ALERT MEMORANDUM

Judgment on 2015 Domestic First Wave Resolution Plans: Five Deemed "Not Credible", and Along with Mixed Progress Comes a More Prescriptive Process

April 29, 2016

On April 13, the Federal Reserve and the FDIC (the "Agencies") provided feedback on the 2015 resolution plans ("2015 Plans") filed by the eight "First Wave" domestic filers, and issued guidance to govern their 2017 resolution plans. For the first time, the Agencies jointly determined under their resolution planning rule[1] that resolution plans were "not credible"—making that finding on the 2015 resolution plans of five of the eight First Wave domestic filers. This Alert provides an analysis of the key takeaways, as well as an overview of the assessment framework, the key themes of the Agencies' credibility determinations, and the implications for these and other resolution plan filers.

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Key Takeaways

— **What It Means**. The Agencies determined that all U.S. First Wave filers must make significant improvements, but that substantial progress has been made. By October 1, 2016, the five filers with 2015 plans deemed "not credible" must file a submission addressing the identified "deficiencies", while the other three filers must provide a status report on their actions to address the identified "shortcomings".[2] All filers must file a public section by October 1, 2016, discussing their corrective actions. The next full resolution plans will be due on July 1, 2017.

[1] 12 C.F.R. pts. 243 and 381.

[2] As used in the feedback and new Resolution Plan Assessment Framework, a "deficiency" is an issue that is significant enough to justify a "not credible" determination, while a "shortcoming" requires improvement but does not require such a determination. No precise definition of either term is offered.

— **What It Does Not Mean**. The Agencies did not conclude that the U.S. First Wave filers are "Too Big to Fail" or that they cannot meet the regulatory standard in the future. The Agencies' "not credible" determinations simply express their current view that those specific resolution plans have gaps that must be addressed to achieve an orderly resolution under the Bankruptcy Code. Even if the resolution plans were inadequate, the Dodd-Frank Act provided a back-up framework in Title II—the Orderly Liquidation Authority—to prevent future bail-outs. The April 13th determinations simply address the progress of planning under the Bankruptcy Code, and say nothing about resolvability under Title II.

— **Strong Preference for SPOE for Domestic First Wave**. The Agencies included detailed guidance for the U.S. First Wave filers' 2017 resolution plans (the "2017 Guidance") that imposes increasingly prescriptive requirements focused on implementation of a Single Point of Entry ("SPOE") strategy.[3] As discussed in prior Alert Memoranda, an SPOE strategy posits the insolvency only of the parent holding company, while operating subsidiaries remain open.[4] These prescriptive requirements emphasize: (i) legal entity rationalization ("LER") focused on resolvability concerns, (ii) internal and external capital and funding relationships, including pre-positioning of capital (through internal total loss absorbing capacity ("TLAC") or contributable resources) and liquidity, and (iii) structured decision-making based on specific triggers all apparently designed to achieve the SPOE strategy. In effect, the SPOE strategy now governs both resolution plans under Title I and Title II of the Dodd-Frank Act, as well as the approach to many components of supervision for the largest bank holding companies. These prescriptive requirements may improve resolvability under an SPOE strategy, but there is a risk that a narrow focus on restructuring debt, equity, legal entity and operational models in a single pattern may reduce operational flexibility and even decrease resiliency in unforeseen future stress scenarios. There is no question that the combined commands for resolution planning and supervisory oversight represent the most prescriptive and intrusive supervisory approach yet seen.

— **Continuing Emphasis on Greater Granularity in Analyses of Liquidity, Capital, Governance, and Operational Capabilities**. The Agencies continue to heighten the required standards for key elements of the plans, including liquidity analyses, shared services continuity and triggers for escalating responses to stress. The feedback letters and the 2017 Guidance are moving towards standards that require First Wave filers to demonstrate the ability to operationalize their resolution plans at a very detailed, almost step-by-step, level.

— **Implications for Other Filers**. Although First Wave foreign banking organization ("FBO") filers are still awaiting feedback on their 2015 plans, that feedback quite likely will be based on the assessment framework described below for First Wave filers. It would be reasonable to defer further submissions in 2016 for FBO filers while they implement the intermediate

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3 Agencies, Guidance for 2017 §165(d) Annual Resolution Plan Submissions By Domestic Covered Companies that Submitted Resolution Plans in July 2015 (Apr. 13, 2016), https://www.fdic.gov/news/news/press/2016/pr16031b.pdf.

4 See Cleary Gottlieb, FDIC and Bank of England Signal Significant Cooperation on Resolution Issues in Joint Paper Describing "Single Point of Entry" Resolution of a Cross-border SIFI (Jan. 2, 2013); Cleary Gottlieb, FDIC's Notice on "Single Point of Entry Strategy" Provides Additional Details While Raising Important Issues for Future Clarification (Dec. 18, 2013).

holding company ("IHC") requirements that will affect their resolution plans. However, that seems unlikely.

While it remains unclear the degree to which the 2017 Guidance and feedback will govern the guidance to be provided to Second and Third Wave filers, points of emphasis from the feedback (such as liquidity, governance and the need for additional granularity of data in many areas) are likely to be central to the feedback to the Second Wave filers. Based on recent trends, it is likely that Second Wave filers will also have to comply with many of the 2017 Guidance elements applied to First Wave filers. It is likely that Third Wave filers will need to address many of the same issues but with considerably less detail and fewer granular requirements given the absence of systemically important operations at these filers.

Agencies' Assessment Framework and Additional Guidance

— **Assessment Framework**. The assessment framework and the 2017 Guidance described below provides the most detailed description to date of the assessment framework that the Agencies used in the credibility determinations and provides information about their own review processes.[5] The Agencies focused on filers' demonstrating their ability to finance resolution, oversee the resolution process and implement their plans. This new transparency is consistent with the recommendations for greater transparency in the report recently issued by the Government Accountability Office ("GAO")on resolution planning that was released just one day before the release of the Agencies' feedback—as well as the Agencies' professed agreement with those recommendations.[6]

The seven key elements of the assessment framework are:

- Capital;
- Liquidity;
- Governance Mechanisms;
- Operational Capabilities;
- Legal Entity Rationalization;
- Derivatives and Trading Activities; and
- Responsiveness (i.e., compliance with prior feedback).

An excerpt of the Agencies' description of these elements is included in Appendix A.

— **2017 Guidance**. The 2017 Guidance provides further details about the additional requirements for the 2017 and future First Wave resolution plans. This new guidance builds

5 Agencies, Resolution Plan Assessment Framework and Firm Determinations (2016) (Apr. 13, 2016) (the "2016 Assessment"), https://www.federalreserve.gov/newsevents/press/bcreg/bcreg20160413a2.pdf.

6 GAO, GAO-16-341, Resolution Plans: Regulators Have Refined Their Review Processes but Could Improve Transparency and Timeliness (Apr. 12, 2016) ("GAO Report"), http://www.gao.gov/assets/680/676497.pdf. The GAO noted that the lack of full disclosure of the framework for reviewing plans and identifying deficiencies, caused filers to "lack key information for assessing and improving their plans" and could "undermine the public's confidence in the resolution planning process." See GAO Report at 29. Other recommendations and highlights of the GAO Report are discussed below.

upon prior guidance for the filers' 2013 plans,[7] individual feedback letters issued to them in August 2014 with respect to their 2013 plans, as well as a subsequent "communication" in 2015. However, while the 2017 Guidance, which is described further below, is a more detailed and focused elaboration on many of the standards in the August 2014 feedback letters, it also reflects an evolution of the Agencies' guidance from the five impediments identified in the 2013 Guidance to more operationally-specific requirements that mandate more rigidly defined processes for responding to stress and implementation of the resolution strategy.

Assessment of Domestic First Wave Filers

The Agencies divided domestic First Wave filers into three groups, articulated the scope of the 2016 and 2017 plan submissions and changed the deadline for the 2016 submission from July 1, 2016, to October 1, 2016.

— **Bank of America, Bank of New York Mellon, JPMorgan Chase, State Street and Wells Fargo**

- Their 2015 resolution plans were determined by the Agencies to be "not credible" or not able to "facilitate an orderly resolution under the U.S. Bankruptcy Code". Wells Fargo's "not credible" determination was particularly surprising given its positive feedback on its 2014 plan. There was considerable variation between the five, even within the elements in which they were found deficient. These five filers must provide a targeted submission by October 1, 2016 that addresses the deficiencies identified by the Agencies. These filers are not required to file a "full submission" of their resolution plan until July 1, 2017. The 2017 submission must also address the identified shortcomings.

— **Goldman Sachs and Morgan Stanley**

- Because the Agencies did not agree as to whether the plans of these two filers were deficient, the joint letters sent to these filers identified shortcomings that need to be addressed in their 2017 plans. However, by October 1, 2016, they are required to provide a status report on their actions to address the specified shortcomings and a public section explaining, at a high level, their action plans to address those issues.

— **Citigroup**

- Neither regulator identified deficiencies in Citigroup's plan. Citigroup's 2016 and 2017 filing requirements are the same as those for Goldman Sachs and Morgan Stanley.

In each instance, as discussed above, filers with deficiencies are required to take the actions necessary to address those deficiencies by October 1, 2016, and the shortcomings of all filers must be addressed by July 1, 2017. If deficiencies are not addressed in the submission by

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7 Agencies, Guidance for 2013 §165(d) Annual Resolution Plan Submissions by Domestic Covered Companies that Submitted Initial Resolution Plans in 2012 and Guidance for 2013 §165(d) Annual Resolution Plan Submissions by Foreign-Based Covered Companies that Submitted Initial Resolution Plans in 2012 (collectively, the "2013 Guidance") (Apr. 15, 2013), https://www.federalreserve.gov/newsevents/press/bcreg/20130415c.htm. See also Cleary Gottlieb, Key Takeaways from Guidance to First-Round Filers on 2013 Resolution Plan Submissions: Deadline Extended, Significant Additional Content and Revised Format Requested (Apr. 23, 2013); Cleary Gottlieb, Federal Reserve and FDIC Require First Wave Filers to Show "Significant Progress" on Specific Shortcomings for 2015 Resolution Plans (Aug. 11, 2014).

October 1, 2016, the Agencies have the authority to impose further, more stringent prudential requirements, including increasing capital and liquidity requirements. In some cases, there is a tremendous volume of additional analyses and reconsideration of components of the plans that must be completed before October 1, 2016. In others, the perceived "gap" is smaller and, accordingly, less work is required before the deadline.

From the perspective of improving the resolution planning process by focusing on the most significant impediments to resolvability, the feedback letters and 2017 Guidance are a step forward. For progress to be made, a focused attention on gaps is essential rather than insistence on a regurgitation of massive volumes of changeable information. Many of the improvements are likely to take longer than the five months remaining before October 1st. Hopefully, the process will be allowed to continue and not be controlled by specific, but otherwise meaningless, deadlines.

Plan Improvements

In both the 2016 Assessment and the individual feedback letters, the Agencies recognized that there have been "important changes to the structure and operations" of these firms, which may improve their resolvability. The common improvements were:

- Adherence to the 2015 ISDA Universal Resolution Stay Protocol;
- Maintenance of substantial amounts of long-term debt at the holding company level, which could be used to absorb losses and to recapitalize a firm's operating entities in the case of failure, ahead of the finalization of the Federal Reserve's proposed rule on TLAC (the "Proposed TLAC Rule");[8]
- Enhancements to ensuring operational continuity by strengthening the contractual and structural arrangements between affiliates who provide shared services, as well as by amending key vendor contracts to require those key vendors to continue to provide services so long as the filer continues to pay for those services and meet other contractual obligations;
- Reductions in the number of legal entities and, in some instances, further rationalizations of filers' corporate structures and proposals to do so further; and
- Enhanced ability to monitor and track liquidity needs, as well as improvements in overall capital position, funding structure and/or liquidity capabilities, including levels of high quality liquid assets ("HQLA") for all eight filers.
  - The industry generally has been reporting already increased capital and liquidity available as "buffers" to meet future losses. The ability to meet potential future losses will continue to increase as net stable funding ratio, liquidity buffer and TLAC requirements are fully implemented.

[8] Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations; Regulatory Capital Deduction for Investments in Certain Unsecured Debt of Systemically Important U.S. Bank Holding Companies, 80 Fed. Reg. 74,926 (proposed Nov. 30, 2015) (to be codified in 12 C.F.R. pts. 217 and 252).

Deficiencies and Shortcomings

A summary of each firm's deficiencies and shortcomings within each of the elements (if any) is included in a table in Appendix B. The discussion below highlights the principal common areas of concern identified by the Agencies, as well as certain notable filer-specific issues.[9] In some instances, these related to specific requirements laid out in the August 2014 feedback letters (and subsequent 2015 "communications") to First Wave filers. The 2016 feedback letters also specified remediation and mitigation actions that the Agencies expect First Wave filers to address.

— **Capital**. Although the Agencies have emphasized the criticality of capital, particularly the availability of capital to recapitalize entities as required under certain resolution strategies, they identified a deficiency related to capital only in the case of State Street.

- The Agencies found that State Street's plan lacked a sufficient plan to recapitalize material entities ("MEs") at the point of resolution because, as submitted, the plan does not reflect well-capitalized positions at all times during the resolution period.
- Also, certain assumed reductions in risk-weighted assets were not adequately supported. The Agencies expect plans to demonstrate sufficient capital to recapitalize MEs only in cases where a strategy requires such recapitalization.
- The 2017 Guidance shows that future capital analyses must focus on "appropriate positioning of additional loss-absorbing capacity within the firm (internal TLAC)".[10] The Agencies note that such internal TLAC could be achieved by holding recapitalization resources at the subsidiary or at the parent, but that firms should not rely exclusively on either option. As described in the 2017 Guidance, contributable resources from the parent will require structured capital contribution agreements ("CCAs"), also referred to as a contractually binding mechanism ("CBM"), in order to meet the governance standards that require specific triggers linked to escalating stress that permit the recapitalization of subsidiaries before the parent's failure. This illustrates the close relationships between the different assessment elements. Here, the capital and liquidity requirements are tied closely to the requisite structured governance framework.
- Aside from the granular and prescriptive nature of the 2017 Guidance, the capital standard is notable because it effectively imposes an "internal TLAC" requirement through the resolution planning process. In contrast, the Proposed TLAC Rule included questions about whether internal TLAC should be required for domestic G-SIFIs and sought public

9 While there were no deficiencies or shortcomings for any firm formally described in the letters under a "responsiveness" category, the Agencies discussed in sections on firms' progress-to-date positive responsiveness to prior feedback. On the other hand, the Agencies' perception of a lack of responsiveness certainly appeared to factor into deficiencies and shortcomings in the other elements where the Agencies made determinations that the firms had made insufficient progress. The 2016 feedback letters to all filers reminded them that their 2014 feedback letters explicitly stated that failure to make demonstrable progress in addressing shortcomings and taking actions required by the 2014 letters could result in a "not credible" determination.

10 See 2017 Guidance at 4.

comment.[11] By imposing an equivalent requirement through the resolution plan feedback, and even more explicitly in the 2017 Guidance, the Agencies have effectively determined to require internal TLAC without further notice and comment.

— **Liquidity**. The Agencies articulated two distinct areas of weaknesses with respect to liquidity. In considering the feedback on liquidity, it is important to focus on the combined goal that the Agencies expressed for these analyses: to ensure that liquidity needs and sources are realistically assessed for each ME, and that liquidity is positioned so that it can be used when needed. As with capital, the feedback—and even more so the 2017 Guidance—represent a strong preference for specific triggers designed to ensure that sufficient liquidity is available where and when needed. This obviously involves both very detailed analyses of liquidity needs and resources, but also careful calibration of the triggers incorporated into governance playbooks to balance availability of liquidity along with some degree of flexibility so that management can assess needs in particular scenarios and make sure resources are made available. The feedback and 2017 Guidance appear to give much more weight to pre-planned playbooks, and much less to the need for flexibility.

- ***Resolution Liquidity Adequacy and Positioning ("RLAP")***. Three filers made assumptions about their ability to shift substantial amounts of liquidity across the group in times of severe stress. The Agencies found these assumptions to be unsupported, as their RLAP model and processes did not appropriately or fully address stresses at MEs or potential impediments to shifting resources, such as international ring-fencing. In addition, the Agencies identified weaknesses in the ability of certain filers to estimate and maintain sufficient and readily available liquidity at MEs, and the Agencies found that models for estimating liquidity needs of such entities in resolution were inappropriate or inadequate. As a result, these filers are being required to provide significantly more detailed and granular information about liquidity.
  - The 2017 Guidance provides more details on the Agencies' expectations for RLAP models, including that they should allow the filers to determine the standalone liquidity position of each ME, that the model should cover at least 30 days, and that it should be tailored to the firm's liquidity profile and risk. In addition, models should account on a daily basis for contractual mismatches between inflows and outflows, flows from interaffiliate transactions, and stressed liquidity flows and trapped liquidity.
  - Similarly to the pre-positioning of capital resources described above, the RLAP model should balance liquidity needs of MEs (by pre-positioning resources) with the flexibility of holding HQLA at the parent.
- ***Resolution Liquidity Execution Need ("RLEN")***. The Agencies view a robust RLEN model as key to estimating and maintaining sufficient liquidity for ME. Six filers either lacked appropriate RLEN models and processes, or had weaknesses in their models and processes. These included:
  - Insufficient cash flow analysis for MEs (particularly daily cash flows);

[11] In the Proposed TLAC Rule, the Federal Reserve stated that it had not determined whether to impose internal TLAC requirements on domestic bank holding companies. See 80 Fed. Reg. at 74,948-49 (VI. Consideration of Domestic Internal TLAC Requirement, including Questions 64 and 65).

    - Failure to address effects that inter-affiliate transactions and arrangements could have on liquidity flows;
    - Insufficient analysis on the liquidity needs of MEs;
    - Insufficient support for liquidity assumptions; and
    - Insufficient support for stated intraday credit needs post-resolution.

The 2017 Guidance provides more detail on the RLEN model requirements as well, including the requirement to assess intraday funding needs, minimum operating liquidity for each ME, and estimates of peak funding needs.

— **Governance**. The First Wave filers were required to "identify the governance mechanisms in place or in development that would ensure execution of the required board actions at the appropriate time" under the filer's preferred resolution strategy.

- The additional governance requirements have become increasingly prescriptive and would appear to reduce the ability of individual filers to tailor their governance mechanisms in stress to their corporate structure and the preferred resolution strategy.
    - This may reflect a preference by the Agencies for a one-size-fits-all resolution strategy, or at least a one-size-fits-all approach to evaluating the sufficiency of resolution plans. Many of the governance requirements are tied specifically to a filer's SPOE strategy so that prescribed recapitalization measures or liquidity injections can be made prior to the parent holding company's bankruptcy filing.
    - The Agencies are requiring governance procedures that include triggers, many of which are so-called "hard triggers", to inject capital and liquidity into MEs when specific thresholds are reached. As a result, the "governance playbooks" of necessity are required to be more specific and more regimented.
    - However, the Agencies found that filers' governance playbooks and plans generally did not include appropriately calibrated triggers for escalating action on necessary recovery and resolution events and the Agencies indicated that, in many instances, the playbooks needed more specificity.
- The trigger mechanisms (including (i) trigger events, (ii) actions required when the trigger event occurs, and (iii) procedures for taking such required actions) were required to address:
    - Escalating information to the board in order to take resolution actions;
    - Injecting capital and liquidity into MEs;
    - Specific actions for timely execution of bankruptcy filings; and
    - Directly connecting liquidity and capital needed to execute an SPOE strategy with the decision to file for bankruptcy.
- In the case of Wells Fargo, the Agencies found a deficiency in the firm's governance review and challenge process, based on identified errors in the submitted financial information. The particular focus stated in the letter was to ensure careful review of modeling and analyses through the governance processes. Significantly, the deficiency

was based on the failure to identify the error before filing the 2015 resolution plan even though a corrected filing was made.

- The Agencies noted that some filers are developing CCAs as a means of recapitalizing certain subsidiaries prior to bankruptcy. The CCAs are a contractual means for providing for the recapitalization of subsidiaries by the parent holding company. In effect, these agreements—which are also referred to broadly as CBMs—achieve the goals of internal TLAC.[12] The recapitalization of the parent holding company would be accomplished through external TLAC. As noted above in our discussion of "Capital", the Agencies have effectively imposed an internal TLAC requirement on the eight U.S. domestic First Wave filers by requiring a balance of pre-positioned internal TLAC at MEs and contributable resources at the parent.
- Several filers failed to meet the Agencies' expectations regarding detailed legal analysis of potential state law and bankruptcy law challenges (and mitigants to these challenges) to the planned provision of liquidity and capital to subsidiaries prior to bankruptcy.
- In the 2017 Guidance, the Agencies provided details on:
  - Additional requirements for the governance playbooks beyond those noted as deficiencies and shortcomings in the feedback letters. For example, the discussion of triggers is broadened to encompass the relationships between those triggers relating to escalation of information to senior management, successful recapitalization of MEs, and the timely execution of pre-filing and bankruptcy actions. This is designed to incorporate holistically the required capital, liquidity, services, and operational analyses supporting the resolution plan into a fairly prescribed process for execution of the resolution plan;
  - Further considerations in designing the triggers, which should be based on capital, liquidity and market metrics, and structured so that they dovetail to achieve necessary and timely action to make the resolution plan implementable; and
  - The importance of including a detailed legal analysis of the potential state law and bankruptcy law challenges to the ability to timely provide liquidity and capital to MEs prior to the parent's bankruptcy filing. This analysis should, appropriately, address the potential for claims of fraudulent transfer, preference, and breach of fiduciary duty.

— **Operational Capabilities**. The Agencies focused on two areas: continuity of services and demonstrated operational capabilities related to implementing a bridge bank resolution.

- ***Shared Services***. The Agencies indicated that previous feedback and communication had emphasized the importance of a number of operational issues, including establishing service level agreements ("SLAs") and contingency arrangements to ensure operational continuity of critical operations.
  - The Agencies concluded that several filers did not provide sufficient actionable details about shared services, including identification, mapping, substitutability and plans to address operational risks—and, in some cases, had not even fully identified shared services or implemented their plans for continuity of shared services supporting critical operations.

12 See 2017 Guidance at 11.

- ***Bridge Bank Strategies***. In addition, two filers are being required to provide more support for assumptions related to executing a bridge bank strategy. The issues for which deficiencies were identified were specific to the two filers, but certainly reflect the Agencies' attention to the details affecting whether the strategies can be implemented in practice.
  - The Agencies sought additional details to support Wells Fargo's strategy of dividing the bridge bank into regional units as part of the bridge bank exit strategy. Historically, such branch break-up strategies have been recognized by the FDIC as posing difficult operational challenges, though the FDIC has used such strategies in the past. The Agencies' challenge to the strategy simply reinforces their focus on implementable strategies that consider all of the difficulties in executing the chosen strategy.
  - The Agencies also sought additional details from BNY Mellon about its bridge bank strategy, which focused on the proposed simultaneous failure of two insured depositary institutions and their merger into a single bridge bank. The Agencies questioned the simultaneous failure assumption because one institution had a significant equity cushion compared to its affiliate and whether that affiliate would continue to provide critical services.
  - The Agencies also focused on least cost issues, particularly involving foreign deposits, and the transfer of custodial assets into a bridge bank. On both issues, the Agencies sought additional, operational details to demonstrate the feasibility of the plan.
- ***Other Operational Shortcomings***. These included failures to:
  - Provide support for the feasibility of a short runway period and the assumption that interactions with regulators in all jurisdictions would support recapitalization;
  - Provide a sufficient basis for the assumption that a bankruptcy court would issue an order meeting the DIP Stay Condition as defined in the 2014 Resolution Stay Protocol (as amended by the 2015 ISDA Universal Resolution Stay Protocol); and
  - Identify all material outsourced services that support critical operations that cannot be promptly substituted. The Agencies required that, once the services were identified, the relevant agreements governing those services should be evaluated to determine whether they were "resolution resilient"—in effect, would they continue to provide for these services after a bankruptcy filing if the recipient continued to make required payments.

The Agencies provided additional details about the operational standards that must be met in the 2017 Guidance. Requirements include:

- ***Payments, Clearing, and Settlement Activities***. The Agencies expect greater detail on precisely how the filers will meet their contractual obligations to ensure continued access to financial market utilities ("FMUs"). These details should address margin and collateral requirements throughout the runway and resolution periods, taking into consideration volume and value data for each FMU in stress scenarios and the potential need to take contingency actions, including pre-positioning of additional liquidity, limiting intraday credit provisions to clients, and requiring client pre-funding;
- ***Collateral***. The Agencies provided detailed expectations for the 2017 plans related to the management, identification, and valuation of collateral. These included the ability to

query and provide information for all qualified financial contracts with cross-default clauses, track collateral sources and uses at a CUSIP level, track and report on interbranch collateral, and have a comprehensive collateral management policy to serve as a source for governance of a firm-wide policy;

- ***Management Information Systems ("MIS")***: MIS infrastructure projects should be complete by July 2017, with the capabilities needed to readily produce data on a legal entity basis. Filers should analyze the specific types of data necessary to execute their strategies and how frequently such information would be required;
- ***Shared and Outsourced Services***. Filers should continue to develop a plan to ensure continuity of shares services by identifying all shared services, mapping how they support core business lines and critical operations, incorporating the mapping into the filer's LER criteria and implementation and mitigating continuity risks by establishing resolution-resilient SLAs. Similarly, the filers should continue to identify all critical outsourced services that cannot be promptly substituted and "update contracts" to make them resolution-resilient as well;
- ***Legal Obstacles Associated with Emergency Motions***. Under the 2015 ISDA Universal Resolution Stay Protocol, in order to meet the stay conditions when the affiliate entering bankruptcy has provided credit enhancement, a firm must file a motion for emergency relief on the first day of its bankruptcy case. The Agencies expect detailed analysis of legal issues surrounding such a motion. In this context, the Agencies are requiring that filers identify potential issues that could arise on the "first day" and early stages of the resolution, and how those issues could reasonably be addressed. These analyses must address legal and operational obstacles, including precisely how a "Bankruptcy Bridge Company" option (as defined in the 2015 ISDA Universal Resolution Stay Protocol) or an option for an affiliate to remain obligated could be implemented. In addition, the 2017 Guidance requires a detailed explanation to ensure that key domestic and foreign regulators will support, or not object to, the emergency motion, as well as an analysis of potential contingencies if the preferred approach fails.

— **Legal Entity Rationalization**. The Agencies found that the LER criteria designed to support resolvability were not specific enough to guide management to use them meaningfully to improve resolvability. Although this was an area in which the Agencies had noted "progress-to-date" generally, half of the filers were found to be deficient in their LER criteria. Feedback for some firms indicated that the LER criteria for selecting a legal entity structure lacked specificity, had not been entirely implemented, and/or focused on business-as-usual activities rather than on resolvability.

The Agencies have clearly determined that the LER criteria must put resolvability first over normal business considerations. Resolvability must be the central priority, even if the resulting structure maximizes resolvability but is suboptimal in normal operating conditions.

The Agencies have required that filers increase liquid assets available to subsidiaries through a combination of pre-positioning liquid assets with subsidiaries (for example, through CCAs) or holding recapitalization resources at the parent. The rigidity of the options, and their ties to specific triggering events, could have the effect of reducing flexibility to respond to developing stress events. The pendulum appears to have firmly swung towards resolvability rather than efficiency and resiliency of operations—which could ossify the filers' corporate structure, creating a risk that the resulting entity may be more brittle and less resilient.

In the 2017 Guidance, the Agencies discussed the outcomes that would result from an application of the LER criteria in line with their expectations. The resulting structure should:

- Facilitate recapitalization and liquidity support of MEs, incorporate clean lines of ownership and funding with minimal use of multiple IHCs, and minimize complexity;
- Allow for a rapid sale, transfer, or wind-down of discrete operations (and the firm should identify these separable, discrete operations that could be transferred or sold in resolution);
- Protect insured depository institutions from risks arising from nonbank subsidiaries within the firm (other than their own subsidiaries); and
- Minimize complexity that could impede an orderly resolution as well as minimizing redundant or dormant entities.

In relation to applying such LER criteria, the Agencies specifically note that filers should identify discrete operations that could be sold in different market conditions. Notably, the analysis should include "carve-out financial statements, valuations analyses, and a legal risk assessment." This level of detail is only emphasized by the requirement that filers establish a data room to collect and refresh annually the data pertinent to a potential divestiture.

— **Derivatives and Trading Activities**. Five filers were found to have weaknesses in this area—generally in relation to a lack of specificity regarding winding down derivative portfolios and a failure to address material financial interconnections between broker-dealers and banks with in a firm.

- Only JPMorgan Chase, however, was found to be deficient in this area—it was criticized for providing assumptions rather than analysis regarding its ability to implement a wind-down strategy. In its October submission, JPMorgan Chase is required to complete the Derivative Data Table template ("Derivative Template") developed by the Agencies and appended to certain feedback letters, as well as to the 2017 Guidance.
- The Derivative Template is also required to be completed by Bank of America, Citigroup, Goldman Sachs and Morgan Stanley in their 2017 plans.
- Essentially, the Agencies are directing the filers to provide additional support for any assumptions made regarding availability of sufficient liquidity to conduct the wind-down of derivative portfolios as set out in the plans.

The 2017 Guidance requirements related to Derivatives and Trading Activities apply to dealer firms, which are defined as Bank of America, Citigroup, Goldman Sachs, JPMorgan Chase and Morgan Stanley. The 2017 Guidance requires dealer firms to have the ability to access and provide information on derivatives, supported by well-developed booking practices and tracking and monitoring systems. These filers should also have the operational capability to transfer prime brokerage accounts to peer prime brokers if necessary. Dealer firms are required to have rating agency playbooks designed to maintain or establish investment grade ratings for each trading entity, as well as communication playbooks. Each dealer firm should have plans for passive and active wind-down of derivative portfolios, including estimates of needed financial resources over time and an analysis of the risk portfolio of the residual derivatives portfolio remaining at the end of wind-down, on which the firm would cease performing.

Additional Insights and Observations

— **Responsiveness to the GAO Report**. The additional transparency about their assessment criteria and the changes in submission deadlines would appear to be the Agencies' first step in responding to the GAO's recommendation that the Agencies should be more transparent about their criteria and that both filers and the Agencies be given additional time to prepare and review plans by revising the annual filing requirement. The GAO Report recommended providing sufficient time by extending the annual filing cycle to an every-two-year cycle or by providing at least six months from the date of feedback or guidance to file another plan.[13] The process for resolution plan assessment is itself being reevaluated internally by the Agencies because of the enormous time and resource requirements for the Agencies to assess and provide feedback on the current timetable. There may be further movement away from the annual deadline requirements, with more freedom for the Agencies to provide focused reports on progress on specific issues or impediments while deferring full informational resolution plans to less frequent intervals. Hopefully, more flexibility about the deadlines for filing resolution plans will apply more broadly to all filers in the future.

— **New and Challenging Standards Are Being Set Beyond the Resolution Plan Context**. Through the feedback and the 2017 Guidance, the Agencies are imposing requirements on filers that extend beyond the resolution planning process. As noted above, the Agencies' response to the resolution plans should be viewed as only one component of a changed supervisory and regulatory landscape, certainly for the First Wave filers, but also for filers in the Second Wave and, to a lesser extent, the Third Wave. This landscape, so far, is focused on greater resiliency through higher buffers of capital, debt and liquidity as well as a predominant focus on resolvability.[14] However, other elements of the resolution planning process—such as the focus on legal entity "rationalization", internal TLAC, and playbooks based on specific triggers—evince a sharper focus on actionable resolution plans that may not always promote resiliency. For example, while larger buffers of equity, debt and liquidity are important components of more resilient financial companies, playbooks built around presumed or automatic responses through recapitalization or other deployment of those resources may create a mechanical, but not flexible, set of responses to stress that could lead to significant market reactions and/or company missteps that may exacerbate that stress or impair an optimal response. There is no doubt that the requirements of the feedback letters will impact other regulatory requirements beyond resolution planning; for example, recovery planning.

— **Implications of TLAC/SPOE Focus**. As discussed above, in many ways the feedback appears focused on achieving an SPOE strategy. While this is not surprising considering that many of the First Wave domestic filers have adopted this as their principal strategy,[15] other

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13 See GAO Report at 57.

14 See Federal Reserve, SR letter 14-8, Consolidated Recovery Planning for Certain Large Domestic Bank Holding Companies (Sept. 25, 2014), https://www.federalreserve.gov/bankinforeg/srletters/sr1408.pdf.

15 These are Bank of America, Citigroup, Goldman Sachs, JPMorgan Chase, Morgan Stanley and State Street.

developments (such as the Proposed TLAC Rule) suggest a strong preference for SPOE strategies by the Agencies.

The feedback supportive of a prescribed SPOE strategy included the following:

- A number of firms received criticism in the governance element for failing to include triggers in governance plans and playbooks that would, in certain circumstances, define when the timing for capital and liquidity injections into MEs—a critical element to the successful implementation of an SPOE strategy. The feedback letters also indicated that such triggers should directly connect liquidity and capital needed to execute the SPOE strategy with the decision to file for bankruptcy;
- The six filers whose preferred resolution strategy is an SPOE strategy were instructed to provide more legal analysis of potential bankruptcy and state law challenges to their efforts and approaches to ensure that subsidiaries received sufficient support in terms of financial resources prior to the parent filing for bankruptcy. They were also directed to provide information on potential mitigants to such challenges, including contractually binding mechanisms, prepositioning, and creation of an IHC; and
- The effective requirement for internal TLAC also is indicative of a preference for the SPOE strategy given that TLAC—as structured in the Proposed TLAC Rule—is designed to achieve a top-down recapitalization of troubled subsidiaries.

— **Further Implications for Other Filers**. As noted above, the feedback to the First Wave domestic filers does indicate areas of focus for the regulators that are likely to affect the resolution plan requirements for Second and Third Wave filers as well. The feedback to the First Wave FBO filers is likely to be very similar to that received by the First Wave domestic filers. In addition, it is certainly likely that all or some portions of the 2017 Guidance could be made applicable to the FBO First Wave filers[16] and the Second Wave filers.

Many of the issues raised in the First Wave feedback are related to previous feedback received by the Second and Third Wave filers, while other portions—such as the scripted playbooks and capital and liquidity triggers—are not. While there likely will be significant variations between the rigor applied to review of these issues between the First Wave filers and the Second Wave filers and, particularly, the Third Wave filers, there are common issues that likely will be areas of focus for all filers. These include:

- Detailed analysis of capital and liquidity needs as well as resources to meet operational needs, including intraday and end of day funding needs for MEs in a runway period and in resolution;
- Granular support for the availability of capital and liquidity where required to support the specific resolution strategy;
- Analysis of and actions to promote continuity of shared and third-party services for core business lines during resolution and wind-down, including implementation and contingency plans;

[16] It is likely that the Agencies could tailor the guidance to focus on issues more directly affecting First Wave FBO filers as they did with the 2013 Guidance.

- Progress on identifying all key shared and third-party services and implementation of resolution-resilient SLAs and contingency arrangements between MEs and between MEs and third parties;
- Detailed analyses and support for the steps in a bridge bank and bankruptcy process to demonstrate the capabilities to implement and complete a final sale or other exit from the resolution strategies; and
- Analyses and operational details on transfers of assets to buyers or a wind-down of operations, particularly for derivative and trading activities and customer-facing business lines.

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Appendix A

EXCERPT FROM THE 2016 ASSESSMENT: ELEMENTS FOR 2015 FIRST WAVE DOMESTIC FILER U.S. RESOLUTION PLANS

1. **"Capital**: Firms must be able to provide sufficient capital to material entities to ensure that they can continue to provide critical services as the firm is resolved. They must demonstrate that such support can be provided without disruption from creditors in bankruptcy so that critical operations can be maintained consistent with their strategy.

   The agencies assessed whether the firm had linked its processes for determining when to file for bankruptcy to its estimates of the resources needed to recapitalize its material entities. In assessing a firm's plan in this area, the agencies evaluated whether the firm had enough resources to recapitalize or support all entities needed to execute its plan under its strategy and scenario, including adequate methodologies and supporting analysis. The agencies also considered how the firm had positioned its capital resources to both provide flexibility and mitigate impediments to recapitalizing the subsidiaries.

2. **Liquidity**: Firms must be able to reliably estimate and meet their liquidity needs prior to, and in, resolution. In this regard, firms must be able to track and measure their liquidity sources and uses at all material entities under normal and stressed conditions. They must also conduct liquidity stress tests that appropriately capture the effect of stresses and impediments to the movement of funds. Holding liquidity in a manner that allows the firm to quickly respond to demands from stakeholders and counterparties, including regulatory authorities in other jurisdictions and financial market utilities, is critical to the execution of the plan. Maintaining sufficient and appropriately positioned liquidity also allows the subsidiaries to continue to operate while the firm is being resolved. In assessing the firms' plans with regard to liquidity, the agencies evaluated whether the companies were able to appropriately forecast the size and location of liquidity needed to execute their resolution plans and whether those forecasts were incorporated into the firms' day-to-day liquidity decision making processes. The agencies also reviewed the current size and positioning of the firms' liquidity resources to assess their adequacy relative to the estimated liquidity needed in resolution under the firm's scenario and strategy. Further, the agencies evaluated whether the firms had linked their process for determining when to file for bankruptcy to the estimate of liquidity needed to execute their preferred resolution strategy.

3. **Governance mechanisms**: Firms must have an adequate governance structure with triggers capable of identifying the onset and escalation of financial stress events in sufficient time to allow them to prepare for resolution, and ensure the timely execution of their preferred resolution strategy. In assessing the firms' governance mechanisms, the agencies evaluated the firms' frameworks for boards of directors' and management oversight over resolution planning and their processes to identify stress, escalate information to board and senior management, and determine when to file for bankruptcy.

4. **Operational capabilities**: Firms must maintain significant operational capabilities and engage in regular contingency planning. Specifically, firms must:

   - Possess fully developed capabilities related to managing, identifying, and valuing the collateral that is received from, and posted to, external parties and its affiliates;

- Have management information systems that readily produce key data on financial resources and positions on a legal entity basis, and that ensure data integrity and reliability;

- Develop a clear set of actions to be taken to maintain payment, clearing and settlement activities; and

- Have a fully actionable plan to ensure the continuity of all of the shared and outsourced services that their operations rely on, particularly those that support critical operations.

5. **Legal entity rationalization**: The agencies assessed whether firms had taken adequate steps to simplify or "rationalize" their legal entity structure to facilitate an orderly resolution. This would include the development of criteria to achieve and maintain a structure that facilitates orderly resolution and protects insured depository institutions.

   These criteria should be part of the firm's day-to-day decision making process related to structure. In addition, the agencies evaluated whether the firms had developed actionable options to wind down, sell, or transfer discrete operations to facilitate the execution of their resolution plan under a range of failure scenarios and different market conditions.

6. **Derivatives and trading activities**: The trading activities of the major dealer firms can pose particular challenges to an orderly resolution. Some firms submitted a resolution strategy to maintain solvency and wind-down their US and U.K. broker-dealers and associated trading activities, while other firms submitted a plan to shrink their trading activities. The agencies evaluated these strategies by focusing on the completeness and sufficiency of the supporting analyses, in the context of each firm's broader resolution plan and the impact of its plan on the broader financial system.

7. **Responsiveness**: The agencies expect the firms to take agency guidance into account in developing their future plans. The agencies assessed whether the companies complied with the prior feedback from the agencies in developing their resolution plans."

Appendix B

Summary of Feedback Provided to 2015 Resolution Plans of First Wave Domestic Filers

SUMMARY OF FEEDBACK PROVIDED TO 2015 U.S. RESOLUTION PLANS OF FIRST WAVE DOMESTIC FILERS

		Bank of America	BNY Mellon	Citigroup	Goldman Sachs	JPM Chase	Morgan Stanley	State Street Corporation	Wells Fargo
	Assessment	**Not Credible**	**Not Credible**	**No Assessment**	**Split**	**Not Credible**	**Split**	**Not Credible**	**Not Credible**
Capital	Resolution Capital Execution Need	NA	NA	NA	NA	NA	NA	**(Deficiency)** Lacks sufficient plan to recapitalize MEs at the point of resolution.	NA
Liquidity	Resolution Liquidity Adequacy and Positioning (RLAP)	**(Deficiency)** Failed to demonstrate an appropriate model and process for estimating and maintaining sufficient liquidity at or readily available to MEs in resolution. Funding profile relied on the firm's ability to shift substantial amounts of liquidity around the organization as needed in severe stress.	NA	NA	NA	**(Deficiency)** Failed to demonstrate an appropriate model and process for estimating and maintaining sufficient liquidity at or readily available to MEs in resolution. Funding profile relied on the firm's ability to shift substantial amounts of liquidity around the organization as needed in severe stress.	**(Shortcoming)** Lacks an appropriate model and process for estimating and maintaining sufficient liquidity, at or readily available to, material entities in resolution. Funding profile relied on the firm's ability to shift substantial amounts of liquidity around the organization as needed in severe stress.	NA	NA
Liquidity	Resolution Liquidity Execution Need (RLEN)	**(Deficiency)** Lacks an appropriate model and process for estimating liquidity needs to fund MEs during resolution.	NA	**(Shortcoming)** Weaknesses in model and process for estimating the liquidity needed to fund MEs during resolution.	**(Shortcoming)** Weakness in model and process for estimating the liquidity needed to fund MEs during resolution -lacked appropriately supported liquidity methodology to estimate the amount of liquidity needed in resolution for all MEs.	**(Deficiency)** Lacks an appropriate model and process for estimating liquidity needs to fund MEs during resolution.	**(Shortcoming)** Weaknesses in model and process for estimating the liquidity needed to fund MEs during resolution.	**(Deficiency)** Lacks appropriate model and process for estimating and maintaining sufficient liquidity at, or readily available to, MEs in resolution and to continue supporting the provision of payment, clearing, and settlement.	NA
Liquidity	Intraday Credit	NA	**(Shortcoming)** Failed to adequately address the potential impact of intraday credit demands on the financial markets.	NA	NA	NA	NA	NA	NA
Governance Mechanisms	Playbooks and Triggers	**(Deficiency)** Lacks triggers to inject capital and liquidity into MEs as contemplated under SPOE strategy. Failed to demonstrate progress regarding developing a formal agreement or alternative approach to ensure that all financial resources necessary to execute the strategy would be placed in each ME before parent bankruptcy filing.		**(Shortcoming)** Weaknesses in governance mechanisms necessary to facilitate timely execution of the planned subsidiary funding and recapitalizations because the Trust Structure Playbook lacked detail regarding resolution entry.	**(Shortcoming)** Triggers may not be appropriately calibrated to facilitate successful execution of the firm's resolution strategy. Triggers not tied to the specific actions required to successfully execute the firm's strategy.	**(Deficiency)** Governance playbook lacked triggers linking estimates of the capital and liquidity needed to support MEs in resolution with the timely execution of a bankruptcy filing. **(Shortcoming)** JPMC is dveloping (but yet to implement) a capital contribution agreement to recapitalize certain subsidiaries prior to JPMC's bankruptcy filing.	**(Shortcoming)** Weaknesses in governance mechanisms necessary to facilitate timely execution of the planned funding and recapitalizations of certain MEs.	**(Shortcoming)** Lacked specific triggers at certain stages for escalating information to senior management and Board. Lacked triggers to inject capital and liquidity into MEs as contemplated under the SPOE strategy and/or decision to file for bankruptcy.	NA

		Bank of America	BNY Mellon	Citigroup	Goldman Sachs	JPM Chase	Morgan Stanley	State Street Corporation	Wells Fargo
Governance Mechanisms	Governance Review and Challenge	NA	NA	NA	NA	NA	NA	NA	**(Deficiency)** Material errors call into question the extent to which there was appropriate internal review and coordination with respect to the 2015 Plan prior to its submission.
	Pre-bankruptcy Parent Support	**(Shortcoming)** Limited analysis of the range of potential legal challenges that could adversely affect approach to providing capital and liquidity to the subsidiaries prior to bankruptcy.	NA	**(Shortcoming)** Limited analysis of the range of potential legal challenges that could adversely affect approach to providing capital and liquidity to the subsidiaries prior to bankruptcy.	**(Shortcoming)** Limited analysis of the range of potential legal challenges that could adversely affect approach to providing capital and liquidity to the subsidiaries prior to bankruptcy.	**(Shortcoming)** Limited analysis of the range of potential legal challenges that could adversely affect approach to providing capital and liquidity to the subsidiaries prior to bankruptcy.	**(Shortcoming)** Limited analysis of the range of potential legal challenges that could adversely affect approach to providing capital and liquidity to the subsidiaries prior to bankruptcy.	**(Shortcoming)** Limited analysis of the range of potential legal challenges that could adversely affect approach to providing capital and liquidity to the subsidiaries prior to bankruptcy.	NA
Operational Capabilities	Shared Services	NA	**(Deficiency)** Failed to reflect sufficient progress toward identifying shared services and establishing SLAs and contingency arrangements that are critical to the successful execution of the Bridge Bank strategy.	NA	NA	NA	NA	**(Deficiency)** Failed to demonstrable progress towards developing an actionable implementation plan to ensure continuity of shared services.	**(Deficiency)** Failed to reflect sufficient progress toward identifying shared services and establishing SLAs and contingency arrangements critical to the successful execution of the Bridge Bank strategy.
	Simultaneous Insured Depository Institution (IDI) Failure	NA	**(Deficiency)** Failed to adequately identify the dependencies and operational ties between the Institutional Bank and BNY Mellon Trust.	NA	NA	NA	NA	NA	NA
	Dual Payability/Ring-fencing/Least Cost Test	NA	**(Deficiency)** Future bridge bank strategy must describe a viable option for ensuring foreign deposits would transfer to the bridge bank and still meet the least cost test.	NA	NA	NA	NA	NA	NA
	Transfer of Custodial Assets to the Bridge Bank	NA	**(Deficiency)** Failed to sufficiently address transfer of custodial assets (including foreign deposits) and analyze potential legal (including LCT) and operational issues associated with such transfer.	NA	NA	NA	NA	NA	NA

		Bank of America	BNY Mellon	Citigroup	Goldman Sachs	JPM Chase	Morgan Stanley	State Street Corporation	Wells Fargo
Operational Capabilities	Bridge Bank Exit	NA	**(Shortcoming)** Given the size and lack of market substitutability for BNYM' s government securities clearing and tri-party repo operations would likely be a delay in exiting from Bridge Bank. Plan failed to adequately address the potential "broader impacts to clients and other financial institutions".	NA	NA	NA	NA	NA	**(Deficiency)** Failed to demonstrate that separation and sale under bridge bank exit strategy to separate bank into regional units was sufficiently actionable.
	Contingency Planning for Custodial Accounts	NA	(**Shortcoming**) Did not provide sufficient detail regarding the estimated time needed to transfer its custodial accounts to a third party under BNYM's preferred strategy.	NA	NA	NA	NA	NA	NA
	Claim Bifurcation; Receivership Accounting	NA	**(Shortcoming)** Failed to adequately explain why trading liabilities (and other unsecured liabilities, including foreign deposits unless dually payable in the U.S.)would be transferred to Bridge Bank, including why proposed transfer of such liabilities would be necessary to continue operations essential to the Bridge Bank.	NA	NA	NA	NA	NA	NA
	Financial Statements and Projections	NA	**(Shortcoming)** Financial statements lacked sufficient information to determine accurately what assets and liabilities would transfer into the receivership.	NA	NA	NA	NA	NA	NA
	Operational Feasibility of Short Runway	NA	NA	NA	(**Shortcoming**) Did not support the operational feasibility of the short runway assumed in the 2015 Plan.	NA	NA	NA	NA

		Bank of America	BNY Mellon	Citigroup	Goldman Sachs	JPM Chase	Morgan Stanley	State Street Corporation	Wells Fargo
Operational Capabilities	Failure to identify outsourced services supporting COs that cannot be promptly substituted	NA	NA	NA	NA	(**Shortcoming**) Failed to identify material outsourced services that support COs and could not be promptly substituted.	NA	NA	NA
	Meeting "DIP Stay Condition"	NA	NA	NA	(**Shortcoming**) Did not provide sufficient basis for the assumption that a bankruptcy court would issue an order meeting the "DIP Stay Condition"' as such term is defined in the 2014 Resolution Stay Protocol (subsequently amended by the Protocol).	NA	NA	NA	NA
Legal Entity Rationalization	Legal Entity Rationalization	**(Shortcoming)** Legal entity criteria lacked specificity, are not fully implemented, and do not result in sufficient divestiture options.	**(Deficiency)** Failed to make demonstrable progress in implementing LER criteria.	NA	NA	**(Deficiency)** LER Criteria not appropriately focused on resolution considerations, as many criteria do not mandate or clearly lead to actions or arrangements that promote the best alignment of legal entities and business lines to improve the firm's resolvability.	NA	**(Deficiency)** LER Criteria not appropriately focused on resolution considerations.	**(Deficiency)** Lacked the specificity that would clearly lead to actions or arrangements that promote the best alignment of legal entities and business lines to improve the firm's resolvability.
Derivatives and Trading Activities	Derivative Wind-down	**(Shortcoming)** Lacked detailed portfolio information and specificity regarding implementation of the wind-down. Failed to fully address the material financial interconnections among the banking entities and the broker-dealers (including associated risks) in the wind-down of the trading portfolios.	NA	**(Shortcoming)** Assumptions about continued access to bilateral OTC derivative markets to hedge portfolio risk and the ability to novate bilateral OTC derivatives were too optimistic.	**(Shortcoming)** Lacked specificity regarding implementation of the wind-down and did not address material financial interconnections among the banking entities and the broker-dealers.	**(Deficiency)** Lacked analysis of how trading portfolios could be managed down in an orderly manner should counterparties choose to cease transacting with JPM broker dealers.	**(Shortcoming)** Failed to estimate the costs or risks associated with certain assumptions and did not provide sufficient detail on residual notional portfolio.	NA	NA