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To: Comments

Subject: Comments related to Resolution plans required for insured depository institutions with \$50 billion or more in total assets

Hello :

After review of 12 CFR Part 360 published in the Federal Register Volume 76, Number 183 dated Wednesday September 21, 2011, I offer the following comments for consideration to enhance the rules being developed:

Governance

Question: “Should a CIDI be defined differently? Should the asset threshold for inclusion be lower or higher than \$50 billion?”

The definition of a Covered Insured Depository Institution (CIDI) should include holding companies, ownership groups and entities that on an aggregate basis have total assets in excess of \$50 Billion. This aggregation should include consolidating and non-consolidating entities in which a holding company its directors, officers or employees maintain a controlling interest and maintain a material level of business with the related insured financial institution. Such controlling interest or business volume creates the opportunity for the aggregate organization to act like a \$50 Billion CIDI but escape the intention of the rules and related body of law. It also provides growing entities the opportunity to parse assets and place them in smaller related insured entities, or non-insured entities to evade the regulation and its intent. The risks are still present and potentially greater since they would be concealed from resolution planning and reporting. The cost of compliance creates a financial incentive to dissipate the assets into smaller entities. Applying the \$50 Billion total assets rule to an aggregate entity owning or controlling an Insured Deposit Institution mitigates this risk.

As far as the cost of governance is concerned, it require a significant level of expense to initially comply and continue to report but it is the cost of doing business as a Covered Insured Depository Institution. Each CIDI’s leadership made the choices to grow their business and must accept the associated responsibilities. Whatever financial burden is placed on CIDI for compliance is far less than the burden of related to the entity’s failure. Compliance with resolution planning may improve the entities strategic planning and create opportunities to enhance resource utilization and profitability. The process will probably expose redundancies within the organization that can be eliminated and may lead to Lean business practice development.

Strategic Analysis

Question: “What additional elements of strategic analysis should be included in the CIDI’s Resolution Plan?”

The elements of strategic analysis as planned in the rules overlook some significant items such as contingent liabilities for correspondent banking services and unfunded lending commitments to smaller insured depository institutions, government subdivisions and social service. Smaller insured depository institutions rely on lines of credit arranged through their correspondent banks to manage their liquidity. Government subdivisions and social service agencies rely on similar tools to fund projects or provide for their daily operations while waiting for funding sources to meet their commitments. All of these entities risk great hardship and potential failure in the event of a Covered Insured Depository Institution’s failure if funding requests are delayed or denied through the FDIC as Receiver’s power to repudiate unfunded commitments. If the FDIC is required to serve as a Receiver for the CIDI it will need to develop tools to expedite funding request decisions for these types of organization. Failure to do so may lead to public panic in those communities served by smaller insured depository institutions where liquidity is potentially cut-off and potentially lead to that institution’s failure. For the government subdivisions and social service agencies it may lead to elimination of community services, public distrust and the failure of those organizations as well. The CIDs reporting unfunded commitments to government subdivisions and social service agencies in their strategic analysis will empower the FDIC as the potential Receiver to develop appropriate resources and action plans to mitigate the public risks presented by the hardship or failure potentially borne by these entities.

Process

Question: “Are there explicit factors the FDIC should consider in determining whether a Resolution Plan is not credible?”

My concern is that the resolution plans provided by the CIDI will generally reflect a downsizing of the organization, elimination of risky business lines, or take other steps which will effectively enhance the entity’s enterprise value such as addition of subordinated or convertible debt, additional capital in some nature or merger/acquisition with a like size or larger entity. However all of these resolution tools are designed to protect the entity and shareholders in deference to the systemic risk they present to the public. The resolution must include asset liquidation planning to create subdivisions of the CIDI that could be packaged and sold to smaller insured depository institutions and other financial businesses in a liquidation scenario. Resolution planning that excludes breaking up the CIDI may only perpetuate the risks the rules and laws are attempting to mitigate and eliminate.

As part of the potential resolution planning, the FDIC could utilize CALL report data to identify potential purchasers that could be solicited for bids to purchase the

subdivided CIDI assets identified in such liquidation scenario. Such data empowers the FDIC to measure a potential purchaser's financial fitness prior to a CIDI failure.

Respectfully,

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