

Minutes of the Meeting of the Systemic Resolution Advisory Committee

of the

Federal Deposit Insurance Corporation

Held in the Board Room

Federal Deposit Insurance Corporation Building

Washington, D.C.

Open to Public Observation

December 6, 2018 – 9:00 A.M.

The meeting of the FDIC Systemic Resolution Advisory Committee (“Committee”) was called to order by Jelena McWilliams, Chairman of the Board of Directors, Federal Deposit Insurance Corporation (“Corporation” or “FDIC”).

The members of the Committee present at the meeting were:

Anat R. Admati, George G.C. Parker Professor of Finance and Economics, Graduate School of Business, Stanford University; Sheila Bair, Former Chairman, Federal Deposit Insurance Corporation; Michael Bodson, President and Chief Executive Officer, The Depository Trust and Clearing Corporation, New York, New York; Charles A. Bowsher, Former Comptroller General of the United States; Hon. Shelley C. Chapman, United States Bankruptcy Judge, Southern District of New York; H. Rodgin Cohen, Senior Chairman, Sullivan & Cromwell, LLP; 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; Donald Kohn, Former Vice Chairman, Board of Governors of the Federal Reserve System and Senior Fellow, Economic Studies Program, Brookings Institution; John S. Reed, Former Chairman and CEO of Citigroup and Former Chairman, Corporation of Massachusetts Institute of Technology; and Gary H. Stern, Former CEO and President, Federal Reserve Bank of Minneapolis and Chairman of the Board of Directors, National Council on Economic Education, New York, New York.

Members William H. Donaldson, Former Chairman, U.S. Securities and Exchange Commission; Janine M. Guillot, Former Chief Operating Investment Officer, CalPERS, Sacramento, California; 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; and Douglas L. Peterson, President and Chief Executive Officer, S&P Global, were absent from the meeting.

December 6, 2018

Members of the Corporation's Board of Directors present at the meeting were: Jelena McWilliams, Chairman, and Martin J. Gruenberg, Director.

Corporation staff who attended the meeting included: Steven O. App, Susan L. Baker, Alexandra S. Barrage, Kent R. Bergey, Valerie J. Best, Pauline E. Calande, Jason C. Cave, Chad R. Davis, Christine M. Davis, Patricia Davison-Lewis, Ricardo R. Delfin, Debra D. Decker, Angela Dean, Patricia S. Gurneau, Bret D. Edwards, Elizabeth Falloon, Joanne Fungaroli, Michelle G. Gilbert, Shannon N. Greco, Ross Hadley, Herbert J. Held, Bruce W. Hickey, Helene Lilly, Christopher Lucas, Brandon Milhorn, Mike J. Morgan, Arthur J. Murton, Ariana L. Rambuyan, Heidilynne Schultheiss, Philip A. Shively, Titus S. Simmons, R. Penfield Starke, Marc Steckel, Nathan C. Steinwald, Charlton R. Templeton, Ryan P. Tetrick, Jenny G. Traille, David Wall, James C. Watkins, Howard G. Whyte, Angela A. Wu, and Charles Yi.

William A. Rowe, III, Deputy to the Chief of Staff and Liaison to the FDIC, Office of the Comptroller of the Currency, and Jocelyn Sutton, Special Advisor to the Director, Consumer Financial Protection Bureau were also present at the meeting.

## **I. Welcome and Overview.**

Chairman McWilliams opened and presided at the meeting. She began by welcoming the Committee members, noting that she looked forward to the Committee's discussion of the progress made in implementing the "living will" authority under Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), as well as the Orderly Liquidation Authority ("OLA") under Title II of the Dodd-Frank Act.

Chairman McWilliams observed that the FDIC and the U.S. Global Systemically Important Banks ("G-SIBs") have made great progress in navigating the unique challenges associated with resolving the most complex, globally active financial institutions. She emphasized, however, that the agencies should be direct and specific as to how they define goals and measure progress. Resolution planning should work to minimize moral hazard and ensure that market discipline is real for all institutions, she cautioned. She stressed that the fundamental goal of resolution planning—for institutions large or small—should be to enable failure in the least destructive manner. Losses should be absorbed by the shareholders and unsecured creditors of the holding company, thus avoiding the taxpayer bailouts and instability the country faced in the most recent financial crisis. The consensus of everyone at the table, she suggested, is that bailouts are not right.

Chairman McWilliams then provided an overview of the day's presentations. She advised that the morning session would focus on Title I and efforts made to help U.S. G-SIBs implement structural and operational improvements in order to enhance their resolvability in bankruptcy, with the first panel focusing on domestic G-SIBs and large Foreign Banking Organizations ("FBOs") and the second panel focusing on regulatory developments, bankruptcy issues, and next steps. The first panel of the afternoon session would focus on Title II and OLA while the last panel of the day would highlight efforts to build cross-border resolution strategies with the international community. With respect to international engagement, Chairman McWilliams observed that the FDIC serves as both a home authority for U.S. institutions and as a host

authority for foreign firms operating in the U.S. Thus, the FDIC continues to build a strong foundation for cooperation and planning with other resolution authorities around the world, including the Bank of England and the Single Resolution Board. Chairman McWilliams noted that significant work has been done but no U.S. G-SIB has had to put their plan into action; single-point-of-entry (“SPOE”) in bankruptcy remains untested. Thus, she advised, there is work to do to ensure that, if a failure does occur, there will be sufficient market discipline so that taxpayers are protected and insured depositors are confident that they will receive their cash quickly and in an orderly fashion.

Next, Chairman McWilliams welcomed two new members to the Committee: Sheila Bair, Former Chairman, FDIC, and The Honorable Shelley C. Chapman, U.S. Bankruptcy Judge, Southern District of New York. Ms. Bair served as Chair of the FDIC from 2006 to 2011, when she steered the agency through the worst financial crisis since the Great Depression. Judge Chapman is recognized as an authority on bankruptcy law. She is a frequent lecturer on a variety of U.S. bankruptcy and international insolvency topics at conferences around the country and abroad. She was sworn in as a U.S. Bankruptcy Judge for the Southern District of New York on March 5, 2010, and assumed the responsibility of presiding over the Chapter 11 bankruptcy filing by financial services firm Lehman Brothers, which remains the largest bankruptcy filing in U.S. history.

Chairman McWilliams then introduced Ricardo R. Delfin, Director, Office of Complex Financial Institutions (“OCFI”) to moderate the first panel. In turn, Mr. Delfin introduced Arthur J. Murton, Special Advisor to the Chairman, and introduced the members of the first panel: Alexandra S. Barrage, Associate Director, Resolution and Strategy, OCFI; Mike J. Morgan, Corporate Expert (Atlanta), Complex Financial Institutions, Division of Risk Management Supervision (“RMS”); Nathan Steinwald, Deputy Director, Resolution Policy Branch, OCFI; and David N. Wall, Assistant General Counsel, Complex Financial Institutions Section, Legal Division.

## **II. Overview of the Dodd-Frank Act.**

Mr. Delfin opened his comments by recalling the Committee’s creation, noting it was formed in 2011 against the backdrop of the passage of the Dodd-Frank Act. The Dodd-Frank Act provides a framework for the orderly failure of a large, complex, systemically important financial institution. The FDIC has an important role in developing and implementing that framework.

Bankruptcy is the statutory first option. The 2008 financial crisis revealed that large financial institutions were unprepared to be resolved under the U.S. Bankruptcy Code, however. They had not been required to take specific actions to prepare themselves for resolution under bankruptcy, and this lack of preparedness contributed to the disruption that the failure of some firms ultimately generated. Now, under Title I of the Dodd-Frank Act, the largest bank holding companies and designated non-bank financial companies are required to periodically submit resolution plans, also referred to as “living wills,” in a process overseen by the FDIC and the Board of Governors of the Federal Reserve System (“Federal Reserve”) (collectively, the “agencies”). Each such living will must describe the company’s strategy for rapid and orderly resolution under the U.S. Bankruptcy Code in the event of material financial distress or failure of

the company. They must demonstrate that the firm could be resolved under the U.S. Bankruptcy Code without severe adverse consequences for the financial system or the U.S. economy. These plans must include both public and confidential sections. If the agencies agree that a submitted resolution plan is not credible or would not facilitate an orderly resolution in bankruptcy, the agencies must identify the specific issues, known as “deficiencies”. Firms need to remediate deficiencies in order to avoid sanctions. If, after two years of imposing sanctions, a firm hasn't remedied a deficiency, the agencies can take further action, including forced divestitures. Issues that do not rise to the level of a “deficiency” for both agencies are called “shortcomings.” Firms are provided the opportunity to remedy shortcomings in their next resolution plan.

As a backstop in circumstances where an orderly bankruptcy might not be possible, Title II of the Dodd-Frank Act established the Orderly Liquidation Authority (“OLA.”) This public resolution authority allows the FDIC to manage the orderly failure of a large financial firm.

Mr. Delfin observed that the Committee has been very helpful in thinking through the challenges associated with the resolution of systemically important financial institutions (“SIFIs”) and that the FDIC looks forward to further exploring these issues with the Committee.

### **III. G-SIBs Resolution – Making Bankruptcy Work: Title I Update.**

#### **A. “Resolution Plan Assessment Framework in Firm Determinations (2016).”**

Before turning to the most recent submissions, the panelists provided an overview of enhancements made to the resolution planning process since the Committee last met on April 14, 2016. At that 2016 meeting, FDIC staff detailed the agencies’ determinations and firm-specific feedback with respect to the 2015 resolution plans of the eight systemically important, domestic banking institutions.

Ms. Barrage recalled that the agencies jointly determined that five of the 2015 plans had deficiencies; the plans were not credible nor would the plans facilitate an orderly resolution in bankruptcy. The agencies described the deficiencies and shortcomings in letters sent to the firms all of which were made publicly available. Firms were advised to remediate their respective deficiencies or face more stringent prudential requirements. The agencies’ determinations were explained in a Joint Press Release issued April 13, 2016. The deadline for the next full plan submission for all eight domestic, systemically important financial institutions was July 1, 2017. The agencies issued “**Guidance for 2017 §165(d) Annual Resolution Plan Submissions by Domestic Covered Companies that Submitted Resolution Plans in July 2015,**” (the “2017 Guidance”) to help the firms prepare their next submissions.

At that time, the agencies also issued an accompanying publication titled “**Resolution Plan Assessment Framework and Firm Determinations (2016)**” (the “Framework”). The Framework explained the resolution planning requirement and provided further information on the agencies' processes for reviewing plans. In response to questions from the members, Mr. Delfin clarified that there were not “public” and “private” versions of agency letters. Rather, the letters were made public although some text might have been redacted. Ms. Barrage agreed that the agencies tried to be as transparent as possible about the issues identified and their possible

remediation. Mr. Delfin also advised that the Framework document set the stage for a joint review process to speed the process along. As a result, feedback between the agencies is much faster than in the early years.

With respect to the 2017 Guidance and the Framework, staff noted that the publications covered a number of issues raised by the firms; answered frequently-asked-questions; and addressed issues encountered in bankruptcy, such as fraudulent transfer risk. Staff noted that they obtained bankruptcy playbooks, so that in the event a U.S. G-SIB does fail, the G-SIB's plans will include draft documents for filing. In addition, staff has firm playbooks for board of directors at the "material entity" level. Within these playbooks, firms address a broad range of issues such as interlocking boards and early termination of qualified financial contracts ("QFCs").

There then followed a brief discussion among the Committee members and staff related to bankruptcy proceedings. Staff advised that a key challenge is to facilitate communication among the various regulators and bankruptcy authorities. In addition, they emphasized that the bankruptcy playbooks have included first day motions designed to ensure a firm entering bankruptcy can continue to operate, and advised that an entire structure has been built to deal with failure on an international scale. Director Gruenberg observed that there are inherent limitations in the bankruptcy process, such as liquidity concerns and cross-border cooperation requirements, thus making the existence of the Title II option necessary.

The Committee members and staff next discussed whether firm management is familiar with their respective firm's submissions. Staff assured the Committee that the senior-most officials within the firms are well aware of the resolution strategies of their firm. Current regulations require that the firms' board of directors review and approve their plans. Firm staff members meet with their boards and it is clear from conversations with board members that they are well-aware of their firms' plans. One member cautioned, however, that a plan might seem reasonable and well-constructed but evaluators must check it against liquidity in the treasury function of the holding company and all its subsidiaries and therefore, evaluators must make sure the chief financial officer and the treasury operation coordinate their efforts.

The discussion then delved deeper into issues of liquidity. Staff outlined some of the acronyms more commonly used when discussing liquidity issues; reiterated that neither the agencies nor the firms know which scenario will play-out and that the focus must therefore be on capabilities; and that many models have already been developed around stress testing. The key when shifting to a focus on capabilities, they said, is to look at the material entity level and understand that position. Members then asked staff to justify how liquidity is measured. Staff outlined concepts such as Resolution Liquidity Adequacy Position ("RLAP"), Resolution Capital Adequacy Position ("RCAP"), and Resolution Liquidity Execution Need ("RLEN"); said they try to use fairly conservative thinking when considering potential, available resources; and acknowledged that such concepts are always subject to further refinement. In response to further questioning by the members, staff discussed access to the Fed window and clarified that, when the firm designs its resolution plan, it cannot rely on public sources for support.

## B. Transparency

Ms. Barrage noted that, before moving to the 2017 plan filings, staff wished to touch upon public understanding of the process. Mr. Steinwald then described efforts to help the public better understand the submissions. Although the first living will rules required a section for the public, the feedback the agencies received helped the agencies strengthen the public-section guidance with respect to the 2015 filing. As a result, the 2015 filings were more informative; they explained how the material operating entities engaged with the larger firm as a whole; and they explained how the firm envisioned emerging at the end of the process. Building upon that success, the 2017 Guidance provided additional direction. Now, public plans describe the management process that the firms will go through in reaching resolution. Firms describe the mechanisms that they built to support continuity; describe the contractually binding mechanisms and calculations that they incorporate into the various triggers and decisions that they'll have to make at a senior level; and describe how they responded to shortcomings and deficiencies. In short, staff believes the public sections have significantly improved over the past three years.

The Committee applauded staff efforts to increase transparency. They agreed significant improvements have been made. They suggested more standardization would make it easier to compare across firms. They lamented the seeming lack of transparency in the rest of the world, but staff countered that some international bodies have done a good job of providing transparency with respect to resolution strategy. Overall, the key difference is that the U.S. has Title I while other jurisdictions do not have a parallel process. Members cautioned staff not to assume plans are better than they are with respect to other countries because we simply don't know how much progress other jurisdictions have made in terms of restructuring and rationalizing firms. Nonetheless, they agreed that one of the good things in requiring larger foreign banking operations to file living wills, including the public section, is that it has informed their own regulators about the types of direct disclosures that should exist. Another member suggested the 2008 crisis was more a function of contagion than interconnectedness, and contagion in itself is a function of lack of information. Consequently, transparency at the international level is valuable; many areas of bank supervision must remain confidential, of course, but this is not one of them because of the systemic risks. In a crisis it is critical, he observed, that everybody understands what is going on.

Returning to suggestions to improve transparency, one member suggested it would be helpful to know why nonmaterial entities are considered nonmaterial, given their size and potential. More specifically, it would be helpful to have broad categories explaining why an entity is relevant or irrelevant; such an approach would help provide further clarity into the data the agencies have that suggests there are thousands of subsidiaries. Staff responded that with respect to the definition of material entities, firms designate their material entities based on whether they support a core business line or a critical operation; the agencies have worked with the firms to ensure everyone understands the analysis. The members questioned, however, how one could know whether the volatility, liquidity, and maturity inside a nonmaterial entity is something to worry about and cautioned that it will be difficult for the agencies to know what is going on in a subsidiary. Staff answered that the agencies have the authority to tell a firm that an entity should be designated as being material. They further explained that, prior to receiving the 2017 plans, the agencies worked with the firms, obtained a preview of each firm's methodology, reviewed

the underlying data (both financial and operational), and considered not just transactions or obligations but also service dependencies. Against that background, the agencies evaluated the designation within the context of the whole firm. Staff agreed that with the “Single Point of Entry in Bankruptcy (“SPOE”) strategy and the need to maintain continuity, any entity that fails and no longer meets its obligations to the firm, or provides the services it was providing, puts the strategy of continuity at risk.

### **C. Guidance for 2017 §165(d) Annual Resolution Plan Submissions by Domestic Covered Companies that Submitted Resolution Plans in July 2015,” (the “2017 Guidance”).**

As indicated above, the staff briefly touched upon the 2017 Guidance in the context of the Framework and transparency. At this point in the proceedings, staff re-directed the Committee’s attention to the 2017 Guidance. Staff noted that there was constant interaction between the agencies and firms during the run-up to the 2017 submission date. In response to frequently asked questions, the agencies provided answers so the firms could take them into account when developing their resolution plan submissions due July 2017. Subsequently, those questions and answers were released in a publication titled **“FAQs for Guidance for 2017 §165(d) Annual Resolution Plan Submissions by Domestic Covered Companies that Submitted Resolution Plans in July 2015,”** dated May 5, 2017. Ultimately, the agencies witnessed significant progress by the firms in the areas where staff was focusing on in the 2017 Guidance. There were no deficiencies and fewer shortcomings. The firms established their liquidity and capital forecasting capabilities; developed play books to ensure continuity of access to their payment, clearing and settlement services; funded subsidiaries; prepositioned a number of their material entities and entered into agreements to guarantee applications; and modified services contracts to include resolution-friendly language. In short, the plans of the U.S. firms are significantly stronger.

Staff then touched upon the issue of separability, noting that the issue was addressed in the 2017 Guidance. There followed a brief discussion among the Committee members and staff concerning the downside of speed in the resolution process. That is, suggested one member, speed isn’t necessarily always good because you run the risk of defining the buyer universe too narrowly; distress sales bring in less money. The participants agreed that problems are fast but solutions are slow. Staff also assured the members that the agencies are checking the plans to determine if the resolution plan itself relies on the sale; they do not, staff concluded. If there was reliance on the sale, it would be factored into the capital and liquidity modeling and forecasting. Thus, the issue is optionality. Staff emphasized that the firm’s board makes the decision to sell or not; the agencies just want the firms to have choices and to eliminate the frictions.

### **D. “Resolution Planning Guidance for Eight Large, Complex U.S. Banking Organizations.**

Next, staff directed the Committee’s attention to the publication titled **“Resolution Planning Guidance for Eight Large, Complex U.S. Banking Organizations,”** included in the Committee materials. 83 Fed. Reg. 32856, 32862 (July 16, 2018). The 2018 Guidance is to apply beginning with the firms’ July 1, 2019, resolution plan submissions and describes the agencies’ expectations in six substantive areas: Capital, liquidity, governance mechanisms, operational, legal entity rationalization and separability, and derivatives and trading activities.

Staff advised that the agencies have reviewed comments received in response to the proposal and would soon issue final guidance. [Note: That final guidance was published as “**Guidance §165(d) Annual Resolution Plan Submissions by Domestic Covered Companies,**” 84 Fed. Reg. 1438, 1449 (Feb. 4, 2019)].

Staff then described for the benefit of the Committee the SPOE Resolution concept. Staff advised that the agencies acknowledge the SPOE strategy as a credible means of resolving a G-SIB in an orderly manner. A SPOE is designed so that the parent company will recapitalize and provide resources to its material entity subsidiaries, or its operating companies, prior to the parent company entering bankruptcy. Staff emphasized that the agencies do not prescribe specific resolution strategies for any firm, however, nor do they identify a preferred strategy; the Guidance is not intended to favor one strategy or another. It is flexible enough to allow firms to address the resolution obstacles that are relevant to their chosen strategy.

Following the panelists discussion of SPOEs, the members commented that any bankruptcy judge having jurisdiction over the holding company has an obligation to protect creditors of the holding company. Therefore, it is essential that the agreement be legally binding. Fraudulent conveyance and pre-positioning also pose risks, members suggested. Staff agreed that these risks are real but noted that observers have a high degree of confidence that, short of legislation at the Chapter 14 level, the approach will be effective. Ms. Barrage noted that SPOEs in bankruptcy are bail-in plans, “bail-in” meaning the market is pricing-in the cost of failure; that approach is much better than having taxpayers on the hook. Ms. Barrage then addressed concerns relating to the risk of early termination of QFCs. Next, staff responded to member questions concerning “total loss absorbing capacity” or TLAC, and noted it is a hot topic in the international community with respect to the degree to which one should rely on pre-positioning. Ms. Barrage pointed out that the primary concept is to keep the operating subsidiaries continuing, preserving their going concern value, while the holding company is the debtor in bankruptcy.

In response to questions posed by the Committee, staff then discussed, in turn: Agency enforcement powers under both Title I and as a supervisory body; agency guidance regarding liquidity issues; the use of interlocking boards of directors and dealing with potential conflict of interest between the two boards; and the role of triggers. One member suggested that systemic risk creates a potential conflict among the firm, its subsidiaries, and society, in the sense of spreading losses; board members serve in a fiduciary capacity and will seek to have others bear the risk. Thus, the issue of enforcement powers becomes essential because the agencies might have to take action in some instances. In response to additional questions from the members, staff agreed that if a firm is experiencing problems there will be significant limitations on the firm’s ability to access funds. Thus, many firms might have to self-fund their resolution in bankruptcy.

The members then discussed at length the potential impact of liquidated damages; if an entity fails to live up to contractual obligations, they suggested, the liquidated damages prescribed in contracts could be severe. More importantly, it is almost impossible to conceive of a scenario where an entity would not downstream; if the subsidiaries fail then there is no value left in the holding company. Thus, the only possibility of the debtholders recovering anything is for the



subsidiaries to survive. Other members suggested, however, that there have been instances where a subsidiary is allowed to fail and the holding company continues to operate without problems.

The Members then returned to the issue of “material entities”. In response to observations offered by the members, staff advised that the agencies have supervisory tools and can significantly focus on a firm's current liquidity and liquidity under stress. The agencies ask: “What is the liquidity positioning for each material entity under stress? What are the frictions associated with moving that liquidity? Is the firm capable of recognizing when there's a liquidity need at a material entity so that it can get the resources there in time to execute its strategy?” Members agreed that there has been substantial progress on understanding the liquidity position of each of those material entity subsidiaries and addressing their liquidity needs through the living will process. But, as to the specific capabilities of each material entity, the members suggested, that will require further study. Staff agreed the agencies need to make sure the models, and the assumptions underlying the models, are tested and validated.

The participants then discussed the role of the FDIC with members suggesting the FDIC is “wearing two hats”. On one hand, the FDIC is systemically resolving a holding company. On the other hand, the FDIC must deal with a subsidiary that is an FDIC-insured bank. The members wondered how the firms would fund themselves in a distressed situation without relying on an FDIC-insured bank subsidiary. Staff pointed out that is the very question they are working to address as part of the living will process.

The members then engaged staff in a broad-ranging discussion of SPOEs. Staff acknowledged that SPOE is untested. Staff therefore wants to make certain that firms have “objects of sale”. If a firm has an object of sale that is pre-identified, the agencies require that they have data rooms that actually house the key information so that they can separate these entities more quickly. If a firm can do that in recovery and not fail, that is a good result. If the firm then fails in SPOE, there are choices available for the board or for the FDIC. Summarizing, staff said the agencies first want to make sure firms are separable and have separability options. That will improve resilience and avoidance of failure. It gives the agencies choices in resolution if choices are needed. Overall, a lot of progress has been made with respect to objects of sale and separability, the staff reported. They further emphasized that the strategy is to make sure there is not a systemic disruption. In contrast, in bankruptcy court, maximization of value is the goal. Continuing, the staff explained that the agencies also consider the time period needed to stabilize. Thus the calculation is not simply a point-of-time calculation but also an estimate of what is needed to take the firm through a certain period during which operations will be stabilized.

#### **E. Large Foreign Bank Organizations (“FBO”) Update.**

Staff then referred to the “**Guidance for 2018 §165(d) Annual Resolution Plan Submissions By Foreign-based Covered Companies that Submitted Resolution Plans in July 2015,**” issued March 24, 2017,” and provided an update regarding FBOs. Staff advised that the 2018 FBO Guidance was designed to help FBOs improve their resolution plans and reflect the significant restructuring that they have undertaken to form intermediate holding companies. The Guidance is organized around key vulnerabilities, such as capital, liquidity, and governance

mechanisms; the Guidance is similar to the domestic guidance but has some important distinctions including the fundamental assumption that there is no foreign parent support. Staff reported that the FBOs were given a one-year extension, with their resolution plans now due on July 1, 2018. The agencies are in the process of finalizing their reviews.

At this point in the proceedings, Ms. Barrage re-introduced Judge Chapman. Ms. Barrage observed that Judge Chapman has been working with bankruptcy practitioners, the judiciary, and the agencies to help resolve some of the most challenging issues involving complex, global institutions.

#### **F. Presentation by Judge Chapman.**

After thanking Chairman McWilliams, Judge Chapman said that she would provide her remarks in the context of the Lehman bankruptcy. She explained that she has been presiding over the liquidation of the Lehman Estates for almost five years, having assumed the reins when Judge James Peck retired in January 2014. In addition to handling Lehman, Judge Chapman handles a full docket of Chapter 11 cases and has presided over the reorganization of many firms. Judge Chapman noted that the Lehman Chapter 11 cases have often been described with superlatives. Judge Peck called Lehman, "The biggest, the most incredibly complex, the most impossibly challenging international bankruptcy that ever was." As we mark the ten-year anniversary of the collapse of Lehman, Judge Chapman suggested it was essential to reflect upon certain aspects of the collapse that inform the path forward. Judge Chapman then delivered the following remarks:

"The collapse of Lehman Brothers unleashed a financial crisis around the world. Credit markets froze. Global trade all but ceased. Asset values plummeted. And jobs vanished. Lives were ruined. And I've seen that in the last few years. In bankruptcy court during that historic week, the drama of Lehman's sale of its headquarters and its broker/dealer business to Barclays unfolded. And again to quote Judge Peck, "there was a sense that if the sale didn't go through, what was already horrible, would just get much worse." There was the pressing question of whether a transaction that massive and complicated could be approved on such short notice. The due process rights of the creditors and all the stakeholders had to be considered and respected.

The day before the filing, on September 14, 2008, Lehman was an integrated global enterprise. It was the fourth largest investment bank in the United States. The next day at 1:10 a.m., and yes, I know the exact time, without preparation, it devolved into adverse factions of affiliates and third-parties competing over hundreds of billions of dollars of assets, and a vast universe of undetermined liabilities that ultimately exceeded one trillion dollars. More than one hundred Lehman affiliates became the subject of foreign insolvency proceedings in more than 16 jurisdictions. I'd like to say this is Lehman by the numbers. And I think the numbers are very powerful. Lehman counter-parties themselves filed Chapter 11 cases of their own across the United States. Ultimately, after the bar date was established, there were over 67 thousand claims filed against the 23 Lehman Chapter 11 debtors, asserting in the aggregate more the 1.2 trillion dollars in both direct and guaranteed liability.

There were many novel questions of law to be determined. Including, but certainly not limited to, questions related to Lehman's derivatives portfolio, which was comprised of over 10 thousand contracts and over a million transactions.

Perhaps the numbers that say the most about the enormity of Lehman are the docket numbers. That's the number of entries on the dockets of each of the cases. As of last week, and I checked, we are up to docket number 59,113 in the main LBHI case. Docket number 14,799 in the LBI SIPA case. And thousands more in the more than 300 adversary proceedings that have been filed. So just by way of comparison, in a typical mega, multibillion dollar Chapter 11 case, it's hundreds of filings. Maybe a thousand. But nothing, nothing like this. In my opinion, and admittedly I'm biased, the Lehman cases reflect the highest and best use of Chapter 11 in the public interest. Against the back drop of the global financial crisis, the stakes could not have been higher.

And yet, through the work of hundreds of talented and dedicated professionals, including some who have, I think, lent invaluable advice to the agency and to this Committee, and guided by the calm but steady hand of the presiding judge, the parties achieved what I consider to be a truly remarkable global consensus that enabled Lehman to emerge from Chapter 11 in just three and a half years. A very long time in terms of the economic health of the world. But for a case of this complexity, suffice to say there are longer stays in Chapter 11 than three and a half years. Specifically, with the help of the court, protocols were developed for the efficient administration of the cases, cooperation with the creditor's committee and its representatives, and to Professor Herring's point, transparency for parties in interest and for the public.

The parties took full advantage of the flexibility of the Bankruptcy Code and the Bankruptcy Rules. And what's more, as we've discussed, a cross border protocol was negotiated which provided for the orderly and efficient administration of proceedings around the world.

Apropos to what we're talking about today, it's important to bear in mind that the filing on September 15, 2008, and what I would say the first three years of the cases, was just the beginning. Among other things, as I've mentioned, the Lehman filings have reached a tsunami of claims against the Lehman Estates, as a result of the termination of Lehman facing derivatives.

Over ten thousand counterparties asserted claims against the Estates that arose from one million derivatives trades. In addition, there were the billions of dollars of mortgage-backed securities claims asserted against the Estate by Fannie Mae and Freddie Mac, and the identification claims that flowed downstream from them. There were complex claims of every imaginable sort. And some you can't even imagine, lodged by former employees, trading partners, customers, everyone who had a relationship with Lehman as of September 15, 2008.

In addition, the Lehman Plan Administrator has had to initiate hundreds of lawsuits against parties from whom Lehman needed to recover assets or assert damage claims.

Here's my favorite number. To date over 124 billion dollars have been distributed to creditors, with more distributions to come. That number, I should add, is net of the many billions of dollars of costs and professional fees that have been incurred in the cases. As of now, the level of unsecured creditor recoveries are over twice what was projected as of the time the plan was confirmed in 2011. Generally speaking, unsecured creditor recoveries are now at approximately 40 cents on the dollar. And substantially more than that in the aggregate for holders of claims that also hold guarantees from LBHI.

Of particular relevance to the issue of the resolvability of U.S. G-SIBs in bankruptcy is the use of the SPOE structure along with the ISDA Protocol to help avoid massive claims related to derivatives terminations and the concomitant degradation of value associated with wide-scale terminations such as occurred in the Lehman file. I have to say that resolving the so-called big bank derivatives claims were the biggest challenge I have faced as the Lehman Judge. All of those claims have now been resolved. But the human and economic cost was substantial. During one two-year period of time, I presided over six lengthy trials to fix the amounts of almost 10 billion dollars of derivative claims asserted against Lehman. The longest of those trials, Lehman versus City Bank, lasted 42 days, and it was only half done when thankfully the parties settled.

The Lehman case has unquestionably stressed the Chapter 11 bankruptcy process. From a very narrow creditor perspective, the bankruptcy process worked reasonably well. Perhaps most importantly though the myriad causes and effects of the Lehman filing have informed many of the aspects of resolution planning. Here are some salient examples:

- First and foremost, as we've discussed, Lehman was in a liquidity crisis.
- Second, the filings resulted in a balkanization of the dozens of Lehman entities around the world.
- Third, the Lehman filings revealed internal organization and operational structures that were severely lacking.
- Finally, the Lehman filings revealed that large financial institutions were carrying enormous risks on their books that they did not understand or have the ability to quantify remotely accurately.

I believe that the work that the FDIC and the firms have done since 2008 has gone a long way to address each and every one of these issues. It has been my privilege to work with the FDIC staff, sophisticated and dedicated practitioners, and very smart and invested academics to ensure that resolution works from a bankruptcy process perspective. Active engagement with regulators, members of the judiciary, and academic experts have also formed the basis of significant judicial outreach efforts.

Two years ago under the auspices of the Wharton Financial Institution Center, and Professor Herring, a symposium was held at the University of Pennsylvania to discuss and debate the resolution readiness of U.S. G-SIBs, to explore and detail the SPOE strategy and hurdles to its success, and to outline how this all would work under the current Bankruptcy Code, and perhaps under legislation yet to be passed.

Building on the success of the Wharton Symposium, we have since held day long educational sessions for the bankruptcy judges from the Southern District of New York and the District of Delaware. The judicial sessions, I believe, were particularly valuable exercises. Not only were the judges very engaged and incredibly curious, but they were able to become generally familiar with SPOE resolution. And the practitioner and agency participants gained valuable insights into areas of concern raised by the judges around both process and substance. In addition, during this past year, under the auspices of the Federal Judicial Center, we have presented an overview of the SPOE resolution to bankruptcy judges nationwide. While we all hope that SPOE bankruptcy remains untested, our mission has been to ensure that any judge who might face the next Lehman, is prepared to the greatest extent possible, to act swiftly, and have an understanding of the resolution process.

To that end, we are now working with the Federal Judicial Center to create a guide to judicial management of a U.S. G-SIB bankruptcy. So as I've said, it's been my pleasure to work with the agency, with the folks that I'm smiling at here today. And to help contribute to the education of the judiciary, something I believe is a critical component of resolution planning.”

Following the conclusion of Judge Chapman’s remarks, there followed a discussion among the Committee members and staff of issues raised by Judge Chapman, including the playbook as a resource; the impact termination of all the Lehman facing derivatives had in degrading value and possible solutions; possible scenarios on the first weekend as illustrated in the “Single Point of Entry in Bankruptcy” flow chart provided to the Participants; and proceedings in the bankruptcy court thereafter.

### **G. Complementary Regulatory Developments**

Mr. Wall briefly summarized key regulatory developments since the Committee last met in 2016.

First, he discussed the External Total Loss-Absorbing Capacity (“TLAC”) rule. He indicated that the Federal Reserve issued a final rule designed to further improve the resiliency and resolvability of certain U.S. banking organizations through new enhanced prudential standards that will impose TLAC requirements (where TLAC generally consists of Tier 1 capital and eligible long-term debt); separate eligible long-term debt (“LTD”) requirements; and “Clean” holding company requirements that will limit or prohibit a covered BHC or U.S. intermediate holding companies (“covered IHCs”) from incurring certain liabilities and entering into certain arrangements on or after the effective date. He noted that these enhanced prudential standards will apply to top-tier U.S. bank holding companies identified by the Federal Reserve as G-SIBs and covered BHCs, and U.S. covered IHCs of foreign G-SIBs with at least \$50 billion in U.S. non-branch assets. Full compliance with the rule is required by January 1, 2019. He indicated it won’t be much of an issue for U.S. bank holding companies because of the way their current liability structures are set out; they meet and generally exceed the TLAC requirements by a good margin.

Next, Mr. Wall discussed rules on QFC termination and stay and transfer rules. These regulations are designed to facilitate the resolution of a G-SIB. The rules issued by the Federal Reserve, FDIC, and the Office of the Comptroller of the Currency (“OCC”) will limit certain insolvency-related rights available to trading counterparties of G-SIBs and their affiliates under certain financial contracts. The Final Rules complement and supplement existing special resolution regimes under the Federal Deposit Insurance Act (“FDIA”) OLA under the Dodd-Frank Act. He explained that the banking regulators felt it was paramount that they be able to preserve the continuity of a G-SIB and its subsidiaries (by keeping them out of bankruptcy proceedings and avoiding a run on the bank) in order to effectively manage the resolution process. The Final Rules effectively require G-SIBs (and/or their subsidiaries) to include in their QFC documentation: (1) A contractual recognition that such QFCs are subject to the FDIA and OLA special resolution regimes where such regimes may not otherwise be applicable because the underlying QFC is not governed by U.S. law, or the counterparty is organized or domiciled or has a principal place of business outside the U.S.; (2) express limitations on certain termination rights of the counterparty upon the insolvency of a subsidiary of a G-SIB; (3) express limitations on the right of a counterparty to restrict the G-SIB’s (or its subsidiary’s) right to transfer or assign the QFC or any obligations and/or liabilities thereunder. In order to streamline and expedite the process of amending QFCs to include these limitations, the International Swaps and Derivatives Association (“ISDA”) has published the U.S. Resolution Stay Protocol (the “U.S. Stay Protocol”).

#### **H. ISDA Rules and the U.S. Protocol.**

Staff next discussed the U.S. Stay Protocol. They explained it was published in response to banking regulations meant to address the disorderly unwinding of QFCs due to early termination. More specifically, the U.S. Stay Protocol was created to allow market participants to comply with regulations issued by the Federal Reserve System, the FDIC, and the OCC (collectively, the “U.S. Stay Regulations”). The U.S. Stay Regulations impose requirements on the terms of swaps, repos and other QFCs of G-SIBs. The U.S. Stay Protocol enables entities subject to the U.S. Stay Regulations to amend the terms of their covered agreements to ensure that, unless excluded or exempted, their QFCs: (1) Are subject to existing limits on the exercise of default rights by counterparties under the OLA provisions of Title II of the Dodd-Frank Act and the FDIA; and (2) limit the ability of counterparties to exercise default rights related, directly or indirectly to an affiliate of covered entities entering into insolvency proceedings. The U.S. Stay Protocol was developed based on the requirements of a safe harbored “U.S. protocol” under the U.S. Stay Regulations.

Staff then outlined the history of the ISDA, noting that they consulted with regulators and in 2015 established the Universal Protocol as a way to begin to address challenging issues, such as too big to fail. In 2017, the FDIC, the Federal Reserve, and the OCC issued final rules requiring U.S. G-SIBs, their affiliates, and certain foreign G-SIBs to amend their QFCs to include certain provisions designed to limit the ability of counterparties to close out these contracts in the case of a G-SIB resolution. In July 2018, in response to these rules, ISDA published the 2018 U.S. Protocol after consultation with the FDIC, the Federal Reserve, and the OCC. Staff advised it is a tool to assist market participants with adhering to compliance states required by the QFC stay

rules. Staff closed their discussion of the U.S. Protocol by outlining underlying tier compliance states that begin on January 1, 2019 under the rule.

The Chairman announced that the meeting would recess for lunch. Accordingly, at 12:06 p.m. the meeting stood in recess.

\* \* \* \* \*

#### IV. Title II Orderly Liquidation Update.

The meeting reconvened at 1:30 p.m. that same day, at which time Mr. Murton provided an overview of the afternoon's proceedings.

He advised the first panel would discuss OLA Authority which, he noted, had been mentioned as a back-stop created by the Dodd-Frank Act and to be used if bankruptcy would have unacceptable systemic consequences. Mr. Murton then referred to the **"Orderly Liquidation Authority and Bankruptcy Reform,"** publication dated February 21, 2018, and issued by the Department of the Treasury (the "2018 Treasury Report"). He noted that the first panel of the afternoon would focus on the work the FDIC has done to prepare for a Title II resolution. Following the Title II Orderly Liquidation Update, the final panel of the day would focus on Cross-Border Resolution Implementation. Mr. Murton then introduced the presenters of the first panel as Mr. Delfin; Herbert J. Held, Deputy Director, Systemic Resolution Planning and Implementation, OCFI; Ryan P. Tetrack, Associate Director, Resolution Planning, OCFI; Elizabeth Falloon, Associate Director, Resolution Planning I, OCFI; Richard P. Starke, Assistant General Counsel, Legal Division.

Mr. Held began his presentation by noting that, if the FDIC is ever called upon to exercise Title II authority, the FDIC is in a much stronger position due to its Title I planning efforts. He provided a brief overview of efforts made since the inception of the Committee to implement Title II and described the adjustments the FDIC has made in response to the insights offered by the Committee. He observed that all the firms have moved to the SPOE concept and developed optionality within their plans in a much more detailed way. This approach provides more options to choose from when faced with imminent collapse. Mr. Held noted that in addition to staff analyses, the FDIC has engaged in testing at the Board and inter-agency levels. The FDIC has also worked closely with domestic and foreign-jurisdiction regulators. Referring to the long-standing use of bridge banks by the FDIC, he noted a bridge bank gave the FDIC the tools to implement an orderly resolution for a failing firm in scenarios where bankruptcy didn't work. He noted that the 2018 Treasury Report suggests bankruptcy is the first resort and, with respect to Title II, there is actually a high bar to implementation. He agreed that most staff would prefer a Title I bankruptcy to a Title II resolution. In fact, if bankruptcy doesn't work, he suggested, that means something is wrong, both with the firm and the firm's plans. Nonetheless, there will be scenarios where Title II will be necessary. The FDIC has therefore established a comprehensive program for building and maintaining execution readiness. Moreover, increased awareness among market participants and the public of how an OLA resolution will unfold, could enhance the effectiveness of the authority should it be needed.

The members returned to the issue of liquidity, suggesting that a key indicator in deciding whether to shift from a Title I to a Title II resolution is liquidity. Staff agreed but noted that, if the models work and liquidity is available then it is easier to consider the bankruptcy option. The members then discussed at length the potential impact of ring-fencing by foreign regulators. Staff noted that a ring-fenced bank with a lot of non-U.S. operations could lose value quickly. Staff advised that part of the work they are doing is to make sure all jurisdictions understand SPOE under Title I or Title II; that firms are working with foreign jurisdictions on their Title I plans; that staff is working to (1) reduce the incentive to ring-fence, and (2) if ring-fencing is adopted, to reduce its impact.

Members expressed concern that, at this point in time, no one can know all the factors and all the circumstances that will lead to adoption of a Title I or Title II resolution. Another member observed that we haven't yet figured out how to apply liquidity under bankruptcy and thus there might be a tendency to go to Title II simply because we don't know how to solve the liquidity conundrum in a bankruptcy filing. The member suggested the agencies need to address that issue under Title I so it will be less likely that the agencies will have to rely on a Title II resolution. Another member offered the observation that officials have essentially made two promises: We are never going to bailout again, and we are never going to run an entity like Lehman with a set of fragile liabilities through bankruptcy because the systemic consequences of doing that were bad. Politics aside, suggested the member, the question then is whether bankruptcy will work, whether collapsing maturity transformation into a bankruptcy process is something that can be done or whether you're going to be forced into Title II.

Staff responded that the statute clearly has bankruptcy as the first option; staff has worked to increase the range of scenarios where bankruptcy can work. In fact, the Lehman collapse of 2008 would be dramatically different today due to Title I planning and the work the agencies have done.

Continuing with his formal remarks, Mr. Held observed that the OLA provides clear restrictions. For example, losses are borne by shareholders and creditors; culpable management must be removed and their compensation clawed back; and there is an absolute prohibition against the cost being borne by the taxpayers so that, if all else fails, the industry would have to bear the cost. Staff then highlighted various provisions of the 2018 Treasury Report.

Next, Mr. Tetrick outlined five core obstacles to resolution planning as follows: Multiple competing insolvencies; funding and liquidity; operations and interconnectedness; counterparty actions; global coordination. After describing the initiatives undertaken to minimize those obstacles, he concluded that significant progress has been made. Next, Mr. Tetrick discussed the Systemic Resolution Readiness Program. He referred to a graphic representation of the Program in the form of a pyramid in the handout materials and explained that the Program covers three broad areas: First, the Systemic Resolution Framework, which encompasses primary actions, across core functional areas. Second, Process Documents and Testing, which encompasses playbooks, process documents, templates, and reference documents. Third, Institution-Specific Planning, which encompasses strategic alternatives, operational considerations, and cross-border coordination. At this point in the discussion, a member asked if the FDIC or the Treasury determined the amount of liquidity. Staff responded that they would need to work with Treasury



to determine the amount of liquidity that is available within the parameters set by statute. Staff clarified that access to the Orderly Liquidation Fund (“OLF”) is governed by two documents that Treasury and the FDIC need to agree to: The order of liquidation plan and the mandatory repayment plan. Staff emphasized that the resolution paradigm is based on those types of readiness exercises as a means of preparation.

Staff next outlined how a firm’s capabilities as established through Title I planning actually support Title II planning. Such capabilities include mapping recovery and resolution actions through “runway”; addressing capital needs at material entities; projecting liquidity stresses across the group; delivery of communications; and several other processes such as retention plans and divestiture playbooks. In response to concerns expressed by members that the implementation of “runway” might have the effect of accelerating problems once it became public, staff agreed and confirmed that they and Treasury staff recognizes the concern. Continuing, staff outlined the capital and liquidity modeling capabilities that the firms have built out and explained how tools such as RCEN and RCAP, RLEN and RLAP helped put resources in place in advance of a resolution and then helped assess those needs in the event of resolution. Staff pointed out that firms are now performing a lot of stress testing as well as capital and liquidity planning. Staff reflected that when the planning process started in 2011, the agencies received a lot of “I don’t know” answers from firms when they asked questions. Now, however, much of that uncertainty has been addressed by the firms. With these planning tools, staff reported, it is less likely that heroic efforts will be needed to get money where it is needed at the right time. There then followed a brief discussion among the Committee members and staff of issues related to Management Information Systems (“MIS”). The members voiced concerns that disruptions could occur due to incompatible systems. Staff responded that the Guidance, such as the 2018 Guidance, addressed operational expectations, specifically including MIS capabilities.

Mr. Tetrick closed his formal presentation by advising that staff is interested in making the Title II process more visible and looks forward to hearing from market participants and the public. Mr. Delfin then summarized the panel’s presentation. He noted that during the morning session the participants discussed the evolution of Title I planning and, similarly, the Title II planning process has built strong synergies.

## **V. Building Cooperation for Orderly Cross-Border Resolution.**

Mr. Delfin introduced the final panel of the day: Susan Baker, Deputy Director, International Outreach and Coordination, OCFI; Joanne Fungaroli, Associate Director, International Planning and Outreach Branch, OCFI; Mr. Tetrick; and Bruce Hickey, Supervisory Counsel, Legal Division.

Staff advised that their key message was that resolution preparedness for global financial institutions requires international cooperation. Likewise, cross-border resolution involves investing the time before the crisis hits so agencies are ready to go when needed. This means that outreach is multifaceted (institution-specific, bilateral and multilateral); home and host authorities need to have confidence in official processes as well as the firms’ processes and capabilities; information sharing through formal arrangements supports mutual trust; and transparency and mutual understanding of resolution planning must be present to serve as a

stabilizing force in times of stress. Staff said, before a crisis develops, it is essential to establish communication channels that are secure and to understand each other's frameworks, standards, and vocabulary. It is also important that firms explain their plans to relevant foreign authorities.

In response to questions posed by the members, staff then discussed at length the role of the Financial Stability Board (“FSB”) and the stumbling blocks some countries were encountering in organizing responses. Staff next responded to questions regarding the array of groups and, specifically, the role of Crisis Management Groups (“CMGs”). The FDIC participates in the CMGs for a number of foreign banking organizations that have material operations in the U.S. Staff explained that CMGs have a central role to play in bringing together the full cohort of global authorities to hear about the home strategy from the firm's perspective. Moreover, the transparency of resolution plans is helpful and can be used to talk to foreign authorities who don't participate in a CMG. When working with CMG members, the FDIC can provide more information than would otherwise be drawn out of the Title I public plan sections. Ultimately, the goal is to reduce the likelihood of ring-fencing. The CMGs therefore complement the Title I process; it gives the FDIC a window into the thinking of the home jurisdiction.

Turning to bilateral avenues for engagement, staff noted they are working with several European entities, with the most recent consultations dominated by Brexit topics. With respect to multilateral efforts, staff highlighted the Trilateral Principal Level Exercise, which includes fiscal supervisory and resolution authorities. Staff then flagged items of particular interest involving the Trilateral Principal Level Exercise, the Financial Stability Board (“FSB”), and the International Monetary Fund (“IMF”). The participants then turned to a discussion of TLAC rules in the US and other jurisdictions, with staff noting that U.S. firms issue TLAC founded on U.S. law and the U.S. is fortunate to have a deep debt market.

Against that background of working groups and avenues for engagement, staff observed that understanding home resolution strategies, as well as understanding the resources available to firms and their capabilities, helped increase confidence and willingness to cooperate among hosts, thus reducing the likelihood of ring-fencing.

The Committee members and staff then discussed the issue of ring-fencing at length. One member agreed that cooperation is valuable but proposed the following dichotomy: In the U.S. bank resolutions take a weekend and ring-fencing is a problem; insurance resolutions take years and ring-fencing is the answer. Thus, the member suggested, there are very different models at play. Staff reiterated that the over-arching goal is mitigation of systemic risk. Thus, if we started with the premise that systemic risk is housed in material entity subsidiaries, then we would make sure that they can continue operating and provide the services that the market requires of them. If each host jurisdiction has sufficient resources and perhaps “soft” ring-fences, then services can continue to be provided, the home jurisdiction and the other material entities have sufficient resources to function. Thus, although there are frictions, the friction of each host being a little more protective than they otherwise would have been, that need not destroy the strategy. Staff suggested they assume some degree of friction, but there is a tipping point where if you have hard ring-fencing, if resources are stuck in a jurisdiction and it undermines the ability of the other jurisdiction to function, then there are real problems. That is what the FDIC is trying to avoid. After further discussing the challenges posed by ring-fencing,

the discussion closed with a member's observations that (1) tremendous progress has been made since the Lehman failure, both operationally and structurally; and (2) when foreign regulators hear what status would be afforded to the regulators in a bankruptcy proceeding of a U.S. G-SIB, they are surprised and relieved to hear that the regulators would be parties in interest— that their views would form part of the evidentiary record— it raises their comfort level and it makes them more willing to engage and less resistant to the bankruptcy process.

Staff closed their formal remarks by describing upcoming initiatives. Anticipated developments include multilateral efforts to promote cooperation. These efforts include a FSB Annual Report to the G-20; a 2020 review of “Too Big To Fail” Policies; cross-country reviews of technical implementation of TLAC standard and resolution planning; ongoing FSB country peer reviews of resolution frameworks; and an IMF Financial Sector Assessment Program. Anticipated developments also encompass transparency developments. These developments include initiatives on resolution plan transparency by other jurisdictions; FSB industry and stakeholder outreach events; and public consultations and publications.

In bringing the meeting to a close, Chairman McWilliams thanked the panelists and Committee members, noting that their contributions were exceptionally valuable to the FDIC.

There being no further business, the meeting was adjourned at 3:55 p.m.

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Robert E. Feldman  
Executive Secretary  
Federal Deposit Insurance Corporation and Committee Management Officer  
FDIC Systemic Resolution Advisory Committee

Minutes  
of the  
Meeting of the Systemic Resolution Advisory Committee  
of the  
Federal Deposit Insurance Corporation  
Held in the Board Room  
Federal Deposit Insurance Corporation Building  
Washington, D.C.  
Open to Public Observation  
December 6, 2018 – 9:00 A.M.

I hereby certify that, to the best of my knowledge, the attached minutes are accurate and complete.

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Jelena McWilliams  
Chairman  
Board of Directors  
Federal Deposit Insurance Corporation