under the best-possible resolution mechanism that we have available. It asked them to be resolved under the current Bankruptcy Code, which is, to go to Simon's point, a real disconnect I think. And it is too bad that Title I doesn't ask them to be resolved under the best-possible resolution mechanism that we have in place. So, their task, and I think the task of the financial institutions, is made ultimately more difficult by this disconnect in the statute.

MEMBER COHEN: Absolutely. That, of course, is why it would be great if the work you are doing to get the Bankruptcy Code --

MEMBER JACKSON: The House has been great; get the Senate moving.

(Laughter.)

MEMBER ADMATI: Again, just to pick up on that, the Bankruptcy Code has not changed yet. And so, the notion these institutions, just looking at the basic facts from the outside, you know, the last time bankruptcy was invoked for a SIF was Lehman, and it didn't work very well.

So now, we are asked to really, really believe in miracles because --

MR. WALL: I think one of the issues in Lehman is --

MR. DELFIN: I mean, I think we are in

a vastly different world than we were in Lehman.

MR. WALL: Yes.

MR. DELFIN: Obviously, Lehman occurred after Bear. The government stepped in. Implicit support began explicit. Counterparties may or may not have had an expectation of future government support, and Lehman was a surprise.

MEMBER JACKSON: I think one of the big differences with Lehman is exactly what you guys are talking about up here, which is pre-bankruptcy planning, of which Lehman had nothing.

MR. DELFIN: There was no planning. There was no loss of serving capacity. There was no ISDA protocol in place for those qualified financial contracts. There was no Title II early liquidation, and there was no living will.

MEMBER JACKSON: The whole living wills process is to ensure that you never have a Lehman enter bankruptcy without --

MEMBER JOHNSON: Rick, for the record, Lehman had 11.6 percent Tier 1 capital, and they reported two weeks before they failed. So, this question of, yes, exposed, nobody has enough loss incapacity, but in terms of the regulation requirements and in terms of what they reported -- and they have not been held accountable in the courts, so I think they weren't lying -- they did have a lot of capital by today's measures.

MEMBER REED: Look, I think that any institution that goes through this process, No. 1, is going to have to plan in ways that traditionally one would not have planned. I can't imagine, listening to it, that you wouldn't also modify your business. In other words, as you confront some of the difficulties here that get called out as you start imagining how you might do some of these things, you are going to say, "You know what? It isn't worth having these businesses that are so dependent on market funding because there is no way I am going to get enough capital down to them," and so forth and so on.

It is going to have the effect that I was sitting here telling Tom that, if I were running a bank, my prime mission would be not to be one of your defined systemic banks.

(Laughter.)

I would get a set of businesses. Because the process of doing through this just makes clear that you are going to have to have an amazing amount of liquidity and capital, and distributed in the right places with the right legal structures and managerial disciplines, and so forth and so on.

So, this process is going to have a salutary effect, whether or not it proves that someday somebody is going to be able to go on to bankruptcy easily and there won't be a ripple on the surface of the water.

MEMBER JOHNSON: John, I hope you're right. And very soon, we are going to have some data to let us look at that because the systemic risk reports that the Fed puts out, we have the latest out of 2014. We will soon have the end of 2015 data. And then, we will be able to look not at exactly the same level of details that these guys can look, but this public data will show us a lot about the structure, the size, the structure, the funding structure of these banks.

So, I suggest we all take a look at those numbers when they come out as part of our assessment of whether -- I think John put it very well. If you process is working, you should see the banks changing that profile, changing those lines of business. I haven't seen in any publicly-available information so far. But this data that the Fed puts out is comprehensive and it is clear, and they make them report exactly on these issues in aggregate form.

MR. HOYER: So, one thing I would add to that particular point, Simon, what would be helpful, what I would encourage you to do in conjunction with when you are looking at that particular data is to read the expectations and guidance document that the Federal Reserve and the FDIC have put out for the firms.

While we have focused on the measurement of what they need, you will also see, to your very point about adequacy and positioning for resolution. And so, there is a nice couple of pages around that particular point on, yes, I'm not going to go into which firms have, which firms haven't, but how firms are working through inter-affiliate frictions, operational frictions, external frictions.

Because, to your point, they need to be able to size what they need in order to execute their strategy, but they also need to be able to make it through stress and recovery and into runway. And so, I would encourage you to read that particular point in conjunction.

CHAIRMAN GRUENBERG: We have got about 20 minutes that we had said we would set aside for this discussion. You have got a pretty full agenda. I would like to get through most of it today, if we can.

So, needless to say, this discussion has been exceptionally helpful, but I think if we could take the 20 minutes at least just to lay out the additional issues, so that we can at least be sure they are presented to you, and we will run over a few minutes if there is particular urgency to --

MR. HOYER: Yes, and we will try to skip a few. But maybe we will move into governance mechanisms next.

CHAIRMAN GRUENBERG: Yes.

MR. DELFIN: So, Brent just laid out the key financial issues. One of them is information. Do you know how much you need? And the other is the amount. This is where it needs to be.

Another variable is time. But, as you pointed out, Simon, in history firms don't fail with a lot of liquidity. Well, the key question is, if you need X amount of liquidity, how do you ensure that you are going to fail when you have X amount of liquidity? We call that governance mechanism.

So, governance mechanism is what are the actions that need to be taken in order for you to successfully execute your strategy and what is the degree of confidence that we should feel from those actions. How do you ensure that those actions will be taken?

And we look at are there clear triggers for specific actions. There are triggers for informing your Board that you have moved from a bad stress scenario into a potential recovery scenario. Clear scenarios specifically laid out in the guidance for the downstreaming of that capital and liquidity. That is a clear key component of this. And how are you going to know when to pull that trigger?

Finally, how are you going to know when to file bankruptcy, so that you are still in the window of when your strategy can function? And do you have as part of that trigger your pre-filing actions? Are you going to know when to start planning your bankruptcy? Are you going to start now or did you start, hopefully, in our process of building out what that filing looks like, what the key legal challenges are going to be, and how you overcome those challenges? That is a lot.

So, when we look at the pre-filing error, we have the amounts, the information, and the timing. Then, I will just try to quickly move to the next part, which is you get into bankruptcy. How do you deal with those operational elements? We are going to try to fly over some of them.

But one of them is there is going to be a legal challenge associated with that downstreaming. We can expect that counterparties are going to say, "Wait a minute. That's my money; that's not their money, and I'm going to sue you."

And so, one question is, how do you overcome those legal obstacles and, say, fraudulent conveyance of preference? The governance mechanism can help with that, too. And I am going to turn that over to David.

MEMBER COHEN: Who is going to solve it?

(Laughter.)

MR. HOYER: The industry is going to solve it.

MR. WALL: With help. With help.

No, I think that, as Rick indicated, the legal underpinnings of this strategy is key. It is fundamental to our consideration of the success of a strategy to know that the firm has adequately addressed what could be very significant legal challenges to the strategy.

And those could occur both pre- and post-filing. One of the things that we are concerned about, in particular, is that the firm set up a structure that enforces the Board's responsibility to make a decision, and makes it very difficult, if not impossible, for a Board to walk away from a precommitment to pull those particular triggers at the time that the firm is entering into stress, material financial distress.

The second part of that is, of course, to address what could be potential challenges post-filing to the provision of liquidity, and they could come in the form of fraudulent transfer challenges, breach of fiduciary duty, a number of different other legal theories that would arise both under federal and state law.

And we have charged the firms with the responsibility of identifying those issues and figuring out how to overcome them. We have made specific suggestions as to how the firms could approach this. We have suggested that there could be the notion of a contractually-binding mechanism that is put in place prior to filing, and in sufficient time prior to filing to survive some of the time periods that are associated with fraudulent conveyance and other challenges.

The other area would be to actually have hard prepositioning in a manner that can't be reversed or at least not easily. Also, part of that strategy might be the creation of an interim holding company that would work to distance the actions of the Board from the provision of liquidity to the subsidiaries. And we are certainly willing to entertain any combination of those three.

Part of what we have asked the firms to look at is the creation of perfected security interests and collateral that would survive a bankruptcy filing or a challenge to the potential distribution that would be affected by the shift to a bridge bank.

And we have actually, I think, gone into some of the fairly-detailed legal issues that would arise with this, and we have asked the firms, told the firms that they need to address it in specificity and achieve a level of confidence that these mechanisms will work. And that is all spelled out in the guidance.

MEMBER COHEN: David, I'm sorry.

MR. WALL: Yes?

MEMBER COHEN: Just at the risk of repetition, I think the firms are making a major effort to do this. As you know probably better than anybody, this is not the clearest area of the law. I don't think we want to leave to a single bankruptcy judge somewhere the ability to unwind one of these. Again, it would take one sentence to make clear that the source that is that doctrine which is now codified prevails. I really think it is in everybody's interest to get that legislation in.

MR. WALL: I certainly don't disagree. I think anyone can sue anybody, can challenge anyone, but to the extent that we can get legislative support along those lines, I think that would definitely make the approach more certain.

MEMBER COHEN: Leave that to Congress.

(Laughter.)

MR. WALL: Right.

MEMBER BRADFIELD: Are you satisfied with the responses on the legal framework that the companies have said that they have created to overcome these problems? Are you satisfied with those?

MR. WALL: Well, the firms have produced a spectrum of responses in this area, but I think the general answer is no. We have identified specific areas in some of the firms' letter and the guidance asks generally for additional support for the positions that they have taken. So, no, it is an identified weakness, and it is something that the firms need to come back to us on certainly by July of next year.

MEMBER KOHN: I think, in practice, the trigger is, in many bank failures the trigger is the failure, right? So, you thought you had access to the discount window; Monday morning you don't. You thought your broker/dealer was the primary dealer; Monday morning it isn't. So, I think that is probably going to be a coordination between the FDIC and the Fed about when to go into bankruptcy or into Title II.

MR. WALL: So, I might suggest that that might be the trigger for bankruptcy, but I don't think it should be the trigger for the position they have liquidity. I think the liquidity mechanisms --

MEMBER KOHN: Yes.

MR. WALL: -- have to trigger prior to that.

MEMBER KOHN: I was thinking in practice.

MR. WALL: Yes. Well, I think we have talked about some mechanisms for kind of an early-warning system, if you will, you know --

MEMBER KOHN: Right.

MR. WALL: -- maybe having to do with some assessment of what the overnight rate is or what the portfolio mix looks like in terms of the average return.

MEMBER KOHN: Using access to the --

MEMBER ADMATI: As long as you don't use negative or capital --

(Laughter.)

A key guide to what is going on.

MR. DELFIN: Today was to keep us moving fast, and I think we are really out of time.

MEMBER PETERSON: Just one?

MR. DELFIN: Oh, of course.

MEMBER PETERSON: In terms of the guidance legal entity rationalization, does this move you into asking international banks to release subsidiaries as to the branches?

MR. DELFIN: So, we were just going to talk about it, but you went to the IHC. No?

MR. HOYER: So, I will try to keep it quick. I wouldn't say that we are necessarily taking a position. The IHC, obviously, is --

MR. DELFIN: It is not the --

MR. HOYER: Oh, I'm sorry. International Holding Company world. Sorry. That is the Federal Reserve's regulation, so I don't want to get into that.

But, as far as the FDIC's position when we are thinking about resolution standpoint, we are not prescribing one way or the other, but we are asking them, as the firms, the FBOs, are working through the Intermediate Holding Company rule, which has implications on their structure, which has implications on their MIS, management information systems, which has implications on their financials. They are also bearing in mind what Rick is going to walk through relative to legal entity rationalization to ensure that any obstacles created, whether it be a subsidiary or a branch, that they have dealt with that and thought about that and aligned itself accordingly.

MR. WALL: With respect to domestic institutions' presence overseas, I think that Brent's right. I mean, we are not prescribing one thing, one way or another, but firms need to take into account the potentiality for ring-fencing and how that is affected by whether you use a branch structure or a subsidiary.

MR. DELFIN: So, going to the LER, or the legal entity rationalization and separability -- (laughter) -- that was a great segue. In the guidance we also talk about this element. And the agencies assessed the degree to which the firms have tried to structure their corporate structure in order to improve resolvability.

What we called the legal entity

criteria is one tool for doing that. So, each firm is different. They have different business lines. They operate in different jurisdictions. But they each need to have a legal entity criteria that, when implemented, best aligns their structure to their strategy and resolvability. And what we want to see is that they are synced-up and that they are working to overcome the obvious obstacles and ensure the actions that need to be taken.

Because, as we have probably pointed to four or five times now, but because there are a number of potential vulnerabilities, actionable objects of sale that can produce real optionality for different circumstances is essential. And so, in the guidance we pointed out -- and I will just skip through a few key areas that firms need to work on. It is, again, part of syncing these things up.

First, there is the capital and liquidity methodology Brent pointed out. It needs to be synced-up with the government's mechanism, the timing.

But the legal entity criteria also needs to be synced-up with the strategy. That is, they need to ensure that you can do that recap. Do you have clean lines of ownership? Are they available? Are you structured to make that happen? Because you can't ignore your structure when you are trying to overcome this obstacle. So, you need to make sure that it facilitates the recap and the finding of those material entities, if that is your strategy.

You need to make sure that it facilitates the transfer, sale, wind-down of discrete lines of business. This is the actionable objects of sale and optionality, so that it can work in different circumstances.

You need to protect the IDI. That is just set forth. And you need to minimize complexity that might impede resolution because, obviously, simpler, more understandable is better, all else being equal.

The criteria should be built into the

ongoing process for creating, maintaining, and optimizing the structure and should be part of the firm's decision. They need to be thinking about this as they change, as they grow over time, as they go into new jurisdictions. That is the quick part there.

And now, I think we are going to talk about the unique challenge of derivatives. One way to think about derivatives is what we call the first day motion. That is, what do we do day one to deal with qualified financial contracts, so they don't instantly terminate? And then, we have, what do we have days two through end of resolution with the derivatives book?

David is going to quickly talk about the first part, and Brent is going to talk about --

MR. HOYER: You have two minutes and I have two minutes.

(Laughter.)

MR. WALL: Well, we need a timer.

So, let me just say that I think that

we all recognize that the legal issues that are associated with putting in place a resolution mechanism under the Bankruptcy Code are key, are fundamental to the success of the whole plan.

One of the things that a firm is going to have to do upon filing for bankruptcy is to file a motion with the bankruptcy court that creates an adequate response to the bankruptcy. In most cases the firms are planning on doing, as we have said, a single point-of-entry approach that envisions the creation of a successor institution. And there are mechanisms which, under the current Bankruptcy Code, may make that possible, but there are issues that need to be addressed in order to ensure that that occurs.

As Rick was just saying, one of the key facets that this motion needs to do is to create a structure that triggers the ISDA protocol protections, so that on the first day the protocol protections against immediate closeout and cross-defaults with respect to the institutional subsidiaries do not occur.

So, we have asked the firms to focus very strongly on how they would structure that first day motion and how that motion would be positioned, so that it could survive anticipated objections. And those objections could range from due process concerns, whether or not the authority actually exists under the Bankruptcy Code to create the structures that the firms are asking for, the basis for transferring assets from the debtor to the new institution, and other issues associated with the bankruptcy court's ability to retain jurisdiction and enforce the mechanisms that will promote the orderly continuation of the debtor.

These are issues of relative first impression, but they are also very key to the success of the plan. And so, we have made this a particular focus of our discussions with the firms, and it is something that we are going to continue to work on with them. But the key takeaway is that the firms are being asked to do more to ensure that their planning for addressing the legal issues is robust and will result in effective resolution.

MR. HOYER: All right. So, I will wrap up with what are expecting in this particular space. Again, it is laid out in great detail within the guidance, and there are also tables that we have provided to the institutions for them to complete relative to derivatives.

Obviously, it is fair to say this is an area of great complexity. It is still an area that needs some work to be done. We are talking about single point-of-entry Title I bankruptcies. So, these are not broker/dealers. These are not trading entities that are going into a SIPA proceeding. This is about maintaining and continuing.

So, the keyword, I think, if anybody walks away with one word we have said today, it is "optionality". When it comes to derivatives, we recognize there is not just one way to be thinking about this. And so, we think about this within a Plan A, Plan B.

Plan A is great if you can recap and you can maintain that. So, demonstrate what it would take financially to recap those particular entities. Banks have derivatives. Broker/dealers have derivatives, et cetera. So, all the entities engaged in that.

Show us what it would take to fundamentally return those entities either to investment grade or to investment-grade-like, depending on what the entity is, and that that stabilization period would be. So, that is Plan A.

Plan B is great if you can recap it, but what if the market doesn't get confident with you or what if you do not have those financial resources? And so, Plan B, we really look at two particular components there.

One, we will call it a passive wind-down. Let's assume that, I mean, one of the most challenging aspects within the derivatives portfolio is being able to engage in bilateral trades. And bilateral trades are over-thecounter types of instruments, the more spoke types of instruments.

And so, through the passive wind-down, we place the assumption on the firms that you cannot engage in that activity. No one will deal with you anymore. That is why you couldn't regain market confidence. You could not function under Plan A.

So, what is your financial need for that? Both capital and liquidity. At the point that you expire your resources, that residual piece that is left, demonstrate to us any systemic transmission associated with that. So, that gets us back to the point of maybe you have to change a little bit about how you do your business.

The second component within Plan B is an active wind-down. So, in an active wind-down, you can assume access to the bilateral markets to some extent, and, obviously, at a cost. What is that cost? That is factored into the liquidity and the capital component as well. You provide a pathway on how you can segment, package, and wind-down that particular portfolio, again, to the point of you get it all the way. There will always be some residual or rump left, and looking at that residual or rump no different than we did within the earlier option within Plan B to determine the impact on financial stability.

So, we are looking at a variety of options. We want to see flexibility across that because we realize that, in dealing with derivatives, this is not going to be one particular outcome.

So, that is a real quick and dirty on derivatives. There is a lot of good detail within the public narrative section.

With that, I will maybe turn it back over to Art.

MEMBER HERRING: Could I just ask a point of information? You focused on day one. As I understand it, that is all the ISDA protocol gives you to make special provisions. After that, you are back in the normal world. Have I misunderstood what the protocol is?

MR. WALL: With the ISDA protocol, it says that you are prevented from doing early termination or exercising the early termination clause as a result of the bankruptcy because --

MEMBER HERRING: But it is a limited thing?

MR. WALL: Well, there is a limited stay period. But, if you then transfer to a new institution, just as it works under Title II or the Federal Deposit Insurance Act, those stays become permanent, so long as these certain creditor protections/assurances are in place.

MEMBER HERRING: Yes, that is what I was interested. What is the day two?

MR. WALL: So, day two, if you have satisfied those criteria under the protocol, early termination events cannot occur. Now normal termination and other business as usual would apply, but that is what we are dealing with.

MR. HOYER: At this point, you are

dealing with maturing trades; you are dealing with any kind of novations or sales and, to the extent that they can reach agreement to terminate and they do have the financial capability to do that within their strategy, absolutely, right. That would be that path of wind-down.

MEMBER ADMATI: I have a question that suddenly occurred to me. The bank's subsidiary is bigger than $50 billion, but it is not considered SIFI. So, in other words, you don't have a living will for the bank, or do you?

MR. HOYER: Yes, we do.

MEMBER ADMATI: If you do, then is it the Deposit Insurance resolution or is it SIF resolution? Which one?

MR. DELFIN: So, this process we are engaging in here is a failure under bankruptcy Title I holding company, right, Section 165(d)?

MEMBER ADMATI: Right. But what about the bank?

MR. DELFIN: If a bank fails, no matter what, it fails under the FDI.

MEMBER ADMATI: Under the FDI?

MR. HOYER: Yes.

MR. DELFIN: That's correct.

MEMBER ADMATI: But it is systemic also. So, in other words, the derivatives and other things make it systemic?

MR. DELFIN: They have to provide a plan. They have to provide a separate plan under FDI Act authority dealing with the bank failure.

MEMBER ADMATI: Dealing with the bank failure? Still under living will?

MR. DELFIN: Correct. The whole code is under the living will.

MEMBER ADMATI: Because I know, because I don't work with banks, I understand it. I am just saying that, within the holding company, that is like the most important subsidiary.

MR. WALL: And that is why, when we just talked about legal entity rationalization and stabilization, one of the key components is, obviously, the protection of the IDI has been a key component of this from the beginning.

MEMBER ADMATI: But who is going to take whom down?

MEMBER BRADFIELD: Are you satisfied that the protocol can cover all your needs with respect the derivatives and termination?

MR. WALL: I think it goes a long way. It certainly reduces the possibility of systemic contagion to a very large extent. I think that, since the protocol and the rule that will implement it that will be coming out from the Federal Reserve shortly will cover the vast majority of qualified financial contracts -- in fact, it will probably key off of the QFC definition in the statute -- we think that it should address the vast majority of contracts that would be expected to terminate early. There may be other kinds of contracts that don't, but those don't that I am aware of represent the significant risk to the firms.

MEMBER JOHNSON: I hope or I suggest that we will go look again at the report produced by the President's Working Group on Capital Markets, the LTCM. Because the conclusion they drew with regards to this point is the exact opposite, right? They made the recommendation that we create a more comprehensive exemption from bankruptcy for derivatives because they believed that what they had then and what we are getting now in the master agreement would actually create more systemic risk because it would create more run risk ahead of the failure. So, when you know that it is going down, you know they are running out of liquidity; you want to close out all those positions.

MR. WALL: Simon, I mean, I don't mean to be flippant, but that was then; this is now. I mean, I think it is just clear that thinking has advanced on that. I think if we look at the academic literature, that there have been an increasing number of analysts that have suggested that that is not the case and that we ought to be looking at reducing the exemptions for derivatives portfolios from the automatic stay.

So, I think there has been a shift.

MR. HOYER: To your point on liquidity, we had the conversation earlier out in front. You are absolutely correct. As we talked about the stages of where a firm enters from BAU, business as usual, to stress to recovery mode, runway, counterparties, it is actually one of the things that all the agencies monitor for are counterparty requests. As counterparty requests -- we call them bid-back requests -- come in, the firms have to decide how many of those do they want to execute on. Obviously, if one-by-one you start coming in and asking to bid-back any kind of debt, any kind of instrument, I can just point to my contractual relationship, but that is going to send a signal.

That is captured within the liquidity, within the community funding planning, and so on, normal business-as-usual contingency funding planning, as well as the resolution model from a legal default standpoint, obviously. But, from a liquidity standpoint, those sorts of bid-back requests, once they get past recovery mode, they have to defer to contractual, because at that point they are in wind-down and they are just going to start -- you know, we are hitting the point of non-viability and failure, and they are going to say, "No, no, no," and they are carrying to maturity or if they have the financial capacity. But it a valid point on liquidity. And so, it has to be captured within that model we have talked about.

MEMBER BRADFIELD: Yes. So, if we don't have the liquidity, then, in effect, the right to close out the position comes into effect?

MR. DELFIN: I think if you don't meet the protection --

MR. WALL: I think it is, yes, you have to look at the protocol and see whether you have satisfied them. I can't say that, from a general point of view, if you don't have the liquidity -- you have to have it and it is a little bit more specific than --

MR. HOYER: I think it is separating the legal protocol from normal counterparty actions, and that is what Simon was talking about, was normal counterparty actions. And to a certain point, firms will continue to work with their counterparties and they will fund those as much as they can for mark of confidence. "I've got that covered" is the way to think about it.

But, at a certain point, once they have passed recovery options and they have hit runway, they are going to look to that provision and they are no longer going to have that funding.

MR. HOYER: Yes, just to be clear, I mean, the protocol does not prevent a counterparty from closing out if it does not receive its payments on time.

MR. WALL: They are two separate aspects.

MEMBER COHEN: If I could, this can't be part of the resolution plan itself, but it will be part of the resolution plan's working, if we ever get to that point. And that is going to be the attitude, to be blunt, of the regulators.

Two points of demarcation. One was 1987 where the entire brokerage industry was gone. The Feds stepped in and told the banks to keep blending.

There have been subsequent times where there has not been that approach. So, there is a responsibility here not just for the institutions, but for the agencies to take the, let's say, systemic interest approach as opposed to just backing off.

MEMBER BRADFIELD: In a sense, it would be too late if there isn't illiquidity and, then, you want to do Title II; it is really too late with respect to those derivative transactions, isn't it?

MR. HOYER: I want to back up. This goes back to the liquidity methodology we were talking about, that size and minimum operating liquidity need, that size, the peak funding need. And when they are looking at their derivatives wind-down under the passive, we cannot do anything which is very financially punitive, as well as the active wind-down. That particular outcome is calculated within that, too, depending on the strategy.

So, they know when they are crossing that line of demarcation. As they are engaging through stress and through recovery up to runway, again, they know how much liquidity they have got and they know what they need to execute. Again, it all has to connect together.

CHAIRMAN GRUENBERG: We have run over time. This has been extraordinarily helpful to us. And so, I want to begin by thanking you all.

We are sort of operating in real-time here. Ideally, we would have done it sooner and we would have gotten these documents earlier, so you would have had an opportunity to review them before the meeting, but it just wasn't possible in this case.

So, what I would suggest and refer you to are tabs 8 and 9 in your binders. Tab 8 is the document that lays out the resolution plan, a system of framework and the basis for firm determinations. So, in a sense, that is a review of what we have done and the basis for it.

And then, tab 9 is the guidance we have provided for the next submissions of the plans and the issues that need to be addressed going forward.

Both of these documents are public documents. They are on the FDIC's website. They are both less than 25 pages long. So, they are actually relatively-readable and consumable. So, I do recommend them to you.

And after reviewing, if you all have any thoughts in regard to them, we will welcome any comments, suggestions, or questions that you might have.

And then, let me also thank our staff here. They have really done, I think, a remarkable job, both in the presentation this morning and the work that they have done in review of these plans. I really think this moves the center of gravity on a very tough set of issues. I just want to really acknowledge them for the work that they have done.

And then, if it is okay with everybody, we will move on to the next part of our program relating to the Orderly Liquidation Authority and the work on time, too.

Thank you.

We will take five minutes.

(Whereupon, the foregoing matter went off the record at 11:44 a.m. and resumed at 11:55 a.m.)

CHAIRMAN GRUENBERG: We are now going to continue the discussion in regard to the work we have been doing on the Orderly Liquidation Authority under Title II of Dodd-Frank. And I think what we may do is run this a little long, and we may reduce our lunch hour to 45 minutes in the interest of trying to take advantage of the opportunity to engage with you all.

I know Don Kohn had a question he wanted to raise just to conclude.

MEMBER KOHN: So, I would like to ask Art to sum up where he thinks the FDIC and the Fed has gotten to on Title I. Do you feel like there has been a lot of progress or almost there or there is a huge gap between where you want to go and where you are? I mean, how has this thing been left at the end of really round one of these things? So, is it your expectation on October 1st, 2017 that you will have things that work, maybe not under every circumstance, but under a lot of circumstances?

CHAIRMAN GRUENBERG: You can answer my question from the earlier round as well.

MR. MURTON: On the progress?

CHAIRMAN GRUENBERG: Yes.

MR. MURTON: Yes. Okay.

Well, I think the answer is we have made a lot of progress. We have made very significant progress on this front, moved the center of gravity, as the Chairman said.

In 2008, we didn't have any of this. We didn't have a framework for this. We had given virtually no thought to this. We didn't have the authorities in place. We had not put in place a framework for thinking about it.

Since then, we have done significant work. We have identified the obstacles to resolution under bankruptcy. We have worked with the firms on how we would address those obstacles. We have made some tangible changes. The ISDA protocol is an example of something that is terribly significant in terms of resolution under bankruptcy and the systemic implications of that. Another long-term debt rule is in process. That is going to be a really important part of this.

And so, it feels to me like the last five years have brought about significant progress in this regard. Are we there yet? I am never going to say we are all the way there.

I think a couple of significant dates, looking ahead, are October, when they have to address the deficiencies, but I would also just keep in mind that July of 2017 is when we have asked them to address these issues comprehensively. That will be another important time to take stock of where we are. But I think the progress thus far has been extremely significant.

So, with that, let's turn to Title II. And so, I turn to my colleagues Herb Held, Ryan Tetrick, Angus Tarpley, and Pen Starke.

I think we will start with Herb, who will give an update on our thinking about how we approach Title II resolution strategy.

MR. HELD: Okay. This chart here is pretty familiar to everybody. This was our original thinking back in 2012 how single point-of-entry would work. The first shot at it, it accomplished the major goals that we needed to accomplish: assure financial stability, make sure that the creditors' equity bore the loss, terminate culpable management, and no taxpayer support.

It was a very simple chart. A company goes into bankruptcy. Create a bridge holding company. Virtually all the assets go over to the bridge. You leave the liabilities behind. You do valuation work. Eventually, you exit the bridge by doing a debt-for-equity swap in the new company. The old creditors become the new owners of new co., and it merrily goes along on its way.

In all probability, during the period there will be some organic downsizing, customers would leave, but there was no active management of the new co. to reduce its size. So, the resulting entity probably would still be systemic, and we weren't able to solve the problem of the international closeout of derivatives contracts, since our stay under Dodd-Frank only pertained to the domestic contracts.

There we go. Right in December of 2013, we published our notice in The Federal Register. And in there, we described in much more detail what our single point-of-entry would be. We did put in there that restructuring might result in one or more smaller companies that would be able to resolve their bankruptcy without causing serious adverse effect to the U.S. economy. So, our thinking was evolving.

During the last year, the Chairman made a number of speeches, and here in November, you know, it was getting pretty explicit. We were pretty explicit that the firm that exits bankruptcy can no longer be a systemically-important firm.

There we go. I have made it a little more complicated since I added the foreign broker/dealer into it. But you still have the company. The company looks the same because they basically look the same. It enters into the bridge, and all the assets and liabilities -- all the assets transfer to the bridge, leaving the liabilities behind. That part is the same.

Now we are looking more at optionality. Our thinking and the firm's thinking are pretty similar, that you want to be able to have a bunch of different tools to deal with the crisis, depending on the shape the firm is in, what the economy is, where the problems are.

The first thing is that the broker/dealers, it is hard to imagine that you can hold together a broker/dealer through a bridge period. Every one of the firms that has a broker/dealer experiences either a complete wind-down or a wind-down to a very much reduced entity.

So, in our planning, broker/dealers will actually fairly quickly wind-down on their own as the repo books and the security lending books roll off based on their maturity. So, within a very short period of time, that part of their broker/dealers will have gone away without disrupting --

MEMBER HERRING: Herb, may I ask a point of information? Aren't they usually subject to a separate process that is overseen by the --

MR. HELD: Right, if they go into insolvency within both the single point-of-entry --

MEMBER HERRING: So, as long as they stay in Title II, you are in charge of --

MR. HELD: As long as they comply with their SEC requirements, the solvency requirements that they have, they won't be put into the SIPI process.

So, if the parent in the Title I world has got the capital to put down there, convert that to maintain the solvency of the broker/dealers and we have liquidity through OLA to maintain the liquidity of the broker/dealers, they can go through a solvent wind-down.

MEMBER HERRING: But you would oversee that?

MR. HELD: It would be the bridge would oversee it, yes.

MR. TETRICK: So, this is not unlike what many of the firms have presented in their Title I claims. They have presented a solvent wind-down of their broker/dealer subsidiaries under their single point-of-entry bankruptcy process. This would be similar, but overseen by the FDIC.

MEMBER HERRING: I guess the echo in my mind that creates this would be Drexel Burnham where they had a very, very well-capitalized brokerage dealer that turned out not to be viable. Of course, they wouldn't have been overseen by you at that time because you didn't have jurisdiction, but I think that was overseen by SIPI, where even it was thought that they wound it down because, according to the notes, the point you make, that even if it is visibly transparently solvent, you just can't keep it going.

MR. HELD: Yes, because the way traditionally the big broker/dealers had huge imbalance on their repo book, especially of the maturities, that over a month they were fine; the book was balanced. On day two, they had $100 billion deficit of cash. So, they fail almost immediately.

The books look a lot different today than they did in 2008, but they are still imbalanced. And the need for parent support in Title I or, if that is insufficient, we are in Title II, and then, we can provide the repo counterparty to allow that book to roll off naturally.

So, in the plans, also, the firms have come up with different strategies for dealing with the size of the bank itself. Some of them have the idea of you break up your bank into three or four different parts, and you can do IPOs, which will return cash and stock to the bridge. You could spin the whole thing off to the creditors. You can do asset sales to reduce the size. That is also in the plan. Oh, I could sell a newly-created bank. You could take portfolios of loans and sell them or you could do a branch-sale-type action.

So, all of these would return cash to the bridge and reduce the size of whatever rump bank is left.

Simon?

MEMBER JOHNSON: Finish your sentence.

MR. HELD: "Left," I guess.

(Laughter.)

MEMBER JOHNSON: So, these banks or their representatives often claim there are enormous economies of scale and scope in their current operations. I thought under the legal framework which you operate you have to try to recover or come up with a structure that recovers value, right? So, do you see this as destroying value or are those economies of scale and scope somewhat overstated? And that is what you will be showing us here. It is a question. It is a question.

MR. MURTON: I think, as was pointed out, the firms themselves in their resolution plans contemplate this transformation taking place as well. And that is, under bankruptcy, consistent with maximizing values. So, I don't think it is inconsistent for us to contemplate this.

MEMBER FISHER: I have got a different answer to Simon's question, which is both the rating agencies and the regulators in their stress tests give diversification benefit, a benefit of the doubt that diversified revenue sources lowers your capital involvement. That is embedded in the system. It is not something the firms do off on their own.

MEMBER JOHNSON: Right. But, Peter, my point here is that you are creating, I think, a less-diversified structure --

MEMBER FISHER: Yes, it is.

MEMBER JOHNSON: -- which is fine with me and fits my view of the world. But I am just suggesting it may sit awkwardly with other parts of what we say now, what is playing. And you are just elaborating on that side of the ledger.

MEMBER FISHER: But it raises the capital requirement on the other side, which is a complicated pricing issue, if you will --

MEMBER JOHNSON: Right.

MEMBER FISHER: -- as we move through the stages of resolution.

MEMBER JOHNSON: Yes, but let me try

to --

MEMBER ADMATI: God forbid they would have to stand on their own financially.

MEMBER COHEN: Actually, I don't think you do have this dilemma. You are entitled to destroy value if it preserves the system. Without getting into the debate, there is no question, I think, that you can do whatever it takes to make sure the system comes out whole under Title II.

MR. STARKE: No, Title II is very clear that preserving financial stability is the priority. In fact, there is a provision regarding the sale of assets that said we should maximize value to the extent practicable. It is not the priority. It is financial stability --

MEMBER JOHNSON: Yes, but the question, you saw that on time consistency, right? So, you can say what you want today. The question is, when you get to this moment, what are you actually going to do and what do you believe and what are you persuaded by the industry to do?

So, the question of, you know, it is not clear to me why, from a preservation-of-the-system point of view that this structure is better than what you had in 2012, for example, unless you talk us through. For example, the standard Fed thinking is that more profitable banks are more stable, right? That is how you generate capital.

So, if you are disassembling them in this way, and if those economies of scale, which personally I think are fictitious, but if you believe them -- and I'm pushing you on this because I want to know what you believe -- if you believe that there is a company that is going to disappear because you are disassembling them, then that has implication for financial stability going forward. Now, if the economies of scale are fictitious, disassembling is no problem at all.

(Laughter.)

MR. HELD: Of course, you are

disassembling a $2 trillion bank into four or five, six parts. You still have very large financial institutions which have economies of scale. I am sure there are enormous economies of scale that have been shown between a $400 or $500 billion bank and a trillion dollar bank.

MEMBER JOHNSON: That was my question, yes.

MR. HELD: And remember, the bank company has failed. And somewhere in there, there is something horribly wrong which is going to have to be excised out of it.

And remember, what we are showing here is that you want to set it up so that you have this optionality where you can do a bunch of different things, depending on where the problem is, how much capital you need for the resulting companies to be well-capitalized, what the market appetite is for raising new capital for these companies, and how much you have to reduce them to get rid of the systemic risk.

MEMBER JOHNSON: I am fine with that.

I mean, as you said very clearly, Herb, this is not the plan you had in 2012. I think this plan is better, and I think we pressed its predecessor on exactly this point. So, I think you get credit, in my view, for having listened or having data based on something, anyway.

MEMBER FISHER: I think it is more than an intellectual dilemma, but I will just see about my disagreement. Let's just stipulate this is going to work. We are going to get a better, stable state of the world. Your comparison to '98 is a really important one, Simon, you made.

If this works, there should be less sales. There should be less emergency liquidation, a longer horizon over which to figure this out, if resolution, quote, "works". So, you will see less selling-off of assets in a hurried way and more doing it slowly and considered. And then, this judgment process will be more transparent or more of a discernment process. It is very obvious --

MEMBER ADMATI: If only this process

does what John Reed was going to do, which is convince them to have enough incentives, because, otherwise, I'm not so sure they do have them. In other words, they would like to pass all your different hurdles, but they obviously don't want to get to this point.

MR. HELD: I mean, to do this is not an overnight process. In the plans they talk in periods of 18 months, two years. To do one like this, which is pretty complicated, you are talking about years to actually arrange the sales, to consummate the sales, and actually do the splits, and end up with operating companies going off on their own. So, it is not any kind of fire-sale-type transaction.

The nice thing about the broker/dealers is that their wind-down is done by returning collateral to the people who you have borrowed from and lent to. So, kind of a natural wind-down without having to sell hardly any assets. They don't have their own assets that are a huge amount. And an asset management company way off on the end where everybody has forgotten about it, those actually were fairly salable, and even during the crisis people were able to sell them. And we don't have like a retail broker/dealer on there, but those also were salable during the crisis. So, they could be sold, and quickly, I think, and value retained for the firm.

Any other questions?

MR. MURTON: You know, your comment about the relation between future earnings and capital reminded me, I think it was one of John Reed's predecessors who was known for making the argument that you didn't need capital in these firms because they had future earnings capacity, but that didn't work out so well.

(Laughter.)

It didn't work out so well.

MEMBER FISHER: Just a thought experiment. Let's assume the decision is taken; we know we are going in, and the existing equity is wiped out. And that is all we know. We are at stage one.

What would you need to know to price options on equity in the future holding company? That is, we assume this is going to work out, and so, we assume we have a little bridge in time. But what would an equity options pricing guy or gal want to know?

We know we wiped out the current equity. You didn't need to know how many liabilities were getting shed and how many liabilities were getting converted into future equity. And then, we want to have estimates of the future earning capacity of the place.

And all I am imagining is a thought experiment where you say, what is it you would want to know to price that option? That is the moment at which you are stabilizing it to a certain proximation. I mean, there are other things that might come up and you might not know future uncertainties.

But if you can't price that option, you are still dealing with a lot of uncertainty.

The question is, what are the uncertainties we are living with? Because if it is all going to work out happily ever after, people should want to hold those options. It is just a thought experiment for you to think about.

MR. HELD: Right. So, one of the key parts of the resolution process that all of the regulators, both here in the United States and abroad, have been wrestling with is how do you value the company after it has gone into resolution. Because you need to be able to come up with financial statements for the new company and do the write-downs and valuations, because that is going to be a large exercise for the accountants and investment bankers to be able to do that.

And what the value of the company is also will depend on is it the whole company that is going to exit and continue on. Is it this idea that we are going to spin off some, sell some? And that has to be part of that valuation. Is this a piece of the company that is held for sale or is this a piece of the company that will be the continuing operations?

MEMBER REED: That is going to depend a lot on what caused the problem.

MR. HELD: Right.

MEMBER REED: Then, you have got new management. People are going to want to know who the new management is. So, all this valuation, but this process is, in fact, how banks generally get restructured today.

You have something that caused the difficulty. And then, that sort of gets pushed aside. Think of the Texas banks, and they get sold, and so forth and so on. But the bad thing, if they are sold to something that has management, at least you could evaluate what the buyer might be able to do with that business. But, if you bring in a totally new management team that no one knows anything about, you are going to have to wait a minute.

The point is this is a perfectly-viable strategy and probably describes what has happened to bank difficulties in the past which was not under this Title II.

MEMBER HERRING: This is one of the virtues of Title II, that it gives you time for the values to be put on --

MR. HELD: Well, it gives you time beforehand to plan.

MEMBER HERRING: Yes.

MR. HELD: So that we know far more about the companies. Their Title I plans mean that they are going to have playbooks for their objective sales on how you would actually go about doing this, and you would have the options and know which ones to pick and choose from, depending on the situation.

You know, you wouldn't end up with a thing like the English have where they are taking their banks that they have taken over, and eight years later we are still doing objects of sale and downsizing. Sometime in this next decade maybe they will finish. Or the Japanese that took --

MR. MURTON: We have done a lot of that, too, Herb.

(Laughter.)

MR. HELD: Yes.

MEMBER COHEN: Talking about resolution planning, I would like to come back to something John said, which I think is extremely important. And that is the management on day one after this happens. We have had one example of this where it didn't work out so well in Continental Illinois. And that was nobody's fault. The guy who was supposed to take it left at the last, left everybody waiting at the altar.

So, hopefully, you have like, to come back to the word optionality, two or three people who are ready to --

CHAIRMAN GRUENBERG: So, thank you for that because that is a nice segue into the operational planning exercise in which your future management becomes one of the really key issues.

MR. MURTON: Yes, let me turn it over

to Ryan then.

MR. TETRICK: So, turn to the operational planning segment. I summarize some of the work that we have done to build out our preparedness and capabilities to actually execute our systemic resolution authorities. We call this a systemic resolution framework intentionally.

The focus will be on our Title II authorities, but the process that we have developed covers the period from which we start contingency planning through exit from resolution. When we start contingency planning, we won't know what the outcome will be. So, we might start planning at a time when recovery is more likely. That is actually one of the principles that we have arrived at in developing this process, that we want to have an appetite for false-positives to start taking the steps to prepare to enter into resolution, even when it is likely that it won't be necessary.

And if it is possible that other paths

will -- if the firm is failing it, that there will be other paths to resolve any situation, whether that is a private sector solution, bankruptcy, or depending on the type of institution, you could imagine, I think, and not raise the question about the bank entities. You can imagine just resolving the bank under FDI Act in certain circumstances.

So, we have designed a set of processes that is intentionally flexible enough to start down those multiple paths simultaneously. So, we are calling it a systemic resolution framework.

The steps I mentioned are that we have identified sort of the core actions that need to happen. We want those to be flexible enough that the facts and circumstances of a particular failure can be kind of modified. We can modify the steps based on the facts and circumstances of a particular failure.

If we know that if we design processes and tools that are overly detailed or tailored to a particular path, just like in the Title I planning, we will necessarily need to adjust. So, the real challenge for us is to lay out enough structure and framework ex ante, that we have a plan; we have something we can execute upon, but it is adjustable enough to deal with the different types of institutions that might fail. We could apply it to different types of SIFIs, but also different types of failure scenarios.

And then, importantly, when we get into resolution, kind of building on the previous segment, that there are processes that can carry out the resolution during our bridge period in different ways. So, there might be different types of restructuring that are needed, dependent on the type of failure. The path to exiting from resolution may be longer or shorter, depending on both the institution and the circumstances in the market at the time.

With that background, I will talk about some of the testing that we have done around this process.

Yes?

MEMBER HERRING: May I ask a question that has come up in the previous years, which is, there was a capacity constraint on your ability to deal with a number of these. And something that always worries people, I think, is maybe we can deal with one institution, but is it possible, if there are a couple or three in trouble, that we could maybe scale up to manage them?

To the extent to which you have thought about it, I mean, surely, there would be no problem just to get this --

MR. TETRICK: Sure. It is a significant challenge just to take one.

MEMBER HERRING: Yes.

MR. TETRICK: I think part of the goal of sort of the explicit objective of a Title II resolution is to try to stop the failures at one.

MEMBER HERRING: Sure.

MR. TETRICK: But there certainly gets

to be a challenge in executing more at once and sequencing that. So, it is something that we have thought about. We started our testing on executing a resolution for one SIFI, and we have built out a process that we are prepared to execute today, if we needed to, and getting to how we would operate multiple resolutions at the same time is something that we are going to layer into our frame going forward.

MR. MURTON: I would just say that, through two crises, the FDIC has demonstrated that it can scale up its operations relatively quickly and, then, bring them back down. So, I know this would be different circumstances, but we have responded quickly to heightened demands.

MEMBER BRADFIELD: Herb, do you have access to enough liquidity to hand off --

MR. MURTON: Well, the liquidity that we have access to is related to the size of the institutions that we are dealing with.

MEMBER ADMATI: To be fair, I mean, WaMu was the biggest. So, we are talking about a different order of magnitude here for sure.

MR. MURTON: Yes. Well, just to be clear, I mean, WaMu actually took far fewer resources --

MEMBER ADMATI: No, I understand, but --

MR. MURTON: -- to execute the resolution than did a $10 million bank in Pittsburgh at the beginning of the crisis.

MR. TETRICK: Also, some of the processes that we would need to execute, to take what might be the most resource-intensive process, the communications to the public and counterparties of the firm, we would necessarily rely on the infrastructure of the institution that we are resolving to conduct much of that.

So, there are certain processes that it would certainly be a challenge to do more than one of these at once, but the most intensive resource-constraining functions would leverage the structure of the firm.

MEMBER JOHNSON: Ryan, I think in

addition to the more than one problem, which Paul Volcker always raises when he is here, I think there is the firms of contagion. It occurs to me, given some other discussions which are not the primarily line of fire, but this is rather relevant, you know, what if an insurance company, for example, is affected by either what you do or by other things that are happening at the same time, right?

We are thinking of that bank holding company, but your responsibility is to everything that is systemically important, including things that haven't been designated as systemically important, right?

You know, I am not saying that any District Court would be impressed by this, even though they should, but just in terms of the general discussion of what is a crisis, what is a systemic crisis, what is going to push the FDIC and our broader official capacity to its limit, I think it is bunch of stuff failing, some of which is anticipated, some of which is not anticipated.

I think you can't answer all those questions, and you can't be expected to, but you can show everyone the kinds of things that would be at the limits of your power to deal with.

MR. TETRICK: Well, you raised insurance companies, and there we are on a little bit better footing because, at least for the designated insurance companies, we do get Title I plans and that supports our Title II planning for those institutions.

For the other types of entities that you mentioned, things that haven't been designated, there is more capacity around how they operate, the types of things that we need to do, and that certainly presents unique challenges for us. That is something that we continue to think about.

So, just to talk a little bit about the testing, again, I think we have certainly, for bank holding companies and some other types of institutions, I believe we have established processes that we are ready to execute. To sort of evaluate and test those processes, we have established an ongoing series of what we call operational exercises.

The most recent exercise of this sort we held in December, a full-day exercise that included members of the FDIC Board. That is Chairman Gruenberg, Comptroller Curry, and Division Directors from across the FDIC who represent the range of expertise that we needed to carry out the process.

It builds on a lot of interagency work that we have done to design this process. We started by evaluating certain processes that really need intensive interagency collaboration in order to execute. So, the appointment process or through keys process, we have worked with the other key-turning agencies to establish some protocols and expectations around how that would be carried out.

Activating the Orderly Liquidation Fund with Treasury and the role that the Federal Reserve might have in terms of delivering funds by the wire system, we have worked through the sort of protocols and expectations on how that would work.

We have designed a detailed internal process that consists of a series of work streams, I will call them, to carry out different processes that would need to happen simultaneously. So, assessing the condition of the institution, developing our strategy, determining what sort of governance may need to be in place once we get into resolution. And I will talk more about that in a second. And then, actually, once we get into resolution, establishing the bridge and the plan that will be carried out during the bridge period.

MEMBER BRADFIELD: Did we learn from the living wills?

MR. TETRICK: Immensely, yes. I think there is a lot of learning from the living wills in terms of strategic thinking and options, certainly going back to Herb's segment, the objects of sale that are identified in forms, the types of options that we would have once we get into resolution, what sorts of marketing and due diligence timelines we can expect around those objects of sale, but also just from an operational standpoint, all the firms are required -- again, I will mention communications -- to develop a global communications plan. That is something that we would leverage directly.

There are playbooks for continuity of access to FMUs. Again, that is something that we would leverage directly and kind of activate those playbooks with the personnel that are at the firm even in a Title II scenario.

So, the Title I process is extremely helpful in forming how we carry out our Title II authorities.

MEMBER KOHN: To expand a little bit on the foreign authorities --

MR. TETRICK: Sure.

MEMBER KOHN: -- I mean Simon raised the issue before under Title I --

MR. TETRICK: Yes.

MEMBER KOHN: -- the complications of it.

MR. TETRICK: So, we have intensive collaboration with foreign authorities. You have a segment on international engagement in a bit where we will go into more of that. But around our Title II authorities now we conduct exercises with foreign authorities. But many of those bilateral relationships have gone through exercises on establishing joint work streams on certain processes to determine what kind of home host coordination might be needed, once you get into resolution.

So, we tend to focus on certain processes where there is a clear home host role. For instance, if you think we have talked about TLAC throughout the day, but that is issued out of the holding company downstream to subsidiaries, in some cases downstream to hosted subsidiaries. What are the timing expectations for when that would be converted to stabilize a hosted subsidiary, once you enter into resolution? What are the expectations around sort of expediting authorizations to operate in hosted jurisdictions? There are some regulatory and procedural matters that we think could be expedited with close home host cooperation. So, there is a number of sort of specific technical issues that not only do we address exercises with foreign authorities, but actually have kind of regular, ongoing work streams with key jurisdictions.

MEMBER KOHN: But protocols, just understandings about the future of a resolution, either what happens to the subsidiaries, and things like that, is that stuff all written down? Is there something more than just we know these guys and work with you guys?

(Laughter.)

MR. TETRICK: I think it is fair to say that no jurisdiction is willing to give up options or abilities that it might otherwise have in resolution. But we are able to set some expectations about how we will coordinate, what a host authority will need to see and hear from us, what we will need to demonstrate so that they don't interfere with hosted operations. But you can't sort of relinquish sovereignty.

(Laughter.)

MEMBER JOHNSON: But you can relinquish sovereignty.

MEMBER ADMATI: Well, nobody wants to.

MEMBER JOHNSON: And they haven't.

MEMBER ADMATI: Right.

MEMBER JOHNSON: You can't have binding obligations. So, you can have a treaty or some other form.

MR. TETRICK: Practically, it is very difficult to do.

MEMBER JOHNSON: Well, it hasn't happened. I think the supervisors and others don't want to do it. It is an interesting question whether it would be any harder than any of our other international obligations.

MEMBER COHEN: I must say I echo that. I have for some time. I understand how difficult it is, but we are really talking predominantly about a single treaty, which is the U.S. and the UK. That is 90-something percent of all liabilities of the eight USG sibs outside. Ideally, we get the European Union on with us, but we are talking two treaties.

MEMBER ADMATI: To all of that, I mean, we have discussed this here before, and this is a huge problem. I mean, we know from experience that the cross-border has not worked from Continental Illinois through to Lehman and everything else.

So now, the Financial Stability Board had this key attribute report, which I have read, which really is a huge wish list of things that have to happen, some of which legally. And it has come up in this panel before as well.

So, when it comes to sort of now the SIFIs assumptions in the living wills, now it comes to your assumptions over here and just being honest with where we are, because of the ring-fencing that we can logically anticipate.

Are we kind of confronting that? Because in the last crisis, a lot of MOIs were just out the window in the event. So, we just have to realize that, it seems to me, as opposed to just live in hope somehow that some of these things -- because they are not in treaty. So, unless we really come out of here saying there must be a treaty or something to do these things, otherwise, cross-border is a big, huge problem.

MR. TETRICK: So, some sort of international arrangement or treaty would, of course, provide more certainty. I am not so sure that we are expecting ring-fencing anymore. It is one of those situations where we are in a very different place than we were pre-crisis. And it is not just the key attributes, but working towards internal TLAC. A bit part of that is where you have material operations, it provides the host authority in-hand resources that they can be assured would otherwise be lost, if we don't support those operations.

MEMBER ADMATI: Legally?

MR. TETRICK: We have resolution authorities with substantial funding capacities that we can ensure obligations are met as they come due. We have worked through CMGs and other fora to develop plans.

So, I think we are in a different state. Nobody can guarantee, say with a treaty, that actions wouldn't be -- well, that certain actions are guaranteed or non-actions are guaranteed. But we work very closely with the host authorities, and we are all trying to solve the same problems of note, certainly between us and the UK.

The operations that are hosted in each jurisdiction are critical to the SIFIs in the home country. So, we have worked very closely with them to come to some understanding of how that would work.

MEMBER COHEN: Could I just go back quickly to one other thing, one other point Simon made? It touched on something that began with Dick. That is a contagion and how difficult that makes everything.

There are two types of contagion. One is that there are a lot of problems at a lot of institutions. I have no clue what you are going to do there.

But the other is an idiosyncratic event at one institution and the market panics because they can't tell whether it is happening in other institutions. There I would hope part of the operational exercise would be to think through with you and the Fed and the OCC and the foreign regulators what they are willing to say about the health of the remaining institutions.

CHAIRMAN GRUENBERG: We are already over time. I am figuring we will sacrifice part of our lunch hour to try to continue the conversation here.

If we can, I would like to get through the description of the internal operation of what you have done, just so we could at least put that on the table for everyone. And then, we will conclude with a brief overview of the international work.

We also wanted to get to the work on central counterparties that we have been doing, which is quite important and very much helped us here and internationally. But my guess is we may not have enough time for that today, but you do have a slide back in your book, and certainly, any questions or follow-up. Why don't we just try to proceed for another 10 minutes or so and see how far you can go?

MR. TETRICK: So, the operational exercises we have been conducting, that is an ongoing program. We expect to have another exercise like we held in December sometime this summer.

If you turn to slide 4 in this segment, that begins with an overview of the phases in the process that we have established. There are five phases described here.

The first is somewhat out of scope of the direct execution of our Title II authorities. That is the planning phase. We are in the planning phase now. It is peacetime when we are doing advanced resolution planning, both through Title I and Title II. So, I won't spend much time on that.

Where our exercises began this December was in this determination phase. We have just provided a summary of some of the things that happened there. It was actually more sort of primary actions or core steps that we have laid out.

But it begins with really sort of activating our planning process. That is both internally, getting our sort of executive group established that will project manage the execution of the resolution planning and entering the resolution, if it is needed.

But, then, also, establishing a similar group with domestic authorities and activating at probably a very senior level the Crisis Management Group, or at least bilateral engagement with host authorities.

And then, at the same time,

establishing a targeted list of information that may need to be updated to build out the executable plan relative to a failing institution, delivering that with other supervisory authorities to the institution during this period, not just to assess its condition, but also to determine the actions that we need to take upon entry.

Using that to develop our strategy, particularly what the day one actions might be needed to stabilize the institution from a capital and liquidity perspective. So, not just leaving liabilities behind at the holding company level, but conversion of internal debt or internal TLAC at the operating subsidiaries.

And then, the point that was raised earlier about the importance of new management. So, I think we view this as a lot of attention has been paid in the cross-border space on capital and liquidity, but we view this as sort of a threshold decision to the effectiveness of this strategy.

To your point, having multiple personnel that might be a fit for the institution as we are going through this determination phase, is one of the principles that we have established.

Not only that, but I think during the planning phase, establishing relationships with the types of people who have been in this situation or who can connect us to others who might be a good fit.

And then, the other thing is establishing what authorities and responsibilities this new management would have upon entering into resolution. So, you know, you think about compensation and other questions, but one of the things that we think is most important is that the person who comes in knows what the FDIC's role is, what powers and limitations they have during this bridge period.

In terms of limitations, we would expect to adopt the bylaws of the failing institution, but modify them to lay out certain limitations on what they could and couldn't do. And then, we would also enter into what we are calling an operating agreement, which would set out certain requirements that are needed to be completed to get to exit from resolution.

So, they would need to develop a new capital and liquidity plan, meet all the regulatory requirements for exit, and develop the sort of restructuring plan that executes on all the options Herb went through earlier, before you could exit. Some of those actions may take a number of years. So, it would be expected that some of those might need to be incorporated into the valuation of this new company and would be carried out after exit from resolution with some sort of binding agreement that is placed on the firm upon exit.

MEMBER PETERSON: Do you have explicit triggers as to when you would intervene? I could see you have this tension between management who say, "We can handle it" versus wanting to intervene earlier to preserve value and stability.

MR. TETRICK: Yes, it is a great question. We have looked at, are there ways to develop explicit triggers or quantitative triggers? It is very difficult to do. And I don't think we would want to bind ourselves with a particular sort of quantitative trigger.

But we would expect to enter and appoint in terms of the legal authorities at a point when the firm was in danger of default, rather than default, or something before it has exhausted all of its resources.

It might be the case that the firm still thinks it can survive. But, importantly, the type of liquidity planning for resolution purposes that is being conducted in the Title I space provides us some guidelines on how to think about when to enter. If they have crossed through that threshold that Brent described earlier where they no longer have enough resources to execute their resolution plan, that is one argument for entering the resolution, but there are no explicit triggers other than meeting the fact that the firm is either in default or danger of default.

So, in moving on to the subsequent phases, we have got what we call the immediate stabilization phase. You can think of this as resolution weekend, although we don't know that we will get to pick the date, so it won't necessarily be on a weekend.

(Laughter.)

But this is the days immediately upon entering the resolution when we are establishing the bridge company and stabilizing the group. And that might be a period of one to two days or a couple of weeks following that. There is no sort of liminal event that calls the end of this phase, but this is the period in which we are taking the actions to stabilize the group. And then, importantly, there are a lot of compressed actions here that need to happen simultaneously. So, communications immediately upon entry, not just to the broad public, but to the personnel and counterparties and customers of the firm, and having a plan to provide all of that communication in a simultaneous, coordinated way is one of the things that we really focus on in this phase.

And then, we transition into the orderly liquidation phase, which is the period during which the institution will be operating as a bridge financial company. We would be overseeing all those requirements that I described. That would be laid out in the operating agreement.

One of those would be to conduct a new valuation of the firm. The bridge would be responsible for doing one valuation. We would do a simultaneous valuation with an outside advisor to develop a fairness opinion as to the valuation that the firm produced, of course, incorporating all the restructuring actions that would take place during this period.

And then, depending on the exit, completing a claims process and a securings for claims exchange to deliver equity and debt in a new company to the claimants of the failed firm or returning cash for parts of the firm that are sold or liquidated during this period.

Then, the final phase, we can anticipate there will be ongoing work after we exit from resolution. Most likely, after the bridge is terminated, the receivership entity actually would go on and handle both offensive and defensive litigation that would remain with that entity.

There would be completion of the restructuring plan that we laid out during the bridge period. And then, we anticipate some communication upon exit. And then, we have reporting potentially. You know, we would expect both during the bridge period and after, there might be calls for congressional reporting. So, planning for that during this period.

CHAIRMAN GRUENBERG: Statutory requirements.

MR. TETRICK: Yes, there are certain

statutory requirements, as the Chairman noted. And then, there might be some other ad-hoc reporting that would be asked for.

MEMBER FISHER: Could I offer an impression, if I could? And you can tell us next we come back in a year or so.

(Laughter.)

I am still nervous you are trying to hold too many options. The reason I asked the question about the imagined equity option on future equity is not because I am trying to do this in a hurry, but I am wondering whether the debt of the company is going to stabilize as we approach this moment or after you make this announcement or whatever continues to trade down, and whether the market is going to expect it to keep trading down. I think that is going to be an unfortunate judgment on your process.

And then, I see that you want to have, the whole process imagines we want to have the benefit of a long time to resolve this. We also want a lot of optionality on the judgment of the agencies in charge that first weekend to see how we are going to work things out.

I know we can describe it, but it sounds like we can have the best of both worlds. I am just not sure we can. And I think I mentioned this before perhaps. The difference between banking and insurance, classically defined, in banking we thought of ring-fencing as the problem and resolution takes a weekend. And in insurance, ring-fencing has been the answer and resolution takes a decade.

(Laughter.)

Right? They are very different beasts.

When I look at what you are imagining, it is a kind of a merger of the two. I am still not sure I see how it is going to work out. You are trying to hold a lot of options, and we are hoping to give everyone certainty. And you can say that you are going to do this, but it is still making me nervous.

And you don't have to answer now, but

maybe over the coming year, the next time; it is something to think about.

MR. TETRICK: Sure. So, I think it is something to think about. We have a lot of discussion with others, with foreign authorities, about what is the balance between flexibility and certainty. To some degree, you know, we need a process that can adapt to different scenarios and facts and circumstances. So, there needs to be some flexibility.

But I think we can maybe work on the places where we can provide more certainty, and maybe certainty with respect to different types of institutions. Because, right now, what we have established is a framework that I think the steps and the core actions can apply to different types of institutions that we resolve under Title II, but the way in which it would be carried out, we could probably provide more certainty on an institution-by-institution basis or different types of institutions at the very least.

I would say, just to jump into the

international segment a little bit, one of the things that we have done in Crisis Management Groups in the past year is start talking about what the specific options are and how our process would be carried out on an institution-specific basis with foreign authorities, so that they can understand how that might affect hosted operations and what options are actually in scope for a particular entity.

CHAIRMAN GRUENBERG: So, why don't we take five minutes, and then, we will break for lunch?

MR. TARPLEY: Five minutes? Great. Okay.

(Laughter.)

And please don't think that is all it takes to do international work. This is a full-time job for us, as I think we have heard from the discussion today.

We kind of think of international in three key ways, bilateral, multilateral, and institution-specific. What does that mean?

Bilateral is the work that the Chairman mentioned; for instance, our great involvement with the Single Resolution Board. That also extends to the ECB, the European Central Bank. Our close involvement with the UK, the Banking Union member states such as France and Germany, Switzerland, and Japan. We have regular engagement with them.

The multilateral work, that includes our work with the Financial Stability Board, or FSB, which is doing important work on developing guidance for banks, insurance companies, Central Counterparties, or CCPs, or in this case the resolution planning which we are quite involved with. And, of course, Elke Konig wears two hats, is head of the SRB, but also is head of the Resolution Steering Group of the FSB.

And then, on the institution-specific side, this has been alluded to just by Ryan just now, but these Crisis Management Groups which play a pivotal role in our communication among home authorities as well as with key host authorities for really drilling down into those resolution actions and starting to build out how we would transpire in terms of implementing the resolution plan, trying to avoid the reflexive ring-fencing actions.

Just to give a couple of examples on the bilateral engagement side -- I won't get into all of it -- but earlier this week we had a number of members. Ryan was there in Switzerland to engage in a tabletop exercise hosted by the Swiss authorities. Last month with Germany, again, another tabletop exercise with large involvement among the German authorities and here at the FDIC. With our European counterparts, we have both informal and formal working groups; with the European Commission and the Single Resolution Board, as well as staffs and all levels of engagement.

Turning to the UK, the FDIC has really build upon the principal-level exercise held in 2014 to continue working closely in building out that work with monthly, if not weekly, calls to engage and implement on cross-border resolution planning.

And lastly, with Japan, last year the FDIC hosted a bilateral exercise with Japanese authorities to discuss cross-border resolution issues, including funding and liquidity, continuity of access to FMIs, the ISDA protocol, and other important matters.

I am going to hit just one thing on the information-sharing agreements. That is, as was alluded to earlier, we do have a joint process with our colleagues at the Fed for outreach on Title I to make sure that we are being responsive to our colleagues at other agencies, to provide them with feedback and analysis on the plans, to provide them with access where they have a bona fide interest for a particular firm as a home or host authority. And so, we do engage readily with our foreign colleagues on those issues.

Again, just to jump into the multilateral outreach, I won't go into each of these issues, but just to hit -- maybe there are two kind of key things we can talk about real quick that the FSB is involved with. One is maintenance of critical functions in resolution. So, a couple of work streams there.

The Central Counterparties' work stream, which we are not going to get into, unfortunately, today. But the FDIC is a Co-Chair of the FSB's Cross-Border Crisis Management Group for Financial Market Infrastructures. And that is starting to do some very important work in terms of looking at guidance for an actual Central Counterparty, or CCP, could be resolved if it were to undergo distress or failure.

Another related issue looks at continuity of access to financial market infrastructures. So, this is looking at the bank is undergoing distress or failure. How can we maintain those critical services in resolution by having it be able to continue to access those all-important clearing and settlement services?

Another issue that Ryan and others

here are deeply involved in, we co-chair, the FDIC co-chairs the Bail and Execution Working Group, which is looking at implementing the bail-in execution and looking at all these issues that we have been discussing about valuation issues, registration issues, et cetera; getting into the nitty-gritty of how that works.

And then, of course, the internal TLAC Working Group, which is looking at taking the FSB term sheet that was issued late last year and looking at developing guidance, which, of course, dovetails with the federal.

And then, on the last issue, Crisis Management Groups, I will turn it over to Ryan, if he has anything to say. All I will say is that we have established Crisis Management Groups for our seven globally-active banks where we have identified key host jurisdictions. That is Bank of America, Bank of New York Mellon, Citigroup, Goldman Sachs, JPMorgan Chase, Morgan Stanley, and State Street. We do have a domestic CMG as well for Wells Fargo. We have CMGs in place for our two insurance companies, AIG and Prudential. We are also looking at the possibility of establishing CMGs for one or more systemic cross-border Central Counterparties, or CCPs.

MR. TETRICK: The only thing I will add is that in recent years the firms are participating for a half-day in the CMGs. They will send senior personnel to talk about a range of issues or processes that are relevant to both Title I and Title II resolution plan. So, they will talk about their global funding model or their global communications plan upon entering the resolution and engaged with the suite of host authorities who are in the room. So, that has been an extremely helpful development.

CHAIRMAN GRUENBERG: Thank you.

Why don't we close this part of the discussion?

We will extend the lunch hour to 1:40. We can still maybe eat a little bit fast and, then, we will come back.

I see Elke Konig is here, will join us

for lunch. And then, we will listen to her presentation afterwards.

Thank you.

(Whereupon, the foregoing matter went off the at 12:54 p.m. and resumed at 1:53 p.m.)

CHAIRMAN GRUENBERG: If I can call the meeting back to order. I want to continue the meeting and introduce our special guest Elke Konig, who's the chair of the Single Resolution Board for the European Banking Union.

If I may say Elke is an old friend. We've worked together for a number of years, both in her current capacity and prior to her appointment as chair of the Single Resolution Board she was the president of BaFin, which is the German Federal Financial Supervisory Authority.

So she was, if I may say, a well-recognized leader internationally in the area of financial regulation, and while she was president of BaFin, also served as the chair of the Resolution Steering Group of the Financial

Stability Board.

So that even before becoming chair of the SRB, she had extensive experience and provided very significant leadership in the area of resolution, particularly relating to the resolution of systemic financial institutions.

So it was with, frankly great pleasure and satisfaction, when the announcement was made that Elke was going to be the chair of the SRB. I think she was well-known frankly to the leaders of the financial regulatory authorities in all of the major jurisdictions, commanded great confidence, which I think was of great value in the establishment of a new institution such as the SRB. It's a very challenging assignment.

I candidly couldn't think of a better person to be asked to take on this really very important role. I will say I believe the FDIC and the SRB have established a very close working relationship, which we value very much and look forward to continuing to develop and deepen as we go forward.

If I may just introduce Elke and thank her for taking the time to be with us today.

MS. KONIG: Well, I'm a bit speechless now. Thank you, Marty, for your really kind introduction. In Germany you would probably have said my father would have been very proud and my mother might have even believed all of this.

(Laughter.)

MS. KONIG: Totally politically incorrect. So but with that said, let me try to be mindful of your time, but perhaps also to start with really thanking the FDIC for inviting me here, to give me a chance to explain something which is not always very easy to understand, and that is call it the European -- or rather, Euro area arrangements around bank recovery and resolution.

Secondly, and that I checked, and I think my number is correct. At a given point in time, FDIC staff made up more than ten percent of the SRB's entire staff. That was when, at the very early point, you seconded one of your staff members to help us get up and running because -- and with that I will stop the initial -- I still feel a bit like chair of a startup because I've moved out of an organization that at least in insurancy provision had more than 100 years of experience, and we had a template for everything.

And then when I came to the SRB, we were at that point six board members with six PAs, good to start, and we had in total 20 people. You can imagine how many staff we had, and we started near everything from scratch. So by now it's changed, and I will try to give you a bit of an introduction about what is the Single Resolution Board or the single resolution mechanism, what are our objectives in resolution or by far more in the focus on resolution planning -- and I heard a lot of very familiar words here -- and then perhaps touch on some of the obstacles to resolution, which I fear are also familiar, and give you a bit of an outlook on where we are, the Single Resolution Fund, our backstop and our work program.

With that, just to see some faces the -- oh, no? Not yet the faces. To start with, we are part of the banking union. The banking union was introduced in 2013 at -- for the European standards, but I think for any standards -- light speed as a consequence and a reaction to what had started as a banking crisis and moved into a sovereign crisis, and then a banking crisis. Kind of a vicious circle.

It started out with the single supervisory mechanism, which is now the single supervisor. It's headed under the roof of the ECB in Frankfurt, and they are supervising the largest banks in Europe, which the basic number is 30 billion upwards in total assets, or in any case, the three largest banks in any country because, as you all know, Europe is beautifully diverse, and that means we have also countries where the largest bank has about the size of a mid-size cooperative German institution. So we have quite a spread there.

The second leg to the banking union is

the single resolution mechanism, where the Single Resolution Board in Brussels is call it the center of this organization. We have been put in place -- while the SSM, the supervisors started end 2014 after quite an extensive asset quality review was done, we started officially January 1st last year. Board members, me including, came on board on the 1st of March.

And since then, we had been focusing on establishing the institution, really building it from scratch, and at the same time starting to get active in resolution planning, because as of January 1st this year, if a bank in the Euro area that is under our remit -- I'll come to that later on again -- has to go into resolution, it will be asked to decide upon the resolution plan.

So we have to be up and running as of now. I always find the question from mainly journalists interesting to say. Do you think you're already up and running? My normal answer is then, well there's no alternative to that. We are responsible, so we have to be. I would hope not too soon nevertheless.

The third block here is the one when you follow European press, where you read the most about for the moment, and you read about it under the nice word of EDIS, E-D-I-S, and that is the deposit guarantee scheme. There is a regulation -- there is a directive, there is a clear set of harmonizing deposit guarantee within the Europe and not just within the Eurozone.

But there's also start of the discussion whether we don't need -- like we have the single supervisory mechanism, single resolution mechanism -- a harmonized Euro/European or at least Euro area deposit guarantee scheme. There's a draft out that the European Commission prepared and that will -- is for the time being debated between the member states and the headline mutualized deposit guarantee and risk reduction.

So what is the other element that needs to be put in place? It's a fairly complicated discussion, now for the time being very much pushed by mainly the Dutch presidency of the European Union. And on top of that clear -- that's why we put it underneath and all the nice acronyms -- a single rule book, which is CRD IV/CRR is the European translation of Basel III, basically the single supervisory rule book.

BRRD is Bank Recovery and Resolution Directive is our main toolbox, and DGSD stands for Deposit Guarantee System Directive. So what is the basic structure that we have organized -- and I think with that we could move to the next page.

Someone seemed to be -- I could try; it works, and we have basically organized us internally in saying let's organize by countries, and why so? And that's probably one thing first of all where I'm always envying the U.S., because you're in a better position than we are there.

We have organized ourselves by countries because we have to consider that a lot of underlying law, all kind of insolvency law, all kind of corporate law, is national law.

So we are basically all on Roman law, but since the last 1,800 years a lot has changed. So you have to know the legal system within the individual country, and that for us weighted higher than to say shouldn't we somehow make sure that people get exposed to more than one country to see different topics. If you want to resolve a bank, you need to do at least a counterfactual insolvency consideration, and that means you'd rather know the legal rules of this country.

So we are basically organized by that, and the board members responsible are Antonio Carrascosa, who was formerly the head of FROB, the Spanish Resolution Authority; Joanne Kellermann, who was formerly with the Dutch Central Bank; and Dominique Laboureix, who was running the French Resolution Authority.

Mauro Grande, who was with the ECB, is responsible for cross-cutting issues, and Timo Loyttyniemi, he normally says if you can pronounce his last name you've already done a large step. Timo is the one who is responsible for internal issues but his main job for the time being, he is the one is responsible for the Single Resolution Fund for all kinds of contributions, all of that.

So with that, what's our job? When I moved to Brussels, my children got fairly nervous and got the feeling: what is mom doing when she's not resolving a bank? And that, hopefully, she isn't doing it every day. So I said well, I see the SRB by far more focused on resolution planning, on setting up credible resolution plans, on -- with that setting MREL, which is the European equivalent to TLAC, removing the obstacles to resolution that we can see, and try really to make sure that we have a credible plan for the banks under our remit.

And with that being forward-looking and hopefully avoiding the one or the other resolution because the consequences are that it's spelled out all in totality, institutions are in a better condition because we've solved a number of problems. So we are not waiting for customers just to organize the funerals.

Difference to the U.S.: you've talked about Title I versus Title II. In Europe, we differentiate between recovery plans. Those recovery plans have to have been drawn up by the banks themselves.

They get assessed by the single supervisory mechanism, so the supervisors and by us, whether they are credible. Otherwise, there's not more work needed, and these recovery are for us the basis for our resolution planning drafting, but resolution plans are drafted by us, by the authority, and clearly you need input from the banks. You need input from the supervisor, but it is basically our plan and as of now, we would not foresee that resolution plans are public documents.

They are a private document, and we're even saying we have worked hard and your staff has very gratefully also supported us on first version of our Resolution Planning Manual. This manual is our private cooking book. It's not published. We share with the national authorities, but it stays within the authorities.

It is only a short version that we want to publish over the summer for the industry, but also for the general public to understand how we look at various tools, how we see whether there is public interest in resolution or not. So it is basically --

CHAIRMAN GRUENBERG: Elke, can we ask questions along the way or would you want to wait?

MS. KONIG: Yes, sure. Sorry. Yeah sure. I think it's easier.

CHAIRMAN GRUENBERG: I think so too. So in the U.S., we have this view that the more transparency around this sort of thing brings more certainty, particularly in times of stress and time of fear, and it sounds like you don't share that philosophy in the general terms or even specifically here.

MS. KONIG: I wouldn't say that I don't share the philosophy. I have to work with my own legal framework, and for us resolution plans are a very discrete document, where I -- where we have been very outspoken as to say what we need to get across is definitely that there by far more transparency about banks' balance sheets when it comes to the liability side. So my version of saying that is what's the pecking order of liabilities banks have?

You can see that in the past that people got the feeling buying a bank bond was minimum as safe as having a guaranteed deposit. For me, a very important part is make sure that investors know it's equity that it's subordinated, what counts for MREL, and what is the pecking order of that?

Now always please keep in mind I'm coming from Europe, where most of the banks have an operating holding and not have -- don't have a holding company structure. The operating company is the head of this. So transparency on the liability side and with that also predictability, what we will be doing and what investors might also have to face, I think is important.

CHAIRMAN GRUENBERG: So I was in Portugal in January, and I was told that people involved in the resolution of BES, for example -- and as you know, there's several layers of that, and this was before your organization was operating -- but at least the Bank of Portugal says that they were understanding in interpreting and applying. Yes, right, absolutely.

MS. KONIG: I've always tried to stay out of a case that was not our case.

CHAIRMAN GRUENBERG: Yes. No, no, I'm not asking you --

MS. KONIG: But I also understand people that say 18 months after the resolution is a long time.

CHAIRMAN GRUENBERG: I think but the only point I was going to make, not to ask you to judge at all, but the level of uncertainty in Portugal about the pecking order is quite substantial today, 18 months after, because they don't know what the rules are and the rule book is not transparent.

MS. KONIG: We are now jumping into a very detailed topic. As I said in the beginning in Europe, insolvency law is not harmonized. That also entails that though the principles are fairly aligned. That also entails that when we talk about bail-in of writing off liability that the rules in the various member states are different.

And clearly when you talk about senior debt, you talk in most cases about a class where you come to pari passu all, you know, creditor worthiness issues because there are certain liabilities you don't want to bail in or you can't bail in.

So this is a problem we are addressing internally in Europe or with the Commission in saying from a Single Resolution Board or resolution mechanism perspective, there is a huge interest to make sure that we harmonize unrealistic -- not the entire insolvency law, but that we focus on trying to come to a European uniform set of rules on creditor hierarchy, so that there's more transparency.

What we have for the moment is a German version of that. Germany has basically juniorized part of senior debt. France does something similar, but it will only yield the same result in about ten years' time, because they don't do it retroactively. Italy did something slightly different.

So life is beautiful and unfortunately a bit less harmonized, but I'm not seeing -- I think there is an interest. There is appetite. It's a question of how far it -- how fast it goes, or as someone from the Commission said when I said this is a low-hanging fruit. He said that's all relative.

MEMBER ADMATI: Can I ask a question?

MS. KONIG: It is relative, but clearly for us to -- now to deviate a bit from the presentation -- for us it is utmost important that we have, on the one hand, the deposit guarantee directive implemented and really fit for purpose in the member states. And on the other hand have a solid foundation in insolvency law because clearly bank resolution, bank insolvency supported by the deposit guarantee fund have to work together.

Otherwise, bank resolution becomes kind of a default option because the other ones are just not really functioning and that can't be. And that could get me a bit back to what I actually wanted to address here, and that is which banks are we really responsible for?

Like for the supervisory side, the Single Resolution Board in Brussels is actually responsible for the large banks, which is defined not G6 only, it is the 100 -- roughly 120 banks that are under the ECBC provision. Plus any bank that is cross-border within the Eurozone.

That can be a fairly small bank, because just an Austrian bank has a small operation in Germany. So I'm normally saying those are definitely on average by far smaller. But we are also, similar to the ECB, the ones that have to guarantee the functioning of the entire mechanism, and by that have to set the standards.

So our Resolution Planning Manual is also the manual that the national authorities in principle have to use for their own work. If national resolution authorities for a smaller bank want to resolve the bank and potentially even at some point want to use the Single Resolution Fund -- which I think is hard to imagine -- then it would be something which always would need our approval. We are the guardian of that fund.

So what is therefore for us key, and I was -- as I listened into part of the final debate is clearly -- we need first of all a very good cooperation with the national authorities, because clearly we have to work together there.

We need also good cooperation with the supervisor, being the ECB. They are the source of a lot of information for us, and it doesn't always come natural to them to share information.

It's always a "we need to get that working," but I think we have a good cooperation now. The European Commission, clearly because they would be kind of the regulator, and -- and that is even more important, institutions outside the Euro area.

And when I'm saying outside the Euro area in European jargon, that normally means out in the sense of EU members not part of the Euro area. So mainly Bank of England, our partner, but also really outside Europe and there, as I said already, we have a good cooperation with you but also with the Fed and others, and we have to build on that because the largest banks are international by nature. It doesn't help that we have a good framework now for Europe.

What we have by the way for Europe is within Europe, we have basically solved the cross-border issues because we have stay orders and we have mutual recognition of resolution decision. But unfortunately, it's a bit of a reflection to the discussion you had beforehand that's Europe entirely.

So what are the resolution objectives and I think not 100 percent of Europe would agree with me putting the two first ones in bold, but they are the most important ones. When you look into the regulation, the regulation says that resolution is in the public interest and can be executed to safeguard critical functions and to guarantee financial stability of the member state or the union as a whole.

So there is quite a hurdle to get into resolution because the normal solution would always be, like everywhere, if a bank gets into a problem and you don't find a private solution, well then insolvency is the logical consequence -- and by the way the reason why you need a good DGS because it's mainly then deposit-taking institutions. Resolution only comes into play when the objectives here are met.

So for the bigger, more complex institution, protection of public funds, depositors and client funds and assets is also mentioned, and I could now spend a long time on why it is secondary in order here, because there are other mechanisms that would also take care of that.

What's -- just to give you a bit of colorful picture -- I've asked my people how do we define critical functions? That was the end of the story. No, I think we are working on the international field. We are internally now very much working out how do we want to define critical functions? Is deposit-taking in itself a critical function? Payment system, is it a substitutable critical function?

So that's a lot of work that we have just started, and we'll definitely have to expand on over the coming year. Well, as those -- and I'm sure you know this for the entire resolution planning process -- it is, I said, an ongoing process where the starting point for us is normally the bank's structure, the bank data that we get to a large extent from the ECB, but we have just started in March a huge exercise in asking for bank's liability data because supervisory data is mainly asset-focused data.

So to set MREL, we need a clear understanding of the bank's liability structures and perhaps also to give credit, the positive part here is it's a giant exercise also for the banks, but I have not heard anyone putting into question that it needs to be done. So it is ongoing, and we will most likely this year really focus on setting MREL. So minimum required eligible liabilities, the European TLAC version, and to assess obstacles to resolution.

When talking to banks, I'm always saying just the fact that we have a fairly cumbersome process before we have finally an agreed-upon resolution plan, doesn't mean that the banks shouldn't get started because -- and that would be the next slide -- what are we seeing?

There are some obstacles to resolution that, probably behind closed doors, each and every banker would already agree to.

Interdependencies within the institution, partially antiquated or inadequate IT and reporting systems.

So a lot of the information we need for this liability -- liability information will probably come out of more than one system and will be put together on Excel spreadsheets and not come as the push of a button out of a machine, though it's needed information. There's never been the time to work on that.

There is clearly the question in some of those institutions -- I'm not saying anything that you don't know -- that critical support functions seem to be everywhere except where you think they would logically be. So that we have the idea of can you really make sure that if something happens, you can isolate a support function and transfer it. So there's a lot of structure work to be done.

Capital structure in general. So the question, do you have really sufficient bail-in-able capital and debt? Do you have it issued out of institutions or entities that you can be sure that you can bail it in? That's --- one small word for that is special purpose vehicles, and I've always said there's hundreds of good reasons to use them, but you then need to make sure can you -- if need be, really get hold of it, or do you find out it's basically a rich organization. Just the part where you need money, it's difficult to get to.

And that will be a huge debate when we set really MREL for those institutions, and then I've put a bit of line in between because I'm always trying to be fair, and there are also issues we need to deal with; the cooperation between the authorities, cross-border recognition -- and you've talked about that beforehand -- are clearly topics where we need to do our homework and a bit like what I heard earlier here, I think we've gone a long way.

Do we have legal systems in place? No. Even if we have an MOU, an MOU is an intention, but I think we've all gone one major step. We all know it's not a zero sum game. You understand that it is better for the entire system if you cooperate and not try to ring fence and then see, well, I've got my part; lets the others see how they get -- so I think this is a long list and we don't have the time to get into it.

I will try to confuse you with one slide entirely; we shall see. This one is the easier one. The second one is a bit complicated. Europe had already introduced the BRRD while on the international level we were heavily negotiating TLAC.

CHAIRMAN GRUENBERG: Elke, if you might just explain the --

MS. KONIG: Huh?

CHAIRMAN GRUENBERG: You might explain BRRD just a bit.

MS. KONIG: Yes. BRRD is the Bank Recovery and Resolution Directive. So our legal framework, which includes for us, inter alia, the minimum requirements for eligible liabilities and in addition for the banking union, when the SRM was put in place and when the fund was created, politicians decided that there needs to be a safeguard to protect the fund.

The fund is funded by the industry, but it is money that we could handle, and therefore they require that before you can use the fund, you have to bail in de minimis eight percent total liability based on a prudent valuation form. So first prior losses and then eight percent.

And to define these minimum required eligible liabilities is our job, and is something which, in its basic thinking, is actually the same as TLAC. It just comes more from this idea how much liabilities do you need to have to really unwind an institution -- always considering that the fund is the last resort -- compared to the -- I've always said TLAC thinking of how can you make sure that on Monday morning you have clarity and can stabilize the institution.

Basically you want to achieve the same. Unfortunately now in Europe we are in a situation that we have a legal requirement called MREL and an international commitment called TLAC. They are two sides of the same coin. The Commission has just started to come -- to discuss a proposal how to implement TLAC within European legislation.

In the UK, you've seen the -- some of you have definitely seen the consultative paper the UK has brought out on how to implement it -- and we used a third way to go because within the SRB, and our more diverse universe, we've said in January, let's set out a guidance on where are we moving.

I am firmly convinced that you can really match or can cover both requirements, TLAC requirements and MREL requirements within one set of -- in one go. We have only so far said one thing is pretty clear for the banks under our remit -- so the 120-ish largest banks. It's highly likely that if something goes totally wrong that resolution is the avenue to go.

To go that avenue, we would always require that we keep all options up, and that includes that we need to make sure that we have the famous eight percent bail-in-able capital unless the fund is just not available. The fund is only available after.

MEMBER JOHNSON: Is there any systemic exception to that? So if you felt or somebody else felt that the situation was bad enough and the contagion was spreading fast enough, can you waive the bail-in requirement?

MS. KONIG: Yes. The BRRD contains rules for exceptional circumstances, but our working for the time being is to say we are sunshine and we have to do a plan. So we are assuming that the bank has eight percent -- has to have the famous eight percent, and it needs to resolvable basically without access to the fund.

If the unthinkable happens and we come to a very difficult situation and it's systemic, and you're not talking about idiosyncratic crisis

-- dream up whatever, then the BRRD would give us some leeway, but it's really exceptional clauses.

MEMBER JOHNSON: Who would provide the liquidity? If you had the eight percent, you write that out who then provides --

MS. KONIG: You're by far too fast for me. So I have not mentioned -- because I thought it's not good to start with what doesn't work -- we don't have a solution yet for who provides liquidity.

Now, we have a formal solution for that. Formally or by formal solution, the fund can be used for capital providing or for liquidity providing.

Now let's be realistic. The fund -- and I think we have a slide to that too -- the fund has in the -- will ultimately have the size of one percent of covered deposits, which is somewhere between 50-ish and probably at that time, then in the 70 billion. That fund, to be used for liquidity, doesn't get you very far.

So that we are -- I'm always saying

let's assume the fund is the last resort for capital, and we still have to undergo the entire debate mainly with the central bank, to say if need be, who would be the one providing liquidity?

That for the time being is for some kind of a religious war, but for me, I would always say -- I'm fairly simple there. If the bank on Friday goes into resolution and we recapitalize it with bail-in or even with the need -- use of the fund, then at least the bank on Monday seems to me better capitalized than on Friday, and a solvent -- basically solvent institution.

That institution will be unfortunately not able to go to the market, and just realistically I don't see how they can easily go to the market. So that we need kind of a liquidity line, and that's something that we still need to sort out.

I know that our British friends are also still a bit dancing around this topic. I hope that the paper that the FSB is now finalizing gives us a trigger to say let's now not -- let's now think about how do we find a solution there because clearly the fund, to my understanding, would be the most inefficient way if --

MEMBER ADMATI: Can I ask a question?

MS. KONIG: Sorry, yes.

MEMBER ADMATI: You probably -- I need to ask this question because you're sort of glossing over the deposit part. So I wonder sort of where deposits fit, because of the lack -- so I mean it's very -- it was very strange to me to realize that you had an up and going resolution plan but you sort of -- you know, the starting point usually of banking is deposits, and your deposits are -- you know, all your banks have deposits.

Now the religious war seems to be on the deposit insurance amazingly right now, because you know, it's essentially saying it's a trading problem, which means that's kind of the end of that. So what's the plan?

I mean obviously that's not in the eight percent of your -- because you can't bail in deposits, and the question also is how much deposits? What is -- are you assuming -- you don't even have FDIC. So it's like, is the 100,000 -- what is it? In other words, what's the treatment of deposits in all of this?

MS. KONIG: It's always -- trying to get all this into a short presentation will never work probably.

When I look at our European universe, I would say most of the banks are deposit-taking, also most of these banks. I would nevertheless somehow slice the universe in the sense that out of roughly 4,000 banks, probably 3,500 are not systemic. They are, even within their member state, not systemic.

For those banks therefore, if they get into trouble -- now forget all the various different solutions -- basically you would go into insolvency and the deposit guarantee scheme would make sure that depositors --

MEMBER ADMATI: It's up and running. You mean the EU?

MS. KONIG: No, no. I'm talking about national deposit guarantees.

MEMBER ADMATI: National, national.

MS. KONIG: We have national deposit guarantee.

MEMBER JOHNSON: Every country has --

MEMBER ADMATI: The governments, yes.

MS. KONIG: Each and every country has a national system. They are not all exactly the same, and we are pushing hard and saying some of them are just mere paybox systems, which I think is inefficient because we all look at what the FDIC does -- which I think is a by far more efficient process in safeguarding depositors in transferring the business. So that is an area to be discussed.

The second part, and that's what you see a lot of about in the press right now is that the Commission has started to say well national deposit guarantee schemes are potentially as good as the sovereign in the end might be. Now it's a far reach to immediately jump to that conclusion, but therefore the idea shouldn't we have -- and that's what they call EDIS.

Insurance came behind where the Euro area then gradually takes over, and after a number of years you come to a European deposit insurance system. For me, the national system, if it's fit for purpose, all this -- it's not so much important whether it's a European system or whether it's a fit for purpose national system. You just need a good system. So that could cover basically for most of the smaller banks.

For the larger banks, if you're just very bold, you would say well, if we assume that we have sufficient capital and sufficient MREL in place, then we should in nine out of ten cases be able to resolve the bank without eating into depositors, because they are at the very end of the waterfall. 100,000 is secured and those above are still protected compared to normal, regular creditors, but if need be, then the deposit guarantee scheme naturally steps in and becomes the preferred creditor in unwinding this.

This is all -- this is a bit the reason why I'm saying always there is a triangle of our resolution directive and our functioning. Solid functioning of the deposit guarantee scheme, which by the way they plan to give to us if it becomes a European scheme, but I've always said I'm not moving on that side before it's not there.

I think it would make sense, but that's something else, and to make sure that we then have a harmonized system of insolvency rules for these institutions. That together could make a system.

Now just a very short word to the Single Resolution Fund. The fund has to be built up since January 1st this year, or we said if you want to see a calculation for a fund that's complicated, come to visit us.

It's not complicated because the

Commission dreamt up a complicated system. This is member states. Each and every one wanted to make sure that it's risk-sensitive, that this is considered, that that is considered. So we have a fairly complicated system.

Over a period of eight years, we will build up a fund that has roughly one percent of covered deposits in -- or has one percent of covered deposits in the Euro area as its basis. It starts with national compartments. Keep in mind we are independent member states, and it starts with national compartments and it will gradually be a European fund.

It's important to know that the use of the fund, if we use it for a resolution decision, will always entail Commission procedure on state aid. That's difficult for the banks to swallow. It's their money. The banks have to pay it into the fund. So it's private money that goes into the fund, but as we are a public authority that can -- that is the only one that can decide upon this money, it is still a state aid procedure under DG Comp.

Which makes then the process of how to come to a resolution decision over a weekend one step more challenging, because we need the approval of the Competition Directorate of the Commission before we can proceed, but at that point, I'm always taking Chair Gruenberg's comment, if you need to come to a decision, people will hopefully get fast, because a weekend has an end. So but --

MEMBER JOHNSON: Well but in Europe, you've had some mixed experiences with that.

MS. KONIG: True, we have some mixed experiences, but I think the major challenge here is -- and I'm very hopeful that cooperation with DG Comp will not be -- the Competition Directorate -- will not be a major issue.

In the past, they were de facto the resolution authority, not -- no one else, and we need to come to -- I've talked about it beforehand. We have done a dry run or table exercise for the European institutions that all need to work together to come to a conclusion. I was a bit flat out in the evening, but it worked well and I think we all understand where our role within this is.

But nevertheless, our work program -- that's perhaps just for your reading pleasure -- for 2016 is all about being ready and improving things there and resolution planning, and clearly I think we should not underestimate the work that goes into the Single Resolution Fund in collecting, building up all this system.

Always please keep in mind we are, for the time being, entirely an organization with roughly 150 people building up to 300 next year, and working together with national authorities that partially are very young too. So there is still a lot of work to be done, but I think when we compare it with Europe in 2008, when we look at what happened on the supervisory side, what happened in capital requirements, all of that -- and this side -- I'm on the other side, fairly confident that we are in a by far better shape than we've been before and can react to crisis. So hopefully it doesn't come.

MEMBER KOHN: Now in the next few years before the Resolution Fund builds up, it's still a national -- you haven't broken that link between the bank and the sovereign.

MS. KONIG: No, sure. We have in place -- and that was the agreement with the member states and it's always difficult to get other people's money.

They have in place credit lines with the member states for their compartments. Not with -- we are still negotiating with some because they need parliamentary approval and things like that. So the basic idea for the time being until the fund is built up is that if something happens, the member state needs to provide a credit line, which we have to repay with future contributions to the fund.

What they want to discuss once this is settled is a permanent backstop to the fund. Now we can borrow from the market. I don't find that the most efficient way to go forward -- and everyone in Europe knows that I don't think it's the most efficient way. The alternative is to get a backstop from an organization like the ESM, so that we get a European backstop.

But again, also that backstop will have to be construed that's clear political will in a way, that we can and will have to repay any public money out of future contributions of the banks. Basically, there should be no public money involved.

MEMBER BRADFIELD: How big will the fund eventually become? What's your target?

MS. KONIG: When you look -- when you listen to people, they will always immediately tell you 55 billion. That was the number that the Commission calculated as being one percent of covered deposits in 2024.

Now our now numbers, with even a bit of growth also in Europe, is -- I would say it is more than 55 billion most likely, but basically it is one percent of the covered deposits and covered deposits are all deposits up to 100,000 Euro.

One of the challenges is we have to build up a fund to reach a number that we can't precisely calculate for now. I had a hard time to explain it to some people how we tried to move.

MEMBER ADMATI: I have a question on that. So why is your benchmark deposits because the liabilities that you're actually dealing with are actually in other kinds of liabilities, not in deposits? You're not in a deposit insurance fund, so --

MS. KONIG: I can't give you an answer. It was the political compromise and it's part of the parcel that someone felt obviously sounded right. No -- I think there is no large logic behind -- because otherwise I agree with you.

Deposit guarantee fund you would build as a percentage of deposits, not this. The only area where there was a bit of calculation, though in the end it was probably also pick a number, was on the eight percent bail-in before. That was a bit done backwards calculating and saying so what were the amounts at risk and that needed to be used in most recent failures?

And they wanted to pick a number that was substantially high enough to only use the fund in rare cases, but again, this is not rocket science. It's in the end political compromise. I will leave it there.

CHAIRMAN GRUENBERG: Anyone else? I think they're going to let you off the hook here.

(Laughter.)

CHAIRMAN GRUENBERG: I spoke too soon. I spoke too soon. We're almost out of time.

MEMBER JOHNSON: I understand. So one question that comes up in the discussion of the Bank of England is a point that was raised this morning, which is if the U.S. is proceeding under Title I to a bankruptcy of a G-SIFI -- which is by law what we're supposed to do and it's also what these people work on very hard -- how would that be viewed in the Euro area?

I think the view from the Bank of England from what -- I mean not from the simple view but a very well-informed view from the Bank of England is they would not be comfortable with a bankruptcy of the UK counterpart. They would much prefer resolution, and they would be extremely tempted and maybe even forced by their statutes to initiate a resolution process.

Now in Europe, how would you -- Euro area, how would you view that?

MS. KONIG: Basically the same. I think I find an exercise like Title I helpful to understand and to see how resolvable and how far can you get?

But the basic -- we have the same basic legal system as the Bank of England, which would say for a bank under -- and now we're talking G6 resolution is probably considered the more efficient and the better option, and then you have to go for resolution of this bank.

I would have a hard time to foresee

that insolvency -- normally insolvency procedure is really the most efficient way forward, but again, that doesn't say that Title I exercise doesn't make perfect sense. The question is just for us, we are fund enough -- and more fighting the other way around, where we get the feeling for smaller banks.

I'm always saying resolution is a very tricky word. I can have a New Year's resolution, and resolution is not for everyone. Resolution only comes into play if we think it provides a better result than insolvency, because it helps me to keep together critical functions and it helps me to preserve financial stability.

We are rather under pressure that if you have a small bank somewhere on an island and you get the question -- the answer, the bank is so systemic for the island. Yes, even my home country has a number of very small islands. I'm not sure whether I would consider those banks systemic for the country. That's why I said it has to be country or union as a whole.

MEMBER JOHNSON: Those are all very important points. I think the concern of this committee has for some time been about whether a global systemically important institution -- subject to the jurisdiction of the FDIC in this matter -- whether they can present a credible living will or a plan to go bankrupt for this reason, that it would trigger consequences and actions by different regulators, different groups of supervisors, different resolution mechanisms, all of whom are following their own rules, but that would actually make -- maybe we could say at least that should be reflected in the living wills, the G-SIFIs filed in the United States.

MS. KONIG: I would stay out of probably answering that question, but I would disagree with saying that if something goes wrong, we all follow our own rules.

I hope that with the CMGs in place and with the understanding that the sum of the parts will probably not get you anywhere, that we follow a very clear understanding, be it a single point or be it a multiple point of entry, or what I would assume in most cases, a combination of multiple single points of entry within a group.

So that I would hope for a more concerted action. That's at least what we are all striving for.

CHAIRMAN GRUENBERG: I know Elke has another engagement, so I want to be respectful of her time.

MS. KONIG: Yeah, but I have to be there.

CHAIRMAN GRUENBERG: First, let me thank you, Elke, for a wonderful presentation and really a great opportunity for all of us to hear directly the work she's doing, which I think is exceptional and -- exceptionally important and exceptionally challenging as well. I look forward to our continued mutual cooperation together.

I want to thank all of you. These meetings are always extremely helpful to us. Nobody would ever accuse this committee of being a cheerleader, and that's sort of the way we want it, and we really appreciate the contributions that you make.

As you do review the materials that we've shared with you, if you have any thoughts or questions, I really do invite your input on them. They're exceptionally valuable to us.

And I'll conclude by saying, when I think -- I was chatting with Don about what we were dealing with in 2008, when these institutions were getting into difficulty, and essentially the utter lack of options to deal with the failure of these firms.

When I think about where we were then and where we are now, while we still have significant work to do, I do think it's a transformed situation and very much in our interest that we have shifted the center of gravity in this important area.

So I want to thank all of you for your contributions to that, and I look forward to our continuing work with you as well. Thank you.

MS. KONIG: And if there are any questions to my presentation, feel free to call.

CHAIRMAN GRUENBERG: Thank you.

(Whereupon, the above-entitled matter was adjourned at 2:50 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Meeting of the Systemic Resolution Advisory Committee

Before: FDIC

Date: 04-14-16

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

[redacted]

Court Reporter