JEB HENSARLING, TX , CHAIRMAN

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

MAXINE WATERS, CA, RANKING MEMBER

MEMORANDUM

To: Members of the Committee on Financial Services

From: FSC Majority Committee Staff

Date: September 12, 2014

Subject: September 17, 2014 Oversight and Investigations Subcommittee Hearing on "Oversight of the Financial Stability Oversight Council"

The Subcommittee on Oversight and Investigations will hold a hearing entitled "Oversight of the Financial Stability Oversight Council" on Wednesday, September 17, 2014, at 10:00 a.m. in Room 2128 of the Rayburn House Office Building. This is an oversight hearing examining the Financial Stability Oversight Council's ("FSOC") operations, policies, and procedures. This will be a one-panel hearing with the following witnesses:

- Mr. Patrick Pinschmidt, Deputy Assistant Secretary, FSOC
- Nicole Clowers, Government Accountability Office

Background

Title I of the Dodd-Frank Act established FSOC. FSOC is charged with three statutory mandates: (1) to identify risks to the financial stability of the United States; (2) to promote market discipline by eliminating the expectation of government bailouts; and (3) to respond to emerging threats to the financial system.[1] FSOC consists of ten voting members and five nonvoting members.[2] The ten voting members are the heads of the nine federal financial regulatory agencies[3] and an independent member with insurance expertise; the five nonvoting members are the directors of the Office of Financial Research (OFR) and the Federal Insurance Office, a state insurance commissioner, a state banking supervisor, and a state securities commissioner. FSOC meets at least quarterly, subject to the call of the Chairperson, who is the Secretary of the Treasury, or to the call of a majority of the members then serving.

The Dodd-Frank Act grants FSOC numerous authorities and tools to carry out its statutory purposes. Section 113 of the Dodd-Frank Act vests FSOC with the authority to designate nonbank

---

[1] Dodd-Frank Act § 112(a)(1), 12 U.S.C. § 5322(a)(1).
[2] *Id.* at § 111(b), 12 U.S.C. § 5321(b).
[3] These agencies are the Department of the Treasury; the Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Consumer Financial Protection Bureau; the Securities and Exchange Commission; the Federal Deposit Insurance Corporation; the Commodity Futures Trading Commission; the Federal Housing Finance Agency; and the National Credit Union Administration.

financial companies for "heightened prudential supervision" by the Federal Reserve.[4] Such a designation may be made where two-thirds of the voting members of FSOC, with the concurrence of the Chairman, determine that a nonbank financial company's "material financial distress"—or the "nature, scope, size, scale, concentration, interconnectedness, or mix of the activities"—could pose a threat to U.S. financial stability.[5] Although the term does not appear in the Dodd-Frank Act, companies designated for Fed supervision by FSOC are commonly referred to as "systemically important financial institutions," or "SIFIs."

FSOC may also recommend that certain financial activities or practices undertaken by SIFIs be subjected to heightened prudential standards and safeguards where the activities or practices could create significant credit, liquidity, or contagion risks.[6] If the Federal Reserve determines that a SIFI poses a grave threat to the financial stability of the U.S., FSOC may, by a two-thirds vote of its voting members, authorize the Federal Reserve to restrict the company's ability to engage in mergers or acquisitions, to refrain from conducting certain financial activities, or even to require the company to liquidate its assets.[7] Additionally, FSOC may designate financial market utilities and payment, clearing, and settlement activities as systemically important, which would subject such entities to heightened risk management standards, additional examinations and reporting requirements, as well as potential enforcement actions.[8] Finally, the Dodd-Frank Act created OFR, whose mandate is to collect data on the financial system and provide information and technical expertise to FSOC.[9] OFR has broad authority to compel financial institutions and market participants to provide data, and will be permanently funded by assessments on SIFIs.[10]

In September 2012, the Government Accountability Office completed a nine-month audit of FSOC and OFR, concluding in part that FSOC "has not developed plans for comprehensively evaluating whether designations [of SIFIs] are . . . reducing threats to financial stability" and that FSOC "does not have processes for consistently identifying such threats, separating them from more current threats, or prioritizing them."[11] FSOC made ten recommendations to improve the operations of FSOC and OFR; it is now in the process of determining whether and to what extent FSOC (and OFR) have complied with the recommendations.

In addition, FSOC has designated three nonbank financial companies for enhanced prudential supervision and has proposed designating a fourth such company.

# # #

[4] Bank holding companies with assets in excess of $50 billion are automatically subject to heightened supervision and prudential regulation by the Federal Reserve pursuant to Section 165 of the Dodd-Frank Act.
[5] Dodd-Frank Act § 113, 12 U.S.C. § 5323.
[6] *Id.* at § 120, 12 U.S.C. § 5330.
[7] *Id.* at § 121, 12 U.S.C. § 5331.
[8] *Id.* at § 804, 12 U.S.C. § 5463.
[9] *Id.* at §§ 152, 153, 12 U.S.C. §§ 5342, 5343.
[10] *Id.* at § 155(d), 12 U.S.C. 5345(d).
[11] GOV'T ACCOUNTABILITY OFFICE, *Introduction to* NEW COUNCIL AND RESEARCH OFFICE SHOULD STRENGTHEN THE ACCOUNTABILITY AND TRANSPARENCY OF THEIR DECISIONS, Sep. 11, 2012.