Davis Polk

Davis Polk Comments on Federal Reserve’s Proposed Rule on Controlling Influence

July 16, 2019 | Client Update

Davis Polk submitted a comment letter to the Board of Governors of the Federal Reserve System (**Federal Reserve**) on its notice of proposed rulemaking (the **Board Proposal**) to amend its regulatory framework for deciding when a company exercises a controlling influence over another company under the Bank Holding Company Act (**BHC Act**) and the Home Owners’ Loan Act.

In our view, the Board Proposal represents a significant improvement over the existing controlling influence framework, but we believe that the Board Proposal should go further in reflecting the ordinary meaning of “controlling influence” and the legislative history of the controlling influence test in the 1970 amendments to the BHC Act, which makes it clear that both Congress and the Federal Reserve in 1970 intended for the test to reflect a standard of actual control.

We recommend targeted changes to the Federal Reserve’s proposed rebuttable presumptions of control that we believe would make those presumptions more consistent with both the ordinary meaning of the words “controlling influence” and the legislative history of the 1970 amendments.

Read the Comment Letter >

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.

Luigi L. De Ghenghi
+1 212 450 4296
luigi.deghenghi@davispolk.com
