

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 360

RIN 3064-AF90

#### 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

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Final rule.

**SUMMARY:** The FDIC is adopting this final rule to require the submission of resolution plans by insured depository institutions (IDIs) with \$100 billion or more in total assets and informational filings by IDIs with at least \$50 billion but less than \$100 billion in total assets. The final rule modifies the current rule requirements regarding the content and timing of full resolution submissions, as well as interim supplements to those submissions provided to the FDIC, in order to support the FDIC's resolution readiness in the event of material distress and failure of these large IDIs. The final rule also enhances how the credibility of full resolution submissions will be assessed, expands expectations regarding engagement and capabilities testing, and explains expectations regarding the FDIC's review, feedback, and enforcement of IDIs' compliance with the rule.

**DATES:** The rule is effective October 1, 2024.

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#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Introduction
  - A. Background
  - B. Overview of the Proposed Rule
- II. Overview of Comments
- III. Final Rule
  - A. Scope and Purpose
  - B. Definitions
  - C. Full Resolution Submissions Required
  - D. Content of the Full Resolution Submissions for CIDs
  - E. Interim Supplement
  - F. Credibility; Review of Full Resolution Submissions; Engagement and Capabilities Testing
  - G. No Limiting Effect on FDIC
  - H. Form of Full Resolution Submissions; Confidential Treatment of Full Resolution Submissions and Interim Supplements
    - I. Extensions and exemptions
    - J. Enforcement
- IV. Expected Effects
  - A. Review of Comments
  - B. Changes From the Proposed Rule to the Final Rule
  - C. Marginal Effect of Changes Compared to the 2012 Rule
  - D. Effects on Insured Deposits and the Deposit Insurance Fund
  - E. Additional Economic Consideration and Effects
  - F. Overall Effects
- V. Alternatives Considered
- VI. Regulatory Analysis and Procedures
  - A. Paperwork Reduction Act
  - B. Regulatory Flexibility Act
  - C. Plain Language
  - D. Riegle Community Development and Regulatory Improvement Act of 1994
  - E. Congressional Review Act

#### I. Introduction

The FDIC's regulation "Resolution plans required for insured depository institutions with \$50 billion or more in total assets," issued in 2012<sup>1</sup> (2012 rule), requires IDIs with \$50 billion or more in total assets (CIDs) to submit resolution plans periodically. This resolution plan requirement was established to facilitate the FDIC's readiness to resolve a CIDI under the Federal Deposit Insurance Act of 1950,

<sup>1</sup> 12 CFR 360.10. The 2012 rule was published as an interim final rule with an effective date of January 1, 2012, 76 FR 2011 (Sept. 11, 2011); the 2012 rule was effective April 1, 2012, 77 FR 3075 (Jan. 23, 2012).

as amended (FDI Act), in the event of its insolvency.

This final rulemaking to amend and restate the 2012 rule builds on the FDIC's more than a decade-long experience implementing the 2012 rule, providing guidance and feedback to CIDs, and leveraging the content of submissions for the FDIC's development of resolution strategies. Through this process, the FDIC has gained a better understanding of the challenges of resolving CIDs and the essential information needed in resolution plans and other related submissions to facilitate the FDIC's readiness in the event of a failure of one of these CIDs. Therefore, this final rule supersedes all prior guidance, including the Statement (as defined below).

Part of the challenge in resolving CIDs arises from the wide range of business models and structures among these banks. While many of the CIDs are engaged largely in traditional commercial and retail banking activities, with nearly all assets and activities conducted within the CIDI or its subsidiaries (the bank chain), others conduct significant non-banking activities. Many of the CIDs have a broker-dealer subsidiary or affiliate that provides services to bank customers. The CIDs also include banks primarily engaged in a particular business segment, such as credit card services, as well as U.S. IDIs that are part of large foreign banking organizations. There is no one-size-fits-all resolution approach for these institutions; rather, the FDIC must be prepared to execute a range of resolution options, recognizing the trade-offs among those options. The FDIC's development of resolution strategies—and its assessment of the options and trade-offs that inform them—benefit from the CIDI's knowledge of its own firm, an understanding of the CIDI's relevant capabilities, and an awareness of the impediments to executing an orderly resolution of the CIDI. Across the different CIDI business models and structures, there is a variety of factors that increases the challenges and complexity of resolution in the event of the failure of one of these large banks. Key factors include size, organizational complexity, and deposit profile, among others.

The importance of advance resolution planning was recently underscored in the failures of three large banks—all over \$100 billion in size<sup>2</sup>—in the spring

<sup>2</sup> The failure of Washington Mutual Bank in 2008 remains the largest bank failure in U.S. history. At the time of its failure, its assets totaled approximately \$300 billion. First Republic, SVB,

of 2023: Silicon Valley Bank (SVB), Signature Bank, and First Republic Bank (First Republic).

The failures of SVB and Signature Bank on March 10 and 12, 2023, respectively, were triggered by illiquidity resulting from withdrawals by uninsured depositors at unprecedented speed and volumes. As a result of the sudden failures, there was no opportunity for pre-failure marketing. For both IDIs, the FDIC established a bridge depository institution (bridge bank) to continue bank operations post-failure to allow time to market the bank. Less than two months following those failures, First Republic was placed in receivership and sold. First Republic's failure was largely a result of contagion from the prior two failures and the bank was able to manage its liquidity for several weeks prior to failure, which allowed additional time to market the bank. The FDIC facilitated a transaction that resulted in transfer of all of the assets and liabilities to a single acquirer without establishing a bridge bank, although the FDIC stood ready to exercise the authority to form a bridge bank, if needed.

The challenges associated with the rapidity of the failures were exacerbated because the FDIC lacked important resolution planning information to facilitate marketing for SVB and Signature Bank. While SVB and First Republic had filed resolution plans just a few months before their failures, the FDIC neither had completed review nor had the opportunity to provide feedback on those plans. Signature Bank had not yet filed any resolution plan at the time of its failure; its first submission would have been due in June 2023. Current and thorough resolution planning information would have facilitated the FDIC's preparations to effectively and efficiently market the failed IDIs.

The size of an IDI can significantly impact the resolution options available to the FDIC under the FDI Act. In particular, as IDIs increase in size, the likelihood of a timely sale to a single acquirer diminishes. Currently, there are 45 CIDs, of which 33 have total assets over \$100 billion. As a group, these 45 CIDs represent approximately \$12.9 trillion in total deposits.<sup>3</sup> While a closing weekend sale may be an option in some cases, its availability cannot be assumed in view of the size, complexity, and potential speed of failure of a CID. This is particularly true for the largest

CIDs with \$100 billion or more in total assets because the pool of potential acquirers for these institutions is limited, and any possible transaction would be complex. While there is a larger pool of possible acquiring institutions for CIDs in the \$50 to \$100 billion total asset range, some of these institutions engage in highly complex activities and pose similar levels of operational complexity as those over \$100 billion in total assets.

The CIDs also tend to have a more significant proportion of uninsured deposits as compared to smaller banks. In the aggregate, more than 43.4 percent of deposits of IDIs with over \$50 billion in total assets are uninsured.<sup>4</sup> Under the FDI Act, any transaction using FDIC assistance—including where assistance is provided in connection with the establishment of a bridge bank—must meet the least-cost test, absent a systemic risk exception. Under the least-cost test, the cost to the deposit insurance fund (DIF) resulting from any resolution needs to be less than the cost to the DIF than all other alternatives. Where the proportion of insured deposits is very low, the potential cost to the DIF of a resolution in which only insured deposits are protected is more likely to be less costly than a resolution in which all deposits are protected.

These and other characteristics of large banks add to resolution challenges and increase the importance of robust and ongoing resolution planning for the CIDs. The content of the full resolution submissions under this final rule will support planning for strategic options, including use of a bridge bank, and is important to the FDIC's readiness to resolve these banks.

#### A. Background

Since issuing the 2012 rule, the FDIC has provided guidance and feedback to CIDs to assist in development of their resolution plans.

In 2014, following the first submissions, the FDIC provided guidance and direction for the preparation of subsequent CID resolution plans with a focus on the discussion of failure scenario, resolution strategies, least-cost analysis, and identified obstacles. In addition, following each resolution plan submission cycle, the FDIC issued feedback letters to CIDs with information for the subsequent plan submission.

After several plan submission cycles, in 2018, the FDIC instituted a moratorium on the 2012 rule's requirements for all CIDs pending

completion of a new rulemaking. At the time the moratorium was adopted, the FDIC also published an advance notice of proposed rulemaking (ANPR),<sup>5</sup> which requested comment on how to tailor and improve the 2012 rule, including how to reduce the burden associated with the least-cost test analysis and whether requirements should be tiered based on size or complexity factors of cohorts of CIDs. The ANPR also requested comment on potential enhancement of engagement and capabilities testing. At that time, the FDIC extended the due date for future plan submissions pending completion of the rulemaking process.

Following the issuance of the ANPR, the FDIC continued to develop its thinking regarding resolution planning for large IDIs, including how to maximize the FDIC's resolution readiness. In 2020 and 2021, the FDIC undertook targeted engagement with select CIDs on their 2018 plan submissions, a step consistent with the enhanced emphasis on engagement and capabilities testing envisioned under the ANPR.

In January 2021, the FDIC Board took action to lift the moratorium on the resolution plan requirement for CIDs with \$100 billion or more in assets and, in June 2021, the FDIC issued a policy statement (Statement)<sup>6</sup> to describe how it planned to implement certain aspects of the 2012 rule. The Statement superseded all prior guidance and feedback. For CIDs with total assets of at least \$50 billion and less than \$100 billion, the moratorium on submission of resolution plans remained in effect. CIDs with \$100 billion or more in total assets submitted resolution plans in accordance with a schedule established by the FDIC from December 1, 2022 through December 1, 2023. Consistent with the Statement, each of these CIDs received exemptions from certain content requirements under the 2012 rule and could submit streamlined resolution plans for review.

On September 19, 2023, the FDIC published for comment a Notice of Proposed Rulemaking, "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" (NPR).<sup>7</sup> The FDIC received and

<sup>5</sup> 84 FR 16620 (April 22, 2019).

<sup>6</sup> Statement on Resolution Plans for Insured Depository Institutions (June 25, 2021), <https://www.fdic.gov/resources/resolutions/resolution-authority/idi-statement-06-25-2021.pdf>.

<sup>7</sup> 88 FR 64579 (Sept. 19, 2023).

and Signature Bank, respectively, were the second, third, and fourth largest bank failures in history.

<sup>3</sup> FDIC Consolidated Reports of Condition and Income data as of March 31, 2024.

<sup>4</sup> *Id.*

considered 12 comment letters, which are discussed below.<sup>8</sup>

In addition to enacting and implementing the 2012 rule, the FDIC has instituted several rulemakings that support its mission as deposit insurer to make timely insured deposit payments and to resolve a failed IDI in the manner that is least costly to the DIF. These separate rulemakings address certain difficulties the FDIC could face in the closing of a large, complex IDI, and include *Recordkeeping for Timely Deposit Insurance Determination* (part 370) and *Recordkeeping Requirements for Qualified Financial Contracts* (part 371).<sup>9</sup> Part 370 requires covered institutions, namely IDIs with two million or more deposit accounts, to put in place mechanisms to facilitate prompt deposit insurance determinations. Part 371 requires IDIs in a troubled condition to keep detailed records in a specified, standard format regarding their qualified financial contracts. This information would be used by the FDIC, were it appointed receiver, in making a determination of which qualified financial contracts entered into by the failed institution (if any) will be transferred within the brief statutory window.

Separate from the FDI Act and this rule's requirements, section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as amended (Dodd-Frank Act),<sup>10</sup> and the related joint rulemaking published by the Board of Governors of the Federal Reserve System (FRB) and the FDIC in November 2019 (DFA rule)<sup>11</sup> mandate that certain bank holding companies and nonbank financial companies (covered companies) submit resolution plans (DFA resolution plans) for the rapid and orderly resolution of the covered company under the U.S. Bankruptcy Code.

There are some noteworthy differences between the DFA rule requirements and this rule. First of all, Section 165(d) of the Dodd-Frank Act and the DFA rule focus on resolution of the organization by the organization itself under the U.S. Bankruptcy Code or other ordinary resolution regime. While some DFA resolution plans utilize a strategy where the IDI is resolved under the FDI Act, they must address resolution of the organization as a whole, including the holding company and non-bank affiliates. In addition, the

statutory purpose of a DFA resolution plan is to reduce the likelihood that the financial distress or failure of a covered company would have serious adverse effects on financial stability in the United States by requiring covered companies to submit plans for rapid and orderly resolution without any assumptions of reliance on public support. By contrast, this rule focuses only on the CIDI itself, and the strategic analysis and information needed to support a resolution using the FDIC's traditional resolution tools under the FDI Act.

Presently, all U.S. global systemically important banking organizations<sup>12</sup> (U.S. GSIBs), which are the largest and most systemic and interconnected banking organizations in the United States, have developed DFA resolution plans that use a single-point-of-entry (SPOE) strategy. Under an SPOE strategy, the top tier holding company is placed into bankruptcy and generally all material operating subsidiaries, including any IDIs in the group, remain open and operating. In an SPOE resolution, the FDIC would not be called upon to resolve the IDI under the FDI Act. The SPOE approach may minimize disruption and preserve franchise value, as well as reduce systemic risk, particularly in a firm with a complex structure that includes multiple material operating entities outside of the bank chain. In contrast, most other banking organizations subject to the DFA resolution plan submission requirements currently utilize a strategy in which the top tier holding company is placed into bankruptcy and the IDI is resolved under the FDI Act.

Firms that have submitted DFA resolution plans adopting an SPOE strategy must have or develop the capabilities and may need to make improvements to their organizational structures to support implementation of that strategy. However, the FDIC still must be prepared to use its resolution authorities if necessary to achieve an orderly resolution of the firm, including its authority to resolve a CIDI under the FDI Act, or, if necessary, the extraordinary backup orderly resolution authorities provided in Title II of the Dodd-Frank Act.

A resolution using Title II orderly liquidation authorities, which supports a group-wide SPOE approach, is a backup authority to be used, if necessary, to resolve a financial company whose resolution under the Bankruptcy Code would have serious

adverse effects on U.S. financial stability. That extraordinary authority may not be called upon to resolve the firm, however, if the resolution of the IDI under the FDI Act would avoid the serious adverse effects of the firm's failure. By the same token, a resolution under the FDI Act is particularly likely for large regional banks with less significant non-bank activities, predominately domestic operations, and few or no systemically important identified critical operations.

The requirements of the DFA rule and this rule support their respective differing purposes; at the same time, both rules serve the broader objective of facilitating orderly resolutions. Consistent with the proposal, this final rule specifically allows the incorporation of information from an affiliate's DFA resolution plan into a CIDI's full resolution submission or interim supplement. In providing feedback or making determinations with respect to any submission under this final rule, the FDIC will consider feedback and determinations provided with respect to DFA resolution plans with similar content, to promote consistency across the two planning requirements, and, where appropriate, taking into account the differences in the requirements of the two rules and the approaches to resolution strategy and regime.

#### B. Overview of the Proposed Rule

The proposal provided for two distinct groups of CIDs based on size, with differing obligations for each group. The first group comprised those IDIs with \$100 billion or more in total assets (group A CIDs). The proposed rule would have required group A CIDs to submit full resolution plans containing an identified strategy appropriate to the CIDI for its orderly and efficient resolution, as well as providing all other content elements described in the proposed rule.

The second group comprised those IDIs with at least \$50 billion but less than \$100 billion in total assets (group B CIDs). The proposed rule would have required full resolution submissions from group B CIDs with more limited requirements, in the form of an informational filing.

The proposal was intended to:

- Clarify and enhance requirements applicable to IDIs with \$50 billion or more in total assets, including resolution plans submitted by group A CIDs and informational filings submitted by group B CIDs;
- Require each group A CIDI to provide an identified strategy for resolution that ensures timely access to

<sup>8</sup> FDIC staff also met with staff of two commenters.

<sup>9</sup> Codified at 12 CFR part 370 and 12 CFR part 371, respectively.

<sup>10</sup> 12 U.S.C. 5365(d).

<sup>11</sup> 84 FR 59194 (Nov. 1, 2019), codified at 12 CFR 381 (FDIC) and 243 (FRB).

<sup>12</sup> As defined by rules promulgated by the FRB, see 12 CFR 217.402 (Identification as a global systemically important BHC).

insured deposits, maximizes value from the sale or disposition of assets, minimizes any losses realized by creditors of the group A CIDI in resolution, and addresses potential risks of adverse effects on U.S. economic conditions or financial stability;

- Clarify requirements with respect to the assumptions for the failure scenario used by group A CIDs in resolution plans and reserve the ability of the FDIC to provide additional parameters for the failure scenario for all group A CIDs or specific individual group A CIDs in future plan submission cycles;

- Strengthen full resolution submission content elements and associated requirements regarding capabilities to support optionality available to the FDIC and ensure that the FDIC's development of resolution strategies reflects considerations related to the characteristics of the individual CIDI and potential challenges that could be faced in resolution;

- Refine the requirements for group A CIDs with respect to least-cost analysis and focus on ensuring that the FDIC has the building blocks and capabilities it needs to undertake the least-cost test in resolution in the event of failure of a group A CIDI;

- Establish an enhanced credibility standard for full resolution submissions and clarify the process for review and feedback to identify and address weaknesses in full resolution submissions and enforce the rule;

- Establish a requirement for informational filings to be submitted by group B CIDs that is focused on information most important and appropriate for resolution of those CIDs;

- Adjust the frequency of full resolution submissions to a two-year cycle for all CIDs to accommodate engagement and capabilities testing as part of the resolution planning process, and establish periodic interim supplements containing specified resolution submission content items; and

- Codify certain aspects of guidance and feedback previously issued to IDIs subject to the 2012 rule.

## II. Overview of Comments

The FDIC received 12 comment letters to the proposal from banking organizations, industry and trade groups representing the banking and financial services industry, a law firm, and consumer groups.

The comments received generally were responsive to questions posed by the FDIC in the NPR. The majority of commenters suggested changes to reduce the costs of submission

preparation for filers, including by adjusting the proposed submission cycle, narrowing the proposed scope and content requirements, and enhancing alignment with relevant resolution planning requirements of the DFA rule. Several commenters raised concerns about the enhanced credibility standard, and asked for greater clarity on engagement and capability testing. Three commenters offered broad support for the proposed rule as written. The comments received are summarized below.

### Scope of Rule

Most commenters agreed with the overall scope of the rule. Two commenters suggested creating a new group of filers that would include only firms with \$100 billion to \$250 billion in total assets, and reducing requirements for that new group, as compared to the CIDs with at least \$250 billion in total assets. As for group B CIDs, several commenters noted the content requirements of the informational filings varied in a limited manner from a full resolution plan and asserted that the FDIC should more significantly reduce the burden for group B CIDs with further tailoring or elimination of requirements for group B CIDs. Two other commenters recommended that group B CIDs should be subject to the same requirements as group A CIDs.

Several commenters addressed the relationship between IDI resolution plans and DFA resolution plans. Two commenters supported changes to better harmonize these resolution planning efforts. One commenter suggested CIDs with parent banking organizations that are biennial filers or triennial full filers of DFA resolution plans should be exempted from IDI resolution plan requirements. That commenter also argued for streamlining requirements if IDI resolution plans continue to be required for CIDs in addition to the DFA resolution plans required of their parent banking organizations. Regarding consistency across these two programs, two commenters emphasized the need to use consistent definitions with regard to IDI resolution plans and DFA resolution plans, and cited the definition of “material change” as an example where there could be better alignment. Another commenter highlighted that the scope of the virtual data room capabilities requirement should be aligned with the equivalent requirement for DFA resolution plans. Additionally, two commenters emphasized the importance of consistency between credibility determinations on DFA resolution plans

by the FDIC and FRB, and on IDI resolution plans by the FDIC, as well as any other feedback on common elements of these two submissions.

### Submission Cycle and Transition Period

Two commenters broadly supported the cycle as proposed, while four argued to reduce the frequency of full resolution submissions. Commenters arguing for a longer submission cycle generally supported a three-year cycle, which they noted would take into account the cycle for certain DFA resolution plans, allow for adequate review and feedback by FDIC staff, and provide time for CIDs to incorporate that feedback. However, one commenter noted that a two-year cycle with no interim supplements could be appropriate for CIDs whose parent companies are biennial filers of DFA resolution plans. In terms of the dates of submissions, one commenter suggested July, while two others proposed December.

With respect to the first full resolution submissions or interim supplements following the effective date of the final rule, five commenters suggested a period of 12 months or longer, rather than the proposed 270-day period. In particular, with respect to group B CIDs, commenters suggested a transition period of 18 months, since none of these CIDs has submitted a resolution plan under the 2012 rule since implementation of the moratorium.

Regarding the interim supplements, three commenters recommended narrowing the scope of information required. Commenters recommended reducing or eliminating requirements for narrative or description, and to limit the required content to information that has materially changed. Another commenter suggested that narrative commentary in the interim supplement should be limited to a summary of material changes in the information provided in the prior full resolution submission. One commenter suggested that interim supplements, like full resolution submissions, should use data as of the end of the prior year, rather than the prior quarter.

Several commenters emphasized the importance of the FDIC providing meaningful feedback to CIDs and adequate time for that feedback to be incorporated into subsequent submissions, with one commenter recommending feedback be provided at least 12 months before the next submission is due and two others noting the need for the FDIC to build internal capacity and capabilities to support this.

### *Rule Requirements*

Commenters generally supported the FDIC's focus on increasing optionality available to it in preparing for resolution. Four agreed that a bridge bank may be helpful in this respect, to provide more time to sell all or parts of the institution, reduce reliance on strategies involving a single buyer, and expand the universe of potential acquirers. Two commenters supported the identified strategy requirement as proposed, with one noting it would be among the most critical pieces of information in a resolution plan and plans without this element would not likely be credible or effective. Three other commenters favored elimination or modification of the scenario and identified strategy requirement. One of these commenters suggested that some CIDs with more than \$100 billion but less than \$250 billion in total assets may have less complex structures that make an FDIC-arranged sale feasible. They noted that, by requiring just one identified strategy, the proposal restricts CIDs from presenting a full range of options for resolution. Another commenter argued that, based on the lessons learned from recent failures, the FDIC should be more focused on maximizing the likelihood of a resolution weekend sale, including by emphasizing real-time capability for IDs to produce necessary information for potential buyers. A third commenter expressed concern that the proposed requirement for the identified strategy to have "meaningful optionality" is too vague.

Two commenters addressed aspects of assumptions in the proposed failure scenario, with one arguing against the assumption that the CID's parent holding company enters bankruptcy, and the other supporting the assumption of continued Federal Home Loan Bank lending to a bridge bank.

Regarding the proposed approach to valuation to facilitate the FDIC's assessment of least-costly resolution method, three commenters emphasized the importance of valuation to resolution planning and another expressed support for replacing the least-cost test requirement of the 2012 rule with the proposed valuation requirement. Three commenters suggested modifications to the approach; specifically, these commenters favored elimination of the requirement for quantitative valuation analysis. These commenters argued that such analysis would be overly burdensome, more expensive for CIDs that do not maintain in-house expertise,

and of little value to the FDIC in an actual resolution scenario.

### *Engagement and Capabilities Testing*

Commenters were generally supportive of engagement and capabilities testing. One commenter suggested increasing the expected frequency of engagement, while another advocated for committing more resources toward engagement and capabilities testing while decreasing the emphasis on full resolution submission documentation. Four commenters suggested that the FDIC should provide advance notice of the timing for engagement and capabilities testing, and the process for the testing and feedback. Two of these commenters indicated the FDIC should provide CIDs with a comprehensive list of capabilities it expects a CID to maintain, and suggested this should be done through a notice and comment period to enable input from the industry. One of these commenters also noted that CIDs—especially, group B CIDs—will need time to build, improve, and test capabilities prior to undergoing capabilities testing with the FDIC, and suggested capabilities testing should not occur during a CID's initial submission cycle under this Rule.

### *Credibility Standard*

Two commenters expressed support for the proposed enhancement of the credibility standard. Three other commenters recommended eliminating the credibility determination, granting CIDs latitude on the standard's application, or foregoing any enforcement action based on a credibility determination. They argued that the standard, particularly the first prong, is subjective and susceptible to being applied inconsistently over time. Another commenter observed that any credibility standard is necessarily subjective.

Several commenters emphasized the importance of a collaborative approach to resolution planning, with one emphasizing the role communications can play to support this, including related to the timing and scope of capabilities testing. In addition, several commenters expressed concerns about any enforcement actions related to engagement and capabilities testing, with one commenter stressing that full resolution submissions should only be deemed non-credible due to fundamental resolvability issues and not because of issues with CIDs' resolution capabilities that fall short.

### *Expected Effects*

One commenter indicated that the proposal would substantially add to the time and resources required to prepare IDI resolution plans. Another two commenters argued that the analysis of the compliance burden understates the true cost of the burden. A fourth commenter suggested that the estimated time required to develop an IDI full resolution submission is not unreasonable and the cost of compliance would pale in comparison to the costs of potential bank failures and banking crises.

## **III. Final Rule**

The FDIC considered all comments received and has adopted certain changes to the proposed rule as discussed below. In addition, the FDIC made certain technical, non-substantive changes throughout, including corrections to paragraph numbering and grammar, improving word choice for readability, and eliminating redundancy.

### *A. Scope and Purpose*

The scope and purpose of the final rule are substantively unchanged from the proposal. This rule is intended to ensure that each group A CID develops a credible strategy to facilitate the FDIC's resolution of the institution across a range of possible scenarios and, with respect to each group A CID and each group B CID, that the FDIC has access to all of the material information and analysis it needs to efficiently resolve the CID in the event of its failure.

Consistent with the 2012 rule and the proposal, the final rule applies to all IDs with at least \$50 billion in total assets based upon the average total assets reported over the previous four quarters. Like the proposal, the final rule will differentiate the requirements pertaining to group A CIDs and group B CIDs. Each group A CID is required to periodically submit a resolution plan to the FDIC, including an identified strategy for its resolution under the specified failure scenario. Each group B CID is required to periodically submit an informational filing to the FDIC that would consist of certain informational content, but would not be required to include an identified strategy or to develop capabilities necessary to produce valuations needed to support least-cost test analysis.

Comments received by the FDIC included letters from two commenters who recommended that group B CIDs should file resolution plans with no distinction between group A CIDs and

group B CIDs. Two other comment letters suggested that group A CIDs should consist only of CIDs with at least \$250 billion in total assets and that there should be further tiering of requirements for CIDs between \$100–250 billion in total assets and those between \$50–\$100 billion in total assets. One commenter recommended that group B CIDs not be required to make any full resolution submissions.

The FDIC has retained the distinction between group A CIDs and group B CIDs, and the requirement that group B CIDs provide informational filings. The FDIC believes that the approach taken for group B CIDs appropriately recognizes the additional complexity and greater resolution challenges applicable to the group A CIDs. The threshold of \$100 billion in total assets, which is also used in the Dodd-Frank Act<sup>13</sup> and other rulemakings as a basis for assessing a banking organization's financial stability and safety and soundness risks,<sup>14</sup> is an appropriate threshold to distinguish full resolution submission requirements for group A CIDs and group B CIDs, and is retained in the final rule.

While all group A CIDs have the same requirements for submission of full resolution plans, in response to comments discussed further below, the group A CIDs are further divided into two filing categories: triennial and biennial filers. While most group A CIDs will file on a triennial cycle under the final rule, those CIDs that are part of the largest and most systemic and interconnected U.S. banking organizations—those affiliated with U.S. GSIBs—will file biennially.

The FDIC considered comments proposing specific changes to the content of informational filings for group B CIDs, which are addressed below.

### B. Definitions

The proposal included definitions of terms used in the proposed rule, which are included without change in the final rule, except as noted below.

Several comments were received with respect to certain defined terms. Two commenters emphasized the importance of consistency in the definitions of equivalent terms between the proposed rule and the DFA rule, and “core business line” and “material change” were cited as specific examples.

Additionally, two comment letters argued that the proposed definition of “material change” was overly inclusive and used in a manner that might result in triggering the notice requirements contained in the proposal upon relatively minor events, noting a narrower approach to events triggering such a notice in the DFA rule.

Accordingly, the definitions for “core business lines” and “material change” are revised in the final rule to be more consistent with similar concepts in the DFA rule. The definition of “core business lines” is revised to conform more closely to the DFA rule. The definition covers the CIDI's business lines whose failure would result in a material loss of the CIDI's revenue, profit, or franchise value.

The definition of “material change” is revised to combine concepts from the definition in the proposed rule and from the definition in the DFA rule. As discussed in the preamble to the proposed rule, in administering the 2012 rule, the FDIC has observed that not all CIDs have interpreted the material change concept similarly. Accordingly, the intent of revising the defined term is to use an approach similar to the DFA rule, while improving clarity as to how to apply the concept in the context of this rule. Given differences in the purpose and scope of the two rules, the final rule focuses on changes that are important for CIDs. Thus, the definition of material change in the final rule focuses on events that relate to the requirements of the rule, such as changes to overall deposit structure, identification or de-identification of a franchise component, and acquisition or disposition of a material asset portfolio, among other things. The usage of the term “material change” was modified as well, to be more consistent with the approach taken under the DFA rule. As discussed below, the final rule uses the phrase “extraordinary event,” borrowed from the DFA rule, in the context of the notice requirement instead of the term “material change.”

One commenter noted that the proposed definition of “material entity” is over-inclusive, which might be inconsistent with the goal of focusing on the material aspects of the organization, and noted that this approach diverges from the approach taken in the DFA rule. The FDIC agrees with the comment that including all entities that are material to franchise components may result in relatively insignificant entities being captured within the definition. Accordingly, the reference to franchise components is omitted from the definition in the final rule. However,

including all IDIs as material entities, regardless of size, is important for FDIC's resolution planning, as it is likely that all may enter resolution under the FDI Act, due to statutory cross-guarantees. No change is being made to the inclusion of all IDIs as material entities.

In the definition of “franchise component,” the term “asset pool” was replaced by the term “material asset portfolio” to utilize a defined term from the rule. A similar change was made to the definition of “multiple acquirer exit” in using the defined term “material asset portfolios” instead of “asset portfolios.”

Throughout the final rule, the term “resolution submission” was replaced by the term “full resolution submission” and the term “BDI” was replaced by the term “bridge depository institution” for clarity.

The definitions of “group A CIDI” and “group B CIDI” were revised to be more consistent with the approach used in the DFA rule for determining filing groups.

The definition of United States was revised to be consistent with the definition under the FDI Act.

New defined terms were added for clarity, including “PCS service provider,” “DIF,” “biennial filer,” and “triennial filer.”

### C. Full Resolution Submissions Required

#### Biennial Filers and Triennial Filers

Under the proposal, each CIDI would have been required to provide a full resolution submission to the FDIC every two years. The FDIC would have retained the discretion to alter the submission dates upon written notice to the CIDI. An interim supplement would have been required in any year in which the CIDI is not required to file a full resolution submission.

Four commenters recommended a three-year submission cycle consistent with the Statement. Commenters supporting the three-year cycle emphasized the importance of receiving timely feedback and having sufficient time to incorporate improvements in the full resolution submissions with each cycle. These commenters also cited an increased cost in more frequent filings. Commenters flagged the importance of the coordination of filing resolution submissions, submission review, and engagement and capabilities testing, as well as filing interim supplements over the course of the cycle. Two commenters supported the proposed biennial submission. One commenter recommended that if the FDIC were to

<sup>13</sup> See 12 U.S.C. 5365(a)(2)(C). The threshold for enhanced prudential standards under that provision was established through passage of the Economic Growth, Regulatory Relief, and Consumer Protection Act in 2018.

<sup>14</sup> See, e.g., 84 FR 59230 (Nov. 1, 2019) (codified at 12 CFR parts 3, 50, 217, 249, 324, 329).

move to a triennial submission cycle for most CIDs, the biennial cycle should be retained for the CIDI affiliates of U.S. GSIBs, which are biennial filers under the DFA rule. The commenter suggested that this approach would be more efficient for the U.S. GSIBs and for the FDIC, as interim supplements would not be necessary because either a DFA resolution plan or a resolution plan under this rule would be submitted in alternating years.

The final rule adopts the recommended three-year submission cycle for most CIDs. The FDIC agrees with commenters that timely and fulsome feedback for each CIDI is an important priority, and ensuring time for engagement and capabilities testing between full resolution submissions is of significant value. In addition, the FDIC expects that key components of the full resolution submission will remain relatively constant over a three-year cycle, including the identified strategy for group A CIDs. Important information that is more likely to change over that period will be updated annually through the interim supplement. In addition, the FDIC will receive notices of extraordinary events that will provide information of significant changes at the CIDI, such as through merger and acquisition or divestiture, and the FDIC would be in a position to request additional information if needed.

With respect to the CIDI affiliates of U.S. GSIBs, the FDIC agrees with the commenter that a full resolution submission cycle that is complimentary with the DFA resolution plan cycle will improve efficiency, and will ensure timeliness of content needed for contingency planning for an FDI Act resolution. The biennial filing is appropriate for these CIDs, which are part of the largest and most systemic and interconnected U.S. banking organizations. Accordingly, the final rule establishes a two-year cycle for CIDs that are affiliates of U.S. GSIBs. Consistent with the proposal, the FDIC retains the discretion to change filing dates for any CIDI.

The FDIC received several comments with respect to the preferred submission date. One commenter suggested July 1, while two commenters recommended December dates. One of these commenters suggested that CIDs with parent banking organizations that are triennial filers of DFA resolution plans should submit full resolution submissions under this rule in December of the same year in which the DFA resolution plan is filed. The final rule does not specify a calendar date for submissions, to retain flexibility over

the life of the rule. While July 1, January 1, and December 1 dates have been used in the past, the most suitable dates may be different for different cohorts of CIDs and may change over time. The FDIC considers the annual cadence for information required by this rule to be provided by most CIDs, including those with parent banking organizations that are triennial filers of DFA resolution plans—whether via full resolution submissions or interim supplements—to be appropriate from a resolution planning workflow perspective for both the FDIC and CIDs. The FDIC also expects to establish a regular cadence of review, testing, and engagement across two cohorts of group B CIDs, and may establish different calendar dates for submissions by those group B CIDI cohorts.

With respect to the first full resolution submissions or interim supplements following the effective date of the final rule, five commenters suggested a period of 12 months or longer, rather than the proposed 270-day period. In particular, with respect to group B CIDs, commenters suggested a transition period of 18 months, since none of these CIDs have submitted a resolution plan under the 2012 rule since implementation of the moratorium.

The FDIC will notify CIDs of the date when their first full resolution submissions or interim supplements are due under the final rule. Consistent with the proposal, for group A CIDs, that date will be at least 270 days from the effective date of the rule. The FDIC believes that 270 days following the effective date is sufficient time for group A CIDs to prepare a resolution plan or interim supplement that conforms to the final rule. This timing reflects the urgency of resolution planning for these largest CIDs, and supports the establishment of a regular cadence of full resolution submissions and interim supplements across three cohorts of group A CIDs for purposes of full resolution submission review, horizontal capabilities testing, and firm-specific engagement. The text of the final rule will be publicly available following action by the FDIC Board of Directors, and will be published in the **Federal Register** well before the effective date, giving CIDs notice of the final rule's requirements.

For group B CIDs, the initial submission due dates will be at least one year from the effective date of the final rule. This is appropriate because the group B CIDs are generally new to the resolution planning process—or have not filed for an extended period due to the moratorium—and because the

resolution challenges associated with the group B CIDs are somewhat reduced.

#### *Full Resolution Submissions by New CIDs*

Consistent with the proposal, the final rule indicates that an IDI that becomes a CIDI after the effective date of the final rule is required to provide its initial full resolution submission on or before the date specified in writing by the FDIC, which will be no earlier than 270 days after the IDI became a CIDI. As these firms are aware of such transition well in advance, 270 days after the change of status is an appropriate length of time to submit a new full resolution submission. As IDIs grow, whether through merger or business strategy or otherwise, it is important that the FDIC receive prompt and timely information for resolution planning. The 270-day period balances the urgency of resolution readiness against the time needed for a new CIDI to complete a thorough and responsive full resolution submission.

The final rule adds language to address submissions subsequent to a CIDI transitioning between groups. A CIDI that transitions from group B to group A or from group A to group B, will file a full resolution submission or interim supplement, as applicable, pursuant to the requirements relevant to its new filing group on or before the date that its next full resolution submission or interim supplement is due, unless it receives written notice of a different date from the FDIC.

The final rule contains language changes from the proposal for clarity and consistency by providing for full resolution submissions on or before the submission date, rather than on the submission date, for the biennial filers, the triennial filers, and the new filers. This is consistent with similar language in the DFA rule.

#### *Notice of Extraordinary Event*

The proposal would have required that a CIDI provide the FDIC with a notice and explanation of a material change no later than 45 days after certain events included in the proposed definition of “material change.” The proposal also would have allowed for an exemption from this requirement if the date on which the CIDI would be required to submit the notice would be within 90 days before the date on which the CIDI is required to provide a full resolution submission.

Commenters suggested that the definition of material change was too broad and would give rise to notices that were not likely to significantly

impact the full resolution submission. Commenters suggested consideration of the approach taken in the DFA rule, which requires notice of a more limited set of “extraordinary events.” The FDIC considered those comments and adopted the concept of an “extraordinary event” as the basis for the 45-day notice, rather than a “material change.” The term “material change” remains in the final rule, but is no longer part of the notice requirement. This is similar to the approach taken for DFA resolution plans, with appropriate adjustments for the differences in the two rules. The FDIC expects that this approach will provide a focus on the events that are significant enough to warrant a notice, such as a merger, acquisition or disposition of assets, or fundamental change to the CIDI’s organizational structure, core business lines, size, or complexity. The final rule retains the requirement of the notice within 45 days of the event, and the exemption from the requirement if the event occurs within 90 days of the date by which the next full resolution submission is due. The impact of the extraordinary event on resolution would be discussed in the discussion of material changes in the next submission, whether a full resolution submission or the interim supplement, and the FDIC would be in a position to request additional information if needed. A CIDI is not exempt from the requirement if the event occurs within 90 days of the date by which the next interim supplement is due because of the more limited content required in an interim supplement.

#### Approval by the CIDI Board of Directors

The final rule adopts without change the requirement that a CIDI’s board of directors approve the full resolution submission, and that this approval be noted in the board’s minutes. For an insured branch, the final rule allows a submission to be approved by a delegee acting under the express authority of the board, and requires such delegation of authority to be noted in the board’s minutes. No comments were received on this proposed provision. This requirement does not apply to an interim supplement.

#### Incorporation From Other Sources

The proposal would have allowed the CIDI to incorporate certain information or analysis without seeking the authorization required under 12 CFR part 309 for disclosure of FDIC confidential information. The proposed rule included certain proposed requirements about the format and process for incorporation of information

from other sources and would have required certification that the information or analysis remains accurate in all respects that are material to the CIDI’s full resolution submission. The FDIC received no comments on this proposed provision and there were no substantive changes. However, the final rule has been modified from the proposal for consistency and clarity to state that a CIDI may incorporate information from other sources into its interim supplement and the “confidential section” of the full resolution submission and to allow information from a regulatory filing of a CIDI affiliate without seeking a separate waiver.

#### *D. Content of the Full Resolution Submissions for CIDs*

The proposal would have required each group A CIDI to submit a resolution plan that includes all content specified in § 360.10(d) of the proposed rule. The proposal would have required each group B CIDI to provide an informational filing, which would not include all of the content of a resolution plan. As proposed, the informational filing would not include the executive summary, identified strategy and failure scenario, or valuation to support least-cost test analysis content elements that are applicable to group A CIDI resolution plans.

The FDIC received comments related to the content elements that would apply to an informational filing. Two commenters suggested that the requirement to describe franchise components be reduced or removed for group B CIDs, because, the commenters argued, the proposed franchise component content element included information similar to resolution planning that should not be required in an informational filing. While the FDIC continues to believe that the identification of franchise components is critical for resolution preparation, particularly in situations where a whole bank sale may be difficult to achieve, the FDIC also agrees that some proposed aspects of the franchise components content element may inadvertently require discussion of resolution strategy by group B CIDs. Accordingly, in response to these comments, the final rule exempts group B CIDs from reporting the portions of the franchise component content element relating to marketing process and capabilities, key assumptions underpinning each divestiture, and obstacles to execution. All other proposed subparts of the franchise component content element are required for group B CIDs in the final rule.

Commenters also recommended the reduction, removal, or amendment of several other content elements for informational filings. Some commenters generally suggested changes to content elements that they viewed as requiring information that they did not believe to be as relevant or applicable for group B CIDs as for group A CIDs or to be available from other sources aside from the group B CIDs, while one commenter was generally supportive of the proposed content element requirements. After reviewing these comments, the proposed content element requirements, the availability of the information for the proposed content elements, and the FDIC’s resolution practices and experience, the FDIC has determined that all other informational filing content elements should be maintained as proposed. The content elements will provide critical information at a level of detail necessary for resolution planning and execution that, in the FDIC’s estimation and experience, is not available in sufficient detail from other sources to meet the FDIC’s needs in the resolution context.

Under the final rule, a full resolution submission, whether a resolution plan for a group A CIDI, or an informational filing for a group B CIDI, must include a discussion of any material changes from the prior full resolution submission or interim supplement or an affirmation that no material change has occurred, and a discussion of changes to the CIDI’s previous full resolution submission resulting from any change in law or regulation, guidance, or feedback from the FDIC. This requirement was proposed as part of the executive summary of the resolution plans submitted by the group A CIDs, and while the group B CIDs do not need to include an executive summary as part of their informational filings, the final rule requires that the information filing include a similar discussion of changes since the prior submission. As discussed above, the definition of material change has been modified in the final rule in response to comments, providing additional context to this requirement.

The FDIC considered all comments related to the specific requirements of the content elements described in § 360.10(d) of the proposed rule and discusses these content elements below.

#### Identified Strategy

The proposal would have required each group A CIDI to provide an identified strategy, which describes the resolution from the point of failure through the sale or disposition of the group A CIDI’s franchise (including all



of its core business lines and all other business segments, branches, and assets that constitute the CIDI and its businesses as a whole) in a manner that meets the credibility standard. The proposal would have established the bridge bank approach as the default identified strategy, and indicated that a bridge bank strategy must provide for the establishment and stabilization of a bridge bank and an exit strategy from the bridge bank.

Recognizing that the bridge bank approach may not be optimal for all group A CIDs, the proposal would have permitted a different identified strategy if that different strategy best addressed the first prong of the credibility criteria, could reasonably be executed by the FDIC across a range of likely failure scenarios, and would be more appropriate for the size, complexity, and risk profile of the specific group A CIDI. However, the proposed rule would not have permitted the identified strategy to be based upon the sale of substantially all assets and liabilities over closing weekend. The proposal would have required that any identified strategy include meaningful optionality for execution across a range of failure scenarios.

Two commenters recommended eliminating the requirement of a failure scenario-based identified strategy in any resolution plan. In addition, one comment letter suggested that this requirement should be based on factors other than size, such as whether more than 90 percent of the total consolidated assets are within the CIDI, the extent of cross-border activity, or the IDI's role as a financial utility or agent bank. Two commenters supported the proposed scope of the requirement; one commenter suggested that it should apply to group B CIDs as well.

Two commenters supported the identified strategy requirement as proposed, with one noting it would be among the most critical pieces of information in a resolution plan and plans without this element would not likely be credible or effective. Three other commenters favored elimination or modification of the failure scenario and identified strategy requirement. Several commenters supported the proposed rule's emphasis on a bridge bank approach as the default identified strategy. Two commenters recommended including a whole bank sale as a permitted identified strategy for group A CIDs, suggesting that it is a possible option even for large banks, and its use may minimize losses to the DIF and other creditors.

The FDIC considered the comments and concludes that there are certainly

factors other than size that impact challenges in resolution and availability and likelihood of a closing weekend sale as a strategic option, however, the FDIC considers that size alone may present significant challenges and make a closing weekend sale less likely. While the FDIC will consider any feasible bid for the sale of the IDI franchise over closing weekend or as promptly as possible post-failure, it cannot rely on that option, and must have available other strategic options. As explained in the preamble to the proposal, the proposed requirements related to the identified strategy and failure scenario are intended to provide the FDIC with a strategic option that is adaptable under a wide range of potential scenarios, as the actual scenario is likely to be materially different from any hypothetical scenario construct. Further, the development of an identified strategy that takes into account a group A CIDI's organization, structure, business lines, and other characteristics provides significant insight into the obstacles that the FDIC might face in resolving the CIDI and possible mitigating actions that may be available to address those obstacles. Accordingly, the final rule retains the requirement that group A CIDs develop an identified strategy based on a failure scenario.

In addition, the final rule adopts the approach taken in the proposal with respect to the strategic options to be considered in each group A CIDI's identified strategy. The strategic option that the FDIC considers most useful for the group A CIDs across the widest range of failure scenarios is the establishment of a bridge bank that can continue the operations of the CIDI. Generally, a bridge bank approach will support the preservation of franchise value and will also allow time for restructuring and marketing to facilitate the sale or disposition of the business lines and related assets, while providing insured depositors with prompt access to their accounts.

Accordingly, the final rule establishes the bridge bank approach as the default identified strategy. A bridge bank strategy must provide for the establishment and stabilization of a bridge bank and an exit strategy from the bridge bank, such as a multiple acquirer exit involving the regional breakup of the group A CIDI or sale of business segments, an orderly wind down of certain business lines and asset sales, an exit via restructuring and subsequent initial public offering or other capital markets transaction, or another exit strategy appropriate to the size, structure, and complexity of the

CIDI. If a multiple acquirer exit is included as part of the identified strategy, it may be appropriate for the resolution plan to address the time required for that exit option and any restructuring or other actions needed to address obstacles to separability of divestiture options. If the identified strategy assumes the sale of franchise components or a multiple acquirer exit, the resolution plan should take into account all issues surrounding the CIDI's ability to sell in market conditions present in the applicable economic condition at the time of sale.

Consistent with the proposed rule, in addressing the establishment of the bridge bank, the final rule does not require that a resolution plan demonstrate that the identified strategy is the least-costly to the DIF of all available strategies; in particular, the resolution plan is not required to demonstrate that the identified strategy would be less costly to the DIF than liquidation. Similarly, the resolution plan is not required to include analysis discussing whether the conditions for chartering the bridge bank would be satisfied. Rather, each group A CIDI is required to support its estimation that the identified strategy in the resolution plan maximizes value and minimizes losses to the creditors of the group A CIDI. While commenters noted that this necessarily would be subjective and depend on a variety of factors, the CIDI's assessment of this item will be helpful to the FDIC in making its own assessment in the event of a failure. The valuation analysis discussed below supports the FDIC's ability to evaluate the strategy's impact on value and its potential costs to the DIF across a range of options.

Recognizing that the bridge bank approach may not be optimal for all group A CIDs, consistent with the proposal, the final rule permits a different identified strategy if it best addresses the first prong of the credibility standard (discussed in *credibility criteria* below), could reasonably be executed by the FDIC across a range of likely failure scenarios, and would be more appropriate for the size, complexity, and risk profile of the specific group A CIDI. Also consistent with the proposal, an alternative identified strategy under the final rule could include transferring some but not all business lines and assets to a bridge bank and liquidating others in a receivership. For some group A CIDs, a payment of insured deposits<sup>15</sup> and

<sup>15</sup> This task could be accomplished through a Deposit Insurance National Bank established by the FDIC pursuant to 12 U.S.C. 1821(m).

liquidation of all business lines and assets in receivership may be the most appropriate identified strategy.

Consistent with the proposed rule, the final rule requires any identified strategy to include meaningful optionality for execution across a range of scenarios and provide the information and analysis to inform decisions and support optionality for the FDIC in undertaking a resolution of the CIDI following its material financial distress and failure. One commenter stated that meaningful optionality is a vague and difficult standard. As explained in the preamble to the proposal, meaningful optionality reflects an expectation that an identified strategy be flexible so that it can be adapted to a change in the failure scenario or an unexpected obstacle to its execution. The nature and extent of meaningful optionality will vary based upon the size and complexity of the CIDI. For instance, a relatively smaller and less complex CIDI with a focus on traditional banking may identify only a breakup between two business lines or the spinoff or sale of a separable business unit. For the largest or most complex CIDs, meaningful optionality might include alternatives such as a breakup by business lines and a regional breakup, or by sale of one or more identified franchise components as options for a sale of the IDI franchise. The final rule retains the expectation of meaningful optionality as proposed.

#### Failure Scenario

The proposal would have required the identified strategy to be based on a failure scenario that demonstrates that the CIDI is experiencing material financial distress. The proposed rule would have required the failure scenario to assume and demonstrate that the CIDI experienced a deterioration of its asset base, and that its high quality assets have been depleted or pledged due to increased liquidity requirements from counterparties and deposit outflows. The proposal noted that, while the immediate cause of failure may be based on liquidity shortfalls, the failure scenario also must consider the likelihood of the depletion of capital and losses in the assets of the CIDI, which may include embedded losses that may not have been recognized by the CIDI for financial reporting purposes. The FDIC has learned that a submission is most valuable when it is based on the assumption that the CIDI has experienced material financial distress such that its failure is a result of the depletion of capital and/or liquidity. While the resolution strategy may be based on an idiosyncratic event

or action, including a series of compounding events, the firm should justify all assumptions, consistent with the conditions of the economic scenario and the nature of the CIDI. These proposed provisions remain substantively unchanged in the final rule.

Under the proposal, the failure scenario would have been required to assume that the U.S. parent holding company is in bankruptcy and is consistent with the approach taken in DFA resolution plans. One commenter objected to the assumption that the parent is in bankruptcy, stating that this assumption is not appropriate for all firm structures and may overlook potential sources of value in resolution and limit the information available to the FDIC. While the FDIC appreciates that the CIDI's parent and parent affiliates may not be in bankruptcy in all cases, experience shows that a bank failure frequently occurs with bankruptcy of the parent and parent affiliates. For that reason, an understanding of the impact of such a failure scenario on the resolution of the CIDI is important for the FDIC to prepare for that possibility and the FDIC believes that this baseline assumption is useful and appropriate. The full resolution submissions will contain information to support an evaluation of outcomes in the event that a coordinated, group-wide approach is feasible. For instance, consistent with the proposal, the final rule requires information on financial and operational interconnections between the IDI and the parent and parent affiliates that will be helpful to the FDIC in considering options should this baseline assumption prove not to be the case in an actual resolution scenario. For these reasons, the FDIC has made no change with respect to this assumption in the final rule.

The FDIC made a clarifying change to the failure scenario by deleting the references to discount window borrowing before or in resolution. While assumptions regarding discount window borrowing are included in the scenarios described in prior DFA resolution plan guidance, these considerations are less important to the FDI Act resolution scenario because of the availability of the DIF for temporary liquidity in resolution. The preamble to the proposed rule noted that the identified strategy may assume continuation of Federal Home Loan Bank (FHLB) advances as well as the availability of short-term liquidity advances from the DIF to meet temporary liquidity needs in resolution, if the identified strategy provides for

timely repayment of those funds, an assumption that was supported by one commenter. As the scenario specifically permits the use of DIF liquidity in resolution, provided that the identified strategy may not assume use of the DIF to avoid losses to creditors of the bridge bank, and may assume the availability of FHLB or other sources of liquidity on applicable terms, it is less significant whether the bridge bank borrows from the discount window. To the extent that the CIDI assumes that DIF funding is used during the resolution by a bridge bank, it must demonstrate the capacity for such borrowing on a fully secured basis and must demonstrate a source of timely repayment.

In addition, the final rule retains the proposal without change to allow flexibility for the FDIC to devise specific failure scenario assumptions with respect to macroeconomic conditions or the precipitating cause of failure. One commenter stated that the FDIC should provide any changes to failure scenario assumptions at least 12 months before a full resolution submission is due. The FDIC will endeavor to provide a group A CIDI notice of additional or alternative parameters for the failure scenario at least one year before the applicable full resolution submission is due. Other comments suggesting that changes to the scenario must be public and apply equally to all group A CIDs were not adopted. The FDIC has learned in past plan reviews and resolution experience that the path to failure is different for different firms and may depend on the particular business structure of an individual CIDI or cohort of CIDs. Accordingly, the FDIC believes that it is appropriate to retain options for flexibility and confidentiality in the development of scenarios.

#### Executive Summary

The proposed rule would have required a group A CIDI to include an executive summary describing the key elements of its identified strategy. It also would have required a discussion of changes to the group A CIDI's previously submitted resolution plan resulting from any change in law or regulation, guidance or feedback from the FDIC, or any material change. Finally, the proposed rule would have required a discussion of any actions the group A CIDI had taken since submitting its most recent resolution plan to improve the resolution plan's information and analysis, or to improve its capabilities to develop and timely deliver that information and analysis. This provision of the final rule is adopted as proposed. As discussed above, the definition of material change

has been refined from the definition in the proposal.

**Organizational Structure: Legal Entities; Core Business Lines; and Branches**

The proposal would have required a full resolution submission to describe the CIDI's domestic and foreign branch organization and to provide addresses and asset size. The proposed rule would have also required the CIDI to identify and describe the core business lines of the CIDI, the parent company, and parent company affiliates. The proposed rule would have introduced the requirement to identify all regulated subsidiaries, as this information will assist the FDIC in identifying entities with capital, liquidity, and other requirements, and in assessing these entities' regulatory requirements when it is resolving a CIDI using a bridge bank. The proposed rule would have modified the mapping requirements to require that core business lines be mapped to material entities, franchise components, and regulated subsidiaries, to improve the utility of mapping and support the analysis of franchise components. One commenter objected to the level of informational detail required for regulated subsidiaries, and recommended that the final rule limit the requirements to material entities, as defined, or limit the information required with respect to regulated entities to a list of these subsidiaries and their respective jurisdictions, regulators, and asset sizes. The definition of "regulated subsidiaries" includes registered brokers and dealers, registered investment advisors, registered investment companies, insurance companies, futures commission merchants and other entities regulated by the Commodity Futures Trading Commission, and other, similar regulated entities. These entities, even if relatively small in asset size or income, present complexity in resolution, and it is important to the FDIC to understand their role in the banking organization and the capital and liquidity impacts of these entities if they are maintained by a bridge bank. Accordingly, the final rule adopts this requirement as proposed.

The proposed rule would have required the full resolution submission to describe whether any core business line draws additional value from, or relies on, the operations of the parent company or a parent company affiliate, and identify whether any such operations are cross-border, to support and inform the FDIC's analysis of the impact of breakup of the CIDI from its parent company and parent company

affiliates. This requirement is retained in the final rule.

**Methodology for Material Entity Designation**

The proposed rule would have required each CIDI to describe its methodology for identifying material entities, to afford each CIDI the flexibility to develop a methodology that is appropriate to the nature, size, complexity, and scope of its operations. The final rule adopts this proposed requirement without change.

**Separation From Parent; Potential Barriers or Material Obstacles to Orderly Resolution**

The proposed requirements with respect to actions needed to separate a CIDI from the organizational structure of its parent company and parent company affiliates, as well as how to separate the CIDI's subsidiaries from this structure, are adopted without substantive change. The final rule, consistent with the proposal, requires that a full resolution submission address the CIDI's ability to operate separately from the parent company's organization, and that the CIDI assume that its parent company and the parent company affiliates have filed for bankruptcy or are in resolution under another insolvency regime. It also requires addressing the impact on the bridge bank's value if the CIDI were separated from the parent company's organization. These requirements are intended to focus on whether the CIDI, and therefore a bridge bank, can be a viable stand-alone entity from the point of view of economic value and viability of business lines.

Consistent with the proposed rule, the final rule requires identification of potential barriers or other material obstacles to an orderly resolution, the identification of how such barriers or obstacles could pose risks to a group A CIDI's identified strategy, and the identification of inter-connections and inter-dependencies that may hinder the timely and effective resolution of the CIDI. For clarification, the final rule qualifies the potential barriers or other material obstacles to an orderly resolution as those that may occur upon the CIDI's separation from the parent company's organization. Like the proposal, the final rule also provides for the CIDI to identify any remediation steps or mitigating responses necessary to eliminate or minimize these barriers or obstacles.

**Overall Deposit Activities**

Consistent with the proposal, the final rule requires a full resolution submission to include important

information about deposit activities. One comment letter suggested that instead of requiring this information, the rule should focus on ensuring that the CIDI has the capabilities to provide the necessary information timely. The FDIC agrees that the capabilities to provide this information on a current basis would be important in resolution. The CIDI's provision of the information required would be one way to demonstrate these capabilities. This information would give the FDIC a baseline view of the deposit activities of each CIDI and assist the FDIC in contingency planning activities for a potential failure of the CIDI, recognizing that updates would be needed in an actual resolution event.

The final rule adopts the proposed requirements with respect to deposit activities, which include information about insured and uninsured deposits. While the proposal would have required information on commercial deposits by business line and unique aspects of the deposit base or underlying systems, the final rule provides clarification of that particular aspect of the requirement. The final rule specifies that the requirement is to identify "particular deposit concentrations," in addition to other aspects of the deposit base or underlying systems that may increase complexity in resolution. The final rule retains the proposed requirement to describe how types or groups of deposits are related to a core business line, business segment, or franchise component and how they are identified in the CIDI's systems or records. As discussed in the preamble to the proposed rule, the deposits related to a particular franchise component must be readily identified to facilitate the separation and sale of the franchise component along with the associated liabilities. Similarly, in a multiple acquirer exit, which may involve regional breakup of the CIDI or a breakup of its business lines, it will be important to understand how to identify the deposits that would relate to the various divestiture options in such a breakup.

Consistent with the proposal, the final rule requires a discussion of foreign deposits and identification of deposits dually payable in the U.S. The final rule also adopts the proposed requirements with respect to information about deposit sweep arrangements with affiliates and unaffiliated parties and the contracts governing those arrangements. The final rule clarifies the proposal by stating that the FDIC needs information about the CIDI's reporting capabilities to generate accurate and timely contact information for omnibus, deposit sweep,

and pass-through accounts. The FDIC intends this clarification to be a non-substantive change.

The final rule adopts the proposed requirements with respect to identification of key depositors, which are defined as depositors that hold or control the largest deposits (whether in one account or in multiple accounts) that collectively are material to one or more business segments. Each key depositor must be identified by name, business segment, and amount of deposit, and the CIDI must identify other services it provides to that depositor. One commenter stated that the required information regarding deposit activities should be narrowed, but the commenter did not propose an alternative approach. The FDIC asked for feedback on the approach to identification of key depositors but did not receive feedback. Rather than providing for a prescriptive approach, the final rule simply requires a description of the approach used by the CIDI in identifying its key depositors. While in some cases providing information on the top 10 or 20 percent of deposits may be the best approach, in others it may be the top 50 or 400 depositors, or it may be that the nature of the relationship is a crucial identifying feature. Key depositors should include those depositors that the CIDI monitors most closely and may want to engage with in a stress event.

#### Critical Services

The final rule adopts the proposed requirements with respect to critical services without substantive change. This includes the requirement that the CIDI be able to demonstrate capabilities necessary to ensure continuity of critical services in resolution. Under the final rule, full resolution submissions are required to identify critical services and critical services support and include an explanation of the criteria by which critical services are identified in order to clarify for the FDIC the CIDI's approach to this content element. The final rule requires the identification of critical services and critical services support provided by the parent company or a parent company affiliate, as well as the physical locations and jurisdictions of critical service providers and critical services support that are located outside of the United States. The full resolution submission must map critical services support to legal entities that provide those services directly or indirectly through third parties. In addition, a full resolution submission must map critical services to the material entities, core business lines, and franchise components supported by

those critical services. It also must include information about the critical services and critical services support that may be at risk of interruption if the CIDI fails and the process the CIDI used to make that determination. The full resolution submission must also discuss potential obstacles to maintaining critical services that could occur in the event of the CIDI's failure and steps that could be taken to remediate or otherwise mitigate the risk of interruption, describe the CIDI's approach for continuing critical services in the event of the CIDI's failure, and provide information about the contracts governing the provision of these services. Consistent with the proposal, the final rule requires a CIDI to provide information about its process for collecting and monitoring the contracts governing critical services and critical services support. As noted in the preamble to the proposed rule, providing information about the systems that store these contracts and how this information is stored (e.g., centrally, by business line or material entity, by business function, etc.) would provide the FDIC with valuable information when seeking to understand a CIDI's operations and business relationships.

#### Key Personnel

The final rule adopts without change the proposed requirements with respect to key personnel, including that a CIDI must identify key personnel and describe its methodology for identifying key personnel, and must furnish information regarding the identification of employee benefit programs provided to key personnel and any applicable collective bargaining agreements or similar arrangements. Key personnel are defined broadly in the rule, and should include personnel tasked with an essential role in support of a core business line, franchise component, or critical service, or having a function, responsibility, or knowledge that may be significant to the FDIC's resolution of the CIDI. Key personnel should include personnel that hold or maintain necessary licenses or permits for domestic or foreign operations at the CIDI or have been designated as key personnel to domestic or foreign authorities. Consistent with the proposal, the final rule requires a CIDI to provide a recommended approach for retaining key personnel during its resolution that, for example, may specify retention bonuses and other retention incentives. This approach should consider and address employees most at risk for leaving the CIDI promptly upon a failure event.

#### Franchise Components

The proposal included certain requirements with respect to the identification of franchise components and related capabilities. Under the proposal, a franchise component was defined as a business segment, regional branch network, major asset or asset pool, or other key component of the IDI franchise that could be separated and sold or divested.

In response to comments, the final rule makes certain adjustments to the requirements with respect to franchise components. The proposed rule included the requirement that a CIDI must be able to demonstrate the capabilities to ensure that franchise components are separable and marketable in resolution. The final rule eliminates the word separable from this definition. Instead of referring to separability as a required capability of a CIDI, the emphasis of the final rule is on the identification of franchise components that are, in their current circumstances, separable. The final rule retains the requirement that a CIDI must be able to demonstrate the capabilities necessary to market the franchise components.

In addition, the final rule makes an express reference to the IDI franchise in this sentence to make clear that this capability also must support the marketing of the IDI franchise as a whole or in conjunction with the marketing of its franchise components. Although the final rule does not permit a closing weekend sale as the identified strategy for the reasons discussed above, a sale of the IDI franchise, whether over closing weekend or following a bridge bank period, is an important option in resolution. It is therefore essential that CIDs maintain the capabilities necessary to support marketing of their IDI franchises as well as their franchise components.

The proposal included the requirement that the full resolution submission identify franchise components that are currently separable and marketable in a timely manner. The proposed rule received one comment with respect to this requirement. The commenter stated that there should not be a specified timing requirement for the sale of franchise components and that the imposition of a time period, especially a short one, such as 60 or 90 days, would not be appropriate or realistic. In particular, the commenter stated that it would not work for multiple acquirer exit strategies, which require months to execute.

The final rule retains the proposed definition of the term "franchise

component” as discussed above and retains text of the proposed rule with respect to identification of franchise components that are currently separable and are marketable in a timely manner. The intent is to identify franchise components that can be marketed and sold in their current state, *i.e.*, without significant obstacles or the need for restructuring. This will enhance optionality for the FDIC, creating the potential for marketing of the IDI franchise as a whole as quickly as possible following the failure of the CIDI. Thus, the phrase “timely manner” is retained. Although the FDIC did not propose and is not now including a specific time requirement, “timely” marketing capabilities should be measured in days or weeks, not months.

The FDIC notes that the adopted approach to separability and marketability of franchise components is distinguishable from the proposed approach taken with respect to the identification of divestiture options to support a multiple acquirer exit from a bridge bank. The multiple acquirer exit is a possible element of an identified strategy, a requirement that applies only to group A CIDs. Such an exit option may require restructuring and divestiture options that present greater obstacles and that may require a longer period than for a sale of the franchise components. For example, an identified franchise component might be a broker-dealer or mortgage servicing subsidiary within the bank chain, or a material asset portfolio, that is readily separable from the IDI and can be marketed as an option at the time of failure. On the other hand, divestiture options may be the result of a regional breakup of the CIDI or a breakup of business lines that require significant restructuring in order to market the regional or business line segments separately.

The proposed rule would have required franchise components identified in a full resolution submission to be sufficient to implement the identified strategy (for group A CIDs) and to provide meaningful optionality across a range of scenarios if the preferred approach is not available. The requirement to provide meaningful optionality across a range of scenarios is deleted from this paragraph as superfluous. That expectation is subsumed in the first prong of the credibility standard applicable to group A CIDs, which is discussed above.

Consistent with the proposed rule, the final rule sets forth basic informational elements required for each franchise component, including identification of responsible senior management and

provision of metrics depicting each franchise component’s size and significance. Useful metrics may include total revenue, net income, percentage market share, and, if applicable and available, total assets and liabilities. The full resolution submission must also include a description of the key assumptions for each franchise component divestiture and all significant impediments and obstacles to execution of a franchise component divestiture, including legal, regulatory, cross-border, or operational challenges.

The final rule retains these paragraphs as proposed. The final rule makes no change to the proposed requirement that a full resolution submission must include a description of the CIDI’s capabilities and processes to initiate marketing of the franchise component and provide a description of necessary actions and a timeline for the divestiture supported by a description of the key underlying assumptions. The final rule also adopts the requirement in the proposal that the CIDI describe the process it would use to identify prospective bidders for its franchise components. The FDIC makes every effort to market failed banks—and their assets and business segments—as widely as possible. A requirement that CIDs provide analysis on identification of prospective bidders of franchise components supports that effort. In addition to describing the process for identification of prospective bidders, identifying those prospective bidders, either specifically or by industry or category, would also be helpful.

The final rule incorporates the proposed requirements with respect to a virtual data room (VDR), which, among other things, must include information sufficient to permit a bidder to provide an initial bid on the IDI franchise or the CIDI’s franchise components. One commenter stated that the VDR requirements should be aligned with the DFA rule expectations regarding due diligence rooms. The comment also stated that the FDIC should not require ongoing maintenance of a VDR and not establish a timeframe for setting up the VDR because time requirements may vary across CIDs. It also stated that the FDIC should note that the list of VDR elements is merely indicative.

The VDR requirements in the final rule are consistent with the expectations in the U.S. GSIB guidance<sup>16</sup> issued in connection with the DFA rule that

would apply to any divestiture option identified in a DFA resolution plan, which could include any subsidiary or component of the firm’s global organization. Reflecting the different focus of this rule, it provides more detail than the U.S. GSIB guidance about the informational elements that would be appropriate for a VDR to be utilized in the sale of the IDI franchise and the CIDI’s franchise components. The final rule, like the proposal, does not require the ongoing maintenance of a VDR; rather it is focused on the capabilities to establish a VDR in a timely manner.

The final rule is unchanged from the proposal with respect to the length of time during which a VDR must be able to be populated, in that it does not provide a prescriptive time. However, the capabilities should support a very short time frame to stand up a VDR and not rely upon a stabilized bridge bank to extend the time available to do so. The final rule requires a description of the length of time and any challenges or obstacles to providing complete and accurate information necessary to support a competitive bid, with an expectation that this time frame will be brief and measured in days.

The list of content elements to be included in the VDR is indicative and not comprehensive; the specific information and data that would be appropriate and sufficiently detailed to support prompt and competitive bids will vary among CIDs. For instance, deposit data and information elements might include a complete, current deposit trial balance reconciled to the general ledger, a description of the largest depositor relationships, information regarding sweeps and brokered deposits, and other data useful to inform a bid. Loan and lending operations information might include a loan tape or loan trial balance reconciled to the general ledger, loan portfolio file samplings, underwriting policies, information regarding real estate owned, and key lending relationships. Where the CIDI has non-traditional business lines, the information provided should be appropriate to the sale of those elements as franchise components or as part of the IDI franchise. The data and information as a whole should support a sale of the IDI franchise as a whole, while providing optionality for the sale of separable franchise components. The final rule was modified from the proposal to make clear that certain of the listed data elements may not apply in some cases, such as for the sale of a franchise component that is a material asset portfolio.

<sup>16</sup> Guidance for section 165(d) Resolution Plan Submissions by Domestic Covered Companies applicable to the Eight Largest, Complex U.S. Banking Organizations, 84 FR 1438 (Feb. 4, 2019).

Finally, to effect a timely sale of a failed IDI, the FDIC must have access to and control of data in a VDR.

Historically, the FDIC has established a VDR controlled by the FDIC and migrated the information into that VDR. As in the proposal, the final rule requires the full resolution submission to include information with respect to access protocols and requirements for the FDIC to use the VDR to carry out the sale of the IDI franchise or the CIDI's franchise components. It also must include a description as to how the CIDI could support that process, either through providing sufficient access and controls to the CIDI's virtual data room to the FDIC as receiver for the failed IDI, or by establishing a process to timely and securely migrate all data to an FDIC-controlled VDR, in a suitable format and file structure.

Because many of the CIDs have a broker-dealer subsidiary or parent company affiliate, the final rule also includes, without change, the proposed provision specifically addressing VDR content related to a broker-dealer. It is not the intent of that provision, however, to exclude or limit information related to other non-banking activities such as insurance or asset management.

#### Material Asset Portfolios

The proposed rule would have required CIDs to include information about "asset portfolios," including how the assets within the portfolio are valued and recorded in the CIDI's records. As proposed, a CIDI would have been required to identify and discuss impediments to the sale of each material asset portfolio and to provide a timeline for each material asset portfolio's disposition. A commenter noted that the concept of "material asset portfolios" appears to be included in the definition franchise components and therefore, a separate requirement regarding material asset portfolios is redundant and unnecessary. The final rule retains the proposed requirement and exclusively utilizes the defined term "material asset portfolios." With respect to the definition of franchise components, the final rule utilizes the term "material asset portfolio" instead of "asset pool" for clarity and consistency. While a material asset portfolio may be identified as a franchise component, this paragraph requires identification of material asset portfolios whether or not they meet the definition of a franchise component and are identified as such in the full resolution submission. However, where there is overlap with material asset portfolios that are franchise

components, the information can be provided once and cross-referenced, if appropriate.

#### Valuation To Facilitate FDIC's Assessment of Least-Costly Resolution Method

As explained in the preamble to the proposal, the requirement that each group A CIDI must provide valuation analysis and develop the related capabilities would support the FDIC's analysis in conducting valuations in any actual failure scenario, even where there are no bid prices available to establish value. The proposed rule would have required group A CIDs to demonstrate the capabilities necessary to produce valuations that support the FDIC's analysis to determine whether a resolution strategy would be the least costly to the DIF in the event of failure. To demonstrate valuation capabilities, the proposed rule would have required a group A CIDI to describe its valuation process in its resolution plan and include a valuation analysis that includes a range of quantitative estimates of value as an appendix to its resolution plan.

The proposed valuation analysis required that a group A CIDI provide a narrative description of how it values its franchise components and the CIDI as a whole. It also required qualitative and quantitative valuation analysis assuming both an all-deposits bridge bank and the transfer of insured deposits only to the bridge bank. In all cases, the proposed rule required that the resolution plan describe the CIDI's approach to gathering information needed to support its analysis and its ability to produce updated and timely valuation information.

The FDIC received several comments to the proposal with respect to the proposed requirements for valuation analysis. Several commenters emphasized the importance of valuation to resolution planning. Three commenters supported the replacement of least-cost analysis with a valuation capabilities requirement, but disagreed with the proposed approach to quantitative analysis. One commenter argued that assumptions regarding depositor and potential acquirer behavior would be "inherently subjective and likely to add little-to-no value to the FDIC." This commenter also stated that the quantitative analysis is not well adapted to CIDs that lack experience with mergers and acquisitions or large mergers and acquisitions teams, and would require retention of third parties.

The FDIC considered commenters' concerns regarding the requirement for

quantitative analyses. The final rule partially retains the requirement for quantitative analysis, with some modifications. There is significant value in a group A CIDI demonstrating that it has the capability to value its deposit franchise, as well as the individual franchise components. The proposed valuation content requirements are not underpinned by an expectation that the resulting ranges of value will accurately anticipate sale proceeds actually received from a disposition at some undetermined future point. Instead, the utility of CIDs' valuation analysis is in understanding the methodologies CIDs determine to be appropriate for estimating the value of their franchise components and the CIDI as a whole, and the degree to which CIDs would be able to furnish the information and analysis necessary for the FDIC to conduct its statutorily-required analyses in an actual resolution scenario.

The evaluation of valuation analyses under the second prong of the credibility standard reflects a recognition of the inherent necessity for application of judgment in the analyses (e.g., selection of appropriate valuation approaches, assignment of weights to the various approaches). As required by the standard, the CIDI's judgment should be supported by observable and verifiable capabilities and data, as well as reasonable projections. Thus, the FDIC will not evaluate the analysis on the basis of a specific threshold or metric or the specific choices made regarding valuation approaches and methodology, but rather on the comprehensiveness of the analysis, the supportability of the data and capabilities required to conduct the analysis, the reasonableness of the CIDI's assumptions and selected approaches, and the group A CIDI's ability to refresh the analyses in a timely manner. The FDIC does not require or expect valuation analysis to be completed by a third-party expert; rather the analysis should be based upon the group A CIDI's understanding of the nature of its business and its relationships with its depositors.

In response to comments, the final rule eliminates the requirement that valuation estimates reflect the "net present value of proceeds estimated to be received" in a sale of the IDI franchise as a whole or under a sum-of-the-parts analysis. This change recognizes that, while the required valuation analysis will result in a range of reasonable values, the actual proceeds realized in a given transaction will depend on, among other things, the facts and circumstances surrounding the

actual failure and the time for marketing and executing the transaction.

In addition, in response to comments, the final rule modifies the proposed requirements to reflect a shift toward qualitative analysis only for § 360.10(d)(12)(ii)(B), eliminating the quantitative analysis relating to the impact on value in the event that losses are imposed on uninsured depositors in connection with the resolution strategy adopted.

The presence of unsecured debt on the balance sheet of the failed IDI serves to protect deposits in resolution, and increase the likelihood that an all-deposits bridge bank will meet the requirements of the least-cost test. However, even with the benefits of long-term debt positioned at the CIDI at the time of its failure, it cannot be assured that an all-deposits bridge bank will meet the requirements of the least-cost test in every case. Thus, the final rule, like the proposal, also requires analysis of the impact on value where only insured deposits are passed to the bridge bank. This analysis will assist the FDIC in understanding the impact on value in an insured-only bridge bank, which will assist in weighing whether that outcome is less costly than other available resolution options. While the proposal required quantitative as well as qualitative analysis in this area, in response to comments, the final rule requires a group A CIDI to provide only qualitative analysis of the impact on franchise value that may result from not transferring uninsured deposits to the bridge depository institution. The quantitative analysis provided with respect to an all-deposits bridge bank, together with robust qualitative analysis with respect to an insured-only bridge bank, will support the FDIC's least-cost determination under both scenarios. This qualitative analysis must include a description of options to mitigate that impact, such as an advance dividend payment to depositors, reflecting different levels of loss. As clarified in the final rule, such a qualitative analysis should reflect reasonable assumptions of customer behavior based upon the group A CIDI's overall depositor profile and the provision of overall lending and other services to such depositors. For example, insight into the holistic client relationships, including the lending, fee-based, and deposit-based businesses would provide insight into the value impact.

#### Off-Balance Sheet Exposures

The final rule incorporates the proposed requirement that a full resolution submission include a description of any material off-balance-

sheet exposures, including unfunded commitments, guarantees, and contractual obligations, and that it map those exposures to franchise components, core business lines, and material asset portfolios.

#### Qualified Financial Contracts

The final rule includes the proposed requirements for information on qualified financial contracts (QFCs), which are intended to support and enhance information that may be provided under the FDIC's QFC recordkeeping rule, and would be useful in the event that the CIDI were not subject to the requirements of the QFC recordkeeping rule at the time of its failure.<sup>17</sup> The focus of the information required is on the relationship of QFCs to the CIDI's core business lines and franchise components, and how these transactions are integrated with the CIDI's business activities and with other services provided to customers. Consistent with the proposal, the final rule also requires CIDs to provide information about their booking models for risk, and how the CIDI uses QFCs to manage hedging or liquidity needs. This information will help the FDIC make decisions with respect to transferring QFCs to a bridge bank, and to better understand the impact of any decision not to transfer certain QFCs. The final rule also includes certain revisions to the language of this paragraph, which are intended as clarifying changes.

#### Unconsolidated Balance Sheet; Material Entity and Regulated Subsidiary Financial Statements

The final rule adopts the proposed requirement that a CIDI must provide an unconsolidated balance sheet and consolidating schedules for all material entities and regulated subsidiaries that are subject to consolidation with the CIDI. The final rule also adopts the provision permitting CIDs to aggregate on the consolidating schedule amounts attributed to entities that are not material entities or regulated subsidiaries. The final rule includes clarifying changes intended to more clearly state that all of the requirements apply to regulated subsidiaries as well as material entities. Consistent with the proposal, the final rule requires audited financial statements where they are available.

#### Payment, Clearing, and Settlement Services

The final rule adopts, with clarifying changes, the proposed requirement that a full resolution submission provide

information regarding each payment, clearing, and settlement (PCS) provider with which it has a direct relationship. The text was revised to make clear that payment, clearing, and settlement systems include services provided by financial market utilities and agent banks, and makes "PCS service provider" a new defined term. Consistent with the proposal, information is required for PCS service providers that are critical services or critical services support. Also consistent with the proposal, the final rule requires CIDs to map PCS service providers to legal entities, core business lines, and franchise components, and to describe the services provided by these systems, including the value and volume of activities on a per-provider basis.

The final rule also adopts the proposed requirement for a full resolution submission to describe PCS services provided by a CIDI and that are material in terms of revenue to or value of any franchise component or core business line of the CIDI.

#### Capital Structure; Funding Sources

The final rule adopts, with clarifying changes, the proposed requirements with respect to capital structure and funding sources. Two comments were supportive of the proposed approach. The final rule requires that a full resolution submission describe the current processes used to identify the funding, liquidity, and capital needs of and resources available to each CIDI subsidiary or foreign branch that is a material entity, and to describe the CIDI's capabilities to project and report its near-term funding and liquidity needs. It requires that the full resolution submission identify the composition of liabilities of the CIDI, as a clarification of the proposed requirement to describe them, and specifies the requisite information to be provided with respect to those liabilities. The final rule also requires a CIDI to identify material funding relationships and material inter-affiliate exposures between the CIDI and its subsidiaries or foreign branches that are material entities, instead of the proposed requirement to describe them. These changes are intended to clarify that the full resolution submission is expected to include quantitative information for these areas, and are complementary to the expectation that the interim supplement will not include any additional narrative apart from the description of material changes as described in § 360.10(e)(2)(i) and (ii).

<sup>17</sup> See generally 12 CFR part 371.

### Parent and Parent Company Affiliate Funding, Transactions, Accounts, Exposures, and Concentrations

The final rule adopts, with clarifying changes, the proposed requirements with respect to parent and parent company affiliate funding, transactions, accounts, exposures, and concentrations. The final rule requires that a CIDI's full resolution submission must identify material affiliate funding relationships and material inter-affiliate exposures that the CIDI or its subsidiaries have with the parent company or any parent company affiliate, instead of the proposed requirement to describe them. Similar to above, this clarifying language is intended to make clear that the full resolution submission is expected to include quantitative information and is complementary to the expectation that the interim supplement will not include any additional narrative apart from the description of material changes as described in § 360.10(e)(2)(i) and (ii). The full resolution submission must identify the nature and extent to which the parent company or any parent company affiliate serves as a source of funding to the CIDI and CIDI subsidiaries. The final rule requires that the submission include the terms of any contractual arrangements, including any capital maintenance agreements, the location of related assets, funds or deposits, and the mechanisms for such inter-affiliate transfers, revised to include funds transferred from parent company affiliates.

### Economic Effects of Resolution

The proposed rule would have required CIDs to identify their activities that are material to a particular geographic area or region of the United States, a particular business sector or product line, or other financial institutions. It also would have required the full resolution submission to describe the potential disruptive impact of the termination of such activities on the geographic area, region, business sector, industry, or product line, or to the U.S. financial industry.

The FDIC received several comments to the proposed approach with respect to the requirement that the full resolution submission describe disruptive impacts in resolution. Commenters objected to the proposed approach, arguing that it would require "speculative" assessment of impacts on third parties, that the information may be better available to supervisors with a wider vantage point on impacts, and that the proposal is too broad and vague and should be more clearly defined. The

FDIC agrees that the assessment of the potential disruptive impacts on third parties may be difficult and possibly speculative, and would have limited value. Accordingly, the final rule eliminates that requirement and substitutes a narrower requirement: that the full resolution submission discuss whether the identified services or functions are readily substitutable by other providers and other mitigants to the potential impact of the termination of those activities in the event of failure of the CIDI.

The CIDs are the nation's largest banks, and the FDIC will seek to resolve a CIDI in a way that minimizes the disruptive impact of the resolution to the extent possible. It is therefore important that the FDIC is aware of the activities of the CIDI that are most likely to have significant disruptive effects if terminated in resolution, such as where a CIDI provides a unique function or is a dominant provider of a particular service. While the CIDI may not be able to fully measure or assess those impacts, a CIDI will be able to identify areas where it has a large market share of a particular business segment or geographic region, or where it provides significant services to other financial institutions, such as agent or correspondent banking services. A description of the impact of cessation of these services or functions, and information regarding whether there are other providers with the capacity to readily substitute for the activities of the CIDI or other mitigants to the impact of termination of these services are important to understanding the potential impacts and mitigating actions that may be useful in the FDIC's resolution planning.

### Non-Deposit Claims

The final rule adopts without change the proposed requirement that a CIDI's full resolution submission identify and describe its capabilities to identify the non-depositor unsecured creditors of the CIDI and its subsidiaries that are material entities. Consistent with the proposal, the final rule also requires a description of how the CIDI would identify all non-depositor unsecured liabilities, including contingent liabilities like guarantees and letters of credit, as well as the location of the CIDI's related records and its recordkeeping practices. While related to the requirements in § 360.10(d)(17) addressing capital structure and funding sources, the requirements in this paragraph are intended to provide information specifically helpful to the claims process, and would be in

addition to the description of liabilities provided in § 360.10(d)(17).

### Cross-Border Elements

The final rule adopts with certain changes the proposed requirements with respect to cross-border elements in a full resolution submission. The FDIC received one comment on this proposed element, which supported the inclusion of the element as proposed. Consistent with the proposal, the final rule requires a full resolution submission to describe components of cross-border activities of the parent company or parent company affiliates that contribute to value, revenues, or operations of the CIDI. Where the CIDI has a significant interest (e.g., a controlling interest or a significant economic interest) in a foreign joint venture that contributes to revenue or operations of the CIDI, that information should be included. Entities with no meaningful function or contribution to the CIDI's operations, such as single purpose real estate holding companies, may be excluded.

Consistent with the proposal, the final rule also requires that a full resolution submission identify regulatory or other impediments to divestiture, transfer, or continuation of foreign branches, subsidiaries, or offices while the CIDI is in resolution, including retention or termination of personnel and adding in the final rule, transfer or continuation of licenses or authorizations. Further, the final rule adds an express requirement that the full resolution submission must identify all authorities with regulatory or supervisory authority over cross-border operations. This information will assist the FDIC in coordinating with the requisite authorities in resolution.

### Management Information Systems; Software Licenses; Intellectual Property

The final rule adopts without substantive change the proposed requirement that each CIDI's full resolution submission identify and describe each key management information system and application, and identify any core business line that uses it, and the key personnel needed to support and operate it. In the final rule, the term key personnel is used here instead of "personnel by title and legal entity employer." Each full resolution submission also is required to identify each system's and application's use and function, which core business lines use it, and its physical location, if any, as well as any related third-party contracts or service-level agreements, any related software or systems licenses, and any other related intellectual property. Consistent with the proposal, the final rule also requires a full resolution



submission to specifically identify key systems or applications that the CIDI or its subsidiary does not own or license directly from the provider and to discuss how to maintain access to the system or application when the CIDI is in resolution. Like the proposal, the final rule requires a description of the capabilities of the CIDI's processes and systems to collect, maintain, and produce the information and other data underlying the full resolution submission; identification of all relevant systems and applications; and a description of how the information is managed and maintained. For example, the full resolution submission must describe whether the information is centralized, or organized by region or business line; whether it is automated or manual; and whether the applicable system or application is integrated with other of the CIDI's systems or applications. The final rule also provides for the CIDI to describe any deficiencies, gaps, or weaknesses in these capabilities and the actions the CIDI intends to take to address promptly any such deficiencies, gaps, or weaknesses, and the time frame for implementing these actions.

#### Digital Services and Electronic Platforms

The proposal included a new content element for inclusion in each CIDI's full resolution submission regarding digital services provided by a CIDI to its customers and the electronic platforms that support these systems. The FDIC received one comment, asserting that the requirement regarding digital services and electronic platforms is vague and potentially duplicative of other requirements, such as critical services, payment, clearing, and settlement, and management information systems. The final rule retains the requirement as proposed. While some of the requirements may overlap with other requirements in the rule, such as whether the services and platforms are provided by a CIDI subsidiary, a parent company affiliate, or a third-party and information on the related intellectual property rights, this paragraph is intended to capture information specific to digital services and electronic platforms. If the information is provided elsewhere, a cross-reference will suffice. The final rule uses the word "customers" instead of "depositors" in the first sentence of the paragraph, to clarify that retail and business customers may include depositors or other customers or clients of the CIDI.

As noted in the preamble to the proposal, digital services provided to

customers and their electronic platforms is a new and evolving area of banking. The language in the final rule is intended to be flexible enough to adapt to the changing environment, while focusing on the significance of these services to CIDI operations or customer relationships and their relationship to franchise value and depositor behavior. The information required will be helpful to the FDIC in understanding how such services are significant to customer loyalty and franchise value where they are unique, may rely on proprietary intellectual property with low substitutability, may have an impact on stickiness of retail or commercial deposits, or are important to a customer base that relies upon a certain platform or service.

#### Communications Playbook

The final rule adopts the proposed requirement that a full resolution submission must include a communications playbook describing the CIDI's current communications capabilities and how those capabilities could be used from the point of the CIDI's failure through its resolution. One commenter supported this requirement as proposed, while one commenter suggested elimination of this requirement as unnecessary. The final rule retains the requirement for a communications playbook and adds an express requirement that the playbook include the identification of key personnel responsible for the CIDI's crisis communications across key stakeholder categories and communications channels and the organizational structure for relevant communications activities. It also clarifies that the stakeholders should include any foreign regulatory authorities as well as domestic regulatory authorities. In a resolution, it is important for the FDIC to be able to quickly identify the right points of contact to assure timely, clear, and coordinated communications to all stakeholders.

#### Corporate Governance

The final rule adopts without change the proposed requirements for the governance of the CIDI's resolution planning processes and preparation and approval of full resolution submissions.

#### CIDI's Assessment of the Full Resolution Submission

The final rule adopts without change the proposal that a full resolution submission must include a description of any contingency planning or similar exercise that the CIDI has conducted since its most recently filed full

resolution submission that assesses the viability of the identified strategy (if required) or improves any capabilities described in the full resolution submission. As noted in the preamble to the proposal, the requirement is limited to requiring CIDs to describe contingency planning or exercises they have done or plan to do; it does not require CIDs to conduct these types of activities.

#### Any Other Material Factor

The final rule requires a CIDI to identify and discuss any other material factor that may impede its resolution. This is unchanged from the proposal.

#### E. Interim Supplement

Under the proposal, each CIDI would be required to file interim supplements that address all or parts of certain content elements included in the CIDI's full resolution submission. The FDIC received comments to the proposed interim supplement requirements and made changes to the final rule in response to those comments.

Several commenters argued for narrowing the content required in the interim supplement to focus on data and information that has materially changed since the most recent submission or has a material impact on the full resolution submission. One commenter suggested that any narrative in the interim supplement be limited to an explanation of material changes. Commenters expressed concern that the interim supplement, as proposed, would be burdensome for CIDs.

One commenter suggested that the interim supplement should be based on prior year-end data, rather than data as of the end of the most recent fiscal quarter.

Two comment letters recommended that all or most group A CIDs should move to a three-year cycle for full resolution submissions and interim supplements should be filed either 18 months after that submission, or in each year that a full resolution submission is not made. One of these comment letters recommended that CIDI affiliates of U.S. GSIBs, which are biennial filers under the DFA rule, make full resolution submissions every two years, alternating with DFA resolution plan submissions, and interim supplements would therefore be unnecessary and should not be required.

The FDIC considered these comments and has concluded that the content requirements for the interim supplement are appropriate and that the information required will aid the FDIC with planning for and carrying out resolutions. As a result, the final rule

retains the proposal's content requirements for the interim supplement. With the final rule's shift to a three-year cycle for most CIDs, the expected utility of the interim supplement is further increased. The FDIC believes the interim submission requirement strikes the right balance between providing the FDIC with valuable updated information to assist with resolution planning while limiting burden on the CIDs in providing the updated information. The FDIC has focused the interim supplement content requirements on information that is most essential to its resolution planning, that can be readily produced, and that is relatively likely to change year over year. Under the final rule, the FDIC retains the proposed discretion to add or eliminate elements from the interim supplement to ensure that it remains useful, includes the most important information, and can evolve based on lessons learned.

In response to comments, the final rule incorporates a requirement to describe all material changes resulting from an extraordinary event, and to describe each material change applicable to interim supplement content since the CID's most recent full resolution submission or interim supplement (or to affirm that no such material change has occurred). The FDIC does not expect any additional narrative will need to be included in the interim supplement.

Also in response to comments, the final rule provides that data in the interim supplement should be as of the most recent fiscal year-end for which the CID has financial statements or, if financial information from more recent financial statements would more accurately reflect the CID's operations as of the date of the interim supplement, financial information as of that more recent date. This is reflected in § 360.10(g)(1), which has been revised to incorporate a reference to the interim supplement in addition to full resolution submissions. With this change, the proposal's § 360.10(e)(2) has been eliminated as it is no longer necessary.

Regarding the frequency of interim supplement filings, the final rule makes certain changes for clarity and consistency, and introduces an exception. The final rule retains the annual cadence of interim supplements, and requires an interim supplement on or before the anniversary of the prior full resolution submission or interim supplement, as the case may be, unless the FDIC provides written notice of a different date. Consistent with the proposal, no interim supplement is

required in the calendar year in which a CID files a full resolution submission. In response to comments, the final rule provides that biennial filers, which are IDI affiliates of U.S. GSIBs, are not required to submit an interim supplement in the year in which they file a DFA resolution plan. This exception applies only to the biennial filers, given their higher frequency of submissions under this rule, and expected annual submission of resolution plans under this rule and by their parent companies under the DFA rule. In addition, particularly for CIDs identified as material entities and divestiture options in the DFA resolution plan, there is sufficient overlap in content to meet the needs of the interim supplement.

The final rule makes clear that all CIDs will receive a written notice specifying the date on which their initial full resolution submission or interim supplement is due. CIDs that are not filing a full resolution submission as their first submission following the effective date of the final rule are required to provide interim supplements in the years prior to the date their first full resolution submission is due.

#### *F. Credibility; Review of Full Resolution Submissions; Engagement; Capabilities Testing*

##### Credibility Criteria

The proposal included a credibility standard consisting of two prongs for assessing the credibility of a full resolution submission. The first prong applies only to resolution plans submitted by group A CIDs. Under this prong, a resolution plan could be found not credible if the identified strategy did not provide timely access to insured deposits, maximize value from the sale or disposition of assets, minimize any losses realized by creditors of the CID in resolution, and address potential risks of adverse effects on U.S. economic conditions or financial stability. The second prong applies to full resolution submissions by all CIDs. Under the second prong, a full resolution submission could be found not credible if the information and analysis in the full resolution submission are not supported with observable and verifiable capabilities and data and reasonable projections, or the CID fails to comply in all material respects with the requirements of the rule. Because the interim supplement is simply an update of a subset of information required in a full resolution submission, it will not be separately

assessed against the credibility standard.

The FDIC considered all comments regarding the credibility standard, and the final rule retains the credibility standard as proposed. One commenter recommended that all full resolution submissions be subject to both credibility assessment prongs as part of a general recommendation to eliminate the distinction between group A CIDs and group B CIDs. As discussed above, the FDIC believes that the distinction between group A CIDs and group B CIDs is appropriate, and therefore the prong one standard would not be applicable to the informational filings.

Another commenter suggested that the requirement that the identified strategy be effective in minimizing losses to creditors was in contradiction with the recent rulemaking proposal by the FDIC and other agencies to require certain large insured depository institutions to have outstanding a specified amount of eligible long-term debt.<sup>18</sup> The FDIC believes that the goals of the proposed rulemaking and this final rule are strongly aligned. The long-term debt rule, if adopted, will help reduce losses to creditors and will support an orderly and efficient resolution of an IDI.

The FDIC received three comments recommending that the credibility determination be eliminated, or that there should not be any enforcement action based on the credibility standard. These commenters argued that the standard's first prong would require speculation on conditions at the time of failure and would therefore be subjective and potentially inconsistently applied over time. The FDIC received one comment advocating for changes to the second prong of the credibility standard that would remove the qualifiers "verifiable" and "observable" for capabilities requirements.

It is an important goal of the final rule to establish clear expectations with respect to the form and substance of resolution submissions, and a clear standard against which they are assessed for compliance with the rule. The FDIC has experience in evaluating resolution plans and generally expects to conduct horizontal reviews across full resolution submissions of CIDs that have similar characteristics to gain a broader perspective as well as to assure consistent assessment of the full resolution submissions.

<sup>18</sup> See Long-Term Debt Requirements for Large Bank Holding Companies, Certain Intermediate Holding Companies of Foreign Banking Organizations, and Large Insured Depository Institutions, 88 FR 64524 (Sept. 19, 2023).

As described in the preamble to the proposal, the new standard expressly incorporates concepts from the 2012 rule, including the reference to observable and verifiable capabilities and data and reasonable projections. These elements of the credibility standard, which are incorporated into the second prong, have proved useful in past plan reviews and feedback.

With respect to prong one of the standard, the FDIC considered comments suggesting that this standard may be subjective or imprecise. The FDIC appreciates the concern that the standard necessarily requires the exercise of judgment in understanding whether value is maximized or losses to creditors are minimized, for example, in a particular strategy under the specified scenario. The FDIC agrees that there is a necessary element of judgment in determining whether an identified strategy meets the goals of the rule as expressed in the first prong of the credibility standard. The application of judgment in the development of the identified strategy is appropriate given the diversity among the group A CIDs. A well-reasoned and well-supported identified strategy prepared by a group A CIDI will provide the FDIC useful information in assessing its options when confronted with an actual failure scenario.

One comment pointed to potential challenges in the element of the first prong that requires that the resolution plan address the potential risk of adverse effects on U.S. economic conditions or financial stability. Some CIDs have critical operations that are important to financial stability identified in their affiliates' DFA resolution plans, may be highly interconnected with other financial institutions, may have dominant market share in certain geographic regions or market segments, or their resolution could be disruptive to the U.S. economy or financial stability in other ways. The requirement that the resolution plan address the potential risk of adverse effects on U.S. economic conditions or financial stability is intended to require that the identified strategy take into account the potential for risks to U.S. economic conditions or financial stability arising from the execution of the strategy. Those risks should be described in the resolution plan, and the identified strategy should include specified actions that would mitigate those risks. It is a critical resolution planning objective that the CIDI can be resolved without the need for extraordinary support from the DIF and without reliance on the systemic risk

exception to the statutory least-cost requirement under the FDI Act.

As discussed in the proposal, the FDIC has considered the particular challenges with respect to the requirement that the identified strategy address the potential for risks to U.S. economic conditions or financial stability for the CIDs that are part of the largest and most systemic and interconnected U.S. banking organizations, specifically the group A CIDs that are subsidiaries of U.S. GSIBs. This category of firms comprises the U.S. banking organizations that pose the greatest risk to U.S. financial stability. The FDIC is aware of progress made by the U.S. GSIBs in the development of DFA resolution plans, including their adoption of an SPOE strategy for the resolution of the firm pursuant to which any subsidiary U.S. IDI that is a material entity remains open and operating. Each of these firms has also made progress in increasing the range of scenarios in which that strategy may be actionable and effective through structural and operational changes. Moreover, certain enhanced prudential standards that support resolvability apply only to the U.S. GSIBs.

Despite this progress, the availability or success of an SPOE strategy cannot be ensured in all circumstances, and the possibility of a resolution of a CIDI that is a subsidiary of a U.S. GSIB cannot be eliminated. The FDIC believes that it is appropriate to require group A CIDs within these banking organizations to develop comprehensive resolution plans that include an identified strategy that meets the requirements of the first prong of the credibility standard to support the FDIC's resolution readiness in the event that such a CIDI should fail. While these CIDs may have a particular challenge in addressing the risks their identified strategy may present to the U.S. economy and financial stability, where the DFA resolution plan of the CIDI's parent company contains relevant analysis and information with respect to the risk of potential adverse effects on U.S. financial stability arising from the failure of a subsidiary group A CIDI, the inclusion of that information by cross-reference is permitted under (c)(6). In addition, where the strategy for the rapid and orderly resolution of a U.S. GSIB in its DFA resolution plan does not include the resolution of the CIDI under the FDI Act, that strategy may reasonably be identified as a mitigant to the systemic risk, if any, posed by the failure of the CIDI under the FDI Act.

Full Resolution Submission Review and Credibility Determination

The proposal described a process for full resolution submission review and credibility assessment. Like the proposal, the final rule makes no change to the proposed rule with respect to coordination with supervisors related to the review process. The FDIC will review a full resolution submission in consultation with the appropriate Federal banking agency for the CIDI and for its parent company. If after consultation with any such appropriate Federal banking agency (or agencies), the FDIC determines that a CIDI's full resolution submission is not credible, the FDIC will notify the CIDI in writing of such determination. This written notice will include a description of the material weaknesses in the full resolution submission that resulted in the determination.

With respect to the full resolution submission review and the credibility determination process, two commenters emphasized the importance of the FDIC providing timely, clear, and consistent feedback to CIDs, with one noting that feedback should be provided at least 12 months before the next submission is due. This comment also suggested that the FDIC should institute an intermediate level of feedback between informal feedback and a formal weakness determination to precede a non-credibility finding.

The FDIC agrees that timely and clear feedback is an important part of the review process. The extension of the submission cycle to three years for most CIDs will provide additional assurance of sufficient time to incorporate feedback into the next full resolution submission. The FDIC anticipates that full resolution submissions will improve through an interactive and iterative process, and the FDIC recognizes that there should be multiple communications between the FDIC and the CIDs to improve the full resolution submissions. While the final rule, like the proposal, does not establish a fixed timing requirement for the delivery of feedback to CIDs, the FDIC will review full resolution submissions promptly and endeavor to give feedback identifying material weaknesses or significant findings within one year of the full resolution submission date. Any additional observations or other feedback, for instance following engagement, that would impact the next full resolution submission would be given at least 270 days before that submission is due.

The FDIC received one comment recommending that any feedback on

resolution plans should be treated as confidential supervisory information, except to facilitate coordination between home and host country resolution planning, where applicable. The FDIC received another comment recommending that the FDIC should commit to publishing all future feedback letters, including any that describe weaknesses resulting in a non-credible determination, with confidential supervisory information redacted. In the past, the FDIC has not made public the feedback letters on resolution submissions under the 2012 rule, as these letters may have relied on or disclosed confidential supervisory information. The FDIC has also considered that redacted letters may be incomplete and misunderstood and has treated the letters in a confidential manner, similar to supervisory letters. Any decision with respect to disclosure of feedback letters in the future will consider the confidential nature of any information, as well as the public interest.

The FDIC considered the comment recommending an intermediate level of feedback between informal feedback and a finding of a material weakness. The FDIC also considered the approach taken in reviews and feedback for DFA resolution plans, which includes an intermediate level of feedback. The FDIC believes that there is utility in providing feedback that requires correction with an appropriate level of urgency, but that does not trigger the immediate corrective actions spelled out in paragraph (f)(3). Consequently, the final rule establishes the concepts of material weaknesses and significant findings.

A material weakness is an aspect of a CIDI's full resolution submission that the FDIC determines individually or in conjunction with other aspects fails to meet the credibility criteria described in § 360.10(f)(1). The FDIC must identify one or more material weaknesses in determining a CIDI's full resolution submission is not credible. The final rule requires that within 90 days of receiving a notice by the FDIC pursuant to § 360.10(f)(2) or such shorter or longer period as the FDIC may determine, the CIDI must resubmit a revised full resolution submission, or such other information or material as specified by the FDIC, that addresses any material weaknesses identified by the FDIC and discusses in detail the revisions made to address such material weaknesses. This is consistent with the proposal, with a clarification that in some cases, a full resolution submission may not be required and the FDIC may

identify other information or material responsive to the material weakness.

Under the final rule, a significant finding is a weakness or gap that raises questions about the credibility of a CIDI's full resolution submission but does not rise to the level of a material weakness. If a significant finding is not satisfactorily explained or addressed before or in the CIDI's next full resolution submission, it may be found to be a material weakness in the CIDI's next full resolution submission. To clarify how the CIDI intends to address the significant findings by the next full resolution submission, the FDIC may require a time-bound project plan from the CIDI that outlines the actions the CIDI will be taking in the interim period to assure that the significant finding is addressed in a timely manner. In some cases, project plans may also be used as a tool to clarify how the CIDI intends to address material weaknesses. The final rule makes clear that the FDIC may identify an aspect of a CIDI's full resolution submission as a material weakness even if such aspect was not identified as a significant finding in an earlier full resolution submission. The FDIC must notify the CIDI in writing of any significant findings that are identified in the full resolution submission.

The difference between a material weakness and a significant finding is one of degree of severity. A material weakness is more likely to be a weakness in the full resolution submission that would significantly impact the FDIC's ability to undertake an efficient and effective resolution of the CIDI or would increase the risk of a disorderly and value-destructive resolution if not promptly corrected. A significant finding would more likely be feedback that goes to the completeness, sufficiency, and thoroughness of information provided or the adequacy of a capability demonstrated, that could affect the resolution of the CIDI and should be addressed, but is not of the same level of impact and urgency as a material weakness.

Other observations that are not material weaknesses or significant findings may be included in the feedback letter or may be provided in other communications throughout the full resolution submission review, capabilities testing, and engagement cycle. Those observations are also intended to provide useful feedback to the CIDs about areas of focus for further development of their full resolution submissions.

The FDIC received two comments that suggested the FDIC should provide general guidance to CIDs, with one

noting that such guidance could cover common issues and best practices following each review cycle. Other commenters suggested additional guidance or specificity with respect to identification of expected capabilities. The final rule is intended to be comprehensive and supersedes the 2012 rule and all prior guidance. In the event the FDIC determines, based on review of full resolution submissions and engagement with the CIDs, that additional general guidance may be helpful in addition to firm-specific feedback, the FDIC may consider providing such guidance at that time.

Another comment suggested that the FDIC provide a list of identified strategies that are presumptively credible. That approach would be inconsistent with the goal of the rule to obtain the insight and analysis of each group A CIDI as to the approach to resolution that best fits with their organization and business structure. The FDIC expects to give appropriate feedback, if needed, on a CIDI's identified strategy, consistent with the interactive and iterative process described above to improve full resolution submissions and the FDIC's resolution readiness.

#### Engagement and Capabilities Testing

The final rule retains the proposed approach to engagement and capabilities testing, without substantive change, but with some modifications to the organization of the content intended to reflect that engagement and capabilities testing are complementary parts of the review and evaluation process. The changes also clarify the process and identify the communications relative to both engagement and capabilities testing.

The FDIC received several comments with respect to engagement and capabilities testing. These comments generally focused on the process, the timing of notices, the scope of engagement and capabilities testing, and the approach to enforcement, including to ensure the FDIC's approach to resolution planning is sufficiently collaborative. One of these comments also noted that CIDs—especially, group B CIDs—will need time to build, improve, and test capabilities prior to undergoing capabilities testing with the FDIC, and suggested capabilities testing should not occur during a CIDI's initial submission cycle under the final rule.

The final rule retains the proposed requirements with respect to engagement between the FDIC and a CIDI, including that each CIDI must provide the FDIC such information and access to personnel of the CIDI that have

sufficient expertise and responsibility to address the informational and data requirements of the engagement. The final rule makes clear that the FDIC will provide timely notification of the scope of any engagement. Because the appropriate advance notice of an engagement will depend on the parameters of the engagement, the final rule does not specify a time period for such a notification. In the past, the FDIC has provided four to eight weeks' advance notice of any engagement and has taken into account scheduling considerations for the CIDs, such as other scheduled examinations and supervisory requirements, and expects to continue that practice. The final rule also makes clear that the FDIC will communicate with the CIDI after engagement. The form and content of that communication are not specified in the rule; in general, the FDIC expects to communicate observations from the engagement. In some cases, engagement will inform the review of the full resolution submission itself and engagement findings may support or address findings from the review process and be incorporated in the findings of weaknesses or non-credibility described above.

Engagement may take place at any time to provide additional insights to the FDIC and to inform areas of interest for future full resolution submissions. It may also be the case that engagement takes place after the FDIC has provided the CIDI with written notice of its determination with respect to the credibility assessment described above.

In some cases, for instance, where an IDI recently has become a CIDI or changed from a group A CIDI to a group B CIDI, engagement may take place before the initial full resolution submission, to provide information on particular resolution matters or areas of future submission content. The FDIC expects that engagement will be useful to the CIDs by providing a better understanding of the areas of particular interest to the FDIC with respect to its resolution responsibilities, and will help the FDIC to better understand the information in the full resolution submissions and the resolution challenges for a specific CIDI as well as mitigants to those challenges.

The final rule also adopts without change the proposed requirement that each CIDI may be required to demonstrate through capabilities testing that it can in fact perform the capabilities described in a full resolution submission, necessary for an identified strategy or required under the rule, and that these capabilities are adaptable to a range of scenarios. The

FDIC expects capabilities testing to be an important part of its full resolution submission review process and will begin capabilities testing in the first review cycle. While in some cases time may be necessary to develop capabilities, early assessment is an important first step in that process.

As with engagement, the final rule makes clear that the FDIC will provide timely notification of the scope of any capabilities testing. As with engagement, the final rule does not specify a time period for such a notification; in some cases, short notice of the capabilities test may be an intended feature of the exercise. However, the FDIC will give notice that is appropriate to the nature of the capabilities testing, and, as with engagement, will take into account scheduling considerations for the CIDs as noted above. As with engagement, after completion of the capabilities test the FDIC may communicate observations, or the information from the capabilities test may contribute to a letter with findings.

Generally, the FDIC anticipates that capabilities testing will be conducted concurrently with the full resolution submission review process and will be conducted across a cohort of CIDs.

Two commenters indicated the FDIC should provide CIDs with a comprehensive list of capabilities it expects a CIDI to maintain and a description of minimum standards expected for each capability. While the proposed rule was not prescriptive with respect to capabilities, it contained the express requirement that a CIDI's capabilities are sufficient to support key elements, namely, capabilities necessary to ensure continuity of critical services in resolution, the marketability of franchise components, and, with respect to group A CIDs, the production of valuations needed in assessing the least-cost test. In addition, an identified strategy in a resolution plan for a group A CIDI must be supported with observable and verifiable capabilities, among the other requirements of the second prong of the credibility standard.

The preamble to the proposal also provided additional context with respect to capability expectations for some or all CIDs that can reasonably be inferred from the content requirements of the full resolution submission as described in the proposal. For example, a requirement to map information clearly implies expectation of a mapping capability; and requirements to identify key depositors, critical services support, or key personnel require the capabilities to support that identification. Examples of the capabilities that a CIDI could be

required to demonstrate could include identification of key employees and critical services, as well as capabilities to meet requirements with respect to mapping, such as mapping critical services to material entities. The FDIC might also test capabilities that are necessary to key elements of the full resolution submission content, such as continuity of operations, or marketing of a franchise component or the IDI franchise. An example of such a capabilities test might be the establishment of a virtual data room for one or more franchise components or for the IDI franchise as a whole. The nature of this testing would be tailored to the requirements applicable to each CIDI. For example, while a group A CIDI may be asked to demonstrate its ability to execute capabilities necessary to its identified strategy, or demonstrate necessary capabilities for valuation, the focus for group B CIDs would be more likely on informational requirements, such as the ability to produce informational items and referenced supporting documents within a specified timeframe.

The final rule retains the provisions of the proposal with respect to capabilities with one change, addressed in the discussion of franchise components above.

While the FDIC generally expects that engagement or capabilities testing with a particular CIDI would occur no more than once during the three-year or two-year submission cycle, as applicable, the FDIC also believes that it is important to preserve the flexibility to undertake engagement and capabilities testing with a CIDI as frequently as needed and whenever prudent, based on the circumstances of the particular CIDI. In some instances, no engagement or capabilities testing may be necessary during a submission cycle, while in other cases, such as after changes at the CIDI or as the result of varying economic conditions, more frequent engagement and capabilities testing may be warranted. Because informational filings by group B CIDs do not include the development of an identified strategy and other elements of a resolution plan, the FDIC expects the engagement and capabilities testing with group B CIDs will be a key component of its resolution planning for such firms and expects to conduct engagement and capabilities testing with most group B CIDs in each cycle. In addition to engagement and capabilities testing, the FDIC could also have other interactions with CIDs, such as questions during the full resolution submission review process or

conversations regarding changes to resolvability or updates to information.

Finally, the final rule eliminates the specific reference to enforcement of the engagement and capabilities testing requirements that was included in this section as proposed. The FDIC received several comments expressing concern about implications of the specific reference to enforcement with respect to engagement and capabilities testing as proposed, and suggesting that further process is needed to challenge the specific enforcement powers relating to capabilities testing. The inclusion of enforcement language in this paragraph may have given the impression that engagement and capabilities testing might lead to specific enforcement actions that are separate from enforcement of compliance with the rule overall and from the application of the credibility standard to full resolution submissions. The FDIC agrees with commenters that the resolution planning process benefits from ongoing communication between the FDIC and CIDs, and an interactive and iterative process to improve full resolution submissions and the FDIC's resolution readiness. The engagement and capabilities testing requirements are important components of the overall requirements of the rule to meet the goal of ensuring resolution readiness based on credible full resolution submissions, information, and analysis. Consequently, the FDIC has eliminated the specific reference to enforcement when addressing engagement and capabilities testing and will instead rely on the overall enforcement provision in § 360.10(j) for all requirements of the rule.

#### *G. No Limiting Effect on FDIC*

The final rule retains the proposed provision that no full resolution submission provided pursuant to this section will be binding on the FDIC as supervisor, deposit insurer, or receiver for a CIDI, or otherwise require the FDIC to act in conformance with such full resolution submission. The final rule has been revised to make this provision applicable to interim supplements as well as full resolution submissions.

#### *Financial Information*

The final rule retains the proposed provision that requires a CIDI's full resolution submission use, to the greatest extent possible, financial information as of the most recent fiscal year-end for which the CIDI has financial statements or, if financial information from more recent financial statements would more accurately reflect the CIDI's operations as of the

date of the submission, financial information as of that more recent date. As addressed in the discussion of interim supplements above, the final rule has been revised to make this provision applicable to interim supplements as well as full resolution submissions.

#### *Indexing of Information and Analysis to Full Resolution Submission and Interim Supplement Content Requirements*

The final rule adopts the proposed requirement that a CIDI's full resolution submission and interim supplement include an index of each content requirement required to be included in that full resolution submission or interim supplement to every instance of its location in the full resolution submission or interim supplement.

#### *Combined Full Resolution Submission or Interim Supplements by Affiliated CIDs*

The final rule adopts without change the proposed provision to allow CIDs that are affiliates to submit a single, combined full resolution submission or interim supplement, so long as all affiliated CIDs submitting the combined submission or supplement are within the same CIDI group, whether group A or group B. The combined full resolution submission or interim supplement must satisfy the content requirements for each CIDI's separate full resolution submission or interim supplement, as applicable, and the CIDs must ensure that the portions of a combined full resolution submission or interim supplement for each CIDI can be readily identified.

#### *H. Form of Full Resolution Submissions; Confidential Treatment of Full Resolution Submissions and Interim Supplements*

The final rule requires that each CIDI divide its full resolution submission into a public section and a confidential section and describes the required content of a public section. This section also provides the confidentiality provisions of the proposed rule. One commenter recommended that the FDIC generally increase the amount of information disclosed in the public portion of resolution submissions. The FDIC agrees that the public portions should be robust and should usefully address all of the required elements. The FDIC believes that the proposal included the appropriate required elements for the public portion and the paragraph was adopted as proposed with no material change.

#### *I. Extensions and Exemptions*

The final rule adopts without change the proposed provision that the FDIC, on its own initiative or upon written request, may extend, on a case-by-case basis, any of the rule time frames or deadlines and exempt a CIDI from one or more of the requirements of the rule. One commenter recommended including a process for a CIDI to request content exemptions where certain content elements were not important to that CIDI's resolution. One commenter requested that the FDIC expressly note that inapplicable content should be excluded. The final rule incorporates the requirements that the FDIC believes are appropriate to group A CIDs and group B CIDs. To the extent that certain elements are less significant to a CIDI because of its structure, organization, business strategy, or other factors, the CIDI can and should adjust its approach to those content elements. For instance, a CIDI with no cross-border activities would not provide any information other than the confirmation that there are no such activities with respect to that requirement. Accordingly, the FDIC did not incorporate a prescribed exemption process, but retained the flexibility to provide exemptions to one or more content elements of the rule, consistent with the proposal.

#### *J. Enforcement*

Consistent with the proposed rule, the final rule expressly provides that violating any provision of this section constitutes a violation of a regulation and may subject the CIDI to enforcement actions under 12 U.S.C. 1818, including § 360.10(t) thereunder.

#### **IV. Expected Effects**

This final rule amends and restates the 2012 rule, as discussed in more detail above. It establishes two tiers of submission requirements to reflect the different sizes and complexity of CIDs. Group A CIDs are required to submit resolution plans that comply with all of the content requirements of the final rule, including the development of an identified strategy for the resolution of the CIDI, and to participate in engagement and capabilities testing. Group B CIDs are required to submit an informational filing containing information on resolution planning and readiness, and to participate in engagement and capabilities testing. The following describes the expected costs and benefits of this final rule as it applies to the groups of CIDs, and other economic impacts.

As of the quarter ending March 31, 2024, the FDIC insured 4,577 depository

institutions. Of these, 33 are group A CIDs that reported total average assets of \$100 billion or more over their four most recent Consolidated Reports of Condition and Income, and 12 are group B CIDs that reported total assets of at least \$50 billion, but less than \$100 billion, over their four most recent Consolidated Reports of Condition and Income. In the aggregate, these 45 CIDs held a combined \$17.951 trillion in total assets, accounting for about 74% of total U.S. banking industry assets.<sup>19</sup>

#### A. Review of Comments

The FDIC received several comments related to its analysis of the expected effects of the NPR. One commenter indicated that the NPR would substantially add to the time and resources required to prepare IDI resolution plans. Another two commenters argued that the analysis of the compliance burden of the NPR significantly understates the cost of the burden, with one noting that the analysis understates the true cost since it only includes internal costs to the IDI and fails to include the costs of outside lawyers, accountants, and risk management specialists that may be involved with resolution planning. A fourth commenter suggested that the estimated time required to develop an IDI's full resolution submission is not unreasonable and the estimated cost of compliance would be substantially less than the costs of potential bank failures and banking crises.

The FDIC has carefully reviewed the burden associated with the compliance requirements for each element in light of changes to the final rule and in consideration of the comments received. Recordkeeping, reporting, and disclosure requirements, like all compliance costs, may vary across institutions and the FDIC's compliance estimates associated with the Paperwork Reduction Act (PRA) are meant to be overall averages. The FDIC does not have the detailed data that would permit it to precisely estimate the quantitative effect of the final rule for every CIDI. The estimated labor hours needed to comply with certain aspects of the rule are based on the FDIC's extensive experience with resolution plan submissions and estimating associated burden. Absent any additional data, the FDIC believes the estimates of burden hours are reasonable, considering the recordkeeping, reporting, and disclosure requirements of the final rule.

The FDIC received one comment relating to its estimate of the costs of switching from a three-year to a two-year submission cycle, which stated that the FDIC underestimates the costs associated with a two-year submission cycle when weighing the proposal's burdens and benefits. Upon further consideration, the FDIC is finalizing a three-year submission cycle for most group A CIDs and the group B CIDs, as discussed previously.

Certain changes made to the final rule, as compared to the proposal, would result in a change to the economic effect. Those are described below.

#### B. Changes From the Proposed Rule to the Final Rule

##### Group A CIDs

Group A CIDs in the final rule are defined as IDIs with \$100 billion or more in total assets based upon the average of the institution's four most recent Consolidated Reports of Condition and Income. As of the quarter ending March 31, 2024, 33 IDIs reported total average assets of \$100 billion or more over their four most recent Consolidated Reports of Condition and Income. Therefore, for the purposes of this analysis, the FDIC estimates that 33 FDIC-insured depository institutions would be classified as group A CIDs under the final rule. In aggregate, these 33 group A CIDs held a combined \$17.10 trillion in total assets, accounting for about 71 percent of total U.S. banking industry assets.<sup>20</sup>

##### Key Changes to the Final Rule Affecting Group A CIDs

The final rule would make certain changes from the proposal which would materially affect the requirements of the rule with respect to group A CIDs.

First, most group A CIDs would be required to file resolution plans on a triennial, rather than a biennial basis as proposed, with interim supplements expected each year where a resolution plan is not filed. This change means that these group A CIDs will file fewer resolution plans over time and a greater number of interim supplements. Specifically, over a six-year period, each group A CIDI would have been expected to file three resolution plans and three interim supplements under the proposed rule and would be expected to file two resolution plans and four interim supplements under the final rule. This change would reduce the estimated economic effect of the final

rule on the 24 group A CIDs that are triennial filers.

The final rule would retain the biennial filing cycle for the nine group A CIDs that are affiliated with U.S. GSIBs, but would make a change that would impact the expected frequency of submission of interim supplements for these biennial filers. Under the final rule, the nine biennial filers would not be required to submit interim supplements in the calendar year in which they file resolution plans under the rule or in the calendar year in which their affiliates submit a DFA resolution plan. DFA resolution plans submitted by these banking organizations are also on a biennial cycle. Because resolution plans under the final rule and DFA resolution plans are expected to be submitted in alternating years, these nine CIDs would not be expected to submit interim supplements under the final rule. This would reduce the estimated economic effect of the final rule for these biennial filers as compared to the proposal.

In light of the changes in filing cycle frequency in the final rule, the FDIC expects to place a greater emphasis on engagement and capabilities testing for the group A CIDs that are triennial filers. The FDIC estimates that this would result in a modest increase in compliance costs for the 24 group A CIDI triennial filers. Because the final rule does not change the submission cycle from the proposed rule for the nine biennial filers, there would be no change in the FDIC's expectation of engagement with those CIDs, and therefore the FDIC's estimate compliance costs associated with resolution plan filings for these CIDs would remain unchanged.

##### Group B CIDs

Group B CIDs are defined as IDIs with \$50 billion or more in total assets but less than \$100 billion in total assets, based upon the average of the institution's four most recent Consolidated Reports of Condition and Income. As of the quarter ending March 31, 2024, 12 IDIs reported total average assets of at least \$50 billion, but less than \$100 billion, over their four most recent Consolidated Reports of Condition and Income. Therefore, the FDIC estimates that 12 IDIs would be classified as group B CIDs under the final rule. In aggregate, these 12 group B CIDs held a combined \$849 billion in total assets, accounting for about 3.51 percent of total U.S. banking industry assets.<sup>21</sup>

<sup>19</sup> FDIC Consolidated Reports of Condition and Income data as of March 31, 2024.

<sup>20</sup> FDIC Consolidated Reports of Condition and Income data as of March 31, 2024.

<sup>21</sup> FDIC Consolidated Reports of Condition and Income data as of March 31, 2024.

### Key Changes to the Final Rule Affecting Group B CIDs

Under the final rule, all group B CIDs would be required to submit informational filings on a triennial, rather than on a biennial basis as proposed, with interim supplements expected each year where an informational filing is not submitted. This change means that group B CIDs will file fewer informational filings over time and a greater number of interim supplements. Specifically, over a six-year period, each group B CIDI would have been expected to file three informational filings and three interim supplements under the proposed rule and would be expected to file two informational filings and four interim supplements under the final rule. This change would reduce the estimated economic effect of the final rule on the 12 group B CIDs.

### Other Changes to the Proposal

In addition to the specific changes discussed above, the final rule contains several changes to individual content elements to be included in full resolution submissions. These modifications to the proposal are discussed in detail above. They include changes that result in modest decreases in the required content, such as changes to the valuations element, the use of year-end data for interim supplements, the adoption of a change to the definition of material entity, and the reduction of certain content elements relative to franchise components for informational filings. The modifications also include changes that result in modest increases in the required content, such as the requirement for a description of material changes in interim supplements and informational filings, the identification of key communications personnel as part of the communications playbook, the requirement for a description of the methodology for the identification of key depositors, and the identification of regulators and other authorities with respect to cross-border activities. Taking into account these and other elements that both increase and decrease content requirements, the FDIC has determined that there is no net change in estimated compliance costs with respect to the development of resolution plans, informational filings, or interim supplements, other than those related to the changes to submission frequency discussed above.

### C. Marginal Effect of Changes Compared to the 2012 Rule

The final rule would have four primary effects on CIDs compared to the 2012 rule: (1) change in filing frequency for group A CIDs affiliated with U.S. GSIBs; (2) the establishment of an interim supplement requirement; (3) changes in full resolution content requirements for group A CIDs; and (4) changes in full resolution submission requirements for group B CIDs. The FDIC analyzed expected filings by CIDs over a six-year period beginning in 2025, the year in which the first submissions are expected to be made under the final rule, and assumes that the total assets reported by existing individual CIDs for the quarter ending March 31, 2024 would remain constant throughout the period of analysis, notwithstanding assumptions made by the FDIC on the number of new group A CIDs and group B CIDs in each filing cycle (discussed below). For the purposes of this analysis, the FDIC generally assumes that compliance costs are directly proportional to the total consolidated assets of the CIDI. While asset size is not a direct measure of complexity, the FDIC believes that asset size is positively correlated with the amount of compliance time necessary for a CIDI to complete full resolution submissions and interim supplements under this final rule. The following discussion addresses each of these primary effects to illustrate their marginal contribution to the aggregate effect.

#### Marginal Effect of Changes to the Biennial Filing Cycle for Group A CIDs Affiliated With U.S. GSIBs

As discussed above, the final rule would adjust the filing cycle for all group A CIDs that are affiliated with U.S. GSIBs from the current triennial cycle to a biennial cycle. Of the 33 group A CIDs identified above, nine are affiliated with U.S. GSIBs. To isolate the effect of the potential change from a triennial cycle to a biennial cycle on these CIDs, the FDIC compared estimated reporting compliance costs of the current triennial cycle under the 2012 rule,<sup>22</sup> to the costs of those same compliance requirements on a biennial basis for these nine CIDs. Over the six-year period of analysis, the FDIC estimates that the labor hours expended by group A CIDs that are affiliated with U.S. GSIBs would increase by an average of 107,000 hours annually in order to comply with a biennial cycle. Using a wage estimate of \$118.14 an

hour,<sup>23</sup> the FDIC estimates that the change from a triennial cycle to a biennial cycle would result in average additional costs of approximately \$12.6 million annually for the nine group A CIDs affiliated with U.S. GSIBs.

#### Marginal Effect of the Introduction of the Interim Supplement Requirement

The final rule introduces a requirement for group A CIDs and group B CIDs to submit an interim supplement in the years that they do not file a full resolution submission. As discussed above, the final rule exempts group A CIDs that are biennial filers from this requirement in years where they file a DFA resolution plan. Because the FDIC assumes that submission dates for the DFA resolution plans and the full resolution submissions under the final rule will be in alternate years for the biennial filers, it is not expected that these nine CIDs will file interim supplements.

The FDIC estimates that the interim supplement will pose 24 labor hours per billion dollars in assets on group A CIDs that are not affiliated with U.S. GSIBs and group B CIDs. Using this estimate over the six-year period of analysis, the requirement for interim supplements would result in an estimated average annual increase of approximately 102,000 hours and 17,000 hours for group A CIDI triennial filers and group B CIDs, respectively. Using a wage estimate of \$118.14 an hour,<sup>24</sup> the FDIC estimates that the increase in reporting burden hours for group A CIDI triennial filers and group B CIDs submitting interim supplements will result in average additional annual costs of approximately \$12.1 million annually and \$2 million, respectively. Thus, the FDIC estimates the total average impact of this specific requirement to be approximately 119,000 hours annually, and about \$14.1 million annually.

<sup>23</sup> The FDIC's estimated allocations of labor associated with the reporting compliance burden for full resolution submissions in the final rule (for group A CIDs and group B CIDs) reflects an assumption that the majority will be attributable to financial analysts (including accountants and risk management specialists), with executives and managers, and legal occupations accounting for the remaining balance. The estimated weighted average hourly compensation cost of these employees are found by using the 75th percentile hourly wages reported by the Bureau of Labor Statistics (BLS) National Industry-Specific Occupational Employment and Wage Estimates for the relevant occupations in the Depository Credit Intermediation sector, as of May 2022. These wages are adjusted to account for inflation and non-monetary compensation rates for health and other benefits, as of March 2024, to provide a comprehensive estimate of overall compensation.

<sup>24</sup> See footnote 23.

<sup>22</sup> See [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=202111-3064-003](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202111-3064-003).



### Marginal Effect of Proposed Changes in Full Resolution Submission Content for All Group A CIDs

The FDIC's estimates of labor hours needed by group A CIDs to comply with the reporting requirements of the final rule for first-time full resolution submissions remain unchanged at 16,000 hours. However, the FDIC has adjusted its estimate for subsequent full resolution submissions by group A CIDs that are not affiliated with U.S. GSIBs to 73 hours per billion dollars in assets. For group A CIDs that are affiliated with U.S. GSIBs, the FDIC estimates that they would incur 72 hours of burden per billion dollars in assets for subsequent full resolution submissions. To maintain consistency with the FDIC's estimates under the 2012 rule, the estimate of labor hours for both engagement and capabilities testing was included in the prior estimates of labor hours per billion in total assets for resolution plan content requirements of group A CIDs. Thus, the difference in the burden estimate for group A CIDs that are triennial filers is because in light of the change in submission cycle under the final rule for these CIDs, the FDIC expects more engagement with these filers. Group A CIDs that are affiliated with U.S. GSIBs, conversely, will file biennially under the final rule and will have somewhat less engagement between full resolution submissions.

Over the six-year period of analysis, beginning in 2025, the FDIC assumes there will be three first-time group A CIDs that will file full resolution submissions in each triennial filing cycle. This estimate is based on the FDIC's review of Consolidated Reports of Condition and Income data over the three-year period from 2021 through 2023.<sup>25</sup> The FDIC analyzed the effect of changes in these other requirements for group A CIDs by assuming the same filing frequency exists under the 2012 rule and the final rule, and then compared estimated compliance costs. As previously discussed, the final rule changes the filing frequency for group A CIDs affiliated with U.S. GSIBs as well as the full resolution submission content and other requirements for group A CIDs. The preceding subsection of this analysis presented the estimated effects of the final rule's amendments to the filing frequency for group A CIDs affiliated with U.S.

<sup>25</sup> CIDs that become group A CIDs in subsequent filing cycles (*i.e.*, the triennial filing cycle beginning in 2028) will have already filed full resolution submissions as group B CIDs, and thus are not considered first-time filers for the purposes of estimating burden.

GSIBs; from triennial to biennial. To isolate the effects of the final rule's changes to the full resolution submission content and other requirements for group A CIDs, the FDIC assumes that group A CIDs affiliated with U.S. GSIBs file biennially, rather than triennially, and then calculate estimated compliance costs for group A CIDs associated with the content requirements of the 2012 rule. The analysis then compares the estimated compliance costs for group A CIDs associated with the content requirements of the 2012 rule with the estimated compliance costs associated with the content requirements established by the final rule.

For group A CIDs filing full resolution submissions in the next and subsequent filing cycles, the FDIC estimates that, over the six-year period of analysis, the changes in the final rule relating to the full resolution submission content requirements will result in an average increase in labor hours to comply with associated reporting requirements of approximately 128,000 hours annually. Using a wage estimate of \$118.14 an hour,<sup>26</sup> the FDIC estimates that the increase in reporting burden hours for group A CIDs due to changes to full resolution submission content requirements for group A CIDs will result in average additional costs of approximately \$15.1 million annually to all group A CIDs. Approximately 63 percent of this increase in estimated annual compliance costs can be attributed to the nine group A CIDs affiliated with U.S. GSIBs.

### Marginal Effect of Proposed Changes in Full Resolution Submission Content for All Group B CIDs

The FDIC estimates that the labor hours needed by group B CIDs to comply with the reporting requirements of the final rule, for both first-time full resolution submissions and subsequent submissions, would be 7,200 hours and 67 hours per billion dollars in assets, respectively. To maintain consistency with the FDIC's estimates under the 2012 rule, the estimate of labor hours for both engagement and capabilities testing was included in the estimate of 67 hours per billion in total assets for group B CIDs.

The analysis of the estimated compliance costs of the final rule on group B CIDs is predicated on the assumption that all requirements under the final rule are new for the 12 group B CIDs, resulting in relatively high initial compliance efforts. Most CIDs that would be categorized as group B

<sup>26</sup> See footnote 23.

CIDs under the final rule have not provided resolution submissions of any kind to the FDIC. For those CIDs that have filed previously, the significant passage of time since that filing, taken together with the significant changes to the applicable requirements for group B CIDs under the final rule, suggest that it is appropriate to consider them to be first-time filers for the purposes of assessing compliance costs in the first triennial cycle over the six-year period of analysis.<sup>27</sup> Accordingly, the 12 group B CIDs will be considered first-time filers for their initial full resolution submission under the final rule. In addition, over the six-year period of analysis, beginning in 2025, the FDIC assumes there will be five first-time group B CIDs that will file full resolution submissions in each triennial cycle, based on the FDIC's review of Reports of Condition and Income data over the three-year period from 2021 through 2023.

The FDIC estimates that, over the six-year period of analysis, the final rule would result in an average increase in reporting burden hours of approximately 35,000 hours annually. Using a wage rate of \$118.14 an hour,<sup>28</sup> the FDIC estimates that the increase in reporting burden hours for group B CIDs submitting informational filings will result in average additional costs of approximately \$4.1 million annually.

### Total Estimated Effect on Reporting Compliance Costs to CIDs

Taken together, the total estimated marginal effect of the change to a biennial cycle for group A CIDs affiliated with U.S. GSIBs, submission content changes for all group A CIDs and group B CIDs, and requirements for interim supplements, over the six-year analysis period, would result in an average increase in reporting burden hours of approximately 389,000 annually. Using an estimated wage rate of \$118.14<sup>29</sup> per hour, this would amount to total additional estimated reporting costs for all CIDs of approximately \$46 million annually. By comparison, total average annual estimated reporting compliance costs of \$46 million are approximately 0.010 percent of total noninterest expenses across all CIDs.<sup>30</sup>

<sup>27</sup> Of the 12 group B CIDs identified, only three have submitted resolution plans under the 2012 rule (in either 2015 or 2018).

<sup>28</sup> See footnote 23.

<sup>29</sup> See footnote 23.

<sup>30</sup> FDIC Consolidated Reports of Condition and Income data as of June 30, 2023 through March 31, 2024.

#### *D. Effects on Insured Deposits and the Deposit Insurance Fund*

As previously discussed, the final rule would increase the amount of information CIDs produce and furnish to the FDIC for the purposes of resolution planning. In the years since the adoption of the 2012 rule, the FDIC has learned which aspects of the resolution planning process are most valuable and gained a greater understanding of the resources that CIDs expend in meeting the requirements and expectations to comply with the 2012 rule. The FDIC does not have the information necessary to quantify the benefits to the DIF associated with the increase in the amount of resolution planning information for CIDs. However, the FDIC believes that requiring CIDs to regularly submit more information on their resolution readiness capabilities would be expected to reduce the costs to the DIF in the event of a failure of such an institution because this information would help the FDIC be more prepared to resolve these CIDs.

#### *E. Additional Economic Considerations and Effects*

Because some of the methodologies used to estimate reporting costs—for subsequent full resolution submissions and interim supplements—are based on the number of labor hours per billions of dollars in total assets, it is possible for a CID's estimated compliance cost to change solely due to fluctuations in asset size. The FDIC acknowledges that economic trends resulting in, or contributing to, changes in banking industry assets generally would have an impact on the estimates described above, but believes that these potential changes in compliance costs are likely to be modest relative to the size of the IDs affected by the final rule.

CIDs would likely incur some regulatory costs, in addition to the reporting costs presented above, to transition their internal systems and processes in order to comply with the final rule. The FDIC does not have access to information that would enable it to estimate such costs. However, the FDIC believes that such costs are likely to be small relative to the size of the IDs affected by the final rule.

Finally, the FDIC does not believe that any additional costs incurred as a result of the final rule would have significant adverse impact on the provision of banking services such as originating and servicing loans, processing payments, or

various financial market activities that the CIDs may be involved in. This analysis illustrates that estimated reporting costs in future years only comprise approximately 0.010 percent of current noninterest expenses<sup>31</sup> for all CIDs.

#### *F. Overall Effects*

In summary, the FDIC believes that the final rule would result in public benefits by improving the FDIC's ability to effect timely and cost-effective resolutions of large, complex insured institutions. The FDIC estimates the final rule would result in average annual compliance cost increases of approximately \$46 million over the six-year analysis period—which spans two filing cycles (three for group A CIDs affiliated with U.S. GSIBs) under the final rule.

#### **V. Alternatives Considered**

The FDIC considered several alternatives while developing the final rule. The FDIC first considered leaving the 2012 rule unchanged. The FDIC rejected this alternative because it believes the final rule improves the value of submissions and provides additional clarity to CIDs regarding requirements by incorporating elements of prior guidance and taking into account the lessons learned from resolution planning under the 2012 rule. The final rule also provides a complete and clear set of requirements with respect to resolution planning submissions and the review and feedback process and bolsters and clarifies the FDIC's approach to engagement and capabilities testing in a manner useful to both the FDIC and CIDs.

Following review of comments on the proposed rule, the FDIC considered several alternatives in finalizing the rule. First, the FDIC considered finalizing the rule as proposed. Comments received identified certain areas where the rule could be strengthened and improved, particularly with respect to the process and timing of submissions and review of the full resolution submissions as discussed below.

The FDIC considered several options with respect to the timing of submissions. First, it considered retaining without change the proposed biennial cycle for all CIDs. It also

considered adopting a triennial cycle for all CIDs. Finally, it considered the approach adopted in this final rule by imposing a triennial cycle for most CIDs, and biennial filings for the group A CIDs affiliated with U.S. GSIBs. The FDIC believes that, for most CIDs, a triennial cycle, with interim supplements in the off-years, would be an appropriate balance between the burden on CIDs associated with more frequent filings and the public benefit in having timely and complete submissions. The final rule establishes a biennial cycle for group A CIDs that are affiliated with U.S. GSIBs. The FDIC believes the biennial filing would be appropriate for these CIDs, which are part of the largest and most systemic and interconnected U.S. banking organizations.

The approach to the timing of submissions adopted in the final rule also has the benefit of allowing the FDIC to have additional time between submissions for engagement with the CIDs that are triennial filers. The biennial filing schedule for all group A CIDs resulted in an expectation that engagement with those CIDs would be limited as a result of the increased time for preparation and review of full resolution submissions. The FDIC expects that the additional time for engagement will improve the FDIC's understanding of firm-specific resolution matters, and will provide additional opportunity for feedback and observations that may assist the CIDs in improving their full resolution submission in successive filings.

The FDIC considered several alternatives with respect to the timing of interim supplements. First, it considered retaining the proposed approach that would require an interim supplement in any year in which a full resolution submission is not required. Second, it considered not requiring an interim supplement for any CID that is an affiliate of a DFA resolution plan filer in a calendar year in which a DFA resolution plan is submitted. Finally, it considered the approach adopted in the final rule, which requires all CIDs, except the biennial filers, to provide an interim supplement in any calendar year in which a full resolution submission is not submitted. For the biennial filers, the final rule does not require an interim supplement in a calendar year in which a DFA resolution plan from the affiliated banking organization is submitted. This

<sup>31</sup> FDIC Consolidated Reports of Condition and Income data as of June 30, 2023 through March 31, 2024.

alternative is an appropriate balance of costs and benefits, taking into account biennial filers' higher frequency of submissions under this rule, and the expected annual submission of resolution plans alternating between submissions under this rule and the DFA rule.

The FDIC considered other modifications to the proposal in response to comments, including changes to the identified strategy and other content elements. In each case, the FDIC weighed the proposed change against the alternative of adopting the proposal. The FDIC believes that the changes made, in the aggregate, do not have a significant impact on the cost of preparing the full resolution submissions and interim supplements, and have meaningful benefits in terms of improving the usefulness of the content of the submissions.

## VI. Regulatory Analysis and Procedures

### A. Paperwork Reduction Act

In accordance with the requirements of the PRA,<sup>32</sup> the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

#### Comments Received

The FDIC received comments that appear to relate to the PRA. As stated

above, the majority of commenters suggested changes to reduce the costs of submission preparation for filers, including by adjusting the proposed submission cycle, narrowing the proposed scope and content requirements, and enhancing alignment with relevant resolution planning requirements of the DFA rule. Additionally, one commenter raised questions about the FDIC's burden estimate. The comments received and their respective responses are summarized in the above analysis.

The final rule modifies the current filing cycle cadence for group A CIDs that are affiliated with U.S. GSIBs from triennial to biennial, which will result in these CIDs sometimes filing multiple full resolution submissions across a given three-year PRA renewal cycle. On content, the final rule does not differ substantially from the proposed rule. The final rule retains the proposed rule's requirement for group A CIDs and group B CIDs to submit interim supplements to the FDIC in calendar years where they are not expected to file full resolution submissions, except in the case of the biennial filers who are also not expected to file in calendar years when they file DFA resolution plans. On engagement and capabilities testing, the final rule is broadly similar to the proposed rule. The change in submission cycle resulted in an increased expectation for engagement

with group A CIDI triennial filers, as discussed above. Therefore, the estimate for subsequent full resolution submissions for group A CIDs which are filing triennially has been increased from 72 hours per billion dollars in assets to 73 hours per billion dollars in assets, which would affect the estimates in Information Collection #2, described in table 1 below. For subsequent plan submissions for group A CIDs which are filing biennially, the estimate remains at 72 hours per billion dollars in assets.

The revisions for this Information Collection Renewal ("ICR") in the final rule represent a decrease of 182,238 hours from the PRA estimates in the proposed rule (771,975 hours).<sup>33</sup> This decrease is primarily due to the reversion to a triennial cycle for all CIDs except for group A CIDs that are affiliated with U.S. GSIBs, and the decision to exempt group A CIDs that are affiliated with U.S. GSIBs from the interim supplement requirement in calendar years when they file DFA resolution plans. The FDIC will revise this information collection as follows:

*Title:* Resolution Plans and Periodic Engagement and Capabilities Testing Required.

*OMB Number:* 3064–0185.

*Affected Public:* Large and Highly Complex Depository Institutions.

TABLE 1—SUMMARY OF ESTIMATED ANNUAL BURDEN  
[OMB No. 3064–0185]

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Resolution Plan update by previous filer (biennial filer, group A), 12 FR 360.10(c)(1); 12 FR 360.10(d) (Mandatory).	Reporting (Annual, 2 year filing cycle).	3	1	<sup>34</sup> 89216:00	267,648
2. Resolution Plan update by previous filer (triennial filer, group A), 12 FR 360.10(c)(2); 12 FR 360.10(d) (Mandatory).	Reporting (Annual, 3 year filing cycle).	8	1	<sup>35</sup> 18100:58	144,808
3. Resolution Plan by new filer (group A), 12 FR 360.10(c)(3); 12 FR 360.10(d) (Mandatory).	Reporting (Annual, 3-year filing cycle).	1	1	16000:00	16,000

<sup>32</sup> 44 U.S.C. 3501 *et seq.*

<sup>33</sup> The revisions for this ICR in the final rule represent an increase of 300,074 estimated annual burden hours from the PRA estimates in the 2021 collection (289,663 hours), and an increase of 16,946 estimated annual burden hours from the PRA estimates in the 2018 collection (572,791 hours).

<sup>34</sup> For the PRA renewal cycle corresponding with the expected effective date of the final rule—from 2025 through 2027—there will be a total of nine biennial filers, with total assets (as of the quarter ending March 31, 2024) of approximately \$11,152

billion. The FDIC estimates that these nine CIDs would incur 72 hours per billion dollars in assets of reporting burden under this IC, and that these nine ICs would file once during this three-year period. Therefore, the total burden is 802,944 hours (\$11,152 billion in assets \* 72 hours per billion in assets = 802,944 hours) across this period, or 267,648 hours annually. At three respondents a year (9 biennial filers/3 years), this comes out to 89,216 hours per response.

<sup>35</sup> For the PRA renewal cycle corresponding with the expected effective date of the final rule—from 2025 through 2027—there will be a total of 24

triennial filers, with total assets (as of the quarter ending March 31, 2024) of approximately \$5,951 billion. The FDIC estimates that these 24 CIDs would incur 73 hours per billion dollars in assets of reporting burden under this IC, and that these 24 ICs would file once during this three-year period. Therefore, the total burden is 434,423 hours (\$5,951 billion in assets \* 73 hours per billion in assets = 434,423 hours) across this period, or approximately 144,807.67 hours annually. At 8 respondents a year (24 triennial filers/3 years), this comes out to 18,100.96 hours per response, or 18,100 hours and 58 minutes per response.

TABLE 1—SUMMARY OF ESTIMATED ANNUAL BURDEN—Continued  
[OMB No. 3064–0185]

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
4. Informational Filing update by previous filer (group B), 12 FR 360.10(c)(2); 12 FR 360.10(d) (Mandatory).	Reporting (Annual, 3-year filing cycle).	1	1	<sup>36</sup> 00:00	0
5. Informational Filing by New Filers (group B), 12 FR 360.10(c)(3); 12 FR 360.10(d) (Mandatory).	Reporting (Annual, 3-year filing cycle).	6	1	7200:00	43,200
6. Interim Supplement, 12 FR 360.10(e) (Mandatory).	Reporting (Annual, 3-year filing cycle).	30	1	3920:00	117,600
7. Waiver Requests, 12 FR 360.10(i) (Required to obtain or retain a benefit).	Reporting (On Occasion) .....	1	1	01:00	1
8. Notice of extraordinary event, 12 FR 360.10(c)(4) (Mandatory).	Reporting (On Occasion) .....	4	1	120:00	480
Total Annual Burden (Hours) .....	.....	.....	.....	.....	589,737

Source: FDIC.

**Note:** The estimated annual IC time burden is the product, rounded to the nearest hour, of the estimated annual number of responses and the estimated time per response for a given IC. The estimated annual number of responses is the product, rounded to the nearest whole number, of the estimated annual number of respondents and the estimated annual number of responses per respondent. This methodology ensures the estimated annual burdens in the table are consistent with the values recorded in OMB’s consolidated information system.

**B. Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a final rule, to prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of the final rule on small entities.<sup>37</sup> However, a final regulatory flexibility analysis is not required if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined “small entities” to include banking organizations with total assets of less than or equal to \$850 million.<sup>38</sup>

<sup>36</sup> The estimated time per response for a group B CIDI that has filed previously under the final rule is 67 hours per billion dollars in total assets. However, for the PRA renewal cycle corresponding with the expected effective date of the final rule—from 2025 through 2027—the FDIC estimates that 0 group B CIDs will be subject to this requirement. For the purposes of estimating annual reporting compliance burden, all group B CIDs in this period are considered “new filers” and thus will file under IC #5. The FDIC expects that the 17 group B CIDs under IC #5 (rounded to six annually) would all file under IC #4 in the next three-year PRA renewal cycle, notwithstanding the number of group B CIDs that may fail, merge with other CIDs, or experience asset growth such that they no longer would be considered a group B CIDI at the time of their next filing. In recognition that, in future filing cycles, some group B CIDs will incur burden under this IC, the FDIC uses a placeholder estimate of 0 respondents to retain this information collection.

<sup>37</sup> 5 U.S.C. 601 *et seq.*

<sup>38</sup> The SBA defines a small banking organization as having \$850 million or less in assets, where an organization’s “assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.” See 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). In its determination, the “SBA

Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of one or more of these thresholds typically represent significant economic impacts for FDIC-supervised institutions. For the reasons described below and under section 605(b) of the RFA, the FDIC certifies that this rule will not have a significant economic impact on a substantial number of small entities. As of the quarter ending March 31, 2024, the FDIC insured 4,577 depository institutions, of which the FDIC identifies 3,272 as a “small entity” for purposes of the RFA.<sup>39</sup>

The final rule amends resolution submission requirements for IDIs with over \$50 billion in total average assets. Therefore, the final rule would apply only to institutions with \$50 billion or more in total average assets. As of the quarter ending March 31, 2024 there are no small, FDIC-insured institutions with \$50 billion or more in total average

counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.” See 13 CFR 121.103. Following these regulations, the FDIC uses an insured depository institution’s affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured depository institution is “small” for the purposes of RFA.

<sup>39</sup> FDIC Consolidated Reports of Condition and Income data as of December 31, 2023 and March 31, 2024.

assets.<sup>40</sup> In light of the foregoing, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities supervised.

**C. Plain Language**

Section 722 of the Gramm-Leach-Bliley Act<sup>41</sup> requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the final rule in a simple and straightforward manner. The FDIC invited comments regarding the use of plain language in the proposed rule but did not receive any comments on this topic.

**D. Riegle Community Development and Regulatory Improvements Act of 1994**

Under section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),<sup>42</sup> in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on IDIs, each FBA must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository

<sup>40</sup> FDIC Consolidated Reports of Condition and Income data as of December 31, 2023 and March 31, 2024.

<sup>41</sup> Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

<sup>42</sup> 12 U.S.C. 4802(a).

institutions, as well as the benefits of such regulations. In addition, section 302(b) of the RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.<sup>43</sup>

#### E. Congressional Review Act

For purposes of the Congressional Review Act (5 U.S.C. 801 *et seq.*), the OMB makes a determination as to whether a final rule constitutes a “major rule.” If a rule is deemed a “major rule” by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication. The Congressional Review Act defines a “major rule” as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.<sup>44</sup> The OMB has determined that the final rule is not a major rule for purposes of the Congressional Review Act and the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

#### List of Subjects in 12 CFR Part 360

Bank deposit insurance, Banks, banking, Holding companies, National banks, Reporting and recordkeeping requirements, Savings associations.

#### Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation amends 12 CFR part 360 as follows:

#### PART 360—RESOLUTIONS AND RECEIVERSHIPS RULES

■ 1. The authority citation for part 360 is revised to read as follows:

**Authority:** 12 U.S.C. 1811 *et seq.*, 1817(a)(2)(B), 1817(b), 1818(a)(2), 1818(t), 1819(a) Seventh, Eighth, Ninth, and Tenth, 1820(b)(3) and (4), 1820(g), 1821(d)(1), (4), (10)(C), and (11), 1821(e)(1) and (8)(D)(i), 1821(f)(1), 1823(c)(4), and 1823(e)(2).

■ 2. Revise § 360.10 to read as follows:

**§ 360.10 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.**

(a) *Scope and purpose.* This section applies to insured depository institutions with \$50 billion or more in total assets. It requires a covered insured depository institution with \$100 billion or more in total assets (a group A CIDI, as defined in paragraph (b) of this section) to submit a resolution plan that should enable the FDIC, as receiver, to resolve the institution under 12 U.S.C. 1821 and 1823 in a manner that provides depositors timely access to their insured deposits, maximizes the net present value return from the sale or disposition of assets and minimizes the amount of any loss realized by the creditors in the resolution, and addresses risks of adverse effects on U.S. economic conditions or economic stability. Other covered insured depository institutions (group B CIDs, as defined in paragraph (b) of this section) are required under this section to submit to the FDIC an informational filing containing information relevant to the group B CIDI’s resolution that will support the development of strategic options for resolution of the CIDI by the FDIC. This section also establishes the requirements regarding the submission of resolution plans and informational filings and their contents, as well as procedures for their review by the FDIC. This rule is intended to ensure that each group A CIDI develops a credible strategy to facilitate the FDIC’s resolution of the institution across a range of possible scenarios and, with respect to each group A CIDI and each group B CIDI, the FDIC has access to all of the material information and analysis it needs to resolve efficiently the covered insured depository institution in the event of its failure.

(b) *Definitions.*

*Affiliate* has the same meaning as in 12 U.S.C. 1813(w)(6).

*Appropriate Federal banking agency* has the same meaning as in 12 U.S.C. 1813(q).

*Biennial filer* is defined in paragraph (c)(1) of this section.

*Bridge depository institution* has the same meaning as in 12 U.S.C. 1813(i)(2).

*Capabilities testing* is defined in paragraph (f)(7) of this section.

*CIDI or covered insured depository institution* means a group A CIDI or a group B CIDI.

*Company* has the same meaning as in 12 CFR 362.2(d).

*Control* has the same meaning as in 12 U.S.C. 1813(w)(5).

*Core business lines* means those business lines of the CIDI, including associated operations, services, functions, and support, that, in the view of the CIDI, upon failure would result in a material loss of revenue, profit, or franchise value of the CIDI.

*Critical services* means services and operations, including shared and outsourced services, that are necessary to continue the day-to-day operations of the CIDI, and, in the case of a group A CIDI, to support the execution of the identified strategy, and includes all services and operations that are necessary to continue any critical operation conducted by the CIDI that has been included in the most recent DFA resolution plan of the CIDI’s parent company.

*Critical services support* means resources, including shared and outsourced resources, that are necessary to support the provision of critical services, including systems, technology infrastructure, data, key personnel, intellectual property, and facilities.

*DFA resolution plan* means a resolution plan filed by a CIDI’s parent company under 12 U.S.C. 5365(d).

*DIF* means the deposit insurance fund established by 11 U.S.C. 1821(a)(4).

*Engagement* is defined in paragraph (f)(6) of this section.

*Failure scenario* means a scenario as described in paragraph (d)(2) of this section.

*Foreign-based company* means any company that is not incorporated or organized under the laws of the United States.

*Franchise component* means a business segment, regional branch network, major asset, material asset portfolio, or other key component of a CIDI’s franchise that can be separated and sold or divested.

*Full resolution submission* means a resolution plan for a group A CIDI, and an informational filing for a group B CIDI.

*Group A CIDI* means an insured depository institution with \$100 billion or more in total assets, as determined based upon the average of the institution’s four most recent Consolidated Reports of Condition and Income. An insured depository institution that is a group A CIDI remains a group A CIDI until it has less than \$100 billion in total assets for each of the institution’s four most recent

<sup>43</sup> 12 U.S.C. 4802.

<sup>44</sup> See 5 U.S.C. 804(2).

Consolidated Reports of Condition and Income. In the event of a merger, acquisition of assets, combination, or similar transaction by an insured depository institution that causes it to exceed \$100 billion in total assets, the FDIC may alternatively consider, in its discretion, to the extent and in the manner the FDIC considers to be appropriate, one or more of the four most recent Consolidated Reports of Condition and Income of the insured depository institutions that will become a group A CIDI effective as of the date of the consummation of such merger, acquisition, combination, or other transaction.

*Group B CIDI* means an insured depository institution with at least \$50 billion but less than \$100 billion in total assets, as determined based upon the average of the institution's four most recent Consolidated Reports of Condition and Income. An insured depository institution that is a group B CIDI remains a group B CIDI until it is a group A CIDI or has less than \$50 billion in total assets, in either case, for each of the institution's four most recent Consolidated Reports of Condition and Income. In the event of a merger, acquisition of assets, combination, or similar transaction by an insured depository institution that causes it to have at least \$50 billion but less than \$100 billion in total assets, the FDIC may alternatively consider, in its discretion, to the extent and in the manner the FDIC considers to be appropriate, one or more of the four most recent Consolidated Reports of Condition and Income of the insured depository institutions that will become a group B CIDI effective as of the date of the consummation of such merger, acquisition, combination, or other transaction.

*Identified strategy* means the strategy chosen by a group A CIDI for its resolution plan as required pursuant to paragraph (d)(1) of this section, covering the time period from the point of failure to disposition of substantially all of the assets and operations of the group A CIDI through wind-down, liquidation, divestiture, or other return to the private sector.

*IDI franchise* means all core business lines and all other business segments, branches, and assets that constitute the CIDI and its businesses as a whole.

*Informational filing* means the full resolution submission submitted by a group B CIDI pursuant to this section.

*Insured depository institution* has the same meaning as in 12 U.S.C. 1813(c)(2).

*Key depositors* is defined in paragraph (d)(7)(v) of this section.

*Key personnel* means personnel tasked with an essential role in support of a core business line, franchise component, or critical service, or having a function, responsibility, or knowledge that may be significant to the FDIC's resolution of the CIDI. Key personnel may be employed by the CIDI, a CIDI subsidiary, the parent company, a parent company affiliate, or a third party.

*Least-cost test* means the process for determining the resolution strategy that is least costly to the DIF, as required under 12 U.S.C. 1823(c).

*Material asset portfolio* means a pool or portfolio of assets, such as loans, securities, or other assets that may be sold in resolution by the bridge depository institution or the receivership and is significant in terms of income or value to the CIDI.

*Material change* means a change in organization, operations, or strategic direction of the CIDI that results from an extraordinary event or other circumstance that could reasonably be foreseen to have a material effect on the resolvability of the CIDI. Such changes include, but are not limited to:

- (i) The identification of a new core business line;
- (ii) The identification of a new material entity or the de-identification of a material entity;
- (iii) Legal or functional organizational structure;
- (iv) Overall deposit structure;
- (v) Critical services or critical services support;
- (vi) The identification or de-identification of a franchise component;
- (vii) The acquisition or disposition of a material asset portfolio; or
- (viii) Cross-border elements.

*Material entity* means a company, a domestic branch, or a foreign branch as defined in 12 U.S.C. 1813(o) that is significant to the activities of a critical service or core business line, and includes all IDIs that are subsidiaries or affiliates of the CIDI.

*Multiple-acquirer exit* means an exit from a bridge depository institution through the sale of all or nearly all of the CIDI's IDI franchise to multiple acquirers, such as a regional breakup of the CIDI's IDI franchise or a sale of business segments to multiple acquirers, and may also include the wind-down or other disposition of franchise components, or material asset portfolios incidental to the divestitures of going concern elements, as applicable.

*Parent company* means the company that controls, directly or indirectly, an insured depository institution. In a multi-tiered holding company structure,

parent company means the top-tier of the multi-tiered holding company only.

*Parent company affiliate* means any affiliate of the parent company other than the CIDI and the CIDI's subsidiaries.

*Payment, clearing, and settlement service provider (PCS service provider)* is defined in paragraph (d)(16) of this section.

*Qualified financial contract* has the same meaning as in 12 U.S.C. 1821(e)(8).

*Regulated subsidiary* is defined in paragraph (d)(4)(v) of this section.

*Resolution plan* means the full resolution submission submitted by a group A CIDI pursuant to this section.

*Subsidiary* has the same meaning as in 12 U.S.C. 1813(w)(4).

*Total assets* has the meaning given in the instructions for the filing of Reports of Condition and Income.

*Triennial filer* is defined in paragraph (c)(2) of this section.

*United States* has the same meaning as the term State as defined in 12 U.S.C. 1813(a)(3).

*Virtual data room* means an online repository where information pertinent to a sale or disposition of a CIDI or its franchise components is maintained in a secure and confidential manner to facilitate, whether by the CIDI or the FDIC, such sale or disposition to one or more third party acquirers.

(c) *Full resolution submissions required*—(1) *Biennial filers*—(i) *Definition*. Biennial filer means a CIDI affiliate of a biennial filer, as defined in § 381.4(a)(1) of this chapter.

(ii) *Submission date*. Each biennial filer must provide a full resolution submission to the FDIC on or before the date that is two years after the date of its most recent full resolution submission (or first business day thereafter), unless it has received written notice of a different date from the FDIC. All biennial filers will receive a written notice specifying the date on which their initial full resolution submission or interim supplement is due, which will be at least 270 days after October 1, 2024.

(2) *Triennial filers*—(i) *Definition*. Triennial filer means all CIDs that are not biennial filers.

(ii) *Submission date*. Each triennial filer must provide a full resolution submission to the FDIC on or before the date that is three years after the date of its most recent full resolution submission (or first business day thereafter), unless it has received written notice of a different date from the FDIC. All triennial filers will receive a written notice specifying the date on which their initial full resolution

submission or interim supplement is due, which will be at least 270 days after October 1, 2024.

(3) *Full resolution submission by new CIDs.* An insured depository institution that becomes a CIDI after October 1, 2024, must submit its initial full resolution submission on or before the date specified in writing by the FDIC. Such date will occur no earlier than 270 days after the date on which the insured depository institution became a CIDI. A CIDI that transitions between groups will file a full resolution submission or interim supplement, as applicable, pursuant to the requirements applicable to its new filing group on or before the date that its next full resolution submission or interim supplement is due, unless it receives written notice of a different date from the FDIC.

(4) *Notice of extraordinary event.* (i) *Requirements.* Each CIDI must provide the FDIC with a notice no later than 45 days after any material merger, acquisition or disposition of assets, or similar transaction or fundamental change to the CIDI's organizational structure, core business lines, size, or complexity. Such notice must describe the extraordinary event and explain how the event impacts the resolvability of the CIDI. The CIDI must address any material changes resulting from the extraordinary event with respect to which it has provided notice pursuant to this paragraph (c)(4)(i) in the subsequent full resolution submission or interim supplement submitted by the CIDI.

(ii) *Exception.* A CIDI is not required to submit a notice under paragraph (c)(4)(i) of this section if the date by which the CIDI would be required to submit the notice under paragraph (c)(4)(i) of this section would be within 90 days before the date on which the CIDI is required to make a full resolution submission under this section.

(5) *Approval by the CIDI board of directors.* The CIDI's board of directors or, in the case of an insured branch only, a delegate acting under the express authority of the CIDI's board of directors, must approve the full resolution submission. That approval or delegation of express authority must be noted in the minutes of the board of directors.

(6) *Incorporation from other sources—*(i) *Sources.* A CIDI may incorporate information or analysis into the confidential section of its full resolution submission or its interim supplement from one or more of the following without seeking the authorization for disclosure of FDIC confidential

information required under 12 CFR part 309:

(A) The most recent full resolution submission submitted by the CIDI or an affiliate of the CIDI.

(B) The most recent DFA resolution plan of a company that is a CIDI affiliate.

(C) Any other regulatory filing by the CIDI or a CIDI affiliate with the FDIC.

(ii) *Requirements for incorporation from other sources.* A CIDI may incorporate information from other sources only if:

(A) The full resolution submission seeking to incorporate information or analysis from other sources clearly indicates the source and as-of date of the information or analysis the CIDI is incorporating, and the information or analysis required by this section is readily distinguishable from any extraneous parent company (or parent company affiliate) information or analysis, with a description of any material differences.

(B) The CIDI certifies that the information or analysis the CIDI is incorporating from other sources remains accurate in all respects that are material to the CIDI's full resolution submission.

(d) *Content of the full resolution submissions for CIDs.* Each group A CIDI must submit a resolution plan that includes all content specified in this paragraph (d). Each group B CIDI must submit an informational filing that includes the content specified in paragraphs (d)(4) through (9), (d)(10)(i) through (iii) and (vii) through (viii), (d)(11), and (d)(13) through (27) of this section, inclusive; a description of each material change since the submission of its prior informational filing or, where relevant, interim supplement (or affirmation that no such material change has occurred); and a discussion of the changes to the CIDI's previously submitted informational filing resulting from any change in law or regulation, guidance, or feedback from the FDIC, or material change.

(1) *Identified strategy.* (i) Each resolution plan must include an identified strategy for the resolution of the CIDI in the event of its failure that meets the credibility criteria in paragraph (f)(1) of this section.

(ii) A CIDI must utilize as its identified strategy the formation and stabilization of a bridge depository institution that continues operation through the completion of the resolution and exit from the bridge depository institution unless the CIDI determines and demonstrates in its resolution plan why another strategy:

(A) Would be more appropriate for the size, complexity, and risk profile of the CIDI;

(B) Reasonably could be executed by the FDIC across a range of likely failure scenarios; and

(C) Best addresses the credibility criteria described in paragraph (f)(1) of this section.

(iii) The identified strategy must include meaningful optionality for execution across a range of scenarios. The exit from the bridge depository institution may be through a multiple acquirer exit, or any other exit strategy following the stabilization of the operations of the bridge depository institution. The identified strategy may not be based upon a sale or other disposition to one or more acquirers over resolution weekend.

(2) *Failure scenario.* For the identified strategy, the CIDI must use a failure scenario that demonstrates that the CIDI is experiencing material financial distress, such that the quality of the CIDI's asset base has deteriorated and high-quality liquid assets have been depleted or pledged in the stress period before failure due to high, unexpected outflows of deposits and increased liquidity requirements from counterparties that would impact the CIDI's ability to pay its obligations in the normal course of business before the FDIC's appointment as receiver. Though the immediate failure event may be liquidity-related and associated with a lack of market confidence in the financial condition of the CIDI before the final recognition of losses, the identified strategy must also consider the depletion of capital before and at the time of the appointment of the FDIC as receiver. The CIDI may not assume any regulatory waivers in connection with the actions proposed to be taken before or in resolution. To the extent that the CIDI assumes that DIF funding is used during the resolution by a bridge depository institution, it must demonstrate the capacity for such borrowing on a fully secured basis and the source of repayment. The identified strategy must take into account that failure of the CIDI will occur under severely adverse economic conditions developed by the Board of Governors of the Federal Reserve System pursuant to 12 U.S.C. 5365(i)(1)(B), and must assume that the U.S. parent company (if any) is in resolution under 11 U.S.C. 101 *et seq.* or another applicable insolvency regime. The FDIC may provide a CIDI additional or alternative parameters for the failure scenario detailed in this paragraph (d)(2). The FDIC will endeavor to provide a CIDI notice of such additional or alternative

parameters for the failure scenario at least one year before the applicable resolution plan is due. Any such additional or alternative parameters:

(i) May be applicable to all CIDs or only specific individual CIDs; and

(ii) May include additional conditions, such as different macroeconomic stress scenario information or assumptions with respect to the cause of failure. If the FDIC provides such additional or alternative parameters, the CIDI must use the additional or alternative parameters rather than the conditions specified in paragraph (d)(2) of this section, to the extent inconsistent with the conditions specified in paragraph (d)(2) of this section.

(3) *Executive summary.* A resolution plan must include an executive summary providing:

(i) A description of the key elements of the identified strategy;

(ii) An overview of the CIDI's core business lines and franchise components;

(iii) A description of each material change since the prior resolution plan addressing the changed element (or affirmation that no such material change has occurred);

(iv) A discussion of the changes to the CIDI's previously submitted resolution plan resulting from any change in law or regulation, guidance, or feedback from the FDIC, or material change; and

(v) A discussion of any actions taken by the CIDI since the submission of its prior resolution plan to further develop the quality or comprehensiveness of the information and analysis included in the resolution plan, including the identified strategy, or to improve its capabilities to develop and timely deliver that information and analysis.

(4) *Organizational structure: legal entities; core business lines; and branches.* A full resolution submission must:

(i) Identify and describe the CIDI's, the parent company's, and the parent company affiliates' legal and functional structures, including all material entities.

(ii) Identify and describe each of the CIDI's core business lines, including whether any core business line draws additional value from, or relies on the operations of, the parent company or a parent company affiliate, and identify any such operations that are cross-border. Provide information about the assets and annual revenue for each core business line, clearly identifying revenue to the CIDI.

(iii) Map franchise components to core business lines, and franchise components and core business lines to

material entities and regulated subsidiaries.

(iv) Describe the CIDI's branch organization, both domestic and foreign, including the address and total domestic and foreign deposits of each branch.

(v) Identify each CIDI subsidiary that is one of the following legal entities (each a "regulated subsidiary"), and provide the address and asset size of each regulated subsidiary:

(A) A broker or dealer that is registered under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*);

(B) A registered investment adviser, properly registered by or on behalf of either the Securities and Exchange Commission or any State, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

(C) An investment company that is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*);

(D) An insurance company, with respect to insurance activities of the insurance company and activities incidental to such insurance activities, that is subject to supervision by a State insurance regulator;

(E) A legal entity that is subject to regulation by, or registration with, the Commodity Futures Trading Commission, with respect to activities conducted as a futures commission merchant, commodity trading adviser, commodity pool, commodity pool operator, swap execution facility, swap data repository, swap dealer, major swap participant, and activities that are incidental to such commodities and swaps activities;

(F) A corporation organized under 12 U.S.C. 611 *et seq.* or a corporation having an agreement or undertaking with the Federal Reserve Board under 12 U.S.C. 601 *et seq.*; or

(G) Any legal entity that is organized under the law of any jurisdiction other than the United States and that is authorized or supervised by a regulatory authority of such jurisdiction in a manner generally comparable to the U.S. legal entities and authorities described in paragraphs (d)(4)(v)(A) through (E) of this section, and includes any subsidiary that takes deposits or conducts the business of banking under the laws of such jurisdiction.

(vi) Identify all of the CIDI's subsidiaries, offices, and agencies with cross-border operations associated with the operations of any core business line or franchise component. For each such subsidiary, office, or agency, provide

metrics that appropriately depict its size and significance, and the location of each such subsidiary, office, and agency.

(5) *Methodology for material entity designation.* A full resolution submission must describe the CIDI's methodology for identifying material entities. The methodology must be appropriate to the nature, size, complexity, and scope of the CIDI's operations.

(6) *Separation from parent; potential barriers or material obstacles to orderly resolution.* The full resolution submission must address the CIDI's ability to operate separately from the parent company's organization, and any impact on maintaining economic viability and preservation of franchise value in a bridge depository institution, with the assumption that the parent company and parent company affiliates are in resolution under 11 U.S.C. 101 *et seq.* or another applicable insolvency regime. The full resolution submission must describe the actions necessary to separate the CIDI and its subsidiaries from the organizational structure of its parent company in a cost-effective and timely fashion. The full resolution submission must identify potential barriers or other material obstacles to an orderly resolution of the CIDI that may occur upon the CIDI's separation from the parent company's organization, as well as risks to the identified strategy (if required), and inter-connections and inter-dependencies that may hinder the timely and effective resolution of the CIDI, and include the remediation steps or mitigating responses necessary to eliminate or minimize such barriers or obstacles.

(7) *Overall deposit activities.* A full resolution submission must:

(i) Describe the CIDI's overall deposit activities, including, insured and uninsured deposits, and particular deposit concentrations or other aspects of the deposit base or underlying systems that may create operational complexity for the FDIC. Describe how any types or groups of deposits are related to a core business line, business segment, or franchise component, and if so, how those types or groups of deposits are identified on the records or systems of the CIDI.

(ii) Identify the total amount of foreign deposits by jurisdiction and what percentage of foreign deposits is dually payable in the United States. Describe any relationship between foreign deposits and core business lines and any deposit sweep arrangements with foreign branches, subsidiaries, and affiliates.



(iii) Identify and describe deposit sweep arrangements, if any, that the CIDI has with the parent company, parent company affiliates, or third parties, and identify contracts governing such deposit sweep arrangements. Describe the CIDI's reporting capabilities on sweep deposits, including whether such reporting is automated and any data lag that affects the accuracy of such reports. If the CIDI receives significant amounts of deposits through such deposit sweep arrangements with the parent company or parent company affiliates, include a detailed discussion of such relationships and the business objectives of such deposit sweep arrangements.

(iv) Identify all omnibus, deposit sweep, and pass-through accounts, and identify the accountholder, the location of relevant contracts, and the system on which the accounts are maintained. Provide a detailed discussion of the capabilities and timeliness of deposit reporting systems and capabilities to generate accurate and timely contact information with respect to any omnibus, deposit sweep, or pass-through accounts.

(v) Provide a report regarding the CIDI's depositors that hold or control the largest deposits (whether in one account or multiple accounts) that collectively are material to one or more business segments ("key depositors"). The report must identify key depositors by name and business segment and the amount of deposit of each key depositor, and for each key depositor must identify other services provided by the CIDI to that depositor, such as lending, wealth management, brokerage services, or custody services. The full resolution submission must describe the CIDI's approach to identifying these key depositors and must describe how long it would take the CIDI to generate such a report and the timeliness of the information provided.

(8) *Critical services.* A CIDI must be able to demonstrate capabilities necessary to ensure continuity of critical services in resolution. In order to support these capabilities, a full resolution submission must:

(i) Identify and describe the CIDI's critical services and critical services support, including whether they are provided, in whole or in part, by or through:

(A) The CIDI or a CIDI subsidiary or branch (and further indicate whether those critical services or critical services support are ultimately provided by a third party), or

(B) The parent company or a parent company affiliate (and further indicate

whether those critical services or critical services support are ultimately provided by a third party).

(ii) Describe the CIDI's process for identifying critical services and critical services support. Describe the CIDI's process for collecting and monitoring the terms of contracts governing critical services and critical services support, and whether services provided pursuant to such contracts and associated costs can be segmented by the material entity, core business line, or franchise component that receives the critical service or critical service support.

(iii) Map critical services support to the legal entities that own, contract for, or employ them, and map critical services to the material entities, core business lines, and franchise components that they support.

(iv) Identify the physical locations and jurisdictions of critical service providers and critical services support that are located outside of the United States.

(v) Identify the critical services and critical services support that may be at risk of interruption in the event of the CIDI's failure and describe the process used to make this determination. Describe the CIDI's approach for continuing critical services in the event of the CIDI's failure. Identify contracts for critical services that contain provisions that, upon the insolvency of the CIDI or the FDIC being appointed receiver of the CIDI, purport to permit the service provider to stop providing services, to alter pricing, or to alter other terms of service. Discuss potential obstacles to maintaining critical services that could occur in the event of the CIDI's failure and steps that could be taken to remediate or otherwise mitigate the risk of interruption, to include those critical services and critical services support provided by the parent company or a parent company affiliate and addressing:

(A) Whether the CIDI and the parent company or parent company affiliate have entered into a written agreement and whether the written agreement has a cost plus or arms' length pricing rate, and the processes used by the CIDI to identify and project liquidity needs associated with those costs; and

(B) The impact on continuity of critical services or critical services support provided by the parent company or a parent company affiliate if the parent company or parent company affiliate is in resolution under 11 U.S.C. 101 *et seq.* or other applicable insolvency regime.

(9) *Key personnel.* A full resolution submission must:

(i) Identify all key personnel by title, function, location, core business line, and employing legal entity.

(ii) Describe the CIDI's methodology for identifying key personnel.

(iii) Provide a recommended approach for retaining key personnel during the CIDI's resolution.

(iv) Identify all employee benefit programs provided to key personnel, including health insurance, defined contribution and defined benefit retirement programs, and any other employee wellness programs, as well as any collective bargaining agreements or other similar arrangements. Identify the legal entity sponsor of each employee benefit program, and provide a description of and points of contact (by title) for such programs.

(10) *Franchise components.* A CIDI must be able to demonstrate the capabilities necessary to ensure that franchise components and the IDI franchise are marketable in resolution. A full resolution submission must:

(i) Identify franchise components that are currently separable, and are marketable in a timely manner in resolution. For a resolution plan of a group A CIDI, the franchise components identified must be sufficient to implement the identified strategy.

(ii) Provide metrics that depict the size and significance of each franchise component.

(iii) Identify by position the senior management officials of the CIDI who are primarily responsible for overseeing the business activities underlying the franchise component.

(iv) Describe the CIDI's current capabilities and process to initiate marketing of franchise components to potential third party acquirers, and describe the process by which the CIDI would identify prospective bidders for such franchise components.

(v) Describe the key assumptions (such as market conditions, available time to market assets, and anticipated client behaviors) underpinning each franchise component divestiture.

(vi) Describe any significant impediments and obstacles to execution, including significant legal, regulatory, cross-border or operational challenges to the divestiture of each franchise component. This description must also address impediments and obstacles to maintaining internal operations (for example, shared services, information technology requirements, and human resources) and to maintaining access to financial market utilities. Identify the material actions that would be needed to facilitate the sale or disposition of each franchise component and, based on the

CIDI's current capabilities, describe the projected time frame to prepare for and execute the disposition of each franchise component.

(vii) If a CIDI subsidiary or a parent company affiliate is a broker-dealer that provides services to the CIDI or customers of the CIDI, describe such services and the integration of the broker-dealer with the CIDI's business and operations. Provide an analysis discussing the challenges that could arise upon the discontinuation of services if the CIDI were separated from the broker-dealer, and actions to mitigate such challenges.

(viii) Describe the CIDI's current capabilities and processes to establish a virtual data room promptly in the run-up to or upon failure of the CIDI that could be used to carry out sale of the IDI franchise as well as any or all of the CIDI's franchise components, including a description of the organizational structure of information within the virtual data room. Information in the virtual data room must support the ability of the FDIC to market and execute a timely sale or disposition of the IDI franchise or the CIDI's franchise components, be appropriate for a buyer to conduct due diligence for a timely sale or disposition of the IDI franchise or the CIDI's franchise components, and be sufficient to permit a bidder to provide a competitive bid on the IDI franchise or the CIDI's franchise components. A full resolution submission must also describe expected access protocols and requirements for the FDIC to use the virtual data room in order to carry out the sale of the IDI franchise or the CIDI's franchise components, including the FDIC's ability to facilitate bidder due diligence, and describe how information populated within the virtual data room could be transferred to a virtual data room hosted by the FDIC. The full resolution submission should identify the time required to capture all elements of information in the virtual data room, indicating number of days it would take to populate each category of information described below, and the process for each, including any potential obstacles or impediments in producing accurate, timely, and complete information in a useful format. The content of the virtual data room must include the following elements, or those that are applicable in the case of a sale of a franchise component:

(A) Financial information, including annual and interim financial statements, including carve-out financial statements for franchise components, general ledger, and relevant financial information;

(B) Deposit data and information;

(C) Loan and lending operations information;

(D) Securities information, including relevant information describing the CIDI's securities and investment portfolio;

(E) Corporate organization information, including current organizational chart;

(F) Employee information, including organization charts, compensation, and benefits;

(G) Material contracts and critical services information, including key critical services agreements, leases, and bond indentures; and

(H) Other information necessary to facilitate a rapid and effective due diligence process for the sale of the IDI franchise or the CIDI's franchise components.

(11) *Material asset portfolios.* A full resolution submission must identify each material asset portfolio by size, and by category and classes of assets within such material asset portfolio, and include a breakdown of those assets within a material asset portfolio that are held by a foreign branch or regulated subsidiary. For each material asset portfolio, describe how the assets within the portfolio are valued and how they are maintained on the books and records of the CIDI. Identify and discuss impediments to the sale of each material asset portfolio identified and provide a timeline for such sale.

(12) *Valuation to facilitate FDIC's assessment of least-costly resolution method.* A CIDI must be able to demonstrate the capabilities necessary to produce valuations needed in assessing the least-cost test. A resolution plan must:

(i) Provide a detailed description of the approaches the CIDI would employ for determining the values of the franchise components and the IDI franchise as a whole, including the underlying assumptions and rationale. Describe the CIDI's approach to the development of the information needed to support valuation analysis, including a description of the CIDI's current ability to produce updated projections, timely if necessary, to support the FDIC's analysis to determine whether a resolution strategy would be the least costly to the Deposit Insurance Fund in the event of failure.

(ii) Provide the following valuation analysis based upon the failure scenario assumed in the development of the identified strategy, with such adjustments to the scenario as may be necessary to demonstrate the analysis required under paragraph (d)(12)(ii)(B) of this section:

(A) Valuation estimates of the IDI franchise, and where a multiple acquirer exit strategy is incorporated in the identified strategy, a sum-of-the-parts analysis. In determining these valuation estimates, the CIDI must consider appropriate valuation approaches, such as the income-based approach, asset-based approach, and market-based approach. In deriving a range of estimates of value, the CIDI must assess and provide a reasoned quantitative or qualitative analysis in support of whether the conclusion of value should reflect the results of one valuation approach and method, or a combination of the results of more than one valuation approach and method; as appropriate, the resolution plan must discuss the relevance and weight given to the different valuation approaches and methods used.

(B) A qualitative analysis of the impact on franchise value that may result from not transferring any uninsured deposits to the bridge depository institution, including a narrative describing any options to mitigate franchise value destruction where there is not a transfer of all deposits to a bridge depository institution such as, an advance dividend payment to depositors that takes into account the expected loss to depositors, and the impact of such an advance dividend on depositor behavior and preservation of franchise value at different levels of loss. Such qualitative analysis should reflect reasonable assumptions of customer behavior based upon the CIDI's range of services provided to, and interconnections with, depositors.

(iii) Provide all content responsive to paragraph (d)(12)(ii) of this section as an appendix to the resolution plan, including any analysis of liquidity and deposit runoff assumptions and factors underlying such runoff estimates.

(13) *Off-balance-sheet exposures.* A full resolution submission must describe any material off-balance-sheet exposures (including the amount and nature of unfunded commitments, guarantees, and contractual obligations) of the CIDI and map those exposures to core business lines, franchise components, and material asset portfolios.

(14) *Qualified financial contracts.* A full resolution submission must:

(i) Describe the types of qualified financial contract transactions the CIDI is involved with in respect of its customers and business activities, the core business lines and franchise components with which such transactions are associated, and how the CIDI offsets position risk from such

transactions. Identify customers of the CIDI that are counterparties to qualified financial contracts transactions with the CIDI that are significant in terms of gross notional amounts or volumes of transactions.

(ii) Describe the booking models for risk from derivative transactions, including whether customer-facing risk or other dealer-facing risk resides in the CIDI while the position risk hedging is performed by a parent company affiliate. Describe the CIDI's use of any "global risk book," "remote bookings," or "back-to-backs" booking model, identify the challenges these booking models present to the transfer or unwind of such related derivatives, and analyze approaches for addressing those challenges.

(iii) Describe how the CIDI uses qualified financial contracts to manage its hedging or liquidity needs, including specifying the hedged items (including underlying risk, cash flow, assets or liability being hedged) and the applicable core business line, as well as the approach used to mitigate such risks.

(iv) For each of paragraphs (d)(14)(i) through (iii) of this section, identify hedges that receive hedge accounting treatment, core business line-specific hedges, and reporting capabilities and practices for hedge accounting information and other end-user hedges.

(15) *Unconsolidated balance sheet; material entity and regulated subsidiary financial statements.* A full resolution submission must provide an unconsolidated balance sheet for the CIDI and a consolidating schedule for all material entities and regulated subsidiaries that are subject to consolidation with the CIDI. Amounts attributed to legal entities that are not material entities or regulated subsidiaries may be aggregated on the consolidating schedule. Provide financial statements for each material entity and regulated subsidiary. When available, audited financial statements should be provided.

(16) *Payment, clearing, and settlement.* A full resolution submission must identify each provider of payment, clearing, and settlement services, and agent banks, and other financial market utilities (each, a "PCS service provider"), of which the CIDI directly is a member or has a direct relationship that is a critical service or a critical service support. For each such PCS service provider:

(i) Map those PCS service providers to the CIDI's legal entities, core business lines, and franchise components;

(ii) Describe the PCS services provided by such PCS service providers,

including the value and volume of activities on a per-provider basis; and

(iii) Describe the CIDI's role as a PCS service provider that is material in terms of revenue to, or value of, any franchise component or core business line.

(17) *Capital structure; funding sources.* A full resolution submission must:

(i) Provide descriptions of the current processes used by the CIDI to identify the funding, liquidity, and capital needs of and resources available to each material entity that is a CIDI subsidiary or foreign branch. Describe the current capabilities of the CIDI to project and report its funding and liquidity needs (e.g., next day, cumulative next five days, cumulative next 30 days).

(ii) Identify the composition of the liabilities of the CIDI including the types and amounts of short-term and long-term liabilities by type and term to maturity, secured and unsecured liabilities, and subordinated liabilities. Such information must include whether such liabilities are held by affiliates, whether they are publicly issued, their maturity, any call rights provided, and, where applicable, the identity of their indenture trustees.

(iii) Identify the material funding relationships and material inter-affiliate exposures between the CIDI and any CIDI subsidiary or foreign branch that is a material entity, including material inter-affiliate financial exposures, claims or liens, lending or borrowing lines and relationships, guaranties, deposits, and derivatives transactions.

(18) *Parent and parent company affiliate funding, transactions, accounts, exposures, and concentrations.* A full resolution submission must:

(i) Identify material affiliate funding relationships, and material inter-affiliate exposures, including terms, purpose, and duration, that the CIDI or any CIDI subsidiary has with the parent company or any parent company affiliate. Such information must include material affiliate financial exposures, claims or liens, lending or borrowing lines and relationships, guaranties, deposits, and derivatives transactions.

(ii) Identify the nature and extent to which the parent company or any parent company affiliate serves as a source of funding to the CIDI and CIDI subsidiaries, the terms of any contractual arrangements, including any capital maintenance agreements, the location of related assets, funds, or deposits, and the mechanisms by which funds are transferred from the parent company or any parent company affiliate to the CIDI and CIDI subsidiaries.

(19) *Economic effects of resolution.* A full resolution submission must identify any activities of the CIDI that provide a service or function that is material:

(i) To a geographic area or region of the United States;

(ii) To a business sector or product line in that geographic area or region, or nationally; or

(iii) To other financial institutions.

The full resolution submission must include a discussion of mitigants to the potential impact of termination of those activities in the event of failure of the CIDI, including whether the activity is readily substitutable.

(20) *Non-deposit claims.* A full resolution submission must identify and describe the CIDI's systems and processes used to identify the unsecured creditors of the CIDI that are not depositors, as well as the unsecured creditors of each CIDI subsidiary that is a material entity. Such description must identify the location of the CIDI's records and recordkeeping practices regarding unsecured debt issued by the CIDI and any inter-creditor agreements for unsecured debt. The description must include a description of the CIDI's capabilities to identify each such unsecured creditor by name, address, nature of the liability, and amount owed by the CIDI and each CIDI subsidiary or, in the case of indentured securities, the identity of the indenture trustee.

(21) *Cross-border elements.* A full resolution submission must describe all components of the parent company's and parent company affiliates' operations that are based or located outside the United States, including regulated subsidiaries, and foreign branches and offices that contribute to the value, revenues, or operations of the CIDI. A full resolution submission must also identify all authorities with regulatory or supervisory authority over these operations, and identify regulatory or other impediments to divestiture, transfer, or continuation of any of the CIDI's foreign branches, subsidiaries, and offices in resolution, including with respect to retention or termination of personnel and transfer or continuation of licenses or authorizations.

(22) *Management information systems; software licenses; intellectual property.* A full resolution submission must:

(i) Provide a detailed inventory and description of the key management information systems and applications, including systems and applications for risk management, accounting, and financial and regulatory reporting, as well as those used to provide the information required to be provided in the full resolution submission, used by

or for the benefit of the CIDI and CIDI subsidiaries. For each system or application the description must identify the legal owner or licensor, the key personnel needed to support and operate the system or application, the system or application's use and function, any core business line that uses the system or application, its physical location (if any), any related third party contracts or service-level agreements, any related software or systems licenses, and any other related intellectual property.

(ii) For any key management information system or application for which the CIDI or CIDI subsidiary is not the owner or licensor, describe both any obstacles to maintaining access to such system or application when the CIDI is in resolution, and approaches for maintaining access to such system or application when the CIDI is in resolution, including the projected costs of maintaining access when the CIDI is in resolution.

(iii) Describe the capabilities of the CIDI's processes and systems to collect, maintain, and produce the information and other data underlying the full resolution submission. Identify all relevant management information systems and applications, and describe how the information is managed and maintained. Describe any deficiencies, gaps, or weaknesses in such capabilities and the actions the CIDI intends to take to address promptly any such deficiencies, gaps, or weaknesses, and the time frame for implementing such actions.

(23) *Digital services and electronic platforms.* A full resolution submission must:

(i) Describe all digital services and electronic platforms offered to customers to support banking transactions for retail or business customers.

(ii) Identify whether such services and platforms are provided by the CIDI, a CIDI subsidiary, a parent company affiliate, or a third party, and which of them owns the related intellectual property or is the licensee.

(iii) Discuss how these services or platforms are significant to the operations or customer relationships of the CIDI, and their impact on franchise value and depositor behavior.

(24) *Communications playbook.* A full resolution submission must include a communications playbook that describes the CIDI's current communication capabilities, including capabilities to communicate with personnel, customers, and counterparties, and how those capabilities could be used from the

point of the CIDI's failure through the CIDI's resolution. The description must:

(i) Identify categories of key stakeholders addressed in the CIDI's communications plans including, counterparties, domestic and foreign regulatory authorities, customers, and personnel.

(ii) Identify communication channels for each key stakeholder category and describe the logistics and limitations of the use of each communication channel.

(iii) Describe the procedures to generate contact lists for each key stakeholder category and estimate the time required to generate each list.

(iv) Describe procedures for coordinating communications across key stakeholder categories and communications channels, including cross-border communications, if any.

(v) Identify key personnel that are responsible for the CIDI's crisis communications across key stakeholder categories and communications channels and the functional and legal entity organization of relevant communications activities.

(25) *Corporate governance.* A full resolution submission must include a detailed description of: how resolution planning is integrated into the corporate governance structure and processes of the CIDI; the CIDI's policies, procedures, and internal controls governing preparation and approval of the full resolution submission; and the identity and position of the senior management official of the CIDI who is primarily responsible and accountable for the development, maintenance, and filing of the full resolution submission, and for the CIDI's compliance with this section.

(26) *CIDI's assessment of the full resolution submission.* A full resolution submission must describe the nature, extent, and results of any contingency planning or similar exercise conducted by the CIDI since the date of the most recently filed full resolution submission to assess the viability of the identified strategy (if required) or improve any capabilities described in the full resolution submission.

(27) *Any other material factor.* A full resolution submission must identify and discuss any other material factor that may impede the resolution of the CIDI.

(e) *Interim supplement.* Each CIDI must submit interim supplements containing current and accurate information regarding the specified full resolution submission content items in accordance with this paragraph (e).

(1) *Submission date.* (i) Each interim supplement must be submitted to the FDIC on or before the anniversary date (or first business day thereafter) of its most recent full resolution submission,

or its most recent interim supplement, unless the CIDI has received written notice of a different date from the FDIC.

(ii) Notwithstanding paragraph (e)(1)(i) of this section, with respect to all CIDIs, no interim supplement is required in the calendar year in which a full resolution submission is made and, with respect to a biennial filer, no interim supplement is required in the calendar year in which it submits a DFA resolution plan.

(2) *Content items for interim supplement.* Each CIDI must submit interim supplements that address each of the following content items:

(i) A description of all material changes resulting from an extraordinary event;

(ii) A description of each material change applicable to interim supplement content items since the submission of its prior full resolution submission (or affirmation that no such material change has occurred);

(iii) The content required under paragraph (d)(4) of this section;

(iv) From paragraph (d)(7) of this section, the content required under paragraph (d)(7)(i), the first sentence of paragraph (d)(7)(ii), the first sentence of paragraph (d)(7)(iii), the first sentence of paragraph (d)(7)(iv), and the first two sentences of paragraph (d)(7)(v) of this section;

(v) From paragraph (d)(8) of this section, the content required under paragraphs (d)(8)(i) and (iv) of this section;

(vi) From paragraph (d)(9) of this section, the content required under paragraph (d)(9)(i) of this section;

(vii) From paragraph (d)(10) of this section, the content required under paragraphs (d)(10)(i) through (iii) of this section;

(viii) From paragraph (d)(11) of this section, the content required under the first sentence of paragraph (d)(11) of this section;

(ix) The content required under paragraph (d)(13) of this section, excluding the requirement to "map those exposures to core business lines, franchise components and material asset portfolios";

(x) The content required under paragraph (d)(15) of this section;

(xi) From paragraph (d)(16) of this section, the content required under the first sentence of paragraph (d)(16) of this section;

(xii) From paragraph (d)(17) of this section, the content required under the first sentence of paragraph (d)(17)(ii) of this section;

(xiii) The content required under paragraph (d)(21) of this section;

(xiv) From paragraph (d)(22) of this section, the content required under paragraph (d)(22)(i) of this section; and

(xv) Any other content element expressly identified for the next interim supplement by the FDIC.

(f) *Credibility; review of full resolution submissions; engagement; capabilities testing*—(1) *Credibility criteria*. Each full resolution submission must be credible. The FDIC may, at its sole discretion, determine that the full resolution submission is not credible if:

(i) The identified strategy would not provide timely access to insured deposits, maximize value from the sale or disposition of assets, minimize any losses realized by creditors of the CIDI in resolution, and address potential risk of adverse effects on U.S. economic conditions or financial stability; or

(ii) The information and analysis in the full resolution submission is not supported with observable and verifiable capabilities and data and reasonable projections or the CIDI fails to comply in any material respect with the requirements of paragraph (d) or (e) of this section.

(2) *Resolution submission review and credibility determination*. The FDIC will review the full resolution submission in consultation with the appropriate Federal banking agency for the CIDI and its parent company. If, after consultation with the appropriate Federal banking agency for the CIDI, the FDIC determines that the full resolution submission of a CIDI is not credible pursuant to paragraph (f)(1) of this section, the FDIC must notify the CIDI in writing of such determination. Any notice provided under this paragraph (f)(2) must include a description of the material weaknesses in the full resolution submission identified by the FDIC that resulted in the determination that the full resolution submission is not credible. A material weakness is an aspect of a CIDI's full resolution submission that individually or in conjunction with other aspects fails to meet the credibility criteria described in paragraph (f)(1).

(3) *Resubmission of a full resolution submission*. Within 90 days of receiving a notice issued by the FDIC pursuant to paragraph (f)(2) of this section that the full resolution submission is not credible based on identified material weaknesses, or such shorter or longer period as the FDIC may determine, a CIDI must submit a revised full resolution submission, or such other information or material specified by the FDIC, to the FDIC that addresses any material weaknesses identified by the FDIC and discusses in detail the

revisions made to address such material weaknesses.

(4) *Failure regarding resubmission*. If the CIDI fails to submit the revised full resolution submission within the required time-period under paragraph (f)(3) of this section or the FDIC determines that the revised full resolution submission fails to address adequately the material weaknesses identified in the notice issued by the FDIC, the FDIC may take enforcement action against the CIDI in accordance with paragraph (j) of this section.

(5) *Significant findings*. The FDIC may also identify significant findings and other observations after review of a full resolution submission. A significant finding is a weakness or gap that raises questions about the credibility of a CIDI's full resolution submission but does not rise to the level of a material weakness. If a significant finding is not satisfactorily explained or addressed before or in the CIDI's next full resolution submission, it may be found to be a material weakness in the CIDI's next full resolution submission. The FDIC may require a project plan with identified milestones to assure that the significant finding is timely addressed. The FDIC may identify an aspect of a CIDI's full resolution submission as a material weakness even if such aspect was not identified as a significant finding in an earlier full resolution submission. The FDIC must notify the CIDI in writing of any significant findings that are identified in the full resolution submission.

(6) *Engagement*. Each CIDI must provide the FDIC such information and access to such personnel of the CIDI as the FDIC in its discretion determines is relevant to any of the provisions of this section ("engagement"). Personnel made available must have sufficient expertise and responsibility to address the informational and data requirements of the engagement. Engagement between the CIDI and the FDIC may be required at any time. This engagement may include the FDIC requiring the CIDI to provide information or data to support the content items required by paragraph (d) or (e) of this section, other information related to a group A CIDI's identified strategy, or, for any CIDI, other resolution options being considered by the FDIC. The FDIC will provide the CIDI with timely notification of the scope of any engagement before such engagement begins and will notify the CIDI on the conclusion of the engagement.

(7) *Capabilities testing*. At the discretion of the FDIC, the FDIC may require any CIDI to demonstrate the CIDI's capabilities described, or

required to be described, in the full resolution submission, including the ability to provide the information, data and analysis underlying the full resolution submission ("capabilities testing"). The CIDI must perform such capabilities testing promptly, and provide the results in a time frame and format acceptable to the FDIC. Capabilities testing may be included in connection with full resolution submission review under paragraph (f)(2) of this section or any engagement under paragraph (f)(6) of this section. The FDIC will provide the CIDI with timely notification of the scope of any capabilities testing before such capabilities testing begins and will notify the CIDI on the conclusion of the capabilities testing.

(g) *No limiting effect on FDIC*. No full resolution submission or interim supplement provided pursuant to this section will be binding on the FDIC as supervisor, deposit insurer, or receiver for a CIDI or otherwise require the FDIC to act in conformance with such full resolution submission or interim supplement.

(1) *Financial information*. The full resolution submission or interim supplement must, to the greatest extent possible, use financial information as of the most recent fiscal year-end for which the CIDI has financial statements or, if the use of financial information as of a more recent date as of which the CIDI has financial statements would more accurately reflect the operations of the CIDI on the date of the submission, financial information as of that more recent date.

(2) *Indexing of information and analysis to full resolution submission and interim supplement content requirements*. A full resolution submission or interim supplement must include an index of each content requirement in paragraph (d) or (e)(2) of this section, as applicable, required to be included in that full resolution submission or interim supplement, as applicable, to every instance of its location in the full resolution submission, or interim supplement, as applicable.

(3) *Combined full resolution submission or interim supplements by affiliated CIDs*. CIDs that are affiliates may submit a single, combined full resolution submission or interim supplement, but only if all affiliated CIDs submitting the combined full resolution submission or interim supplement are within the same CIDI group, whether group A or group B. The combined full resolution submission or interim supplement must satisfy the content requirements for each CIDI's full

resolution submission or interim supplement, as applicable, and the FDIC must be able to readily identify the portions of a combined full resolution submission or interim supplement that comprise each CIDI's full resolution submission or interim supplement.

(h) *Form of full resolution submissions; confidential treatment of full resolution submissions and interim supplements.* (1) Each full resolution submission must be divided into a Public Section and a Confidential Section. Each CIDI must segregate and separately identify the Public Section from the Confidential Section. The Public Section must consist of a summary overview of the full resolution submission that describes the business of the CIDI. For each CIDI, the Public Section must include, to the extent material to the CIDI's full resolution submission:

- (i) The names of material entities;
- (ii) A description of core business lines;
- (iii) Consolidated financial information regarding assets, liabilities, capital and major funding sources;
- (iv) A description of derivative activities and hedging activities;
- (v) A list of PCS service providers;
- (vi) A description of foreign operations;
- (vii) The identities of material supervisory authorities;

(viii) The identities of the principal officers;

(ix) A description of the corporate governance structure and processes related to resolution planning;

(x) A description of material management information systems; and

(xi) For group A CIDs only, a description, at a high level, of the CIDI's identified strategy.

(2) The confidentiality of full resolution submissions and interim supplements must be determined in accordance with applicable exemptions under the Freedom of Information Act (5 U.S.C. 552(b)) and the FDIC's Disclosure of Information Rules (12 CFR part 309).

(3) Any CIDI submitting a full resolution submission, interim supplement, or related materials pursuant to this section that desires confidential treatment of the information submitted pursuant to 5 U.S.C. 552(b)(4) and 12 CFR part 309 and related policies may file a request for confidential treatment in accordance with those rules.

(4) To the extent permitted by law, information comprising the Confidential Section of a full resolution submission and the information comprising an interim supplement will be treated as confidential.

(5) To the extent permitted by law, the submission of any non-publicly

available data or information under this section will not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State court) to which the data or information is otherwise subject. Privileges that apply to full resolution submissions and related materials are protected pursuant to 12 U.S.C. 1828(x).

(i) *Extensions and exemptions*—(1) *Extension.* Notwithstanding the general requirements of paragraph (c) of this section, on a case-by-case basis, the FDIC may extend, on its own initiative or upon written request, any time frame or deadline of this section.

(2) *Waiver.* The FDIC may, on its own initiative or upon written request, exempt a CIDI from one or more of the requirements of this section.

(j) *Enforcement.* Violating any provision of this section constitutes a violation of a regulation and may subject the CIDI to enforcement actions under 12 U.S.C. 1818, including paragraph (t) thereunder.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on June 20, 2024.

**James P. Sheesley,**

*Assistant Executive Secretary.*

[FR Doc. 2024-13982 Filed 7-8-24; 8:45 am]

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