

# Agencies Finalize 2019 Resolution Plan Guidance for U.S. G-SIBs

January 8, 2019

On December 20, 2018, the Federal Reserve and the FDIC (the “Agencies”) finalized revised resolution plan guidance (the “Final Guidance”)<sup>1</sup> for the eight largest, most complex U.S. banks.<sup>2</sup> The Final Guidance applies beginning with their July 1, 2019, resolution plan submissions.

The Final Guidance is largely similar to the proposed guidance published for comment by the Agencies in June 2018 (the “Proposed Guidance”),<sup>3</sup> though the Agencies responded to the six comment letters received by clarifying certain issues. The Final Guidance principally provides updates to prior guidance, including 2016 guidance to the U.S. G-SIBs, in two substantive areas: 1) payment, clearing and settlement (“PCS”) activities and 2) derivatives and trading activities. While the Proposed Guidance sought comment on additional areas relevant to resolution planning, in particular capital and liquidity, the Final Guidance does not materially change prior guidance in those other areas. Most significantly, the Final Guidance consolidates all prior resolution planning guidance and expressly supersedes any prior guidance not incorporated in or appended to the Final Guidance.

As a result, while the Agencies admit that the Final Guidance does not have the force of law, it does comprehensively provide the supervisory expectations governing the U.S. G-SIBs’ resolution plans. As such, it covers the following critical resolution planning areas:

If you have any questions concerning this memorandum, please reach out to your regular firm contact or the following authors

WASHINGTON D.C.

**Michael Krimminger**  
+1 202 974 1720  
[mkrimminger@cgsh.com](mailto:mkrimminger@cgsh.com)

**Sarah Stanton**  
+1 202 974 1627  
[sstanton@cgsh.com](mailto:sstanton@cgsh.com)

**Josh Nimmo**  
+1 202 974 1681  
[jnimmo@cgsh.com](mailto:jnimmo@cgsh.com)

NEW YORK

**Lisa M. Schweitzer**  
+1 212 225 2629  
[lschweitzer@cgsh.com](mailto:lschweitzer@cgsh.com)

**Lauren Gilbert**  
+1 212 225 2624  
[lgilbert@cgsh.com](mailto:lgilbert@cgsh.com)

LONDON

**Knox McIlwain**  
+44 20 7614 2204  
[kmcilwain@cgsh.com](mailto:kmcilwain@cgsh.com)

**Luca Amorello**  
+44 20 7614 2368  
[lamorello@cgsh.com](mailto:lamorello@cgsh.com)

<sup>1</sup> Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation, *Resolution Planning Guidance for Eight Large, Complex U.S. Banking Organizations* (Dec. 20, 2018), <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20181220c5.pdf>.

<sup>2</sup> The U.S. global systemically important banks (the “U.S. G-SIBs”) are Bank of America Corporation, The Bank of New York Mellon Corporation, Citigroup Inc., The Goldman Sachs Group, Inc., JPMorgan Chase & Co., Morgan Stanley, State Street Corporation and Wells Fargo & Company.

<sup>3</sup> Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation, *Resolution Planning Guidance for Eight Large, Complex U.S. Banking Organizations* (June 29, 2018), <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20180629a.pdf>. Please see our prior July 6, 2018 Alert Memorandum on the proposed guidance at <https://www.clearygottlieb.com/-/media/files/alert-memos-2018/agencies-propose-2019-resolution-plan-guidance-for-us-gsibs.pdf>.



1. Capital (including RCAP and RCEN analyses requirements);
2. Liquidity (including RLAP and RLEN analyses requirements);
3. Governance Mechanisms (including playbook, trigger and pre-bankruptcy parental support, such as contractually binding mechanism or other support mechanism requirements);
4. Operational: PCS activities (including frameworks for continued access, playbook, collateral management, MIS, access to services and legal obstacles and responsive bankruptcy motions);
5. Legal Entity Rationalization and Separability (including some additional requirements for divestiture options, execution plans for those options, and impact assessments);
6. Derivatives and Trading Activities (including booking framework, entity analysis and risk monitoring and controls, sensitivity analysis, de-risking strategy and other requirements described below);
7. Format and Structure of Plans; and
8. Public Section Requirements.

The following discussion addresses these areas of the Final Guidance, draws comparisons with other recent resolution planning guidance and looks to future developments.

## Key Takeaways

- While the Final Guidance is largely unchanged from the Proposed Guidance, the Final Guidance does clarify a number of points raised by commenters relating to consolidation of prior resolution planning guidance (the “Prior Guidance”):<sup>4</sup> PCS services, separability and derivatives and trading activities. The adopting release accompanying the Final Guidance also responds to additional points raised by commentators, such as the role of the single point of entry (“SPOE”) strategy in resolution planning and secured support agreements. On both of these latter issues, the Agencies took a cautious approach, declining to affirmatively endorse SPOE or apply it to eliminate certain requirements and noting the Agencies “continue to consider the merits and limitations of secured support agreements.”
- The Final Guidance does not provide material relief from the resolution planning requirements for U.S. G-SIBs, but it does provide significant simplification by consolidating all Prior Guidance into the Final Guidance and superseding any Prior Guidance not incorporated into the Final Guidance.
- The Proposed Guidance sought comments on capital, liquidity and the related support frameworks, but the Agencies made no material revisions to these frameworks in the Final Guidance. However, the Agencies expressed their intent to address liquidity and internal total loss-absorbing capacity (“TLAC”) “in the future” through a notice and comment process, either as guidance or rules. This is consistent with recent regulatory trends by the Agencies and reflects comments made by the Agencies’ leaders that such standards should be established through a notice and comment process.
  - o While noting the intent to collaborate to make changes to the liquidity and loss-absorbing capacity frameworks “consistent with the Board’s TLAC rule,” the Agencies did not signal any modification of the TLAC rule. Of course, this may simply be out of

---

<sup>4</sup> The principal prior resolution planning guidance consisted of the 2013 §165(d) Guidance; the 2014 feedback letters; the 2015 staff communication regarding the 2016 plan submissions, as described in the 2016 letters to the firms; and the 2017 §165(d) Guidance.

deference to the fact that rule is purely a Federal Reserve rule, and not a joint rule.

- With respect to PCS services, the Final Guidance clarifies that U.S. G-SIBs should maintain access to PCS services through a framework that includes the identification of key clients, FMUs and agent banks, along with a playbook for each FMU and agent bank.
  - o Identification of key clients, FMUs and agent banks must be made from the perspective of the U.S. G-SIB, not from that of the client, FMU or agent bank, as in the Proposed Guidance. This provides significant regulatory relief to the U.S. G-SIBs, which would otherwise have been faced with the potentially impossible task of determining who is key from the client's point of view. However, the Agencies did not limit the scope of entities that qualify as clients to G-SIBs, as some commenters had suggested.
  - o Additionally, the Final Guidance requires each U.S. G-SIB to discuss its roles as (i) a user and (ii) a provider of PCS services, both directly and indirectly, with a mapping for each to material entities, critical operations and core business lines ("CBLs").
- With respect to derivatives and trading activities, the Final Guidance maintains the scope of the Proposed Guidance for such activities focusing on seven key areas: (i) booking practices; (ii) booking framework; (iii) derivatives entity analysis and reporting; (iv) inter-affiliate risk monitoring and controls; (v) portfolio segmentation and forecasting; (vi) prime brokerage customer account transfers; and (vii) derivatives stabilization and de-risking strategy.
  - o The Final Guidance eliminates the requirement for firms to model the operational costs necessary to execute their derivatives strategies at the level of specific derivatives activities, though they must do so at a level more granular than the material entity ("ME") level (e.g., business line level within MEs).
  - o Additionally, the Final Guidance clarifies that a dealer firm should be expected only to incorporate capital and liquidity needs associated with derivatives activities into its RCEN and RLEN estimates with respect to its MEs.
  - o The Final Guidance also clarifies that a dealer firm is only expected to provide information on compression strategies when a dealer firm expects to rely upon compression strategies for executing its preferred strategy, as some commenters suggested.
- The Final Guidance also incorporates the requirements for separability by: (i) giving examples of how separability options are actionable and types of relevant impediments to the options' execution; (ii) noting firms should consider the consequences for U.S. financial stability in executing each separability option; and (iii) specifying firms should have a comprehensive understanding of their entire organizations and certain baseline capabilities. The Final Guidance also requires separability analyses to address divestiture options, execution plans and impact assessments.
- The Agencies removed the requirement from the Proposed Guidance that the U.S. G-SIBs maintain active virtual data rooms for each sales item in their separability analysis, instead requiring firms to demonstrate their capability to populate data rooms in a timely manner.
- The Agencies also incorporated the Prior Guidance into the Final Guidance by including a new section describing the requirements for the format of the plan.

### **Comparison with Proposed Guidance**

- We have highlighted in the text of this Alert Memorandum the key differences between the recommendations and requirements of the Proposed Guidance and the Final Guidance. A more detailed comparison matrix between the two is included as Appendix A.

### **The Final Guidance**

The Agencies released the Final Guidance to confirm and consolidate the Agencies' expectations regarding the resolution plans of the U.S. G-SIBs.

The Final Guidance updates the Proposed Guidance by taking into account commenters' suggestions for clarifying each section. It maintains the great majority of the Proposed Guidance, especially in the sections concerning Capital, Liquidity and Governance Mechanisms, where no substantive changes were made. However, the Final Guidance principally provides updates to the Proposed Guidance in two substantive areas, PCS activities and derivatives and trading activities, while maintaining the fundamental principles from the Proposed Guidance.<sup>5</sup> The Final Guidance also modifies, to a lesser degree, the section on separability, and it adds a section on the Format and Structure of Plans.

### **Consolidation of the Prior Guidance**

The Final Guidance consolidates the Prior Guidance in one document and clarifies that all such guidance not included in the Final Guidance has been superseded. In furtherance of this goal, the Agencies deleted cross-references in the Proposed Guidance to SR

Letter 14-1<sup>6</sup> and SR Letter 14-8<sup>7</sup> and directly incorporated the relevant expectation in the Final Guidance. However, the Agencies will continue to rely on SR Letters 14-1 and 14-8 to assess the U.S. G-SIBs' recovery plans.

Additionally, the Agencies determined that certain FAQs were "no longer meaningful or relevant,"<sup>8</sup> and, therefore, they were not consolidated in the Final Guidance.

Separately, the Agencies highlight that the Final Guidance does not have the force and effect of law, but simply outlines the Agencies' supervisory expectations for resolution plans and "articulates the Agencies' general views regarding appropriate practices for each subject area covered by the final guidance."<sup>9</sup>

### **Payments, Clearing and Settlement Services**

The Final Guidance maintains the Proposed Guidance's significant revisions of the Prior Guidance with respect to PCS services, keeping the increased requirements to provide a more thorough explanation of methods of interactions with key clients, financial market utilities ("FMUs") and agent banks.

In response to commenter concerns, the Preamble and Final Guidance clarify that U.S. G-SIBs should identify key clients, FMUs and agent banks as key from their perspective, not the perspective of the client, FMU or agent bank. Further, the Preamble and Final Guidance deletes the reference to "reliance upon continued access" in the definition of "client" in order to reduce the impracticality and difficulty of administration in identifying clients using this definition. The Agencies note this identification should be done using qualitative and quantitative criteria, but firms have the flexibility to tailor the criteria. The Preamble provides examples of

---

<sup>5</sup> Specifically, "[t]hese principles include: (i) streamlining the firms' submissions; (ii) facilitating continuity of PCS services in resolution; and (iii) helping ensure that a firm's derivatives and trading activities can be stabilized and de-risked during resolution without causing significant market disruption that could cause risks to the financial stability of the United States." Preamble to the Final Guidance ("Preamble"), at 11.

<sup>6</sup> Federal Reserve, SR Letter 14-1, *Heightened Supervisory Expectations for Recovery and Resolution Preparedness for Certain Large Bank Holding Companies – Supplemental Guidance on Consolidated Supervision Framework for Large*

*Financial Institutions* (Jan. 24, 2014), <https://www.federalreserve.gov/supervisionreg/srletters/sr1401.htm>.

<sup>7</sup> Federal Reserve, SR Letter 14-8, *Consolidated Recovery Planning for Certain Large Domestic Bank Holding Companies* (Sep. 25, 2014), <https://www.federalreserve.gov/supervisionreg/srletters/sr1408.htm>.

<sup>8</sup> Final Guidance, at 12.

<sup>9</sup> Final Guidance, at 14.

each: qualitative criteria can include categories of clients and, as suggested by comments, interconnectedness or concentration risk presented by clients; quantitative criteria can include transaction volume/value, market value of exposures, market value of assets under custody, usage of PCS services and availability/usage of intraday credit or liquidity. The Preamble notes the Agencies do not expect these changes to result in an increase in PCS services considered by the firm.

The Final Guidance does maintain the requirement that the U.S. G-SIBs should map material entities, critical operations, CBLs and key clients to both key FMUs and agent banks. It also maintains the requirement for the U.S. G-SIBs to create a playbook for each key FMU and agent bank reflecting the U.S. G-SIBs' role(s) as users and/or providers of PCS services.

### **QFC Stay Rules**

The Final Guidance notes that resolution plans submitted prior to the final initial applicability date of the qualified financial contract (“QFC”) stay rules (prior to January 1, 2020) should reflect how the early termination of QFCs could impact the firm's resolution in light of the current state of its QFCs' compliance with the requirements of the QFC stay rules. However, the firm may also separately discuss the firm's resolution, assuming the final initial applicability date has been reached and all covered QFCs have been conformed with the QFC stay rules. In response to a commenter's concerns, the Preamble notes that as long as the U.S. G-SIBs adhere to the ISDA Protocol, which they have all chosen to do, the Agencies do not expect them to submit additional plan content related to QFC stay rule compliance through a method other than adherence to the ISDA protocol.

### **Separability**

The Final Guidance incorporates the discussion of separability by: (i) giving examples of how separability options are actionable and any impediments to the options' execution; (ii) noting firms should consider the consequences for U.S. financial stability in executing each separability option; and (iii) noting firms should have a comprehensive understanding of their entire organizations and baseline capabilities.

The Agencies highlight that a separability analysis should include:

- *Divestiture options*: actionable and comprehensive options contemplating the sale, transfer or disposal of significant assets, portfolios, legal entities or business lines;
- *Execution plans*: for each divestiture option listed, the separability analysis should describe the steps necessary to execute the option, including the senior management officials responsible for overseeing execution, implementation time frame, impediments to execution, assumptions of the option and stakeholder communication plans; and
- *Impact assessments*: for each divestiture option, the U.S. G-SIBs should provide the following:
  - o Financial impact assessments regarding the firm's capital, liquidity and balance sheet;
  - o Business impact assessments regarding the firm's business lines and material entities, including reputational impact;
  - o Critical operation impact assessment describing how the option may impact provision of any critical operation; and
  - o Operational impact assessment explaining how operations can be maintained if the option is executed.

To reduce the burden on firms, the Agencies removed the requirement from the Proposed Guidance that the U.S. G-SIBs maintain active virtual data rooms for each sales item in their separability analysis. The Final Guidance requires that firms instead have the capability to create a data room in a timely manner. The Agencies noted they expect to test this capability as part of resolution planning reviews by requiring the U.S. G-SIBs to populate a data room with sale-related materials in a certain timeframe.

### **Derivatives and Trading Activities**

As with the Proposed Guidance, this section applies only to dealer firms, not BNY Mellon or State Street. The

Final Guidance maintains without material revisions the requirement for dealer firms to have booking practices commensurate with the size, scope and complexity of the dealer firms' derivatives portfolios.

In response to comments, the Preamble and Final Guidance clarify that the Agencies expect dealer firms to provide information only on those compression strategies upon which the dealer firms expect to rely, not compression strategies the dealer firms would not be using.

In the Final Guidance, the Agencies allowed dealer firms to define linked non-derivative trading positions based on their overall business and resolution strategy.

As in the Proposed Guidance, dealer firms should have a booking model framework, undergirded by internal controls, procedures, systems and processes, that can show: (i) what is booked, (ii) where it is booked, (iii) by whom it is booked, (iv) why it is booked that way and (v) what controls are in place to monitor and manage those practices.

Also, as in the Proposed Guidance, dealer firms should be able to report on every affiliated entity with a derivatives portfolio. The Final Guidance confirms commenters' recommendation that the term "material derivatives entities" means a dealer firm's material entities that engage in derivatives conduct.

Dealer firms should further have the capability to assess how the management of inter-affiliate risks would be affected in resolution. The Final Guidance also clarifies from the Proposed Guidance the definition of "material derivatives entities" as a dealer firm's MEs that engage in derivatives activities.

The Final Guidance, in line with the Proposed Guidance, additionally requires a dealer firm to have the capability to produce a variety of portfolio segmentation analyses across a minimum of eight enumerated segmentation dimensions of their derivatives portfolio. Dealer firms should also be able to provide: (i) "ease of exit" position analysis, (ii) application of exit cost methodology, (iii) analysis of operational capacity and (iv) sensitivity analysis.

Furthermore, as in the Proposed Guidance, the Final Guidance requires dealer firms to have the operational capabilities to assist in the transfer of prime brokerage accounts to peer prime brokers during material financial distress and in resolution.

The Final Guidance, like the Proposed Guidance, notes dealer firms should have in their resolution plans detailed analyses of their strategies to stabilize and de-risk their derivatives portfolios. However, in response to commenters' concerns, the Final Guidance eliminates the requirement from the Proposed Guidance for firms to model their operational costs necessary to execute their derivatives strategies at the level of specific derivatives activities, but they must do so at a level more granular than the material entity level, such as the business line level.

Finally, the Final Guidance clarifies from the Proposed Guidance that a dealer firm should be expected only to incorporate capital and liquidity needs associated with derivatives activities into its RCEN and RLEN estimates with respect to its MEs.

### **Single Point of Entry Strategies**

Some commenters suggested explicitly acknowledging the SPOE strategy as a credible means of resolving a U.S. G-SIB in an orderly manner, requested that elements of the guidance unrelated to an SPOE strategy be eliminated and suggested that the FDIC's IDI resolution plan requirements be eliminated for firms adopting SPOE as a resolution strategy.

The Agencies declined to take this view, as the Preamble clarifies that the Final Guidance is not intended to favor one strategy or another but provides sufficient flexibility to allow firms to address the resolution obstacles that are relevant to their preferred resolution strategy. Despite recognizing the significant progress the U.S. G-SIBs have made in addressing key vulnerabilities and mitigants associated with SPOE, the Agencies noted the inherent challenges and uncertainties associated with the resolution of a U.S. G-SIB under any specific resolution strategy, including SPOE.

### **Contractually Binding Mechanisms**

The Final Guidance largely maintained the expectations described in the Proposed Guidance for contractually binding mechanisms (“CBMs”) for the U.S. G-SIBs.

The Final Guidance clarifies that firms should consider the effectiveness of such CBMs and the appropriateness of having clearly defined triggers, triggers synchronized to the firm’s liquidity and capital methodologies, and perfected security interests in specified collateral sufficient to fully secure all support obligations on a continuous basis.

Some commenters had recommended the Agencies rely on the CBMs to assure support would be available and, as a result, to reconsider the pre-positioning expectations in the Proposed Guidance. Commenters highlighted the intended benefits of CBMs for addressing the expectations that firms balance the flexibility provided by holding contributable resources at support providers with the certainty provided by pre-positioning resources at material subsidiaries.

The Agencies declined to follow this recommendation, noting that CBMs remain untested and do not provide the same degree of certainty and transparency provided by pre-prepositioned resources. As a result, the Agencies said they will continue to consider the merits and limitations of CBMs. The Preamble also acknowledged the critical nature of engaging with non-U.S. regulators regarding resolution matters, including with respect to existing CBMs.

### **Format and Structure of Plans**

The Final Guidance consolidates from the Guidance for 2013 §165(d) Annual Resolution Plan Submissions by Foreign-Based Covered Companies that Submitted Initial Resolution Plans in 2012 (“2013 Guidance”) requirements for the format of the plan.

The Final Guidance expands upon the required assumptions in the 2013 Guidance, including noting that a firm cannot assume any waivers of sections 23A or 23B of the Federal Reserve Act, though a firm may assume that its depository institution will have access to the Federal Reserve’s Discount Window for a few days after the point of failure. However, the firm cannot assume its subsidiary depository institutions will have Discount

Window access while critically undercapitalized, in receivership or operating as a bridge bank, nor should it assume any lending from a Federal Reserve credit facility to a non-bank affiliate.

The Agencies note in the Final Guidance that resolution plans should include the actual balance sheet for each ME, the consolidating balance sheet adjustments between MEs, the pro forma balance sheets for each ME at the point of failure and key junctures in the execution of the resolution strategy, and projected statements of sources and uses of funds for the interim periods.

Furthermore, the Final Guidance expands upon the definition of Material Entity in the Proposed Guidance by including entities significant to the maintenance (as opposed to activities, as stated in the Proposed Guidance) of a critical operation or CBL. The Final Guidance updates from the 2013 Guidance a list of types of entities that should be considered MEs, including affiliates (including branches), subsidiaries and/or foreign offices significant to the activities of a critical operation through their support of global treasury operations, funding or liquidity activities; operational support; derivatives booking activities, asset custody or asset management; or holding licenses or memberships in clearinghouses, exchanges or other FMUs.

### **Future Steps**

The Final Guidance delivers on the promise of the Proposed Guidance to provide greater clarity to the U.S. G-SIBs. Specifically, the Final Guidance consolidates and supersedes all past guidance to ensure the resolution planning recommendations and requirements are easily accessible and understandable.

Additionally, though the capital and liquidity sections were substantially unchanged from the Proposed Guidance to the Final Guidance, the Agencies noted that they intend to provide in the future, through notice and comment procedures, further guidance, specifically focused on resolution liquidity and total loss absorbing capacity.

As we discuss in a separate [Alert Memorandum](#) issued yesterday, the Agencies also finished their evaluations of

---

**ALERT MEMORANDUM**

---

the non-U.S. G-SIBs' resolution plans filed on or before July 1, 2018. Moving forward, we can reasonably expect the Agencies to provide an opportunity for notice and comment on future guidance to the non-U.S. G-SIBs.

Similarly, we believe it is likely that a comparable notice and comment review will be issued to define future guidance for resolution plan filers who normally file their plans by December 31 of the required year.

Future notice and comment processes are likely to further differentiate between the resolution planning standards applied to U.S. G-SIBs and other filers, particularly December filers. If the Agencies continue on their current path, this will assist in providing greater transparency and clarity to all the resolution planning requirements.

...

CLEARY GOTTlieb



**Comparison Chart: Proposed Guidance for 2019 §165(d) Annual Resolution Plan Submissions By U.S. G-SIBs (the “Proposed Guidance”) vs. Final Guidance for 2019 §165(d) Annual Resolution Plan Submissions By U.S. G-SIBs (the “Final Guidance”)**

Sub-Section/Topic	Material Differences Between the Proposed Guidance and the Final Guidance	Page Number
<b>I. Introduction</b>		
<i>No Force of Law</i>	The Final Guidance clarifies the document does not have the force and effect of law, describing only the Agencies’ supervisory expectations.	47
<i>Prior Guidance Consolidated or Superseded</i>	The 2013 Guidance; the 2014 feedback letters; the 2015 staff communication regarding the 2016 plan submissions, as described in the 2016 letters to the firms; and the 2017 §165(d) Guidance are consolidated into the Final Guidance. To the extent not incorporated in the Final Guidance, the Prior Guidance is superseded.	48
<b>II. Capital</b>		
<i>Resolution Capital Adequacy and Positioning (“RCAP”)</i>	The Final Guidance eliminates a “superfluous” reference to creditor challenge mitigation, addressed by the Pre-Bankruptcy Parent Support section, and states that firms should structure their internal debt so as to ensure MEs can be recapitalized.	49
<i>Resolution Capital Execution Need (“RCEN”)</i>	No material changes.	50
<b>III. Liquidity</b>		
<i>Resolution Liquidity Adequacy and Positioning (“RLAP”)</i>	No material changes.	51
<i>Resolution Liquidity Execution Need (“RLEN”)</i>	No material changes.	52
<b>IV. Governance Mechanisms</b>		
<i>Playbooks and Triggers</i>	The Final Guidance clarifies that for governance playbooks’ discussions of the firms’ external communications strategy, that strategy should include discussions with U.S. and foreign authorities and other external stakeholders.	54
<i>Pre-bankruptcy Parent Support</i>	No material changes.	56
<b>V. Operational</b>		
<i>Payment, Clearing, and Settlement Activities</i>	<p>The Final Guidance clarifies that when identifying clients, FMUs and agent banks, a firm should identify them as key from the firm’s perspective, not from the client’s perspective.</p> <p>The Final Guidance adds to the definitions of (i) a user of PCS services, by adding that an entity that accesses PCS services through an agent bank is a user of PCS services, and (ii) a provider of PCS services, by adding that an entity that provides PCS services to clients as an agent bank is a provider of PCS services.</p>	57



<i>Managing, Identifying, and Valuing Collateral</i>	No material changes.	61
<i>Management Information Systems</i>	No material changes.	61
<i>Shared and Outsourced Services</i>	The Final Guidance clarifies that the firm should maintain appropriate implementation plans to retain key personnel relevant to the execution of the firm’s resolution strategy. Also, when maintaining an identification of all critical services, the firm should include in the identification data access and intellectual property rights.	62
<i>Legal Obstacles Associated with Emergency Motions</i>	The Final Guidance notes that plans submitted prior to the final initial applicability date of the QFC stay rules (prior to Jan. 1, 2020) should reflect how the early termination of QFCs could impact the firm’s resolution in light of the current state of its QFCs’ compliance with the requirements of the QFC stay rules. However, the firm may also separately discuss the firm’s resolution, assuming the final initial applicability date has been reached and all covered QFCs have been conformed with the QFC stay rules.	63
<b>VI. Legal Entity Rationalization and Separability</b>		
<i>Legal Entity Rationalization Criteria (LER Criteria)</i>	No material changes.	67
<i>Separability</i>	<p>The Final Guidance expands the discussion of separability by: (i) giving examples of how separability options are actionable and any impediments to the options’ execution, (ii) noting firms should consider the consequences for U.S. financial stability in executing each separability option and (iii) noting firms should have a comprehensive understanding of their entire organizations and baseline capabilities. The Agencies highlight that a separability analysis should include discussions of divestiture options, an execution plan and an impact assessment.</p> <p>The Final Guidance loosens the requirement from the Proposed Guidance that firms establish a data room to a requirement that firms have, and be able to demonstrate, the capability to populate a data room in a timely manner.</p>	68
<b>VII. Derivatives and Trading Activities</b>		
<i>Applicability</i>	No material changes.	70
<i>Booking Practices</i>	The Final Guidance notes firms may define linked non-derivative trading positions based on overall business and resolution strategies.	70
<i>Inter-Affiliate Risk Monitoring and Controls</i>	The Final Guidance defines the term “material derivatives entity” as a material entity with a derivatives portfolio.	73
<i>Portfolio Segmentation and Forecasting</i>	No material changes.	75
<i>Prime Brokerage Customer Account Transfers</i>	No material changes.	78

<i>Derivatives Stabilization and De-risking Strategy</i>	The Final Guidance clarified that a dealer firm may choose not to isolate and separately model the operational costs solely related to executing its derivatives strategy, but it should provide transparency around operational cost estimation at a more granular level than an ME.	79
<b>VIII. Format and Structure of Plans</b>		
<i>Format of Plan</i>	The Final Guidance adds Section VIII, noting, in materially similar language to the 2013 Guidance, that a resolution plan should contain: <ul style="list-style-type: none"> <li>- An executive summary including a description of the elements of the resolution strategy and a discussion of any impediments to resolution, along with any actions taken to address those impediments;</li> <li>- A narrative strategic analysis (the “<u>Narrative</u>”), including how each firm is addressing key vulnerabilities identified by the Agencies;</li> <li>- Appendices containing sufficient detail and analysis to substantiate and support the resolution strategy described in the Narrative;</li> <li>- A public section and confidential section; and</li> <li>- Any other informational requirements from the resolution planning rules, though the U.S. G-SIBs may incorporate by reference previously submitted information.</li> </ul>	83
<i>Guidance Regarding Assumptions</i>	The Final Guidance expands upon the required assumptions in the 2013 Guidance, including noting that a firm cannot assume any waivers of sections 23A or 23B of the Federal Reserve Act, though a firm may assume that its depository institution will have access to the Discount Window for a few days after the point of failure. However, the firm cannot assume its subsidiary depository institutions will have Discount Window access while critically undercapitalized, in receivership or operating as a bridge bank, nor should it assume any lending from a Federal Reserve credit facility to a non-bank affiliate.	84
<i>Financial Statements and Projections</i>	The Final Guidance expands upon the requirements in the resolution planning rules by stating that resolution plans should include the actual balance sheet for each ME, the consolidating balance sheet adjustments between MEs, the pro forma balance sheets for each ME at the point of failure and key junctures in the execution of the resolution strategy, and projected statements of sources and uses of funds for the interim periods.	85
<i>Material Entities</i>	The Final Guidance expands upon the definition of ME by including entities significant to the maintenance (as opposed to activities in the Proposed Guidance) of a critical operation or CBL. The Final Guidance updates from the 2013 Guidance a list of types of entities that should be considered material entities, including affiliates, subsidiaries and/or foreign offices significant to the activities of a critical operation through their support of global treasury operations, funding or liquidity activities; operational support; derivatives booking activities, asset custody or asset management; or holding licenses or memberships in clearinghouses, exchanges or other FMUs.	86
<b>IX. Public Section</b>		
	No material changes.	87