

First Wave FBO Filers Not Required to File 2016 Resolution Plans, But Feedback and Guidance “to Come”

June 8, 2016

The Federal Reserve and the FDIC (the “Agencies”) today announced that Barclays, Credit Suisse, Deutsche Bank and UBS are not required to file resolution plans in 2016 under the implementing regulations for Section 165(d) of the Dodd-Frank Act. The next resolution plans of these four “First Wave” foreign banking organizations (“FBOs”) are due on July 1, 2017, rather than July 1, 2016.¹ The Agencies stated that they expect to provide feedback based on the companies’ 2015 plans and additional guidance for their 2017 plans.

- The joint press release stated that the Agencies deferred the filing date “in light of the significant restructuring these companies are undertaking to come into compliance with the Federal Reserve Board’s Intermediate Holding Company (IHC) requirement, which is also due on July 1, 2016.”
 - The Agencies noted that IHC implementation will affect the resolution plans and strategies of these FBOs, as well as their supervision and regulation in the United States.
- Although the extension of the filing date is a welcome recognition of the significant resources and changes required to implement the IHC standards, the Agencies’ announcement comes almost two months after the April 13, 2016 feedback and guidance for the First Wave domestic filers—and just several weeks before the scheduled July 1 filing deadline.

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¹ <http://www.federalreserve.gov/newsevents/press/bcreg/20160608a.htm>.



- In the April 13th feedback and guidance to the First Wave domestic filers, the Agencies announced that they had determined jointly that the resolution plans of five First Wave domestic filers were “not credible”, and required interim updates on how the First Wave domestic filers had addressed the identified deficiencies and planned to address the identified shortcomings by October 1, 2016. The Agencies required the next full resolution plans for all First Wave domestic filers to be filed by July 1, 2017.
 - In the absence of guidance on the filing date from the Agencies, many of the First Wave FBOs were forced to proceed with ultimately unnecessary work to finalize their 2016 resolution plans.
 - In addition, comparisons with the feedback and guidance provided to the First Wave domestic filers had led to uncertainty for the First Wave FBOs filers regarding whether an interim update on progress would be required in October, or whether similar guidance would be received or have to be addressed in 2016.
 - The press release did not address whether the Agencies:
 - Will identify any deficiencies or shortcomings in the First Wave FBO filers’ 2015 plans;
 - Intend to publicly disclose any letters the Agencies provide to the First Wave FBO filers identifying determinations, if any, regarding deficiencies or shortcomings, as they did for the First Wave domestic filers; or
 - Extend the filing dates of—or provide further feedback and guidance to—the “Second Wave” filers (all FBOs) or “Third Wave” filers. Their next resolution plans currently are due on December 31, 2016.
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