



Contact: Marcus Stanley, 202-466-3672

AFR Calls On Regulators To Take Opportunity To End Too Big To Fail

AFR sent a letter to banking regulators today concerning their review of bank resolution plans. The Dodd-Frank Act requires regulators to review these plans to ensure that major banks are no longer ‘too big to fail’ – that they can go through a conventional (Chapter 11) private bankruptcy in an orderly manner, without creating substantial economic disruption.

The letter states that:

“It appears that numerous extremely doubtful assumptions are necessary to find that the largest banks in the U.S. financial system could actually undergo a Chapter 11 bankruptcy proceeding without major economic disruption. These assumptions include the availability of private sector liquidity support on an unprecedented scale and a dramatic simplification of bank internal structure as compared to the levels of complexity seen during the 2008 financial crisis. If these issues are not addressed, your review of resolution plans should find them to be ‘not credible’.”

A finding that resolution plans are not credible would open the door to breaking up or restructuring the largest banks in the U.S. financial system. Regulatory findings on these resolution plans are likely to come within the next two weeks.

The letter points out that an orderly conventional bankruptcy for financial institutions the size of the largest U.S. banks would be unprecedented. It also calls on regulators to either rule that bank resolution plans are not credible, or provide a clear explanation to the public as to why they believe that major barriers to an orderly conventional bankruptcy have been fully addressed. The letter identifies three key barriers to such an orderly bankruptcy – the lack of adequate private liquidity funding, the structural complexity of the largest banks, and conflicts between bankruptcy law and the ‘single point of entry’ resolution procedure relied on by the major banks.