

August 18, 2014

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Federal Reserve and FDIC Provide Guidance for Third Wave Filers on 2014 Resolution Plans

On August 15, 2014, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation (the "Agencies") released a Joint Press Release announcing that they had provided additional guidance to firms that will be filing resolution plans for the second time in December 2014 ("Third Wave Filers"). The Agencies also sent letters to the Third Wave Filers providing individual guidance based on the relative size and scope of their U.S. operations as described below. The Agencies announcement modifies the requirements imposed on the larger Third Wave Filers in certain specific ways as outlined in more detail in the letters received by those companies. However, it does follow through on a long-standing dialogue between the Agencies and the Third Wave Filers with more limited U.S. operations by substantively reducing the burden on those companies.

Third Wave Filers comprise 117 U.S. bank holding companies with less than \$100 billion in total nonbank assets and foreign based firms with less than \$100 billion in total U.S. nonbank assets. These companies filed their initial resolution plans by December 31, 2013.

The Joint Press Release placed each of the Third Wave Filers into one of three main categories based on the size and scope of their U.S. operations:

- Thirty-one of the largest and most complex Third Wave Filers must file a full resolution plan that addresses potential obstacles identified by the Agencies, including global issues, FMU interconnections, and funding and liquidity;
- Twenty-five firms with less complex U.S. operations are permitted to file tailored plans (focusing on the nonbanking operations of the firm and on the interconnections and interdependencies between the nonbanking operations) again this year; and
- Sixty-one firms with limited U.S. operations may focus their resolution plans on changes to initial resolution plans and any actions taken to strengthen the effectiveness of their initial resolution plans.

Those Third Wave Filers filing tailored plans were provided with a nearly identical template to that provided last year. Although the ability to file a tailored plan under the joint Agency resolution planning rules has some benefits, it does not reduce the

requirements imposed under the parallel rule adopted by the FDIC for insured depository institutions

A significant aspect of the Agencies' Joint Press Release, and the individual letters sent to Third Wave Filers, is that there is no indication that the Third Wave Filers are subject to the April 2013 Guidance provided by the Agencies to the first wave filers and subsequently made applicable to the second wave filers. In fact, there are some important areas in which even the largest the Third Wave Filers will be able to comply with the joint FDIC and Federal Reserve resolution planning rule in a more streamlined fashion than the first and second wave filers. Nonetheless, it is likely that the concerns that motivated the April 2013 Guidance continue to reflect considerations relevant to the Agencies and should continue to provide useful guidance to Third Wave Filers.

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