Please note that the comments expressed herein are solely my personal views

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
United States
www.federalreserve.gov

Chris Barnard

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- 12 CFR Part 252
- Docket No. R-1414
- Resolution Plans and Credit Exposure Reports Required

Dear Jennifer Johnson.

Thank you for giving us the opportunity to comment on your proposed rule: Resolution Plans and Credit Exposure Reports Required.

You are proposing rules that implement the requirements in section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) regarding resolution plans (commonly referred to as "living wills") and credit exposure reports. Section 165(d) requires each nonbank financial company supervised by the Board and each bank holding company with assets of $50 billion or more to report periodically to the Board, the Corporation, and the Financial Stability Oversight Council (the Council) (i) the plan of such company for rapid and orderly resolution in the event of material financial distress or failure, and (ii) the nature and extent of credit exposures of such company to significant bank holding companies and significant nonbank financial companies and the nature and extent of the credit exposures of significant bank holding companies and significant nonbank financial companies to such company.

I support the spirit and intent and most of the details of these proposed rules that will improve risk management and mitigation capabilities and enhance transparency and confidence in the broader financial system, and which are long overdue.[1] I would like to make a couple of comments concerning key definitions and the resolution planning process.

[1] See for example: Leaders' Statement - the Pittsburgh Summit, G20, September 2009, available at **http://www.g20.org/Documents/pittsburgh_summit_leaders_statement_250909.pdf**; "Addressing cross-border resolutions and systemically important financial institutions by end-2010: Systemically important financial firms should develop internationally-consistent firm-specific contingency and resolution plans."

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Extraordinary support and existing facilities

Proposed § __._4(a)(3)(ii) states that in preparing its plan for rapid and orderly resolution in the event of material financial distress or failure, a Covered Company shall: "Not rely on the provision of extraordinary support by the United States or any other government to the Covered Company or its subsidiaries to prevent the failure of the Covered Company". I would request some further clarification here, particularly regarding the definition of "extraordinary support". I presume that extraordinary support refers only to ad hoc support that it would be unreasonable and imprudent to anticipate in the future. It is not clear whether extraordinary support would also include funding from anticipatable existing sources, such as the Orderly Liquidation Fund under Title II of Dodd-Frank, or even from any existing emergency liquidity programs created by central banks[2] or other lender of last resort. Without further clarification of this key issue, particularly regarding the interaction and integration of the resolution planning process with other regulatory processes, such as the Orderly Liquidation Authority, it is difficult to comment on the reasonableness, effectiveness or credibility of the proposed resolution planning process.

Resolution planning process

The process of resolution planning will require close collaboration and expectation management between the regulators and their Covered Companies, as implied under Dodd-Frank,[3] and reflected in your proposed § __._6 (Review of Resolution Plans; resubmission of deficient Resolution Plans). It is important to manage expectations here, that credible resolution planning is an iterative and evolving process. Initial resolution plans will be "first generation" plans, they should be communicated as such, and we must expect them to improve and "learn" over time.

Yours sincerely

Chris Barnard

[2] E.g. Federal Reserve Act § 13(3) Discounts for Individuals, Partnerships, and Corporations

[3] See Dodd-Frank §§ 165(d)(3)-(5).