Fact Sheet on Proposed Rule to Require Large Banks to Maintain Long-Term Debt to Improve Financial Stability and Resolution

Background

The federal bank regulatory agencies are inviting public comment on a proposal that would require large banks with total assets of $100 billion or more (hereafter “large banks”) to maintain a layer of long-term debt, which would improve financial stability by increasing the resolvability and resiliency of such institutions.

The proposal follows an advance notice of proposed rulemaking issued in October 2022 by the Federal Reserve Board and the Federal Deposit Insurance Corporation that looked at several possible changes, including a long-term debt requirement, to promote more orderly resolutions for large banks. The advance notice cited the risks of resolving large banks, especially those with sizable uninsured deposits, and explored giving regulators more tools for this process.

Several months later, the failure of three large banks in spring 2023 underscored the importance of supplementary, loss absorbing resources that regulators can use to resolve banks in a way that reduces costs and risk of disruption to the banking system.

Applicability

The proposal applies to large banks, or those with more than $100 billion in total consolidated assets. This proposal, however, would not change the existing requirements already in place for the largest and most complex banks (i.e. U.S. global systemically important banks, or GSIBs) and it does not apply to community banks.

Proposal

The joint agency proposal aims to increase the resolvability and resiliency of large banks. It would mandate a long-term debt requirement to:

- Give regulators additional resources to resolve failed banks and prevent contagion;
- Foster depositor confidence; and
- Decrease costs to the Deposit Insurance Fund in the event of a large bank failure.

These goals would be accomplished by requiring large banks with total assets of $100 billion or more to maintain a minimum amount of long-term debt that can be used, in the instance of a bank’s failure, to:

- Absorb losses; and
- Increase options to resolve the failed bank.

Large banks would be required to maintain a minimum amount of eligible long-term debt equal to the greater of 6 percent of risk weighted assets, 3.5 percent of average total consolidated assets, and for banks subject to the supplementary leverage ratio, 2.5 percent of total leverage exposure under the supplementary leverage ratio. Additionally, the proposal would:

- Prohibit large banks from engaging in certain activities that could complicate their resolution; and
- Disincentivize banks from holding long-term debt issued by other banks to reduce interconnectedness.

Because large banks generally pose less risk than the largest and most complex banks, the proposed requirement would be calibrated at a lower level relative to existing requirements for the eight largest and most complex banks. Under existing rules, the largest and most complex banks are subject to total loss-absorbing capacity (TLAC) requirements, including minimum and buffer requirements, as well as a long-term debt requirement. Under the proposal, a large bank with total assets of $100 billion or more that is not one of the largest and most complex banks would not be subject to TLAC requirements.

If the proposal is adopted, all large banks with total assets of $100 billion or more, including the largest and most complex banks, would be subject to long-term debt requirements and clean holding company requirements. The proposal would also strengthen the capital deductions for investments in the debt holdings of other banking organizations.

Estimated Impact

Long-term debt can provide banks and regulators greater flexibility in responding to a bank's failure by augmenting loss-absorbing capacity. The availability of eligible long-term debt may increase the likelihood of an orderly resolution for a bank that fails and thereby help minimize costs to the Deposit Insurance Fund.

The improvements in resolvability and resilience introduced by the proposal would result in moderately higher funding costs for large banks over time. Importantly, large banks already maintain substantial long-term debt, so most would only need to issue new long-term debt incrementally to meet the proposed requirement.

When factoring in levels of long-term debt at these entities, the agencies estimate that large banks have recently maintained roughly 75 percent of the required amount and would have three years following the proposed rule becoming effective to meet the full requirement.

The proposal includes transition provisions to give banks sufficient time to adapt to the changes while minimizing any potential adverse impact. It would also allow banks to count, as part of the required amounts, certain existing long-term debt.

Comments on the proposal are due by November 30, 2023.

Fact Sheet on Proposed Rule on Resolution Planning for Insured Depository Institutions with $100 Billion or More in Total Assets; Informational Filings for IDIs with At Least $50 Billion but Less Than $100 Billion in Total Assets

Background

First adopted in 2011, the Federal Deposit Insurance Corporation's (FDIC) Insured Depository Institution (IDI) Resolution Plan rule requires banks with over $50 billion in total assets (covered IDIs) to periodically submit resolution plans to provide the FDIC with information about the bank that is essential to effective resolution planning, and to support the execution of a resolution if necessary. The Rule requires covered IDIs to develop and submit detailed plans demonstrating how they could be resolved in an orderly and timely manner in the event of receivership.

The FDIC is inviting public comment on a proposal to amend and restate the existing IDI resolution planning requirements under 12 CFR § 360.10.

Proposal

The proposal would strengthen the current resolution plan rule including with respect to the content and timing of resolution submissions as well as interim supplements provided to the FDIC. The modifications to existing requirements are intended to support the FDIC's resolution readiness in the event of material distress and failure of these large IDIs. Key elements of the proposal include:

- IDIs with $100 billion or more in total assets (Group A) would submit more robust resolution plans, while IDIs with total assets between $50 and $100 billion (Group B) would submit more limited informational filings. All covered IDIs would be providing the FDIC with critical information and analysis to assist in their potential resolution.

- Covered IDIs in Group A would be required to submit a comprehensive strategy (Identified Strategy) from the point of their potential failure to liquidation or return of the institution to the private sector. The Identified Strategy would generally expect, but not require, a default scenario whereby the FDIC, as receiver of the failed institution, operates the institution under a bridge bank. As proposed, the Identified Strategy must ensure timely access to insured deposits, maximize value from the sale or disposition of assets, minimize any losses realized by creditors, and address potential risks of adverse effects on U.S. economic conditions or financial stability.

- Covered IDIs would file their respective resolution plans or informational filings biennially with limited information supplements to be provided in off-years, starting in 2025.

- The proposal enhances the criteria for all covered IDIs to assess the credibility of their resolution submissions.

- All covered IDIs would be required to demonstrate capabilities to promptly establish a virtual due diligence data room and populate it with information necessary for interested parties to submit well-informed bids on the bank or its assets.

- The FDIC would expect all covered IDIs to engage with the agency to assess and test their resolution capabilities, including those that ensure the continuation of critical banking services and the potential marketing of the franchise or its components.

Deadline

Comments on the proposal are due by November 30, 2023.

Fact Sheet on Proposed Guidance to Enhance Resolution Planning at Large Banks

Background

The Federal Deposit Insurance Corporation and the Federal Reserve Board invited public comment on proposed guidance to help certain large bank holding companies further develop their Dodd-Frank Act Title I resolution plans.

These resolution plans, also known as "living wills," describe a bank holding company's strategy for rapid and orderly resolution under bankruptcy in the event of material financial distress or failure.

Applicability

The guidance would apply to bank holding companies and foreign banking organizations with more than $250 billion in total assets but that are not the largest and most complex companies, which are already subject to guidance on resolution planning. The guidance would address the specific characteristics of, and risks posed by, this group of companies.

Proposal

The guidance is organized around key areas of potential vulnerability that could be needed in resolution:

1. Scope of application
2. Capital
3. Liquidity
4. Governance mechanisms
5. Operational capabilities
6. Legal entity rationalization and separability
7. Derivatives and trading activities
8. Insured depository institution resolution guidance (multiple point of entry strategy only)
9. Branches (for foreign banks)
10. Group resolution plan (for foreign banks)
11. Format and structure of plans; assumptions

Distinct from the guidance to the largest and most complex companies, the proposal would provide agency expectations for both single point of entry and multiple point of entry strategy needs, which are different strategies companies may adopt for their rapid and orderly resolution. It also would propose that foreign banking organizations develop their U.S. resolution strategies to be complementary to their global resolution plans.

Deadline

The proposed guidance will be published in the *Federal Register*, with comments due by November 30, 2023.