

RESOLUTION

WHEREAS, the Change in Bank Control Act (CBCA), section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. § 1817(j)), generally provides that no person shall acquire control of any insured depository institution unless the person has provided the appropriate Federal banking agency prior written notice of the transaction and the banking agency has not disapproved of the proposed transaction; and

WHEREAS, the FDIC has issued rules and regulations at subpart E of part 303 (12 C.F.R. §§ 303.80–88) that set forth the applicable filing requirements and processing procedures for a notice to acquire control of an FDIC-supervised institution pursuant to the CBCA (Notice); and

WHEREAS, the FDIC has observed that fund complexes have acquired or approached acquiring 10 percent of voting securities of FDIC-supervised institutions or their controlling affiliates, which can result in their exercising control by having the power to direct the management or policies of such institutions; and

WHEREAS, in order to ensure that the FDIC has the ability to appropriately assess all change in control transactions that may potentially affect the management and policies of an FDIC-supervised institution, the Board is requested to approve the issuance of a notice of proposed rulemaking (NPR), for a 60-day public comment period, that would amend the FDIC's regulations by removing the current regulatory provision in 12 C.F.R. § 303.84(a)(8) that exempts from the notice requirement to the FDIC an acquisition of voting securities of a depository institution holding company for which the Board of Governors of the Federal Reserve System reviews a notice pursuant to the CBCA; and

WHEREAS, the proposed NPR would provide the FDIC with the ability to evaluate the facts and circumstances surrounding a proposed transaction and to consider all options available to the agency under the CBCA, including review of a change in control Notice and whether to seek passivity commitments from an acquiring person in connection with the transaction.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby approves the issuance of the proposed rule with a 60-day period for public comment, and authorizes the Executive Secretary, or her designee, to publish the proposed rule in the *Federal Register* in a form and manner acceptable to the Executive Secretary, or her designee, and the General Counsel, or his designee.

BE IT FURTHER RESOLVED, that the Board hereby authorizes the General Counsel, or his designee, and the Executive Secretary, or her designee, to make technical, non-substantive, or conforming changes to the text of the attached proposed rule to ensure that the FDIC can publish the document in the *Federal Register*, and to take such other actions and issue such other documents incident or related to the foregoing as they may deem necessary or appropriate to fulfill the Board's objectives in connection with this matter.