Simpson Thacher

Memorandum

Federal Reserve Proposes Rules to Tailor Enhanced Prudential Standards for Foreign Banking Organizations

April 10, 2019

On April 8, 2019, the Federal Reserve issued a pair of proposed rulemakings—one issued by the Federal Reserve alone and another issued jointly by the Federal Reserve, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation—that together would revise the framework for applying enhanced prudential standards to foreign banking organizations ("FBOs") under Section 165 of the Dodd-Frank Act, as amended by the 2018 Economic Growth, Regulatory Relief, and Consumer Protection Act (the "Reform Act").

The proposed rules follow the increase of the asset size threshold for general application of enhanced prudential standards from $50 billion to $250 billion under the 2018 Reform Act, generally based on an FBO's combined U.S. operations (including its branch and agency network) rather than its worldwide operations. Consistent with Congress' mandate under the Reform Act for the Federal Reserve to take into consideration risk-based factors (other than asset size alone) when determining whether to apply enhanced prudential standards to banking organizations with at least $100 billion in assets, the proposed rules would delineate three categories of standards based on asset size and other factors such as the degree of the cross-jurisdictional activity, reliance on short-term wholesale funding, nonbank assets, and off-balance sheet exposures of an FBO's U.S. operations. In particular, the proposal includes the following categories:

- *Category II Firms:* FBOs with at least $700 billion in combined U.S. assets (or, for capital standards, U.S. intermediate holding companies ("IHCs") with total consolidated assets of at least $700 billion) or at least $100 billion in combined U.S. assets and at least $75 billion in cross-jurisdictional activity (subject to certain exclusions) at its combined U.S. operations would be subject to stringent prudential standards.
- *Category III Firms*: FBOs with at least $250 billion in combined U.S. assets (or, for capital standards, U.S. IHCs with total consolidated assets of $250 billion or more) or at least $100 billion

in combined U.S. assets and at least $75 billion of a risk-based indicator at its combined U.S. operations (e.g., weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposure) would be subject to enhanced standards that are tailored to the risk profile of these firms.

- *Category IV Firms*: FBOs with $100 billion to $250 billion in combined U.S. assets (or, for capital standards, U.S. IHCs with total consolidated assets of $100 billion or more) that do not otherwise meet the thresholds for one of the other categories would be subject to reduced capital, liquidity, and risk management requirements that reflect their more limited risk profile.

In addition, FBOs with $50 billion or more in total consolidated assets would continue to be required to meet certain U.S. risk management requirements.

Although the proposal's delineation of risk categories and standards applicable to each category is broadly consistent with the enhanced prudential standards tailoring proposal applicable to U.S. banking organizations issued by the Federal Reserve in October 2018, there are some key differences between the domestic and FBO proposals, as discussed further below.

Federal Reserve Governors Powell, Quarles, Bowman and Clarida each voted in favor of the proposed rules during the Board's October 31 open board meeting. Governor Brainard voted against the proposal, based on her view that the proposed rules "go beyond the requirements of S.2155" (the Reform Act) and weaken "important safeguards put in place to address vulnerabilities that proved extremely damaging in the crisis."

Following is a high-level summary of certain key features of the proposed rules, as well as a related proposal to amend resolution planning requirements.

Background

Since the 2008-2009 financial crisis, the Federal Reserve has applied a number of "enhanced prudential standards" to FBOs and U.S. IHCs exceeding certain asset thresholds pursuant to Section 165 of the Dodd-Frank Act. These enhanced prudential standards include capital planning requirements; supervisory and company-run stress testing; risk management and risk committee requirements; single counterparty credit limits; and standardized liquidity requirements (including liquidity coverage ratios and proposed net stable funding rules), and liquidity risk management, stress testing, and buffer requirements.

As applied to FBOs, these enhanced prudential standards had been structured with tiered levels of regulation depending upon the size of an FBO's global and U.S. consolidated assets, with most standards generally applying to FBOs with total global consolidated assets of $50 billion or more and more stringent standards applying to FBOs with combined U.S. assets of $50 billion or more. In addition, prior to the Reform Act, the Federal Reserve required any FBO with $50 billion or more in combined U.S. assets (excluding assets of its U.S. branches and agencies) to establish a U.S. intermediate holding company ("IHC") to hold all of the FBO's interests in U.S. subsidiaries (with exceptions including for the FBO's U.S. branches and agencies).

The Reform Act, signed into law on May 24, 2018, amended Section 165 of the Dodd-Frank Act with respect to the applicability of these enhanced prudential standards, most notably by raising the total asset threshold for general application of enhanced prudential standards from $50 billion to $250 billion. The Reform Act also authorized the Federal Reserve to apply enhanced prudential standards to banking organizations with between $100 and $250 billion in total assets, but only if the Federal Reserve first determines that a particular enhanced prudential standard is appropriate in consideration of various risk-based factors (including capital structure, riskiness, complexity, financial activities, size, and any other risk-related factors that the Federal Reserve deems appropriate).

On October 31, 2018, the Federal Reserve issued a pair of proposed rulemakings (the "Domestic Proposal") to implement the Reform Act amendments to Section 165 by differentiating between U.S. banking organizations based on certain risk-based factors, including asset size as well as other factors. In general, the Domestic Proposal would tailor the application of certain enhanced prudential standards under Section 165 of the Dodd-Frank Act to U.S. banking organizations based on four categories of risk profiles to which varying prudential standards would apply.

In issuing the Domestic Proposal, the Federal Reserve noted that it would continue to consider the appropriate way to assign the U.S. operations of FBOs to the categories of prudential standards to implement the Reform Act's amendments to Section 165 with respect to FBOs. Notably, the Dodd-Frank Act requires the Federal Reserve, in applying enhanced prudential standards to FBOs, to "give due regard to the principle of national treatment and equality of competitive opportunity."

In light of this requirement to account for national treatment and equality of competitive opportunity, the FBO proposal broadly aligns with the framework set forth in the Domestic Proposal, but includes the important policy decision of determining the applicability of certain enhanced prudential standards based on an FBO's combined U.S. operations (including U.S. branch and agency assets).

However, an FBO would determine its applicable capital standards category based on the risk profile of its U.S. IHC, if it has one (and not the combined U.S. operations of the FBO), since branches and agencies are not capitalized separately from the parent banking organization. Accordingly, the proposal would determine the applicable capital standards category based on the size, cross-jurisdictional activity, weighted short-term wholesale funding, off-balance sheet exposure, and nonbank assets of the FBO's U.S. IHC, if any, and the agencies are not proposing to apply regulatory capital standards to U.S. branches and agencies of an FBO.

Categories of Standards

A. Category I

The Domestic Proposal includes "Category I" standards, which would constitute the most stringent of the enhanced prudential standards, applicable to U.S. global systemically important bank holding companies

(U.S. GSIBs) identified using the methodology under the Federal Reserve's U.S. GSIB surcharge rule. Because the U.S. GSIB surcharge rule does not apply to any FBO or U.S. IHC, Category I standards would not apply to any FBO or U.S. IHC under the FBO proposal.

B. Category II

Category II standards would apply to FBOs that have (i) at least $700 billion in combined U.S. assets, or (ii) at least $100 billion in combined U.S. assets and combined U.S. operations with at least $75 billion in cross-jurisdictional activity (or, for capital standards, a U.S. IHC with total consolidated assets of at least $700 billion or at least $75 billion in cross-jurisdictional activity).

To reflect the structural differences between FBOs' operations in the United States and domestic holding companies, the proposal would exclude from the measure of cross-jurisdictional activity (i) cross-jurisdictional liabilities to non-U.S. affiliates and (ii) cross-jurisdictional claims on non-U.S. affiliates to the extent that these claims are secured by eligible "financial collateral" (*i.e.*, net of collateral value subject to haircuts in a manner consistent with the collateral haircut approach set forth in the Federal Reserve's Regulation Q). Eligible "financial collateral" is defined in the Federal Reserve's generally applicable risk-based capital requirements and would include certain types of high-quality collateral, including cash on deposit and securities issued by the U.S. government, as well as certain types of equity securities and debt. With the exception of cash on deposit, the banking organization also is required to have a perfected, first-priority interest in the collateral or, outside of the United States, the legal equivalent thereof. The Federal Reserve requested comment on alternative measures of cross-jurisdictional activity, and noted that if all cross-jurisdictional claims with non-U.S. affiliates were completely excluded, it would expect that many FBOs would move from Category II to Category III.

1. Capital

Generally applicable capital requirements would continue to apply to U.S. IHCs and depository institution subsidiaries of FBOs. In addition to the generally applicable capital requirements, the proposal would require a Category II IHC and any depository institution subsidiary to maintain a minimum supplementary leverage ratio of 3% of tier 1 capital to on-balance-sheet assets and certain off-balance sheet exposures, and be subject to the countercyclical capital buffer, if applicable. Category II IHCs would also be required to recognize most elements of AOCI in regulatory capital, but would continue to be exempt from calculating risk-based capital requirements using the advanced approaches under the capital rule.

2. Liquidity

An FBO subject to Category II standards would be subject to the full LCR and proposed NSFR requirements with respect to its U.S. IHC, if it has one, and the same category of liquidity standards would apply to any depository institution subsidiary of such U.S. IHC that has $10 billion or more in assets.

Currently, an FBO operating in the United States is not subject to the LCR rule, nor would it be subject to the NSFR proposed rule, with respect to its U.S. operations, except to the extent that a subsidiary depository institution holding company or a subsidiary depository institution of the FBO meets the relevant applicability criteria on a stand-alone basis. By contrast, the proposal would require an FBO to maintain a minimum LCR and NSFR for its U.S. IHC, regardless of whether the U.S. IHC has a depository institution subsidiary. Accordingly, the proposal would significantly affect FBOs that have a U.S. IHC but that do not have a U.S. depository institution subsidiary.

Category II FBOs would continue to be subject to liquidity risk management, monthly internal liquidity stress testing and liquidity buffer requirements, as well as daily FR 2052a reporting requirements. For FBOs with both a U.S. IHC and a U.S. branch or agency, the FBO would conduct internal liquidity stress tests separately for each of its U.S. IHC, the U.S. branch or agency network, and the combined U.S. operations.

The Federal Reserve is not currently proposing but is requesting comment on whether it should impose standardized liquidity requirements on an FBO with respect to its U.S. branch and agency network, as well as possible approaches for doing so. Specifically, the Federal Reserve described two potential approaches for applying standardized liquidity requirements to an FBO's branch and agency network. The first would involve a requirement for an FBO to calculate and maintain an LCR-like liquid asset requirement with respect to its U.S. branches and agencies on an aggregate basis. The second would involve a requirement for an FBO to maintain within its U.S. branch and agency network an amount of liquid assets of prescribed quality exceeding a prescribed percentage (e.g., 20%) of the FBO's aggregate U.S. branch and agency network assets. Such a requirement could function as a floor to existing non-standardized liquidity requirements.

3. CCAR & Stress Testing

Under the proposed rules, the Federal Reserve would continue to require an IHC subject to Category II standards to report the information required under the existing FR Y-14 reporting forms, and submit an annual CCAR capital plan subject to quantitative and possible qualitative assessments. In addition, the proposed rules would maintain annual supervisory stress testing for Category II firms and require company-run stress testing on an annual basis. The proposal would remove the mid-cycle company-run stress testing requirements for a Category II U.S. IHC.

4. Single Counterparty Credit Limits

The proposal would apply single-counterparty credit limits to the combined U.S. operations of a Category II FBO, which may be satisfied by a certification to the Federal Reserve that the Category II FBO meets comparable home-country standards on a consolidated basis. The proposal also would apply single-counterparty credit limits separately to a U.S. IHC of a Category II FBO, subjecting such U.S. IHCs to a uniform aggregate net credit exposure limit to a single counterparty equal to 25% of tier 1 capital, and make certain other technical changes to the current single-counterparty credit limit rules.

C. Category III

Category III standards would apply to FBOs with combined U.S. assets of $250 billion or more (or, for capital standards, a U.S. IHC with total consolidated assets of $250 billion or more) that do not meet the criteria for Category II, as well as to firms the combined U.S. operations of which have assets between $100 billion and $250 billion and at least $75 billion of (i) total nonbank assets, (ii) off-balance sheet exposures, or (iii) weighted short-term wholesale funding. Short-term funding from affiliates would be captured in the proposal's measure of weighted short-term wholesale funding.

1. Capital

In addition to the generally applicable capital requirements, the proposal would require a Category III IHC to maintain a minimum supplementary leverage ratio of 3% as well as any applicable countercyclical capital buffer. However, IHCs subject to Category III standards would continue to be exempt from advanced approaches capital requirements and would not be required to recognize most elements of AOCI in regulatory capital. Any depository institution subsidiary of a Category III IHC would likewise be subject to Category III capital standards.

2. Liquidity

Under the proposed rules, Category III standards would include full or reduced LCR and NSFR requirements, depending on the level of weighted short-term wholesale funding of the FBO's U.S. operations. Specifically, a Category III FBO that has weighted short-term wholesale funding of $75 billion or more at its combined U.S. operations would be subject to the full LCR and NSFR requirements, while a Category III FBO that has less than $75 billion in weighted short-term wholesale funding at its combined U.S. operations would be subject to reduced LCR and NSFR requirements, with the LCR and NSFR requirements in each case applicable to the FBO's IHC, if any. As noted above for Category II FBOs, the Federal Reserve is not currently proposing but is requesting comment on whether it should impose standardized liquidity requirements on an FBO with respect to its U.S. branch and agency network, as well as possible approaches for doing so.

The agencies have proposed applying reduced standards that would be equivalent to between 70% to 85% of the full LCR and NSFR requirements to Category III firms with combined U.S. operations with less than $75 billion in weighted short-term wholesale funding. The proposal would not otherwise alter the LCR and NSFR calculations for these FBOs relative to the full LCR and proposed NSFR requirements.

Like the current LCR and NSFR requirements, the proposal would apply Category III LCR and NSFR requirements to depository institution subsidiaries that have total consolidated assets of $10 billion or more.

The level of the LCR and NSFR requirements applicable to the depository institution subsidiary would be the same as the level that would apply to the Category III parent FBO.

The proposal would also maintain the existing liquidity risk management, monthly internal liquidity stress testing, and liquidity buffer requirements for IHCs subject to Category III standards. Category III IHCs would be subject to FR 2052a reporting requirements, on a daily or monthly basis depending on the firm's level of weighted short-term wholesale funding.

3. *CCAR & Stress Testing*

The proposal would largely maintain existing CCAR capital planning and stress testing standards for IHCs subject to Category III standards. For example, Category III IHCs would continue to be required to report the information required under the existing FR Y-14 reporting forms, submit an annual CCAR capital plan subject to quantitative and possible qualitative assessments, and would continue to be subject to annual supervisory stress testing by the Federal Reserve.

The proposed rules would remove the mid-cycle company-run stress testing requirement and require public disclosure of company-run stress test results every other year rather than annually, but would maintain the annual internal stress test requirement under the CCAR capital plan rule. As a result, in the intervening year between company-run stress tests under the enhanced prudential standards rule, the proposed Category III standards would require an IHC to conduct an internal capital stress test as part of its annual capital plan submission, without required public disclosure.

4. *Single Counterparty Credit Limits*

The proposal would apply single-counterparty credit limits to the combined U.S. operations of a Category III FBO, which may be satisfied by a certification to the Federal Reserve that the Category III FBO meets comparable home-country standards on a consolidated basis. The proposal also would apply single-counterparty credit limits separately to a U.S. IHC of a Category III FBO, subjecting such U.S. IHCs to a uniform aggregate net credit exposure limit to a single counterparty equal to 25% of tier 1 capital, and make certain other technical changes to the current single-counterparty credit limit rules.

D. Category IV

Category IV standards would apply to FBOs with combined U.S. assets of $100 billion or more (or, for capital standards, a U.S. IHC with total consolidated assets of $100 billion or more) that do not otherwise meet the thresholds for one of the other categories.

1. Capital

Capital standards for Category IV IHCs would include the generally applicable risk-based capital requirements and the U.S. leverage ratio, but would not apply the countercyclical capital buffer or the supplementary leverage ratio. As a result, IHCs subject to Category IV standards would generally have the same regulatory capital requirements as IHCs with under $100 billion in total assets.

2. Liquidity

Under the proposed rules, the LCR and proposed NSFR rules would apply on a reduced basis to a Category IV FBO that has $50 billion or more in weighted short-term wholesale funding at its combined U.S. operations. Like the Category II and III liquidity standards, the proposed LCR and NSFR requirements for Category IV FBOs would apply only with respect to the FBO's U.S. IHC. However, in light of the lower systemic footprint of Category IV FBOs, the proposed LCR and NSFR requirements would not apply to covered depository institution subsidiaries of a Category IV FBO, and the proposed LCR calculations would be required to occur on the last business day of the applicable month, rather than on each business day.

Similar to the Category III standards, the Federal Reserve is requesting comment on a range of potential calibrations for the LCR and NSFR requirements that would apply to the U.S. IHCs of Category IV FBOs, equivalent to between 70% and 85% of the full requirements.

The proposal would also reduce the frequency of required internal liquidity stress testing for Category IV FBOs to at least quarterly, rather than monthly. A Category IV FBO would, however, continue to be required to maintain a liquidity buffer sufficient to meet its projected net stressed cash-flow needs over a 30-day planning horizon under the firm's internal liquidity stress test, as well as a liquidity buffer at its U.S. branches and agencies that is sufficient to meet projected needs over the first fourteen days of a stress test with a 30-day planning horizon.

The proposal would also modify certain liquidity risk management requirements for firms subject to Category IV standards. First, the proposal would require a Category IV firm to calculate its collateral positions on a monthly basis, rather than a weekly basis as currently required. Second, Category IV firms would not be required to establish liquidity risk limits for activities that are not relevant to the firm. Third, the proposal would reduce the number of required elements of monitoring intraday liquidity risk exposures.

3. CCAR & Stress Testing

The proposed rules would revise the frequency of supervisory stress testing for Category IV IHCs to every other year, and would eliminate entirely the requirement for Category IV IHCs to conduct and publicly report the results of a company-run stress test.

The Federal Reserve is proposing to maintain existing FR Y-14 reporting requirements for IHCs subject to Category IV standards in order to provide the Federal Reserve with the data it needs to conduct supervisory stress testing and inform the Federal Reserve's ongoing supervision of these firms.

The Federal Reserve is also proposing to maintain the requirement that Category IV IHCs submit an annual capital plan, while providing greater flexibility to Category IV IHCs to develop their annual capital plans. Under such an approach, Category IV standards could require a capital plan to include estimates of revenues, losses, reserves, and capital levels based on a forward-looking analysis, taking into account the U.S. intermediate holding company's idiosyncratic risks under a range of conditions. However, the approach would not require submission of the results of company-run stress tests on the FR Y-14A.[1]

4. *Single Counterparty Credit Limits*

The proposal would not apply single-counterparty credit limits to the combined U.S. operations of a Category IV FBO unless the FBO has $250 billion or more in total consolidated assets, and would not apply single-counterparty credit limits separately to U.S. IHCs of Category IV FBOs.

Alternative Scoping Criteria

As an alternative approach for assessing the risk profile and systemic footprint of an FBO for purposes of tailoring prudential standards, the agencies invited comment on the use of a single, comprehensive score calculated pursuant to the GSIB identification scoring methodology to tailor prudential standards for large, but not globally systemic, banking organizations.[2]

Under the alternative scoring approach, an FBO's size and either its method 1 or method 2 score from the GSIB scoring methodology would be used to determine which category of standards would apply to the firm. Most enhanced prudential standards would be based on the method 1 or method 2 score applicable to an FBO's combined U.S. operations, while the application of capital standards would apply based on the method 1 or method 2 score of an FBO's U.S. IHC. In particular:

[1] The Federal Reserve plans to separately propose reductions in FR Y-14 reporting requirements for firms subject to Category IV standards as part of the capital plan proposal at a later date, to align with changes the Federal Reserve would propose to the capital plan rule. The Federal Reserve also intends at a future date to revise its guidance relating to capital planning to align with the proposed categories of standards and to allow more flexibility in how all firms subject to Category IV standards perform capital planning.

[2] The Federal Reserve has previously used the GSIB scoring methodology to identify and apply enhanced prudential standards to U.S. subsidiaries and operations of FBOs. For example, the Federal Reserve's restrictions on qualified financial contracts and total loss-absorbing capacity requirements apply to U.S. GSIBs and the U.S. operations of foreign GSIBs, with the latter identified under the Federal Reserve's or the global GSIB scoring methodology.

- *Category II* standards would apply to any FBO with at least $100 billion in combined U.S. assets and with a method 1 score between 60 and 80 or a method 2 score between 100 to 150. These same size thresholds and score ranges would apply to U.S. IHCs for the application of capital standards.
- *Category III* standards would apply to FBOs with between $100 billion and $250 billion in combined U.S. assets and with a method 1 score between 25 to 45 or a method 2 score between 50 to 85. These same size thresholds and score ranges would apply to U.S. IHCs for the application of capital standards.
- *Category IV* standards would apply to FBOs with at least $100 billion in combined U.S. assets and with a method 1 score of less than 25 or a method 2 score of less than 50.

These same size thresholds and GSIB surcharge score ranges would apply to U.S. IHCs with at least $100 billion in consolidated assets for the application of capital standards, and these size thresholds and GSIB surcharge score ranges are also consistent with the alternative scoping criteria set forth in the Domestic Proposal. In each case, if the agencies were to adopt a final rule that uses the GSIB scoring methodology to establish tailoring thresholds, the agencies would set a single score within the listed ranges for application of each respective category of standards.

Risk Committee, Risk Management and Reporting Requirements

Section 165(h) of the Dodd-Frank Act requires certain publicly traded bank holding companies, which includes FBOs, to establish a risk committee that is "responsible for the oversight of the enterprise-wide risk management practices" that meets other statutory requirements. Currently, all FBOs with total consolidated assets of $50 billion or more, and publicly traded FBOs with at least $10 billion in total consolidated assets, must maintain a risk committee that meets specified requirements (which vary based on the FBO's total consolidated assets and combined U.S. assets).

The Reform Act raised the threshold for mandatory application of the risk-committee requirement from publicly traded bank holding companies with $10 billion in total consolidated assets to publicly traded bank holding companies with $50 billion or more in total consolidated assets. To implement the Reform Act's changes, the proposal would raise the total consolidated asset threshold for application of the risk-committee requirements to FBOs without changing the substance of the risk-committee requirements for subject firms.

Specifically, FBOs with at least $50 billion but less than $100 billion in total consolidated assets, as well as FBOs with total consolidated assets of $100 billion or more but less than $50 billion in combined U.S. assets, would be required to maintain a risk committee and make an annual certification to that effect. Additionally, FBOs with total consolidated assets of $100 billion or more and $50 billion or more in combined U.S. assets would be required to comply with more detailed risk-committee and risk-management requirements, including a requirement to appoint a U.S. chief risk officer. The proposal would eliminate the risk-committee requirements that apply for FBOs with less than $50 billion in total consolidated assets.

Similarly, the proposal would raise the asset threshold for application of other risk-management requirements, such as company-run stress testing and compliance with home-country standards related to risk-based and leverage capital, liquidity risk management, and capital stress testing.

Notably, the proposal would not revise the $50 billion U.S. non-branch asset threshold for the U.S. intermediate holding company formation requirement.

In addition, to accommodate the proposed revisions to the framework for determining the applicability of enhanced prudential standards to FBOs, the proposal would make various changes to related reporting forms (including forms FR Y-7, FR Y-7Q, FR Y-9C, FR Y-14, FR Y-15, and FR 2052a).

Revision to Domestic Proposal Category IV

In the Domestic Proposal, the agencies proposed that U.S. banking organizations with total consolidated assets of $100 billion or more that do not meet any of the thresholds for a different category would be subject to Category IV standards, which did not include any LCR or NSFR requirement. While the Federal Reserve separately proposed to apply tailored internal liquidity stress testing requirements at the consolidated holding company level to these firms, agencies proposed not to apply standardized liquidity requirements to these banking organizations.

In developing the FBO proposal, however, the Federal Reserve observed that some domestic or FBOs that meet the criteria for Category IV standards could potentially have a heightened liquidity risk profile (e.g., where such firms have material reliance on less-stable short-term wholesale funding). As discussed above, the FBO proposal would apply standardized LCR and NSFR liquidity requirements to a Category IV FBO if the reliance of the FBO's U.S. operations on short-term wholesale funding is significant relative to the firm's combined U.S. assets.

Accordingly, the agencies are proposing to modify the Domestic Proposal to add standardized liquidity requirements for domestic holding companies subject to Category IV standards in order to ensure that standardized liquidity requirements apply to all banking organizations with heightened liquidity risks. Like the FBO proposal, the modified Domestic Proposal would subject a Category IV U.S. firm to reduced LCR and NSFR requirements if the firm has $50 billion or more in weighted short-term wholesale funding. The Federal Reserve is requesting comment on a range of potential calibrations for the reduced requirement, between 70% and 85%, and will accept comments and information for the Domestic Proposal with respect to this modification during the proposal's reopened comment period.

Impact Assessment

The Federal Reserve predicts that the proposal will reduce aggregate compliance costs for FBOs with $100 billion or more in combined U.S. assets. In particular, the proposed changes to liquidity requirements are expected to reduce compliance costs for firms that would be subject to Category IV standards by reducing the required frequency of internal liquidity stress tests and tailoring the liquidity risk management requirements to the risk profiles of these firms, while the proposed changes to capital planning and stress testing frequency are expected to reduce compliance costs for firms that would be subject to Categories III or IV standards. However, the extension of certain provisions under the single-counterparty credit limits framework to U.S. IHCs with less than $250 billion in total consolidated assets and that are subject to Category II or Category III standards would be expected to increase compliance costs for such firms, as single-counterparty credit limits currently apply only to those IHCs with $250 billion or more in total consolidated assets.

The Federal Reserve expects no material impact on the capital levels of FBOs in Category II, and expects that the proposal will slightly lower capital requirements for those in Category III that currently reflect AOCI in regulatory capital (by approximately 50 to 60 basis points of total risk-weighted assets among these FBOs). Further, while the Federal Reserve does not expect liquidity requirements to increase for any banking organization based on the modification of the Domestic Proposal to apply standardized liquidity requirements to U.S. depository institution holding companies subject to Category IV standards that have $50 billion or more in weighted short-term wholesale funding (as no U.S. depository institution holding companies currently meet these criteria), it anticipates that the changes to FBO liquidity requirements would increase aggregate high-quality liquid assets by up to 0.5%.

Resolution Planning

The Reform Act eliminated the Dodd-Frank resolution planning requirement for firms with less than $100 billion in total consolidated assets and raised the minimum consolidated asset threshold for automatic application of the resolution planning requirement to $250 billion. To implement these changes, the Federal Reserve issued a separate proposal that would apply resolution plan requirements to domestic banking organizations and FBOs that would be subject to Category I, II or III standards under the Domestic Proposal or FBO proposal, respectively, as well as to other FBOs that have $250 billion or more in total global consolidated assets.

While current resolution planning rules require a subject firm to file a resolution plan on an annual basis, the resolution plan proposal would extend this filing timeline by establishing three groups of resolution plan filers: biennial filers, triennial full filers, and triennial reduced filers.

Biennial filers would consist of U.S. GSIBs, which would be required to submit a resolution plan every two years, alternating between submissions of full and targeted plans (codifying the two-year filing cycle that

U.S. GSIBs have been subject to over the last four years). Triennial full filers would consist of domestic banking organizations and FBOs subject to Category II or III standards under the applicable tailoring proposal, and would submit a resolution plan every three years, alternating between full and targeted plans. Triennial reduced filers, consisting of other FBOs that have $250 billion or more in total global consolidated assets, would submit a reduced content plan every three years.

Notwithstanding the above changes to the frequency and content of plan submissions, the agencies would retain the ability to jointly require interim updates between filings or more frequent filings from covered companies and could require a full plan submission when a targeted plan or reduced content plan would otherwise be required. In addition, the proposal would require covered companies to provide the agencies with notice of certain extraordinary events, such as major mergers, that occur between plan submissions.

For further information, please contact one of the following members of the Firm's Financial Institutions Group.

NEW YORK CITY

Lee A. Meyerson
+1-212-455-3675
lmeyerson@stblaw.com

Spencer A. Sloan
+1-212-455-7821
spencer.sloan@stblaw.com

WASHINGTON, D.C.

Keith A. Noreika
+1-202-636-5864
keith.noreika@stblaw.com

Adam J. Cohen
+1-202-636-5578
adam.j.cohen@stblaw.com

Simpson Thacher Worldwide

UNITED STATES

New York
425 Lexington Avenue
New York, NY 10017
+1-212-455-2000

Houston
600 Travis Street, Suite 5400
Houston, TX 77002
+1-713-821-5650

Los Angeles
1999 Avenue of the Stars
Los Angeles, CA 90067
+1-310-407-7500

Palo Alto
2475 Hanover Street
Palo Alto, CA 94304
+1-650-251-5000

Washington, D.C.
900 G Street, NW
Washington, D.C. 20001
+1-202-636-5500

EUROPE

London
CityPoint
One Ropemaker Street
London EC2Y 9HU
England
+44-(0)20-7275-6500

ASIA

Beijing
3901 China World Tower A
1 Jian Guo Men Wai Avenue
Beijing 100004
China
+86-10-5965-2999

Hong Kong
ICBC Tower
3 Garden Road, Central
Hong Kong
+852-2514-7600

Tokyo
Ark Hills Sengokuyama Mori Tower
9-10, Roppongi 1-Chome
Minato-Ku, Tokyo 106-0032
Japan
+81-3-5562-6200

SOUTH AMERICA

São Paulo
Av. Presidente Juscelino
Kubitschek, 1455
São Paulo, SP 04543-011
Brazil
+55-11-3546-1000