ALERT MEMORANDUM

Agencies Propose Resolution Plan Guidance For Three Large FBOs

March 18, 2020

On March 6, 2020, the Board of Governors of the Federal Reserve and the Federal Deposit Insurance Corporation proposed for public comment resolution plan guidance for certain large foreign banking organizations with significant U.S. operations.[1] The proposed methodology for determining the applicability of the guidance would result in only three foreign banking organizations ("FBOs") being subject to the guidance.[2] The Proposed Guidance would apply to the Specified FBOs' next scheduled July 1, 2021 targeted resolution plan submissions.

The Proposed Guidance is generally consistent with prior guidance issued to the Specified FBOs and UBS AG in December 2018,[3] but includes changes to reflect both the 2019 revisions to the resolution planning rule[4] and some aspects of the Agencies' guidance for the 2019 resolution plans of the eight largest, most complex U.S. banks ("U.S. G-SIBs").[5]

As was the case with the 2019 Domestic Guidance, the most substantive changes from prior guidance relate to payment, clearing and settlement activities ("PCS") and derivatives and trading activities ("DER"). The Agencies also propose a generally applicable framework for identifying institutions subject to the Proposed Guidance (as opposed to the 2018 FBO Guidance, which was applied to specifically named institutions) and suggest minor clarifying and technical changes throughout.

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

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[1] Proposed Guidance for Resolution Plan Submissions of Certain Foreign-based Covered Companies (Mar. 6, 2020), https://www.fdic.gov/resauthority/fbo-resolution-guidance-proposal.pdf ("Proposed Guidance").
[2] As of March 6, 2020, the three are Barclays PLC, Credit Suisse Group AG and Deutsche Bank AG (the "Specified FBOs").
[3] Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation (the "Agencies"), *Guidance for 2018 §165(d) Annual Resolution Plan Submissions by Foreign-based Covered Companies that Submitted Resolution Plans in July 2015* (Mar. 24, 2017), https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20170324a21.pdf ("2018 FBO Guidance").
[4] The Agencies, *Resolution Plans Required*, 84 Fed. Reg. 59194 (Nov. 1, 2019), https://www.govinfo.gov/content/pkg/FR-2019-11-01/pdf/2019-23967.pdf.
[5] The Agencies, *Resolution Planning Guidance for Eight Large, Complex U.S. Banking Organizations* (Dec. 20, 2018), https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20181220c5.pdf ("2019 Domestic Guidance").

Key Takeaways

- Significantly, the Proposed Guidance would only currently apply to three FBOs: Barclays, Credit Suisse and Deutsche Bank. The Agencies departed from the categories outlined in the recent tailoring rules for enhanced prudential standards and proposed to apply the Proposed Guidance only to FBOs with U.S. intermediate holding companies ("IHCs") that (i) are triennial full filers and (ii) whose IHCs have a score of 250 or more under method 2 of the G-SIB surcharge framework (12 CFR part 217, subpart H). The Agencies noted that the Specified FBOs all have had consistently high method 2 scores compared to both U.S. G-SIBs and other FBOs. These high scores have largely been driven by reliance on short-term wholesale funding ("STWF").

- The Proposed Guidance on capital, liquidity, governance mechanisms, legal entity rationalization criteria and separability remains largely unchanged from prior guidance.

- The Proposed Guidance on PCS and DER incorporates several changes to reflect the Agencies' review of 2018 resolution plans and new provisions in the 2019 Domestic Guidance.

  - The most significant changes to guidance on PCS services would (i) require additional detail about the use of, or provision of, PCS services and (ii) provide more detailed guidance on playbooks for retaining access to PCS services.

  - Changes to guidance on DER would remove prior requirements for separate passive and active wind-down scenario analyses, agency-specified data templates and rating agency playbooks. However, the Proposed Guidance would add requirements for resolution plans to include (i) a booking framework and a modeling framework for U.S. DER (regardless of where the positions are booked), (ii) analysis and reporting of DER of each U.S. entity involved in significant aspects of the firm's U.S. DER, (iii) segmentation analysis for each U.S. entity with a derivatives portfolio and (iv) strategies to stabilize and de-risk derivatives portfolios for surviving U.S. IHC subsidiaries.

- The Proposed Guidance is generally consistent with the expectations set forth in the 2019 Domestic Guidance, but varies in certain key areas to address differences between the U.S. operations of the Specified FBOs and the U.S. G-SIBs and to adjust the requirements to reflect a Specified FBO's foreign parent and different organizational structure and operation. For example:

  - The Proposed Guidance does not specifically require the use of contractually binding mechanisms ("CBMs") and related legal challenge analysis but instead refers to the use of parent support mechanisms and potential legal challenges more generally.

  - Guidance on DER emphasizes monitoring of hedging activities booked to non-U.S. home banks or affiliates.

  - Triggers based on capital and liquidity levels primarily focus on escalating communications within the Specified FBOs' governing bodies. However, the Proposed Guidance does link such triggers to

  - implementation of mechanisms to provide capital and liquidity support to operating subsidiaries.
  - Certain included sections are FBO-specific, such as sections on U.S. branches and the incorporation of U.S. resolution strategies into the Specified FBO's global resolution plans.
- Consistent with prior guidance, the Agencies continue to evaluate the efficacy of CBMs generally. They expressed no preference for a specific CBM framework, but did solicit input regarding the relative merits of two approaches.
- Although the Proposed Guidance only applies to the Specified FBOs, the Agencies' expanded emphasis on reporting DER in non-U.S. affiliates could signal an increased focus on such activities for resolution planning by FBOs more broadly.
- The Agencies noted that they expected many Specified FBOs had already incorporated significant portions of the Proposed Guidance into their resolution plans.
- The Agencies reinforced the importance of coordinating home country resolution strategies and analysis with U.S. resolution plans. The Agencies recognized that the preferred resolution strategy for many Specified FBOs is a single point of entry strategy in the home country. Therefore, the Agencies indicate that they sought to provide additional flexibility to the Specified FBOs as compared to the U.S. G-SIBs to ensure that the U.S. resolution strategy does not conflict with the global resolution strategy. However, as in past guidance, the Proposed Guidance requires that the Specified FBOs not assume that actions outside the United States would eliminate the need for U.S. subsidiaries to enter resolution proceedings.
- As with the 2019 Domestic Guidance, the Proposed Guidance would consolidate all applicable guidance into a single document.
- The release for the Proposed Guidance also identified specific questions for comments and required that all comments be submitted on or by May 5, 2020.

Proposed Guidance

The majority of proposed changes from the 2018 FBO Guidance are designed to align certain resolution plan requirements imposed on the U.S. G-SIBs and Specified FBOs. Accordingly, we have summarized the key differences between the Proposed Guidance and the 2018 FBO Guidance below and, where relevant, have also indicated where the Proposed Guidance differs from the Agencies' approach in the 2019 Domestic Guidance.

See the Appendix for a table reflecting material changes from the 2018 FBO Guidance.

<u>Developments Influencing the Proposed Guidance</u>

The Agencies acknowledged several developments in resolution planning that influenced the Proposed Guidance.

First, the Agencies note several times that the Proposed Guidance reflects the FBOs' most recent resolution plan submissions and the Agencies' views on the resolution plans and their shortcomings, while also expressing an expectation that the Specified FBOs have already incorporated significant aspects of the Proposed Guidance into their resolution plans.

Second, the 2019 Domestic Guidance contained several material updates to guidance relating to PCS and DER by the U.S. G-SIBs and consolidated all prior resolution planning guidance applicable to the U.S. G-SIBs. As with the Proposed Guidance, the

Agencies sought public comment before finalizing the 2019 Domestic Guidance, as promised by Federal Reserve Vice Chairman for Supervision Randal Quarles and Federal Deposit Insurance Corporation Chairman Jelena McWilliams.

Third, in November 2019, the Agencies finalized revisions to the resolution planning rule to address changes to the Dodd-Frank Act made by the Economic Growth, Regulatory Relief, and Consumer Protection Act and to improve aspects of the rule based on the Agencies' experience implementing the rule since its adoption. Under these revisions, each Specified FBO would be a triennial full filer, required to submit a resolution plan every three years, alternating between a full resolution plan and a targeted resolution plan.

Consolidation of Prior Guidance

The Proposed Guidance would consolidate all applicable prior guidance into a single document. Specifically, the Proposed Guidance consolidates (i) the 2018 FBO Guidance; (ii) the Guidance for 2013 §165(d) Annual Resolution Plan Submissions by Foreign-Based Covered Companies that Submitted Initial Resolution Plans in 2012; (iii) firm-specific feedback letters issued in 2014 and 2018; (iv) the February 2015 staff communication regarding the 2016 plan submissions and (v) the July 2017 Resolution Plan Frequently Asked Questions (together, the "Prior Guidance"). Prior Guidance would be superseded for the Specified FBOs to the extent not incorporated in or appended to the final guidance.

Capital and Liquidity

The Proposed Guidance leaves the 2018 FBO Guidance on capital and liquidity virtually unchanged, aside from very minor clarifying and technical edits. The release notes that the Agencies are continuing to evaluate capital and liquidity guidance and expect to collaborate in taking actions in a manner consistent with the Federal Reserve's Total Loss-Absorbing Capacity Rule.

Governance Mechanisms

The Proposed Guidance leaves unchanged the 2018 FBO Guidance on governance mechanisms to ensure coordination between a U.S. entity and its foreign parent during resolution, but clarifies that discussion of the Specified FBO's proposed U.S. communications strategy should include external communications with U.S. and foreign authorities and other external stakeholders. The Proposed Guidance also discusses the role of triggers based on the Specified FBO's methodology for forecasting liquidity and capital needed to implement the U.S. resolution strategy, and the role such triggers may play in escalating action and in implementing steps to provided needed capital and liquidity.

Notably, while the Proposed Guidance does not recommend a specific strategy for ensuring that capital and liquidity support to IHC material entity subsidiaries is timely, the release requests comment on the relative merits of two approaches to the use of CBMs. This follows Agency statements in the release of the 2019 Domestic Guidance that noted the Agencies would continue to consider the merits and limitations of CBMs.

In particular, the release describes two CBM approaches that are currently taken by certain Specified FBOs and requests comment on their relative merits: (i) a secured support agreement where the U.S. IHC binds itself to provide pre-bankruptcy support to material entity subsidiaries supported by perfected security interests in collateral granted by the U.S. IHC and (ii) an unsecured equity purchase arrangement under which the U.S. IHC enters into one or more agreements with a material entity subsidiary to purchase additional equity from the subsidiary prior to the U.S. IHC's bankruptcy.

Operational

Payment, Clearing and Settlement Activities

- The Agencies significantly revised their prior guidance with respect to PCS services in the 2019 Domestic Guidance. The Agencies increased requirements to provide a more thorough explanation of the methods of interaction with key clients, financial market utilities ("FMUs") and agent banks, including clarifying expectations related to users and providers of PCS services. The Proposed Guidance generally reflects these revisions as applied to the Specified FBOs.

- The Proposed Guidance requires a Specified FBO to identify key clients (including affiliates), FMUs and agent banks of its U.S. material entities. In making these determinations, the firms are directed to use qualitative and quantitative criteria (the latter including, for example, aggregate volumes and values of all transactions processed through an FMU, assets under custody with an agent bank, the value of assets settled through an agent bank and, if credit or liquidity is offered, extensions of intraday credit). Additionally, Specified FBOs should map U.S. material entities, critical operations, core business lines ("CBLs") and key clients of the firm's U.S. operations to both key FMUs and agent banks.
- The Specified FBOs will be required to maintain playbooks for each key FMU and agent bank reflecting the firm's role(s) as a user (including through indirect access) and/or provider of PCS services. Playbooks should also discuss any possible alternative arrangements to continue access to PCS services for the firm's U.S. material entities, identified critical operations and CBLs and key clients of the firm's U.S. operations.
- The Agencies specifically note that the PCS framework described above is not limited to a Specified FBO's U.S. branches given continuity of access to PCS activities through non-U.S. branches is likely to be essential to an orderly resolution of a firm's U.S. operations.

Shared and Outsourced Services

- The Proposed Guidance aligns with the 2019 Domestic Guidance by making clear that arrangements to support the continuity of shared and outsourced services that support critical operations must include appropriate plans to retain key personnel relevant to the firm's strategy.

Qualified Financial Contracts ("QFCs")

- The Proposed Guidance removes language included in prior guidance relating to the development of the ISDA protocols to comply with the QFC Stay Rules, as such protocols have been implemented and are effective for adherents. Nonetheless, the Agencies continue to expect that a Specified FBO's plan reflects the current state of how the early termination of QFCs could impact the resolution of its U.S. operations.

Group Resolution Plan

Aside from very minor clarifying and technical edits, the Proposed Guidance leaves virtually unchanged the 2018 FBO Guidance on requiring descriptions of how the resolution plan for a Specified FBO's U.S. operations fits into its overall resolution process.

Legal Entity Rationalization and Separability

The Proposed Guidance aligns the requirements related to the identification and analysis of separability options with the expectations included in the 2019 Domestic Guidance.

Specified FBOs will be required to provide more detail about potential options to sell or transfer operations in resolution, including addressing potential consequences to U.S. financial stability of executing each option and taking into consideration the impacts on counterparties, creditors, clients, depositors and markets for specific assets. The amount of detail and analysis will vary depending on the Specified FBO's risk profile, and firms should have information systems capable of producing the required data and information.

Specified FBOs will no longer be required to maintain a virtual data room with information pertinent to a potential divestiture. However, they will be required to maintain the capability to populate such a data room in a timely manner. As with the U.S. G-SIBs, the Agencies intend to test this capability as part of future resolution plan reviews.

Derivatives and Trading Activities

The Agencies significantly revised their prior guidance with respect to derivatives activities for U.S. G-SIBs in the 2019 Domestic Guidance. The Proposed Guidance generally reflects these revisions as applied to the Specified FBOs but modifies certain expectations to better reflect the Specified FBOs' activities given the size and complexity of their U.S. DER and associated risks to the resolution of their U.S. entities. In particular, the revised guidance would place an expanded focus on DER booked into non-U.S. affiliates. Similar to the 2019 Domestic Guidance, the Agencies have organized the DER portion in five sections.

The Proposed Guidance would also eliminate requirements in the 2018 FBO Guidance that a Specified FBO's U.S. resolution plan include separate passive and active wind-down analysis, agency-specified data templates and rating agency playbooks.

Booking Practices

- The requirements generally align with those imposed by the 2019 Domestic Guidance but are expanded to cover both derivatives and non-derivatives trading activities that are (i) related to a firm's CBL or critical operations (including if booked directly into a non-U.S. affiliate), (ii) conducted on behalf of the firm, its clients or counterparties that are originated from, booked into, traded through or otherwise conducted (in whole or in material part) in a U.S. entity or (iii) both of the foregoing.
- In general, a Specified FBO should have booking practices commensurate with the size, scope and complexity of its DER. The firm's booking model framework should be undergirded by internal controls (*e.g.*, procedures, systems and processes) that can show (i) what is booked, (ii) where it is being originated and booked, (iii) by whom it is originated and booked, (iv) why it is booked that way or rationales for that arrangement and (v) what controls are in place to monitor and manage those practices.
- In addition, Specified FBOs should be able to report on each of its U.S. entities (meaning the U.S. IHC and material entity branches) that originates or otherwise conducts any significant aspect of the firm's U.S. DER.

U.S. Activities Monitoring

- The Proposed Guidance mirrors the expectations included in the 2019 Domestic Guidance subsection *Inter-Affiliate Risk Monitoring and Controls* but focuses specifically on the relationship between a Specified FBO's U.S. entities and non-U.S. affiliates.
- Specified FBOs must be able to assess how the management of U.S. DER would be affected in the period leading up to, and during, its resolution. A firm's monitoring framework should consist of methods to (i) identify, measure, monitor and report on U.S. DER on a business line and legal entity basis and (ii) identify, assess and report the potential impact on clients, counterparties of the U.S. entities that conduct the U.S. DER and any related risk transfer arrangements among U.S. entities and their non-U.S. affiliates.

Prime Brokerage Customer Account Transfers

- The Proposed Guidance requires that Specified FBOs have the operational capabilities to assist in the transfer of U.S. prime brokerage accounts (including client account positions booked directly into a non-U.S. affiliate) to peer prime brokers in times of material financial distress and during execution of its U.S. resolution strategy. Specified FBOs should also be able to segment U.S. prime brokerage accounts based on characteristics that determine the speed at which accounts could be transferred.

Portfolio Segmentation

- Similar to the 2019 Domestic Guidance, the Proposed Guidance requires the Specified FBOs to be able to produce portfolio segmentation analysis using a minimum of seven enumerated segmentation dimensions.
- However, the Proposed Guidance would not adopt similar requirements related to "'ease of exit' position analysis," "application of exit cost methodology" and "analysis of operational capacity" subsections of the 2019 Domestic Guidance, given the relatively smaller size and less complex nature of the Specified FBO's derivatives activities.

Derivatives Stabilization and De-risking Strategy

- To the extent a Specified FBO's U.S. resolution strategy assumes the continuation of a U.S. IHC subsidiary with a derivatives portfolio after the U.S. IHC enters bankruptcy proceedings, a Specified FBO's resolution plan must include a detailed analysis of its plans to stabilize and de-risk any derivatives portfolio of a surviving derivatives subsidiary incorporated into its U.S. resolution strategy.
    - In assessing their stabilization and de-risking strategies, firms should assume (i) a reduced ability for the U.S. IHC subsidiary to access the OTC derivatives market, (ii) counterparties exercise every contractual termination right available to them (including any rights stayed by contract or the QFC mandatory stay rules) if exercising such right would economically benefit the counterparty and (iii) a time horizon of the resolution period extending between one to two years.
    - A firm may consider a time horizon of less than a year if the resolution period is supported by the firm's analysis of its derivatives portfolios in its U.S. IHC subsidiaries.
- The resolution plan should incorporate forecasts of capital and liquidity needs of the U.S. IHC subsidiaries required to support the Specified FBO's U.S. derivatives strategy in the firm's Resolution Capital Execution Need and Resolution Liquidity Execution Need estimates for its overall U.S. resolution strategy.
- The resolution plan should describe a Specified FBO's method for conducting sensitivity analysis to the derivatives-related costs and liquidity flows under its U.S. resolution strategy.
- The resolution plan should include a method for estimating the composition of any residual portfolio of derivatives booked in a U.S. IHC subsidiary remaining after execution of the Specified FBO's U.S. resolution strategy.
- To the extent the Specified FBO's U.S. resolution strategy assumes a U.S. IHC subsidiary with a derivatives portfolio enters

its own resolution proceeding after entry of the U.S. IHC in bankruptcy proceedings, the resolution plan should provide analysis of how such resolution can be accomplished within a reasonable period of time and in a manner that substantially mitigates risks to the U.S. financial stability and the firm's U.S. resolution strategy. The analysis should address the impacts of the subsidiary's resolution on funding markets, underlying asset markets, clients and counterparties (including affiliates) and the firm's U.S. resolution strategy.

Format and Structure of Plans

The Proposed Guidance adopts the requirements for the format and structure of the resolution plans from the 2019 Domestic Guidance. These requirements are generally similar to those contained in prior guidance but slightly expand upon the required assumptions addressed in prior guidance, including noting that a firm cannot assume waivers of sections 23A or 23B of the Federal Reserve Act or assume a subsidiary depository institution will have access to the Federal Reserve's Discount Window while critically undercapitalized, in receivership or operating as a bridge bank. A firm may assume that its depository institutions will have access to the Discount Window for a few days after the point of failure.

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Appendix A

Comparison of 2018 FBO Guidance vs. the Proposed Guidance

Sub-Section/Topic	Material Differences Between 2018 FBO Guidance and Proposed Guidance	Page Number
I. Introduction		
Scope of Applicability	The 2018 FBO Guidance only applied to four named institutions: Barclays PLC, Credit Suisse Group AG, Deutsche Bank AG and UBS AG. The Proposed Guidance would apply to foreign banking organizations ("FBOs") with U.S. intermediate holding companies ("IHCs") that (i) are triennial full filers and (ii) whose IHCs have a score of 250 or more under method 2 of the G-SIB capital surcharge framework ("Specified FBOs"). Currently this would result in application to Barclays PLC, Credit Suisse Group AG and Deutsche Bank AG.	43
Prior Guidance Incorporated or Superseded	Prior guidance and FAQs would be superseded with respect to the Specified FBOs to the extent not incorporated in or appended to the Proposed Guidance.	44
II. Capital		
Resolution Capital Adequacy and Positioning ("RCAP")	No material changes.	45
Resolution Capital Execution Need ("RCEN")	No material changes.	46
III. Liquidity		
Capabilities	No material changes.	48
Resolution Liquidity Adequacy and Positioning ("RLAP")	No material changes.	48

Sub-Section/Topic	Material Differences Between 2018 FBO Guidance and Proposed Guidance	Page Number
Resolution Liquidity Execution Need ("RLEN")	No material changes.	50
	IV. Governance Mechanisms	
Playbooks, Foreign Parent Support, and Triggers	No material changes.	52
Support Within the United States	No material changes.	54
	V. Operational	
Payment, Clearing, and Settlement Activities ("PCS")	The 2018 FBO Guidance required the named banks to develop playbooks that would ensure continued access to PCS services in a manner that would support an orderly resolution under its U.S. strategy. The Proposed Guidance would require a Specified FBO to specifically develop playbooks for each key financial market utility ("FMU") and key agent bank essential to its U.S. resolution strategy, which should both: • ensure continued access to PCS services as a user; and • ensure continued access to PCS services to other firms and affiliates as a provider. The Proposed Guidance also adds three new subsections that list the kinds of information the playbooks should include based on the Specified FBOs' role as a user or provider of PCS services. To demonstrate capabilities for continued access to PCS services essential to its U.S. resolution strategy and to assist in developing its playbooks, a Specified FBO must: • identify clients (including affiliates), FMUs and agent banks for the firm's U.S. material entities ("MEs"), identified critical operations and core business lines ("CBLs") using both quantitative (volume and value) and qualitative criteria.	55

Sub-Section/Topic	Material Differences Between 2018 FBO Guidance and Proposed Guidance	Page Number
	• include mapping of U.S. MEs, critical operations, CBLs and key clients of the firm's U.S. operations to both key FMUs and agent banks. The PCS requirements apply to all branches, not just U.S. branches, that are significant to the activities of a Specified FBO's U.S. MEs, identified critical operation or CBLs.	
Managing, Identifying, and Valuing Collateral	No material changes.	59
Management Information Systems	No material changes. The requirement to implement infrastructure projects by 2018 has expired.	60
Shared and Outsourced Services	The Proposed Guidance clarifies that arrangements to support the continuity of shared or outsourced services that support critical operations must include plans to retain key personnel relevant to the Specified FBO's strategy	62
Qualified Financial Contracts ("QFCs")	The Proposed Guidance removes language from the 2018 FBO Guidance relating to the development of the ISDA protocols to comply with the QFC Stay Rules, as such protocols have been implemented and are effective for adherents, but retains the expectation that a Specified FBO's plan reflect the current state of how the early termination of QFCs could impact the resolution of its U.S. operations.	64
	VI. Branches	
Mapping	No material changes.	64
Continuity of Operations	No material changes.	65
Impact of the Cessation of Operations	No material changes.	66

Sub-Section/Topic	Material Differences Between 2018 FBO Guidance and Proposed Guidance	Page Number
	VII. Group Resolution Plan	
	No material changes.	66
	VIII. Legal Entity Rationalization and Separability	
Legal Entity Rationalization Criteria	No material changes.	66
Separability	The 2018 FBO Guidance required the named firms to conduct a separability analysis and identify discrete U.S. operations which could be sold or transferred in resolution. The named firms were required to maintain a data room with analysis on the U.S. operations to facilitate buyer due diligence and refresh such analysis annually. The Proposed Guidance requires the Specified FBOs to have the capability to populate a data room with information on each potential divestiture in a timely manner, but not continuously maintain a data room with such information. The Proposed Guidance also requires the Specified FBOs to consider additional detail in the separability analyses, such as the potential consequences for U.S. financial stability of executing each separability option. The amount of detail and analysis will vary depending on the Specified FBO's risk profile.	67
	IX. Derivatives and Trading Activities	
Capabilities	The 2018 FBO Guidance required the named banks to have: • a developed booking practice with capabilities to track and monitor market, credit and liquidity risk transfers between legal entities; • the ability to provide transparency into the risks associated with derivatives trading, including on a legal entity basis by U.S. broker-dealers, banks and other derivatives trading entities; and • the capacity to facilitate the transfer of prime brokerage accounts to peer prime brokers and include an assessment of how they would complete such transfers.	N/A

Sub-Section/Topic	Material Differences Between 2018 FBO Guidance and Proposed Guidance	Page Number
	The *Capabilities* subsection in the 2018 FBO Guidance was replaced in its entirety in the Proposed Guidance by the subsections *Booking Practices, U.S. Activities Monitoring* and *Prime Brokerage Customer Account Transfers* described below.	
Stabilization	The Proposed Guidance would eliminate the requirements in the 2018 FBO Guidance that a resolution plan include rating agency playbooks and agency-specified data templates and would therefore delete the *Stabilization* subsection.	N/A
Passive Wind-Down Analysis	The Proposed Guidance would eliminate the requirement in the 2018 FBO Guidance that a resolution plan include a passive wind-down analysis and would therefore delete the *Passive Wind-Down Analysis* subsection.	N/A
Active Wind-Down Analysis	The Proposed Guidance would eliminate the requirement in the 2018 FBO Guidance that a resolution plan include an active wind-down analysis and would therefore delete the *Active Wind-Down Analysis* subsection.	N/A
Residual Derivatives Portfolio	The Proposed Guidance would eliminate the requirement in the 2018 FBO Guidance that a resolution plan include an active wind-down analysis and would therefore delete the *Residual Derivatives Portfolio* subsection, which required the named firms to perform risk analysis on residual portfolios that remained following the active-wind down period.	N/A
Non-surviving Entities	The Proposed Guidance would eliminate *Non-surviving Entities* as a separate subsection and include its requirements under the new subsection *Derivatives Stabilization and De-risking Strategy* (please see further discussion below).	N/A
Booking Practices	The Proposed Guidance would add a new *Booking Practices* subsection and require a Specified FBO to have a booking framework that includes derivatives and trading entity analysis and reporting for its derivatives and trading activities ("DER") that are (i) related to its CBL or critical operations, (ii) conducted on its behalf or on behalf of its clients or counterparties that are originated from, booked into, traded through or otherwise conducted (in whole or in material part) in a U.S. entity or (iii) both of the foregoing.	68

Sub-Section/Topic	Material Differences Between 2018 FBO Guidance and Proposed Guidance	Page Number
U.S. Activities Monitoring	The Proposed Guidance would add a new *U.S. Activities Monitoring* subsection and require a Specified FBO to establish a monitoring framework for U.S. DER that includes at a minimum methods to: • identify, measure, monitor and report on U.S. DER on a business line and legal entity basis; and • identify, assess and report the potential impact on clients, counterparties of the U.S. entities that conduct the U.S. DER and any related risk transfer arrangements among U.S. entities and their non-U.S. affiliates.	71
Prime Brokerage Customer Account Transfers	The Proposed Guidance would maintain the general requirements from the 2018 FBO Guidance regarding facilitating transfers of U.S. prime brokerage accounts to peer prime brokers and create a new subsection devoted specifically to such transfers. The Proposed Guidance would clarify that the guidance applies to client accounts of the Specified FBO's U.S. prime brokerage business, regardless of where those positions or balances are booked. The Proposed Guidance would also add a new requirement that a Specified FBO must be able to segment U.S. prime brokerage accounts based on characteristics that determine the speed at which accounts could be transferred.	72
Portfolio Segmentation	The Proposed Guidance would add a new subsection and requirements that a Specified FBO have system capabilities that would allow it to produce a portfolio segmentation analysis using multiple segmentation dimensions for each U.S. entity with a derivatives portfolio, including: • trading desk or product; • cleared vs. clearable vs. non-clearable trades; • counterparty type; • currency; • maturity; • level of collateralization; and • netting set.	73

<table>
<tr><th>Sub-Section/Topic</th><th>Material Differences Between 2018 FBO Guidance and Proposed Guidance</th><th>Page Number</th></tr>
<tr><td>Derivatives Stabilization and De-risking Strategy</td><td>The 2018 FBO Guidance required the named banks’ resolution plans to address the following in regards to their U.S. IHC derivatives subsidiaries that would continue after the U.S. IHC entered bankruptcy proceedings:
use of rating agency playbooks;
active and passive wind down analysis;
the risks of any residual derivatives portfolios in regards to U.S. IHC derivatives subsidiaries; and
a non-surviving U.S. IHC derivatives subsidiary analysis, if applicable.
Under the Proposed Guidance, to the extent a Specified FBO’s U.S. resolution strategy assumes the continuation of a U.S. IHC subsidiary with a derivatives portfolio after the U.S. IHC enters bankruptcy proceedings, the Specified FBO’s plan should include a detailed analysis of the strategy to stabilize and de-risk the derivatives portfolios of its surviving U.S. IHC subsidiaries that incorporate defined assumptions regarding OTC derivatives market access, early exits (break clauses) and time horizon.

This analysis should take into account:
the starting profile of any derivatives portfolios of each surviving derivatives subsidiary;
the profile and function of the surviving derivatives subsidiaries during the resolution period;
the means, challenges and capacity of the surviving derivatives subsidiary to manage and de-risk its derivatives portfolios;
the financial and operational resources required to effect the derivatives strategy; and
any potential residual portfolio.
Rather than require wind down analysis, the Proposed Guidance would require the forecasts of resource needs of the U.S. IHC subsidiaries to be incorporated into the Specified FBO’s RCEN and RLEN calculations.</td><td>74</td></tr>
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Sub-Section/Topic	Material Differences Between 2018 FBO Guidance and Proposed Guidance	Page Number
	The Proposed Guidance would also require the plan to include: • a method to apply sensitivity analyses to the key drivers of derivatives-related costs and liquidity flows under the Specified FBO's U.S. resolution strategy; • a method for estimating the potential residual derivatives portfolio booked in a U.S. IHC subsidiary under the preferred scenario; and • if applicable, a non-surviving U.S. IHC derivatives subsidiary analysis, which addresses the impacts on funding markets, underlying asset markets, clients and counterparties (including affiliates) and the Specified FBO's U.S. resolution strategy.	
X. Format and Structure of Plans		
Format of Plan	The Proposed Guidance adds Section X, noting, in materially similar language to the Guidance for 2013 §165(d) Annual Resolution Plan Submissions by Foreign-Based Covered Companies that Submitted Initial Resolution Plans in 2012 ("2013 Guidance") that a resolution plan should contain: • 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; • a narrative strategic analysis (the "Narrative"), including how each Specified FBO is addressing key vulnerabilities identified by the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation; • appendices containing sufficient detail and analysis to substantiate and support the resolution strategy described in the Narrative; • a public section and confidential section; and • any other informational requirements from the resolution planning rules, though the Specified FBOs may incorporate by reference previously submitted information.	78
Guidance Regarding Assumptions	The Proposed 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. A firm may assume that its depository institution will have access to the Federal Reserve's Discount Window for a few	79

Sub-Section/Topic	Material Differences Between 2018 FBO Guidance and Proposed Guidance	Page Number
	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.	
Financial Statements and Projections	The Proposed 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.	80
Material Entities	The Proposed Guidance updates from the 2013 Guidance a list of types of entities that *should* be considered MEs, including subsidiaries, branches and agencies significant to the activities of a critical operation or CBL 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.	81
XI. Public Section		
	The Proposed Guidance adds a new requirement that a Specified FBO include in the public section of its resolution plan a broad explanation of how it has addressed deficiencies and other key vulnerabilities identified in prior resolution plan submissions.	82