One Mission. Community Banks.

November 29, 2023

Mr. James P. Sheesley
Assistant Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Resolution Plans Required for Insured Depository Institutions With $100 Billion or More in Total Assets; Informational Filings Required for Insured Depository Institutions With at Least $50 Billion But Less Than $100 Billion in Total Assets (RIN 3064-AF90)

Dear Ladies and Gentlemen:

The Independent Community Bankers of America ("ICBA")[1] appreciates the opportunity to comment on the proposed rule titled "Resolution Plans Required for Insured Depository Institutions With $100 Billion or More in Total Assets; Informational Filings Required for Insured Depository Institutions With at Least $50 Billion But Less Than $100 Billion in Total Assets" ("Proposal"). The Federal Deposit Insurance Corporation (FDIC) is proposing to refine and expand resolution submissions provided by depository institutions with total consolidated assets of $50 billion or more under the current rule in place since 2012. Under the current rule there is a moratorium on some submissions, most notably on submissions provided by banking organizations with total consolidated assets below $100 billion. The FDIC cites the recent failures of Silicon Valley Bank, Signature Bank, and First Republic Bank as resolution failures due to a lack of thorough and timely resolution planning. Through this proposed rule the FDIC hopes to use the size and complexity of the banking organizations over $50 billion in total consolidated assets to put forward resolution planning requirements that make resolution plans more useful to regulators while adequately addressing the resolution challenges faced when trying to resolve a large and complex failed institution.

ICBA appreciates the importance of well-crafted resolution plans for the very large and complex financial institutions that amass a scale of presence in both domestic and foreign markets with diversified product offerings

[1] The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. ICBA is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education, and high-quality products and services. With nearly 50,000 locations nationwide, community banks constitute roughly 99 percent of all banks, employ nearly 700,000 Americans and are the only physical banking presence in one in three U.S. counties. Holding nearly $5.9 trillion in assets, over $4.9 trillion in deposits, and more than $3.5 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America. For more information, visit ICBA's website at www.icba.org.

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in multiple channels across both commercial and retail operations. These ever-increasing banking giants have created enough risk to the FDIC's deposit insurance fund and already overburdened taxpayers to warrant the need for very thorough resolution plans that easily and effectively provide a path for regulators to resolve such a complex institution and ensure that marketing a failed institution to buyers can be quickly executed and all relevant alternatives duly considered.

We agree with the FDIC that resolution planning should be required for banks with assets of $100 billion and over. With banks of that size, the pool of potential acquirers is very limited while the complexity of any possible transaction is increased. We also agree that where possible, a bridge depository institution (BDI) should be used to resolve these banks. Using a BDI would allow the FDIC in some cases to sell the bank in pieces to a number of acquirers over a period of time. Since 2007, approximately 95 percent of the resolutions conducted by the FDIC involved the sale of the bank's assets and franchise to another institution. In the case of large bank resolutions, these whole bank sales conducted over a weekend and marketed to larger institutions have meant that community banks were unable to participate as acquirers. For example, when Silicon Valley Bank and Signature Bank failed, no community bank had the size to acquire all of the liabilities and assets of those banks. Consequently, the larger banks became larger as a result of these regional bank failures resulting in further consolidation of the banking industry.

However, with respect to the resolution of banks with assets between $50 billion and $100 billon, we believe that it is much more likely the FDIC can use a BDI to unwind or liquidate these institutions at the point of failure. In the event that using a BDI is not viable, a whole bank sale is always a viable option since the number of potential acquirers is large. These institutions should be fully exempted from filing resolution plans or informational filings unless they engage in activities that are so complex that resolution options are very limited. The $50 billion asset threshold no longer holds relevance for the need to actively maintain resolution plans for the unwinding of large banks. Regulators should enforce resolution plan requirements on those institutions that are truly large and complex and that are the most difficult to unwind. Therefore, regulators should abandon all resolution plans except the most basic and critical documentation needed for banking organizations with total consolidated assets below $100 billion. Any finalization of this proposal should only consider the obligations needed for group A covered insured depository institutions.

The Proposal

Since 2012 banking organizations with total consolidated assets of $50 billion or more have been required to submit resolution plans that allow the FDIC to unwind the institution in the event of insolvency. Portions of the existing rule have been suspended or streamlined for banking organizations at different asset levels for different periods of time with a recognition that the existing rule places compliance burdens on both the required resolution submitters and the FDIC, particularly with regard to the existing one-year submission cycles. The FDIC recognizes the importance of requiring thorough resolution planning for large and complex financial institutions while being mindful that some requirements place undue burdens on the ability of these institutions to maintain the desired level of resolution preparedness and the ability of the FDIC to quickly review submissions.

Under the current proposal, separate resolution submission requirements would be implemented for group A institutions with $100 billion or more in total assets and group B institutions with at least $50 billion but less than

$100 billion in total assets. Both group A and B institutions would submit complete resolution submissions every two years with a limited interim submission every other year with associated engagement and capabilities testing in order to ensure that critical up-to-date information is maintained. Group B institutions would submit "informational filings" that would include everything required for Group A institutions except for (1) the requirement to identify a resolution strategy and (2) the requirement that the bank demonstrate the capabilities necessary to produce valuations that the FDIC can use to conduct the statutorily required least-cost analysis at the time of an actual failure.

Group A institutions would provide a resolution strategy for each scenario of failure that focuses on the need to provide timely access to deposits, minimize losses to creditors, maximizes value from the dissolution or sale of assets, minimizes the cost of the resolution to the deposit insurance fund, and considers the risk to the overall U.S. economy and financial stability. Each strategy would describe the resolution of the institution from the point of failure through the disposition of the franchise considering the organizational structure, business lines, and the identification of any obstacles that might be encountered and how to address those obstacles. The default strategy for all group A institutions would include establishing a BDI to resolve business lines in an orderly fashion, as well as the process needed to stabilize the bridge.

The proposal would modify the existing requirement that the institution develop a failure scenario that would occur under a baseline case, adverse economic conditions, and severely adverse economic conditions. The proposal would only require the institution to consider a severely adverse economic condition scenario under the belief that the baseline and adverse economic condition scenarios only provide limited value compared to the costs incurred to develop such scenarios. In addition to the failure scenario, the resolution submission requirement would include all information needed by the FDIC to ensure that the institution has resolvability including the following:

-executive summary and organizational structure
-methodology for material entity designation
-overall deposit activities and critical services continuity during resolution
-key personnel included in each core business line, franchise, or critical service
-asset portfolios including valuation techniques and recording mechanisms
-material off-balance-sheet exposures including unfunded commitments, guarantees, and contractual obligations
-capital structure, funding resources, and capital resources
-parent company affiliate funding, transactions, accounts, exposures, and concentrations
-impact on U.S. economic conditions and systemically important functions

Because group B institutions are expected to be resolved more quickly and simply through potential acquirers due to their smaller and noncomplex size and the larger base of potential acquirees available, the FDIC believes that less information may be required. However, the agency believes that it would need many of the same data elements required for group A institution submissions because group B institutions are still considered very large institutions that may not have a buyer readily available in some situations. In order to balance the need for critical resolution information with the associated burden, the agency has proposed only a limited exemption from disclosures for group B institutions.

ICBA's Comments

ICBA fully supports thorough resolution plans for the nation's largest, most complex, too-big-to-fail banks as they continue to grow their asset base and complexity in an effort to maintain competitiveness in a difficult operating environment. As the recent high-profile failures of large banks has shown prudential bank regulators, information travels across multiple channels very quickly making the risk of contagion from a bank failure much more visible to depositors, stakeholders, and capital markets participants. The need for bank management, shareholders, and regulators to understand the risks present when trying to unwind a failed institution in an efficient and orderly manner is more critical than ever as interested parties have a wealth of information at their fingertips in real time 24 hours a day. Utilization of the failure scenario under severely adverse economic conditions provides the greatest visibility into understanding the financial distress that would cause depositors to flee and confidence in the institution to wane. Additionally, regulator consideration of the cost-benefit characteristics of performing a failure scenario valuation analysis helps to isolate those events that provide the most value when trying to determine how an institution will fail.

As noted above, we also concur with the FDIC's assertion that the BDI should be the default resolution strategy for institutions with assets of $100 billion or more. This strategy would provide the FDIC additional time to sell the institution's assets and liabilities in pieces over a period of time. There would not be the compelling urgency to sell these institutions to a single acquiror over a weekend. Consequently, community banks would have the opportunity to successfully bid on the assets and liabilities of a large institution that failed.

ICBA believes that the submission of resolution plans should be limited to those banking organizations with total consolidated assets of $100 billion or more. By the agency's own admission and banker experience, the submission of information-only resolution plans by banks between $50 billion and $100 billion has created undue compliance burdens on these institutions without providing any better understanding of the activities of the enterprise that would aid in an orderly resolution. In his statement to the FDIC Board, Vice Chairman Travis Hill noted the regulatory burden of these "informational filings" for banks with assets under $100 billion if this proposal was enacted. He said that it would be "disingenuous to call the submissions that would be required of firms with between $50 billion and $100 billion in assets 'informational filings,' rather than resolution plans. These filings would still include almost all the elements required of resolution plans, and, according to the economic analysis in the proposal, would be more burdensome than the resolution plans that banks above $100 billion in assets currently file under the existing rule." Furthermore, we believe the FDIC's analysis of the compliance burden included with the proposal understates the true cost of the burden since it only includes internal costs to the bank and fails to include the costs of outside lawyers, accountants and risk management specialists that often must get involved with resolution planning.

ICBA disagrees with the agency's general assertion that a bank with $50 billion in total assets is of sufficient size and complexity to need thorough resolution planning. Banks with total consolidated assets in the $50 billion to $100 billion range are generally traditional lenders that have expanded in size not to become more complex but to reach the scale necessary to generate returns that meet or exceed shareholder demands. ICBA agrees with the agency that the failure of banks below $100 billion are generally easier to resolve since a willing buyer or pool of interested buyers can be found with greater ease. Banks below $100 billion in total assets generally do not maintain the business model found with much larger too-big-to-fail megabanks. Therefore, the FDIC should

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permanently suspend the submission of information-only resolution plans for banks with total consolidated assets below $100 billion.

ICBA appreciates the opportunity to provide comment on this Proposal and hopes that the FDIC will consider our observations. If you have any questions or would like additional information, please do not hesitate to contact me at james.kendrick@icba.org.

Sincerely,

/s/

James Kendrick
First Vice President, Accounting & Capital Policy