

FDIC Announces Lifting IDI Plan Moratorium January 19, 2021

The FDIC Board took action today to lift the moratorium on resolution plans required for insured depository institutions (IDIs) with \$100 billion or more in assets under 12 CFR § 360.10 (the “IDI Rule”). In November 2018, Chairman McWilliams announced that the agency planned to revise the IDI Rule and that the next round of resolution plans submitted pursuant to the IDI Rule would not be required until the rulemaking process was complete.¹ In April 2019, the FDIC Board approved an advance notice of proposed rulemaking² (ANPR) to seek comments on modifications to the IDI Rule and adopted a resolution extending the due date for future plan submissions pending completion of the rulemaking process.

Given the passage of time from the last submissions pursuant to the IDI Rule and the uncertain economic outlook, the FDIC will resume requiring resolution plan submissions for IDIs with \$100 billion or more in assets. No firm will be required to submit a resolution plan without at least 12 months advance notice provided to the firm.

In May 2020, the FDIC announced plans to engage in targeted engagement and capabilities testing related to resolution planning with select firms on an as-needed basis.³ This approach was consistent with the approach envisioned under the ANPR. While the FDIC will resume the requirement that IDIs with \$100 billion or more in assets submit resolution plans, the FDIC intends to continue with targeted, periodic engagement and capabilities testing.

The FDIC plans to provide further details surrounding its modified approach, including efforts to streamline content requirements for IDI plan submissions and emphasize periodic engagement, in the coming weeks. This modified approach will provide greater utility for the agency in planning for a resolution and is expected to be less burdensome on institutions subject to the rule.

The FDIC believes resolution planning is critical to ensuring orderly resolutions, as reflected by the FDIC’s ongoing engagement with firms and its decision today to resume IDI plan submissions.

¹ See FDIC Chairman Jelena McWilliams, “Keynote Remarks,” speech before the 2018 Annual Conference of The Clearing House (TCH) and Bank Policy Institute (BPI) (Nov. 28, 2018), available at <https://www.fdic.gov/news/news/speeches/spnov2818.html>.

² See Resolution Plans Required for Insured Depository Institutions With \$50 Billion or More in Total Assets, 84 Fed. Reg. 16,620 (April 22, 2019), available at <https://www.govinfo.gov/content/pkg/FR-2019-04-22/pdf/2019-08077.pdf>.

³ See IDI Plan Statement (May 22, 2020), available at <https://www.fdic.gov/resauthority/idi-plan-statement-052220.pdf>.