



In the United States, two separate rules govern the resolution of a financial institution:

1. Dodd Frank Title I section 165(d) ("DF rule"), which requires the covered company to describe its plan for a "rapid and orderly resolution" in a bankruptcy proceeding or applicable insolvency regime. Section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. §5365(d)) requires certain financial companies ("Covered Companies") to report periodically to the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation their plans for Rapid and Orderly Resolution in the event of Material Financial Distress or failure.
2. The FDIC issued its own Resolution Rule (Insured Depository Institution "IDI rule"), which requires an insured depository institution to describe its plan to have itself resolved by the FDIC. The Rule requires a covered insured depository institution ("CIDI") to submit a Resolution Plan that should enable the FDIC, as receiver, to resolve the institution under Sections 11 and 13 of the Federal Deposit Insurance Act ("FDI Act"), 12 U.S.C. 1821 and 1823, in a manner that ensures that depositors receive access to their insured deposits, maximizes the net present value return from the sale or disposition of its assets and minimizes the amount of any loss to be realized by the institution's creditors.

Initial submissions were staggered beginning July 2012 based on the value of each institution's non-bank USD assets; After filing its initial resolution plan each covered company shall annually submit a resolution plan to the regulators on or before the anniversary date of its Initial Submission Date. The regulators may require a covered company to file its initial, or subsequent resolution plans on a date other than as provided by the rule. Regulators may require interim updates and notice of material events. Each covered company shall provide the regulators with a notice of any event, occurrence, change in conditions or circumstances, or other change that results in, or could reasonably be foreseen to have a material effect on the resolution plan of the covered company.

Covered companies must put in place a resolution plan with the following key objectives:

- Protecting depositor funds/client money;
- Providing for a rapid and orderly resolution, with minimal disruption to the U.S. economy;
- Preserving the value of its businesses; and
- Enabling these outcomes to be achieved with no cost to taxpayers.

In developing their Resolution Plan, filers must keep in mind that the resolution planning process continues to evolve. And the standard format and requirements of these plans may change as regulators continue to review the initial plans filed.

Key Considerations

Capital

- Can we ensure capital for critical operations in resolution?

Collateral Management

- How are client assets segregated?

Credit exposures

- Can we identify the major counterparties and describe the interconnections, interdependencies and relationships with such major counterparties

Funding and Liquidity

- Can funding and liquidity levels be adequately maintained for a critical operation in resolution?

Governance

- How are we prioritizing structural change that creates or preserves RP optionality/flexibility?

IT systems

- Can critical systems be separated, internally partitioned?

Intellectual property/licenses

- Does an entity own the intellectual property essential to perform its critical economic functions?

Key contracts

- Do key third party contracts create the necessary resolution flexibility, and are internal service provisions subject to SLAs?

Property

- Does an covered entity own the property essential to the critical operations it performs?

Staff

- What is the list of critical staff required to support a business line?

Resolution Planning

A credible Resolution Plan will cover all areas of material importance.

- Plan should address how the resolution of the covered company will affect the core business lines.
- Plan should identify critical operations, and demonstrate how those functions can remain operational during the resolution process.
- Plan should map core business lines and critical operations to material entities and describe the interconnectedness and interdependencies among the covered company and its material entities, as well as among the critical operations and core business lines of the covered company.
- Plan should map the dependencies, interconnections and memberships to financial market utilities related to core business lines and material entities.
- Plan should include a robust strategic analysis demonstrating how it can be resolved without posing significant risk to the financial system.

Contents Required for Resolution Plan

- Material Entities
- Core Business Lines
- Financial Information
- Derivative & Hedging Activities
- Material Payment, Clearing, and Settlement Systems
- Foreign Operations
- Resolution Planning Governance Structure & Processes
- Management Information Systems
- Resolution Strategy
- Critical Operations

How can we help you?

We have leveraged our global expertise in resolution planning to assist a number of large, complex financial institutions to understand their systemic footprint and identify the key barriers to resolvability. Furthermore, we have shared with them regulatory insights and practical experience as administrators to failed financial institutions to shape and challenge target operating structures.

Our services range from leading the resolution planning effort at various institutions to reviewing and advising clients on current resolution plans. Key activities include:

- Project Governance/PMO Support
- Scoping
- Data Collection & Aggregation across the financial institution
- Plan Drafting
- Sustainability for future submissions

If you would like further information please contact:

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