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Federal banking agencies  
propose new resolution  
planning requirements

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On August 29, 2023, US federal banking regulators—the Federal Reserve Board (FRB), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the “Agencies”)—issued three proposals regarding minimum long-term debt (LTD) for large banking organizations and resolution planning.<sup>1</sup> The requirements set out by the Agencies will compel impacted institutions to reexamine existing capabilities, potentially establish new resolution strategies, and implement supporting operational and technology solutions. Industry comments are due November 30, 2023.

This paper details the applicability, requirements, and key considerations of the two proposals concerning resolution planning.<sup>2</sup> We cover the key details of the proposed LTD Requirements Rule in a separate paper: *Federal banking agencies propose new long-term debt requirement*.

The resolution planning-related proposals are aimed at providing the Agencies with enhanced resolution information for covered institutions to support more orderly resolution, to minimize risks and impacts to the broader financial system, and to reduce overall costs to the Deposit Insurance Fund (DIF).

Over the years, the Agencies have adopted rules to foster resiliency and orderly resolvability of banking organizations. The recent growth in the size of many insured depository institutions (IDIs), along with the recent banking failures, has focused public attention on the US mid-tier and regional banking market. These mid-tier and regional banks are facing a significant uptick in regulatory requirements and scrutiny, as reflected in the proposals.

The following are two resolution planning proposals:

- **Proposal for IDI Resolution Plan Requirements (IDI Rule)—bank focused:** The FDIC proposed a rule to strengthen existing IDI resolution planning expectations that would require IDIs with \$100 billion or more in assets (Group A) to submit full resolution plans with an identified strategy for their orderly and efficient resolution once every two years, and IDIs between \$50 billion and \$100 billion in assets (Group B) to provide more limited informational filings for resolution once every two years.

- **165(d) Guidance for Resolution Plan Submissions of Domestic and FBO Triennial Full Filers (Resolution Plan Guidance)—holding company (HC) focused:** The FRB and FDIC jointly issued proposed guidance pertaining to the submission of resolution plans for Category II and Category III domestic and foreign triennial filers under section 165(d) of the Dodd-Frank Act, including providing expectations depending on the defined resolution strategy, and supplementary details for those institutions not subject to Regulation YY.<sup>3</sup>

The impact of these proposals is expected to be substantial and is a reversal from some of the tailoring for banks above \$100 billion in assets and is a similar rollback of regulatory requirements for banks above \$50 billion in assets. The IDI Rule proposal will significantly increase the level of effort required by IDIs to comply, due to expanded information requirements in the plan submission as well as other capabilities expected to be in place and testable in order to be credible and pass regulatory muster. Beyond the need to re-evaluate their resolution strategy, under the Resolution Plan Guidance proposal the Category II and III firms now have more prescriptive and, in some cases, expanded guidance that would need to be followed in the environment of increased regulatory scrutiny, with likely only a short time extension through the end of 2024.

The IDI Rule impacts on Group B IDIs will be quite significant, as the information filings will need to include very similar information to the Group A IDIs, except for strategy and least-cost analysis. In fact, FDIC Vice Chairman Travis Hill said it was “disingenuous” to call the filings informational rather than resolutions plans, adding that it would be “*more burdensome* than the resolution plans that banks above \$100 billion in assets currently file under the existing rule.”<sup>4</sup> Since smaller IDIs have not had to submit resolution plan-related information since 2018, this will likely necessitate building the resolution capabilities and information filings from the start.

# Applicability (who will be affected)

The proposals apply mainly to large banking organizations and their insured depository institutions, as outlined in figure 1. The proposals are driven by a view that these entities present significant risks to the financial system and thus require additional mitigants.

**Figure 1: Proposed resolution plan applicability**

Proposed requirements	Current applicability	Proposed applicability
<b>IDI Rule</b>	IDIs with \$50B or more in assets, with existing moratorium for IDIs with total assets between \$50B and \$100B	Group A IDIs with total assets of \$100B or more – Biennial Robust Resolution Plan Filing
		Group B IDIs with total assets of \$50B to \$100B – Biennial Limited Information Resolution Plan Filing
<b>Resolution Plan Guidance</b>	Category II and III US banks with total asset size of \$250B or more; US IHCs of foreign Category II firms, based on tailored EPS category definitions (figure 2)	Non-G-SIB US BHCs and IHCs of FBOs with total asset size of \$250B or more

**Figure 2: Tailored enhanced prudential standards**

	Category I	Category II	Category III	Category IV
<b>Tailored enhanced prudential standards (EPS)</b>	US G-SIBs	≥\$700B total US assets or ≥\$75B cross-jurisdictional activity	≥\$250B total US assets or ≥\$75B in nonbank assets, weighted short-term wholesale funding (wSTWF) or off-balance-sheet exposure	Other firms with \$100B to \$250B US total assets

Detailed proposed requirements for these entities are explained further below.

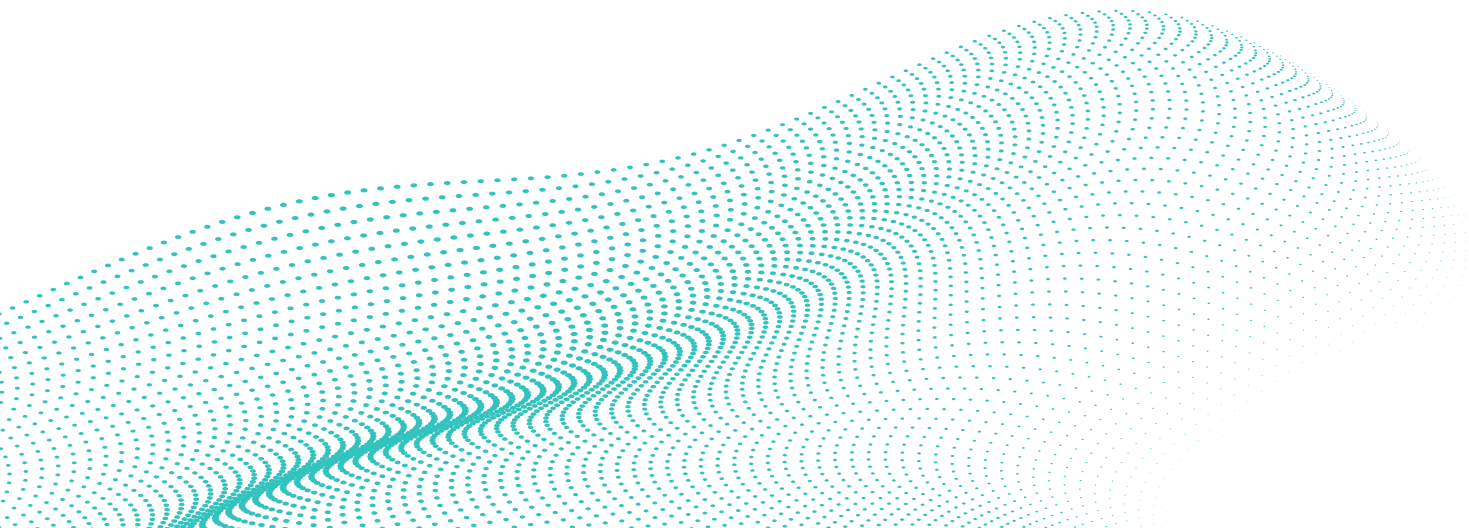
# Proposed timeline to align with new expectations

## a. Proposed time frame for additional resolution planning requirement for IDIs

<b>Group A (\$100B–\$250B)</b>	<ul style="list-style-type: none"><li>• Submit resolution plan once every two years</li><li>• During the years when resolution plans are not filed, submit an “interim supplement” updating certain information included in the prior year’s resolution plan</li><li>• Proposed rule will divide Group A IDIs into two cohorts of roughly same sizes:<ul style="list-style-type: none"><li>• <b>Cohort 1</b> will submit its resolution plan on a date specified by the FDIC that would be at least 270 days from the effective date of the final IDI Rule.</li><li>• <b>Cohort 2</b> will submit its resolution plan one year after submission date specified by FDIC for Cohort 1. Cohort 2 would submit an interim supplement on or before the date that Cohort 1 is required to submit resolution plan, and vice versa.</li></ul></li></ul>
<b>Group B (\$50B–\$100B)</b>	<ul style="list-style-type: none"><li>• Submit an informational filing once every two years on a date specified by the FDIC that would be at least 270 days from the effective date of the final IDI Rule</li><li>• Submit a limited interim supplement every year when resolution plan is not filed</li></ul>

## b. Proposed time frame for enhanced resolution planning for triennial filers

<b>Category II–III banks</b>	<ul style="list-style-type: none"><li>• Submit enhanced resolution plan as part of next upcoming cycle</li><li>• The rule proposes a six-month extension for filers from July 1, 2024, until December 31, 2024</li></ul>
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# Requirements and impacts of the proposed rules and guidance

Below is a more detailed view of what the proposals require and how they may affect the covered institutions.

## Additional resolution planning requirements for IDIs

The IDI Rule proposal would require IDIs with total assets of at least \$100 billion (Group A) to submit comprehensive resolution plans every two years with more limited supplements filed in the off years. The IDI Rule proposal would also mandate IDIs with assets between \$50 billion and \$100 billion (Group B), to provide informational filings every two years and would require all sections of the Group A filers **except** a resolution strategy and a least-cost analysis. The two-year time frame would allow the FDIC to conduct a thorough review of the plan and provide feedback, and the IDIs to engage with the FDIC and incorporate feedback into the next submission. This more continuous feedback loop should allow impacted banks to have the opportunity to address FDIC input and guidance before the bank's next plan is initiated and submitted.

As proposed, the IDI rule would take effect relatively quickly, with submissions due potentially as soon as 270 days from the final rulemaking.

### Key requirements

For Group A IDIs, the IDI Rule proposed changes focus on resolution strategy, failure scenario, and least-cost test.

- The comprehensive resolution plan must include an identified strategy for resolution of the IDI that is appropriate for its size, complexity, and risk profile as well as maximizes value, minimizes losses to the creditors, and contains meaningful optionality.
- The proposed rule requires the identification of resolution strategy under a "failure scenario" only (not baseline or adverse conditions), which would be severely adverse economic conditions. The failure scenario must demonstrate a depletion of capital and loss of assets of the IDI either due to increased liquidity crunch or other severe embedded losses.

- The proposed rule also introduces certain new terms and modifies existing ones. For example, the rule would create a new term, "bridge depository institution" (BDI), using the Federal Deposit Insurance (FDI) Act's definition of BDI. The FDIC anticipates that establishment of a BDI that can continue the operations of the IDI would be the most likely resolution strategy being adopted. "Least-cost test" is another new term that would define the process for meeting the requirements regarding least-cost resolution.

For Group B IDIs, the informational filing is not required to address the following content requirements in their informational filings—identified strategy, failure scenario, and least-cost test—that are otherwise applicable for Group A IDIs. Further, the FDIC has stated that although Group B IDIs would be subject to FDIC engagement and capabilities testing, direct engagement with Group B IDIs would be a more important tool for the FDIC's evaluation of informational filings for Group B IDIs.

There are several other modifications for both Group A and B IDIs in areas like continuity capabilities, deposit activities, interconnections, digital services, and electronic platforms. Through these changes, the rule empowers the FDIC to engage more directly with IDIs with respect to their submissions and to test their capabilities.

Furthermore, the proposal adds a new two-prong component to review the credibility of an IDI's (1) strategy and (2) engagement and capabilities. Group A IDIs would be evaluated on the reasonableness of their strategy and engagement and capabilities. Group B IDIs would be evaluated on their engagement and capabilities only.

- **Engagement requirement:** Each IDI must provide information or data to support the content requirements, other information related to its identified strategies (Group A) or resolution options being considered by the FDIC (Group B), and personnel with the sufficient expertise and responsibility to address the informational and data requirements of the engagement.
- **Capabilities testing requirement:** The FDIC may require any IDI to demonstrate its capabilities including the ability to provide the information, data, and analysis in its submission.

If the resolution plan or capabilities are deemed non-credible or a firm fails to respond to feedback timely, the FDIC would have enforcement authority.

## Impact on IDIs

The proposed rule will result in increased regulatory compliance costs for Group A IDIs due to various changes in resolution plan content, engagement requirements, capabilities testing, establishment of operational and technology process and capabilities to support (including reporting), and more frequent submissions. Some of the most impactful changes are around the need to identify and map critical services as well as separability analysis. Other notable changes include reinstating the need for a failure scenario and identified strategy and requiring information on valuations under different resolution assumptions.

The proposed IDI Rule will significantly impact Group B IDIs. Currently, Group B IDIs are subject to the FDIC's moratorium on resolution plan submissions and have not had to provide such submissions since 2018. With the implementation of the proposed rule, this moratorium will be lifted, and Group B IDIs will be required to submit informational filings to the FDIC going forward. Although informational filings are different from Group A IDI comprehensive resolution plans and are not required to have details around identified resolution strategy, failure scenario, or assessment of least-cost test, they will still need to provide detailed information around the organization's structure, hierarchy of legal entities including methodology for material entity designation, core businesses lines, business and branch locations, critical services, deposit sweep arrangements (if any) with affiliates and unaffiliated parties, and information regarding key depositors. Such informational filings, while slightly reduced in comparison to Group A filers, will require significant effort on the part of the impacted IDIs to produce. We believe that these filing requirements will encourage greater use of repeatable processes and underlying technology to make the reports as sustainable and automated as possible.

## Key considerations and some next steps for impacted IDIs to consider:

- Group A IDIs should ensure that their resolution plans demonstrate a credible strategy for resolving the institution in case of financial distress. This strategy should focus on timely access to insured deposits, maximizing asset value during disposition, minimizing losses to creditors, and addressing potential risks to the broader economy and financial stability.
- IDIs need to support their resolution submissions with observable and verifiable data, capabilities, and reasonable projections. This emphasizes the importance of having accurate, up-to-date information and analysis in their resolution plans.
- IDIs must comply with the specific requirements outlined in the regulatory rule governing resolution plans. Aspects of submissions of both Groups A and B are subject to determinations of non-credibility accredited by the FDIC.
- IDIs must pay close attention to the quality of data used in their resolution plans and maintain thorough documentation to support their strategies, capabilities, and projections
- Given the increased frequency and requirements of the updated plans, IDIs should consider minimizing manual processes wherever possible, seeking opportunities to standardize processes and utilize technology and automation to reduce cost and minimize risk (e.g., for the services catalogues). Strengthening these capabilities should also help firms more readily demonstrate capabilities during agency testing.

## 165(d) Guidance for Resolution Plan Submissions of Domestic and FBO Triennial Full Filers

### Resolution Plan Guidance for domestic triennial full filers

The proposed Resolution Plan Guidance provides resolution planning expectations for domestic HCs for both single point-of-entry (SPOE) and multiple point-of-entry (MPOE) strategies, considering relevant risks and challenges of each strategy.

Under the US SPOE strategy, the proposed guidance states that a filer's resolution plan should demonstrate the ability to provide sufficient capital and liquidity to material entities. The governance structure should be able to identify the onset of financial stress events and ensure the timely execution of the strategy and maintain continuity of operations throughout resolution via an established payment, clearing, and settlement activities framework. The firm should develop and implement legal entity rationalization criteria that support the firm's preferred resolution strategy.

Under the US MPOE strategy, the proposed guidance provides that a resolution plan should include analysis and projections of a range of liquidity needs during resolution and enhanced mapping on critical systems to franchise components, legal entities, and core business lines. Additionally, considering operational and legal complexities for the resolution of a US IDI under the FDI Act, US IDIs must develop relevant capabilities to support timely and efficient resolution.

### Resolution Plan Guidance for FBO triennial full filers

The proposed Resolution Plan Guidance provides resolution planning expectations for FBO IHCs for both SPOE and MPOE strategies, considering relevant risks and challenges of each strategy.

Under the US SPOE strategies in the proposed Resolution Plan Guidance, FBO triennial full filers must have a framework for determining the amount and allocation of resources among the firm's material entities. The new guidance adds language around capital and liquidity pre-positioning, governance mechanisms, and separability expectations so that the US SPOE strategy would be implemented at a point in the stress continuum prior to the firm having exhausted all financial resources.<sup>5</sup>

Under the US MPOE strategies in the proposed Resolution Plan Guidance, FBO triennial full filers' resolution plan should include analysis and projections of a range of liquidity needs during resolution, including intraday, and reflect likely failure and resolution scenarios. IDIs should develop relevant capabilities (e.g., required capabilities related to payment, clearing, and settlement (PCS) capabilities; management information system (MIS); shared and outsourced services), considering the legal requirements and complexities with respect to IDI resolution in the United States. We believe that the new guidance, if finalized, will result in governance mechanisms being further enhanced to coordinate resolution between US operations and the foreign parent, the role of US branches, and the FBO group's resolution plan.

### Key considerations and next steps for triennial full filers:

- The proposed guidance provides more prescriptive feedback on the agency expectations for upcoming submissions, as has been sought in the past by plan filers.
- The agencies are explicit in the guidance materials that they do not have a preference on a SPOE vs. MPOE strategy. However, in light of the proposed LTD rule requirements, banks with vMPOE strategies may have a stronger incentive to reconsider their plans.
- For FBOs that use a SBOE strategy in the United States, the proposed guidance sets out expectations around resolution liquidity adequacy and positioning (RLAP), resolution liquidity execution need (RLEN), and liquidity. This will likely result in the development of situational analysis and supporting models to support these needs.

# Getting started

In summary, institutions potentially affected by the proposed rules and guidance should consider the following actions:

- Confirm (or define) resolution plan strategy, overall ownership model, and governance structure
- After a thorough analysis of the proposed rules, institutions should perform an assessment against existing capabilities, identifying potential gaps
- Review and prioritize potential gaps, including technology challenges, existing processes and documentation, governance, and staffing
- Draft operational plans, including allocating adequate resourcing toward the body of incremental work that may be required
- Consider the potential impact of the proposals on already existing challenges, such as potential staffing/skills gaps, reliability of underlying data, supporting processes and technology, and governance
- Define or confirm (if in place) overall resolution planning program structure and accountabilities, and assign ownership for delivering on the capabilities and plan drafts
- Develop a road map for complying with resolution planning requirements, building and testing required resolution planning capabilities and drafting resolution planning submission materials

Given the depth of the newly proposed rules, firms should proactively begin assessing their current capabilities to identify where challenges may exist in moving forward. Changes in the frequency and types of reporting will challenge current resourcing, technology, and governance and will require organizations to take a deeper look to forge an operational and sustainable path to alignment.





# Endnotes

1. Board of Governors of the Federal Reserve System (FRB), Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Corporation (FDIC), "[Agencies request comment on proposed rule to require large banks to maintain long-term debt to improve financial stability and resolution](#)," press release, August 29, 2023; FRB and FDIC, "[Agencies propose guidance to enhance resolution planning at large banks](#)," press release, August 29, 2023; FDIC, "[FDIC Board of Directors issues proposed rule to strengthen resolution planning for large banks](#)," press release, August 29, 2023.
2. Deloitte, "[Mid- to large-size banks expect greater scrutiny on their upcoming resolution plans](#)," April 2023.
3. Affected institutions include bank holding companies (BHCs) and savings and loan holding companies (SLHCs), certain intermediate holding companies (IHCs) of foreign banking organizations (FBOs), and large insured depository institutions (IDIs).
4. FDIC, "[Statement by Vice Chairman Travis Hill on the Proposed Amendments to the IDI Resolution Planning Rule](#)," August 29, 2023 (emphasis theirs).
5. FRB and FDIC, "[Guidance for resolution plan submissions of certain foreign-based covered companies](#)," December 22, 2020.



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# Center for Regulatory Strategy US

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