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- **12 CFR Part 360**
- **RIN: 3064-AD59**
- **Resolution Plans Required for Insured Depository Institutions
With \$50 Billion or More in Total Assets**

Dear Sir,

Thank you for giving us the opportunity to comment on your interim final rule: Resolution Plans Required for Insured Depository Institutions With \$50 Billion or More in Total Assets.

You are adopting an interim final rule (Rule) requiring an insured depository institution with \$50 billion or more in total assets to submit periodically to the FDIC a contingent plan for the resolution of such institution in the event of its failure (Resolution Plan). The Rule establishes the requirements for submission and content of a Resolution Plan, as well as procedures for review by the FDIC. The Rule requires a covered insured depository institution (CIDI) to submit a Resolution Plan that should enable the FDIC, as receiver, to resolve the institution under Sections 11 and 13 of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1821 and 1823, in a manner that ensures that depositors receive access to their insured deposits within one business day of the institution's failure (two business days if the failure occurs on a day other than Friday), maximizes the net present value return from the sale or disposition of its assets and minimizes the amount of any loss to be realized by the institution's creditors.

I support the spirit and intent of the Rule, which should improve risk management and mitigation capabilities, reduce systemic disruption and promote orderly and least-cost resolution.¹ I would like to make a couple of comments concerning the resolution planning process.

¹ This Rule dovetails with the Financial Stability Board's proposals. See Consultative Document: Effective Resolution of Systemically Important Financial Institutions, FSB, 19 July 2011, available at: http://www.financialstabilityboard.org/publications/r_110719.pdf

Content of the resolution plan

§ 360.10(c)(2) states that: “resolution plan strategies should take into account that failure of the CIDI may occur under the baseline, adverse and severely adverse economic conditions developed by the Board of Governors of the Federal Reserve System pursuant to 12 U.S.C. 5365(i)(1)(B); provided, however, a CIDI may submit its initial resolution plan assuming the baseline conditions only, or, if a baseline scenario is not then available, a reasonable substitute developed by the CIDI”. Given recent wider developments,² I would recommend that CIDs should be required to assume adverse and severely adverse economic conditions for their initial resolution plans. This should increase confidence in, and the integrity of the resolution planning process.

Identification and mitigation of potential barriers to effective resolution

§ 360.10(c)(2)(xxii) states that the resolution plan shall: “Identify and discuss any other material factor that may impede the resolution of the CIDI”. I would recommend that you should change the wording here to also refer to “any potential barriers to effective resolution and actions to mitigate these”. The term “barriers” complements “any other material factor”, as it covers issues such as legal barriers or other accepted norms which may impede effective resolution. This would also be more consistent with the Financial Stability Board’s proposals.³

Yours faithfully

Chris Barnard

² For example, Franco-Belgium Bank Dexia has just had to be bailed out by France, Belgium and Luxembourg, following significant troubles, despite passing the European Banking Authority’s stress tests just three months earlier. This raises questions about the relevance and validity of current bank oversight and financial testing regimes.

³ See Annex 1 “Key attributes of effective resolution regimes for financial institutions”, para 11.4(iv).