

## K&L GATES RESPONDS TO THE FEDERAL RESERVE'S RULEMAKING ON CONTROL PROCEEDINGS

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### Public Policy and Law Alert

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On May 14, 2019, the Board of Governors of the Federal Reserve System (the "Board") issued a notice of proposed rulemaking to revise the Board's regulations on determining controlling influence over a company for purposes of the Bank Holding Company Act ("BHC Act") or the Home Owners' Loan Act ("HOL Act"). K&L Gates' global financial services policy practice submitted a comment letter to the Board, offering insights based on decades of experience serving a broad range of banks, investment companies, investment advisors, and other participants in public and private capital markets.

We support the Board's objective of fostering capital formation through promulgation of clear and consistent rules and think that the proposed rule is an improvement because it will ensure that the Board receives the information it needs to fulfill its oversight mandate while minimizing the burden of unnecessary disclosure, filing and review requirements on regulated companies and their investors. The Letter raises awareness for the confusion created by existing regulatory thresholds for determining control of a bank and the potential, under the Board's proposed rule, for an investor to be presumed non-controlling under one bank statute and presumed controlling under another.

We encourage the Board to further improve the proposed rule by reconciling inconsistencies in the Board's presumption for determining control under the BHC Act and the HOL Act, on the one hand, and the Change in Bank Control Act ("CIBC Act") on the other. Consistent application of the control analysis will improve clarity and reduce burdens on capital formation, especially with respect to parent entities of industrial loan companies.

To address these and other issues raised by the proposed rule, we provide specific recommendations with respect to the scope of CIBC Act's regulations, their disclosure requirements, and the Board's threshold for presuming non-control, among others.

For a copy of the letter, please see the attached document.

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