Federal Reserve Proposes Expansion to Definition of 'Financial Institution' for Purposes of FDICIA

By Giorgio Bovenzi, Brian Y. Sung | May 16, 2019

RELATED PRACTICES Financial Regulatory, Margin Lending and Structured Equity, Finance

The Federal Reserve Board of Governors has requested comment on a Notice of Proposed Rulemaking to amend the definition of “financial institution” in the Federal Deposit Insurance Corporation Improvement Act of 1991 (“FDICIA”). The proposal would extend the scope of the “financial institution” category, ensuring that certain additional types of entities would be covered by FDICIA’s netting provisions, and would clarify how the existing activities-based test applies following a consolidation of legal entities.

The proposed amendment would clarify (and in some cases, possibly expand) the protections of financial institutions’ close-out netting rights and security agreements in case of an insolvency or resolution of the financial institution counterparty, particularly in the case of a foreign counterparty to which the U.S. Bankruptcy Code or certain other U.S. banking statutes, and the safe harbors provided thereunder, may not apply.

The Federal Reserve Board of Governors is seeking comment by July 1, 2019.

To read the full alert, please click on the PDF linked below.

Expansion-to-Definition-of-Financial-Institution.PDF

© 2026 Haynes and Boone, LLP