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FOR IMMEDIATE RELEASE
June 22, 2011

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FDIC's Advisory Committee on Systemic Resolution Holds Inaugural Meeting

The Federal Deposit Insurance Corporation (FDIC) on Tuesday held the first meeting of the newly created Advisory Committee on Systemic Resolution. The FDIC created the advisory committee earlier this month to provide advice and recommendations on a broad range of issues relevant to the failure and resolution of a systemically important financial company.

Committee members heard presentations and discussions on an overview of the new U.S. systemic resolution framework; how the bankruptcy of Lehman Brothers would have been handled under the new framework; issues involving the resolution of cross-border financial institutions; and how derivatives and qualified financial contracts would be handled if a complex institution failed.

"FDIC staff is working to implement the statutory mandate under the Dodd-Frank Act, which includes among its many provisions a requirement for detailed, analytical resolution plans and the authority for the FDIC to resolve a systemically important financial company. It is important that implementation of these provisions incorporate the key lessons from the crisis," Chairman Bair said in opening the meeting.

"This new resolution framework has three basic elements that together will help to end the perception of an institution as being Too Big To Fail. First, the new Financial Stability Oversight Council, chaired by Treasury and made up of the other financial regulatory agencies, is responsible for designating systemically important financial companies based on criteria that are now being established by regulation. Once designated, these covered companies will be subject to heightened supervision by the Federal Reserve," said Chairman Bair. "Second, these covered companies will be required to provide detailed resolution plans that demonstrate that they are resolvable under bankruptcy—not bailout—if they should run into severe financial distress. Not only will these plans provide valuable advance information that will assist in implementing an orderly resolution, but the law also authorizes the FDIC and the Federal Reserve to require, if necessary, changes in the structure or activities of these institutions, or even divestiture, if necessary to ensure that they meet the standard of being "resolvable" in a crisis. It is important to note that the review of the resolution plans will be an iterative process, involving meaningful discussion among the regulators and the institutions to ensure these plans are robust and can stand the test of time. This will not be a "check the box" exercise with 1,000-page plans lying on a shelf collecting dust."

"Finally, the law strictly prohibits bailouts of individual institutions, but provides for an alternative to bankruptcy —an Orderly Liquidation Authority, or OLA. This new power – contained in Title II of Dodd-Frank -- authorizes the FDIC to use many of the same trustee powers over systemic, non-bank financial companies that we have long used to manage failed-bank receiverships. Under these new authorities, the FDIC could conduct advance planning for resolution; temporarily operate and fund the institution under government control to preserve its value as a going concern; and quickly pay partial recoveries to creditors through advance dividends, as we have long done in failed-bank receiverships. The result would be a faster resolution of claims against the failed institution, smaller losses for creditors, reduced distress on the wider financial system, and an end to the cycle of bailouts."

The FDIC also announced that David Wright has agreed to serve on the committee. The addition of Mr. Wright brings the total number of committee members to nineteen.

The event was Webcast live. An archive of the video, as well as a transcript, should be available on the FDIC's Web site by the end of this week.