

SCHWARTZ & BALLEN LLP
1990 M STREET, N.W. • SUITE 500
WASHINGTON, DC 20036-3465
WWW.SCHWARTZANDBALLEN.COM

TELEPHONE
(202) 776-0700

FACSIMILE
(202) 776-0720

MEMORANDUM

September 14, 2011

To Our Clients and Friends

Re: FDIC Adopts Final Rule on Resolution Plans Under Dodd-Frank

The Federal Deposit Insurance Corporation (“FDIC”) has approved a rule implementing the provision of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) governing resolution plans that are required from nonbank financial companies supervised by the Federal Reserve Board (“Board”) and bank holding companies with assets of \$50 billion or more. It is anticipated that the Federal Reserve will consider the rule in the near future.

The Dodd-Frank Act requires the FDIC and the Board to require covered companies to report periodically to the Board, the FDIC and the Financial Stability Oversight Council on the company’s plan for a rapid and orderly resolution under the Bankruptcy Code in the event of material financial distress or failure. The rule adopted by the FDIC (and presumably by the Board) requires a covered company to describe its plan of how it could be resolved in a bankruptcy proceeding without posing a systemic risk to the financial system. The rule establishes specific requirements for resolution plans, including a strategic analysis of the plan’s components, a description of the range of specific actions to be taken in the resolution and analyses of the company’s organization, material entities, interconnections and interdependencies.

The rule provides that covered companies with \$250 billion or more in total nonbank assets must file an initial resolution plan by July 1, 2012. Covered companies with \$100 billion or more in total nonbank assets must file an initial resolution plan by July 1, 2013. The remaining covered companies are required to file resolution plans by December 31, 2013.

Updated resolution plans are required to be filed annually. Covered companies are also required to provide notice to the FDIC and the Board no later than 45 days after an event that has, or could reasonably be foreseen to have, a material effect on the resolution plan of the company.

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A copy of the final rule can be found at our website at
<http://www.schwartzandballen.com/news.html>

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Tom Fox
Heidi Wicker, or Lauren Bianchini at (202) 776-0700.