NOTE: - Letter received via email from Chairman's office from:

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Dear Chair Powell and Chair McWilliams, In April 2019, the Federal Reserve Board and the Federal Deposit Insurance Corporation published proposals to relax resolution-planning requirements for the large regional US banks that are not globally systemic. These proposals followed as yet unfinalized plans from the Federal Reserve and the other US bank regulators to relax equity and liquidity requirements for essentially the same group of regional banks. This letter sets out the Systemic Risk Council's main concerns about this package of proposals. In a nutshell, the Systemic Risk Council (SRC) is concerned that these proposals are misdirected. The priority should not be relaxing resolution planning but, rather, strengthening preparations for ensuring that all large regional banks could be resolved in an orderly way, minimizing spillovers to the economy and losses to the Deposit Insurance Fund. That is especially important at this phase of the business and credit cycle. Summary of the April 2019 proposals to relax resolvability planning for large regional banks. There are two sets of proposals on resolution planning requirements. One, issued jointly by the Federal Reserve (Fed) and the Federal Deposit Insurance Corporation (FDIC), concerns the application of powers under Title I of the Dodd Frank Act to large banking groups. The other, issued solely by the FDIC, concerns resolution planning for large insured depository institutions (I Dis)(collectively, the "April 2019 Proposals). *The joint Fed/FDIC proposals for large banking groups* The 2010 Dodd Frank Act initially required resolution planning for all banking groups with at least $50bn of total consolidated assets. In 2018, the Economic Growth, Regulatory Relief, and Consumer Protection Act (Crapo Act) increased that threshold to $250bn, but gave the authorities discretion to require resolution planning from banking groups with total consolidated assets of between $100bn and $250bn. Exercising that discretion, the banking regulators announced in October 2018 that they plan tailor the application of prudential oversight, including resolution planning, according to a banking group1s size and scope. Specifically, US-domiciled banking groups with total consolidated assets of at least $100 billion (large banks) would be divided into four categories: Category 1: US global systemically important banking groups (G-SIBs) and their subsidiary depository institutions; Category 2: at least $700 billion in total consolidated assets (or at least $75 billion in cross-jurisdictional activity); Category 3: at least $250 billion in total consolidated assets (or at least $75 billion in weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposures); • Category 4: all other large banking organizations with total consolidated assets between $100 billion and $250 billion. In a memorandum accompanying the October 2018 consultation, the Fed reported that there are, respectively, eight, one, four, and eleven banking groups in those four categories. In April 2019, the Fed and FDIC jointly issued a notice of proposed rulemaking applying this framework to resolution planning requirements. The proposal is to reduce required resolution planning by banking groups in Categories 2, 3, and 4 compared to the current requirement that they file full resolution plans every year. In particular, a banking group in Category 2 or 3 would be required to file a full resolution plan only once every six years, with a thinner review every three years.5 As for Category 4 groups, the authorities

propose to exercise their discretion, under the Crapo Act, not to require any filing of resolution plans at all. *The FDIC proposals for insured depository institutions* At roughly the same time, the FDIC issued an advanced notice of proposed rulemaking (ANPR) seeking views on whether it should relax its resolution planning requirements under the Federal Deposit Insurance Act for large 1DIs ("IOI Rule"). 6 This more cautious approach to reconfiguring the IOI regime allows public debate before FDIC decides whether or not to proceed with any notice of proposed relaxations. At present, reflecting the original Dodd Frank threshold for the parallel banking-group regime, the FDIC requires 1DIs with more than $50 billion in total assets to submit resolution plans to it every year.7 In its ANPR, the FDIC seeks views on whether it should raise the threshold for IOI resolution planning obligations given the Crapo Act changes for banking groups. The FDIC also seeks views on whether it should move to requiring covered 1DIs (CIDIs) to submit full resolution plans only occasionally (every four or six years). More broadly, the FDIC asks whether it should substantially revise the IOI Rule to incorporate a risk-based approach to resolution planning, in which resolution planning requirements for each covered IOI would vary depending on the size, complexity, and risk profile of the organization. SRC concerns, and proposals The Systemic Risk Council (SRC) agrees with the general proposition that, so far as possible, the prudential requirements applied to individual firms, including resolution planning, should be tailored to the social costs that would be incurred by the economy and the public if a particular firm fails or becomes distressed. Those social costs are incurred through the wider disruption caused by, for example, suspension of payments services, cuts in the supply of credit, and a heightened sense of risk, each of which can depress economic activity, jobs and asset values. They can occur when a banking business fails in a disorderly way, with spillovers either directly into the economy or indirectly via contagion through other firms that are similar to or inter-connected with the distressed firm (or both). Special resolution regimes exist to contain those spillovers to third parties and the wider economy (regionally or nationally) by preserving the continuity of essential services and delivering an orderly wind down of parts of the business that are not maintained *without taxpayers providing solvency support.* The SRC is concerned that the Fed and the FDIC propose to ease resolution planning requirements for some large regional banking groups and IDIs without first addressing whether all such firms could be resolved in a safe and orderly way with current techniques. Especially at this point of the "credit cycle," the banking authorities should be more concerned about whether they could handle the failure of any of the affected institutions without contagion, regional economic disruption, and avoidable losses to the Deposit Insurance Fund. *Ensuring the resolvability of large banking groups that are not globally systemic.* During the 2008/09 crisis, the FDIC deployed the resolution technique known as "purchase and assumption", which involves transferring the insured-deposit liabilities of a failed depository institution, often with most other (uninsured) liabilities and assets, to a healthy third-party bank, and with any unsold liabilities and assets going into receivership. Since the crisis, however, the FDIC itself has signaled material uncertainty about whether the same approach would work today: That uncertainty is shared by experts in this field. In contrast to the largest and most complex banking groups, the large regional banks have *not* been subject to new resolvability requirements imposed at the level of groups rather than IDIs. 10 They have not been required to structure themselves to enable a group-level resolution; and, in particular, have not been made subject to formal requirements on Total Loss Absorbing Capacity {TLAC), which in effect mandate the issuance of a minimum amount of bonded debt {by the group holding company) that can absorb losses, in resolution, by being written down or converted into equity. That can be used to recapitalize a bridge structure

and, so, maintain the business of operating subsidiaries, including IDls. If, by contrast, a large regional bank failed and could not be resolved in an orderly way, there could plausibly be a run on similar banks. If that occurred, the supply of credit and other services would be impaired, with wider costs to the regional or even national economy. Separately, in those circumstances, the losses to the FDIC's Deposit Insurance Fund would likely be materially larger than would be incurred under an effective resolution of the IDI. This is why the SRC is concerned about the Fed and FDIC proposals to relax resolvability-planning and testing requirements for large regional banks at both group level and for IDls), and to completely lift them for Category 4 banking groups. While there is now no statutory obligation to conduct resolution planning for banking groups with total assets below $250bn, there is no statutory bar on doing so for groups with assets of at least $100bn, and no statutory restrictions apply, crucially, to the FDIC's resolution-planning requirements for IDls. In explaining how they plan to exercise their discretion, the authorities do not say whether (or how) they have satisfied themselves as to the resolvability of each affected banking group and IOI, or how they have satisfied themselves that there would not be socially costly contagion or other spillovers if, in the event of distress or failure, any such group or insured bank could not be resolved in an orderly way. The SRC is clear that the priority should be to enhance resolution planning, and that risks should not be taken with its effectiveness. *SRC proposal* The SRC recommends that the Fed and FDIC should not go ahead with their proposals to relax resolution planning for some large regional banks and to cease resolution planning for others unless both authorities are satisfied that the affected I Dis and banking groups could be resolved in an orderly way with a high degree of probability. Ideally, the authorities would give a public assurance of this, in respect of each affected banking business. Second, SRC recommends that the FDIC and Fed should review whether new requirements are needed to ensure the resolvability of some IDls and banking groups. Specifically, given the uncertainty about whether the purchase and assumption resolution technique could be used to resolve some large regional banks, SRC recommends that the banking regulators seriously consider applying the equivalent of TLAC requirements to such businesses, either at the level of the IOI or its holding company. If that were done, those I Dis could, if necessary, be resolved by bailing-in their subordinated debt securities.