

June 21, 2019

Via Electronic Mail

Robert E. Feldman, Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
comments@FDIC.gov
RIN 3064-AF05

Re: Advance Notice of Proposed Rulemaking for IDI Rule

Ladies and Gentlemen:

We appreciate the opportunity to comment on the advance notice of proposed rulemaking (the “ANPR”) released by the Federal Deposit Insurance Corporation (the “FDIC”) seeking the public’s input on ways to tailor and improve the rule requiring “covered” insured depository institutions (“CIDs”) to submit resolution plans to the FDIC (the “IDI Rule”).¹ We strongly support the FDIC’s goal to streamline and tailor the resolution plan requirements to reflect differences in size, complexity, risk and other relevant factors among CIDs. This letter provides recommendations, including responses to certain questions posed by the FDIC, that we believe would further the purpose of the ANPR.

The ANPR requests comment on two potential approaches to tailoring the IDI Rule. Alternative One would categorize CIDs based on size and complexity of their operations and would apply set content requirements and filing frequency to each category. Alternative Two would subject CIDs to individually tailored, firm-specific content requirements and filing frequency based on where a particular CID sits on a “continuum” of complexity. We believe Alternative One would best achieve the objectives of the ANPR, as it would, if properly implemented as described below, tailor the resolution plan requirements applicable to CIDs based on the institution’s risk profile, while also providing institutions critical transparency and certainty as to their resolution plan filing requirements. We believe Alternative One also provides the FDIC with the opportunity to further calibrate and rationalize requirements in recognition of the significant difference in risk profiles between CIDs that would be considered Category I, Category II, or Category III institutions under the proposals for tailoring the capital, liquidity and enhanced prudential standards applicable to U.S. banking organizations (the “Domestic Tailoring Proposals”).²

¹ FDIC, *Resolution Plans Required for Insured Depository Institutions With \$50 Billion or More in Total Assets* (advance notice of proposed rulemaking, Apr. 22, 2019).

² *Prudential Standards for Large Foreign Banking Organizations; Revisions to Proposed Prudential Standards for Large Domestic Bank Holding Companies and Savings and Loan Holding Companies*, 84 Fed. Reg. 21,988

In order to align prudential frameworks, avoid creating unnecessary complexity and provide clarity for regulators, banking organizations and markets, we believe the categories of CIDs used for implementing Alternative One should be consistent with the categories set out in the Domestic Tailoring Proposals.³ As noted in our comment letters regarding the Domestic Tailoring Proposals and the proposals for tailoring the capital, liquidity and enhanced prudential standards applicable to large foreign banking organizations (the “FBO Tailoring Proposals”), we support the risk-based indicator approach proposed in the Domestic Tailoring Proposals and FBO Tailoring Proposals (provided the thresholds are appropriately indexed to account for the growth of banking industry assets), and do not believe that additional risk-based indicators for the Category II boundary are necessary.⁴

In addition, we believe that the submission cycles and content requirements for IDI Rule resolution plans should be synchronized with those for resolution plans required under 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “165(d) Rule”).⁵ Developing credible and useful resolution plans require a considerable investment of resources across our institutions. To that end, consistent with the proposal to tailor the 165(d) Rule,⁶ we believe a three-year cycle is appropriate for CIDs that would be Category III institutions under the Domestic Tailoring Proposals, and filing cycles should alternate between full resolution plan submissions and streamlined submissions. In addition, the filing date for Category III CIDs under both the IDI Rule and 165(d) Rule should be December 31st of the relevant year. This would avoid potential personnel and resource allocation conflicts between resolution plan filings and the Federal Reserve’s Comprehensive Capital Analysis and Review exercise, which is conducted in the first half of each year.

We support the APNR’s intent to clarify that the FDIC is responsible for conducting the “least cost” analysis required under the Federal Deposit Insurance Act. However, we believe that each CIDI should continue to be responsible for identifying and developing its overall resolution strategy, as it is best positioned to determine the resolution strategies that are most appropriate for it based on its business model and operational structure. Moreover, having the FDIC develop a CIDI’s resolution strategy may adversely affect the ability of CIDs to harmonize their IDI Rule and 165(d) Rule resolution plans, creating unnecessary complexity and inefficiency.

(May 15, 2019) and *Proposed Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements*, 83 Fed. Reg. 66024 (Dec. 21, 2018).

³ *Proposed Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements*, 83 Fed. Reg. 66024 (Dec. 21, 2018) and *Prudential Standards for Large Bank Holding Companies and Savings and Loan Holding Companies*, 83 Fed. Reg. 61408 (Nov. 29, 2018).

⁴ See Letters from Capital One Financial Corporation, The PNC Financial Services Group, Inc, and U.S. Bancorp to the FDIC, the Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency dated January 22, 2019 and June 21, 2019.

⁵ 12 U.S.C. § 5365(d).

⁶ Federal Reserve, *Regulation QQ: Resolution Plans Required* (notice of proposed rulemaking, Apr. 8, 2019) and FDIC, *Regulation QQ: Resolution Plans Required* (notice of proposed rulemaking, April 16, 2019).

Finally, the ANPR requests comment on whether the FDIC should make its resolution plan feedback letters public. We believe that any guidance that establishes the required content of resolution plan submissions should be published for notice and comment, consistent with the requirements of the Administrative Procedure Act. However, the institution-specific feedback provided to CIDs on their IDI Rule resolution plans should remain confidential supervisory information, consistent with the FDIC's current approach for providing feedback on resolution plans and other supervisory exercises.

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The undersigned regional banking organizations appreciate the opportunity to comment on the ANPR and look forward to working with the FDIC throughout the rulemaking process. If you have any questions regarding the content of this letter or would like more information on our recommendations, please do not hesitate to contact any of the individuals listed in Attachment 1 to this letter.

Sincerely,

Capital One Financial Corporation
The PNC Financial Services Group, Inc.
U.S. Bancorp

Attachment 1

Thomas A. Feil
Senior Vice President and Treasurer
Capital One Financial Corporation
Phone: 703-720-3169
Tom.feil@capitalone.com

Kieran J. Fallon
Senior Deputy General Counsel
The PNC Financial Services Group, Inc.
Phone: 202-973-6256
Kieran.fallon@pnc.com

Craig E. Gifford
Executive Vice President and Controller
U.S. Bancorp
Phone: 612-303-5238
craig.gifford@usbank.com