

Governor Tarullo Foreshadows Proposal to Ring-Fence Large U.S. Operations of Foreign Banks

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In an unprecedented and provocative speech, Federal Reserve Governor Daniel K. Tarullo foreshadowed a proposal from the Federal Reserve Board that could fundamentally change the way foreign banks are regulated in the United States. As previewed, the proposal would require foreign banks with large operations in the U.S. to create a separately capitalized top-tier U.S. intermediate holding company (“IHC”) that would sit on top of all U.S. bank and nonbank subsidiaries. The IHC would be required independently to meet all U.S. capital and liquidity requirements as well as other enhanced prudential standards required by the Dodd-Frank Act. While the U.S. branches and agencies of a foreign bank would not be part of the IHC, they would be subject to “certain additional measures,” especially regarding liquidity. Governor Tarullo noted that the “all-important details” of the proposal are still under discussion and anticipated the release of a notice of proposed rulemaking “in the coming weeks.”

If the Federal Reserve actually adopts a proposal along the lines outlined in Governor Tarullo’s speech, it could have profound negative implications not only for the operations of foreign banks in the United States, but also for U.S. banking organizations doing business outside the United States. It would likely contribute and add fuel to the growing trend towards regionalization of global banking, thereby complicating and increasing the cost of providing cross-border banking services. This memorandum explores these implications as well as certain key issues and questions that remain open.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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