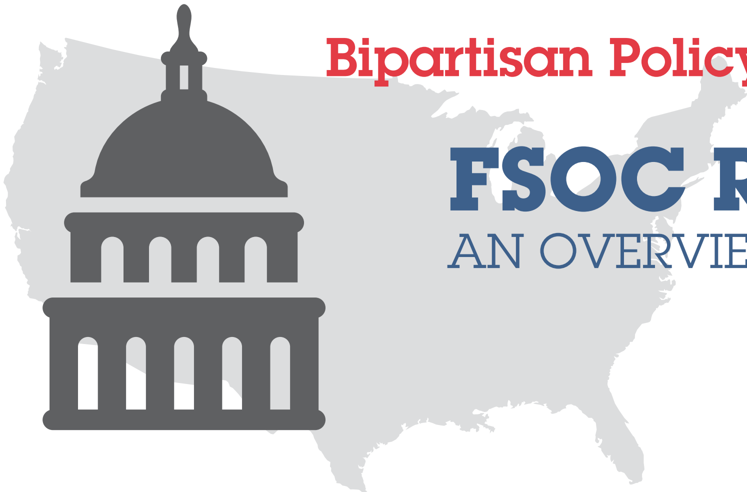

Bipartisan Policy Center

FSOC REFORM:
AN OVERVIEW OF RECENT PROPOSALS

BIPARTISAN POLICY CENTER

Nearly five years ago, the Dodd-Frank Act established the Financial Stability Oversight Council (FSOC) to provide a forum for the nation's financial regulators to identify and respond to threats to financial stability and to promote regulatory cooperation. In recent years, however, FSOC has faced a growing barrage of criticism, along with a flurry of ideas that have been held out as improvements. Policymakers on both the left and right have proposed strengthening FSOC's transparency and communication, reforming its process for designating large and complex nonbank financial institutions as systemically important financial institutions (SIFIs), and even altering its membership and structure.

FSOC has taken notice. Last October, Treasury Secretary Jacob J. Lew, who also serves as FSOC's chairman, said that FSOC was "committed to improving its effectiveness and engaging with the public … [and would] consider possible changes to its [designations] process." FSOC staff followed up with a series of panel discussions and actively solicited reform ideas from a wide array of stakeholders, including the Bipartisan Policy Center (BPC). FSOC staff is expected to report back to the full council soon with recommendations.

BPC's Financial Regulatory Reform Initiative (FRRI) has followed these developments closely. Over the last few months, FRRI analyzed a series of FSOC reform proposals offered by members of Congress, the Government Accountability Office, financial reform advocates, financial industry groups, and other financial policy experts. Ideas came in the form of comment letters, articles, speeches, and reports. FRRI also reviewed legislative proposals, including five bills introduced in the U.S. House during the 113th Congress.

This analysis provides an overview of major FSOC reform ideas. This is not a BPC endorsement of any specific proposal beyond FRRI's own recommendations, and is not intended to capture every FSOC reform idea ever proposed. Instead, BPC hopes that this document can serve as a useful tool for policymakers, lawmakers, and other analysts to consider, compare, and develop ideas to make FSOC work better.

Updated March 2015

PART I. IMPROVING TRANSPARENCY AND COMMUNICATIONS

ISSUE 1: FSOC has not been transparent enough with companies under evaluation about their status in the SIFI designation process or about what information is being reviewed. FSOC should communicate with those companies more frequently and in greater detail about the process.

Improve transparency with companies under evaluation for designation: FSOC should:

- Allow companies being evaluated for designation to provide information and comment on the accuracy of data being used by FSOC in its evaluations;
- Inform companies when the designation process reaches a new stage of inquiry; and
- Let companies under consideration for designation engage in dialogue with all FSOC members.

Bipartisan Policy Center, "Responding to Systemic Risk: Restoring the Balance," September 2014

Improve data and communication for "Stage 2" reviews of the SIFI designation process: FSOC should:

- Notify companies of the data being used by FSOC in considering a company for designation and update the disclosure at least every 90 days;
- Request data directly from companies if the data FSOC has are insufficient to fully evaluate a company for the "Stage 2" process;
- Accept and distribute to all member agencies any data submitted by companies under consideration;
- Ensure members and member agency staff are allowed to speak with each company about data that has been collected; and
- Notify companies that are being considered for possible designation that FSOC is collecting data for that purpose. That notice should be delivered at least 270 days before providing written notice that FSOC has moved the company to a "Stage 3" analysis.

SIFMA et al., "Petition for Financial Stability Oversight Council Rulemaking Regarding the Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies," August 2014[1]

Provide greater detail and due process at multiple stages: FSOC's written notice of proposed designation and written notice of final designation of a company should include detailed assessments, tied to statutory considerations, of how the company could threaten financial stability, how prudential standards resulting from designation will mitigate those threats, and what information is reasonably necessary for the company to evaluate and contest designation (in the case of a proposed designation) or remove the threat(s) to financial stability (in the case of a final designation). Further, FSOC should give companies the right to present oral argument and testimony at an evidentiary hearing, and it should enable companies to review and correct the evidentiary record, at least 25 days prior to that hearing.

SIFMA et al., "Petition for Financial Stability Oversight Council Rulemaking Regarding the Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies," August 2014

[1]The joint petition was signed by the American Council of Life Insurers (ACLI), the American Financial Services Association (AFSA), the Association of Institutional INVESTORS (AII), the Financial Services Roundtable (FSR), and the Asset Management Group of the Securities Industry and Financial Markets Association (SIFMA).

Expand outreach during initial SIFI designation review: Prior to a “Stage 2” comprehensive review of a company, FSOC must provide written notice outlining a specific basis for the review. FSOC must also grant the institution the opportunity to submit written materials as part of the evaluation.

Financial Stability Oversight Improvement Act of 2014 (H.R. 5180), Ross (R-FL) and Delaney (D-MD)

Notify companies that are no longer being considered for designation: FSOC should notify each company that is no longer being considered for designation, including a statement asserting that FSOC will notify the company if and when it is being considered again.

SIFMA et al., “Petition for Financial Stability Oversight Council Rulemaking Regarding the Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies,” August 2014

PART I. IMPROVING TRANSPARENCY AND COMMUNICATIONS

ISSUE 2: FSOC's process and reasoning for its decisions are not sufficiently transparent or public, making its actions difficult to evaluate. FSOC should improve its public transparency while protecting confidential regulatory and supervisory information.

Release FOMC-style minutes: FSOC should publicly release detailed minutes of its closed-door meetings along the lines of the Federal Reserve's Federal Open Market Committee (FOMC), which releases its minutes three weeks after each meeting.

Bipartisan Policy Center, "Dodd-Frank's Missed Opportunity: A Road Map for a More Effective Regulatory Architecture," April 2014

Publish detailed minutes of most closed-door FSOC meetings: FSOC should keep detailed records of closed-door sessions of principals' meetings and, when possible, make them public—after enough time has passed to avoid the release of information that is market-sensitive or would limit deliberations.

Government Accountability Office, "New Council and Research Office Should Strengthen Accountability and Transparency of Decisions," September 2012

Improve public transparency: FSOC should consider releasing transcripts of closed-door meetings after a suitable time period has passed and/or appropriate redactions have been made. FSOC should also review its list of the types of information that trigger the closing of council meetings, as some are overly broad.

Americans for Financial Reform, "Background on the Financial Stability Oversight Council," June 2014

Improve transparency of meetings: FSOC should hold open meetings, or release minutes of meetings and policy discussions, when disclosure would not compromise private and proprietary information. This includes SIFI-designation discussions of how an individual company's failure could destabilize financial markets.

American Action Forum, "Reform Principles for FSOC Designation Process," November 2014

Improve transparency and disclosure through existing legislative measures: FSOC would be subject to the Government in the Sunshine Act and the Federal Advisory Committee Act, which govern the transparency of agency business, including requirements for open meetings and reporting.

FSOC Transparency and Accountability Act (H.R. 4387), Garrett (R-NJ)

Publicly release most final reports or studies: FSOC must make publicly available any final report, study, or analysis it has prepared—unless it is specifically exempt from disclosure.

Financial Stability Oversight Improvement Act of 2014 (H.R. 5180), Ross (R-FL) and Delaney (D-MD)

Develop a public communication strategy: FSOC should improve its communication with the public by, for example, improving its web presence and regularizing key notices and other communications.

Government Accountability Office, "New Council and Research Office Should Strengthen Accountability and Transparency of Decisions," September 2012

Strengthen the protection of confidential information: FSOC should ensure confidentiality of the names of companies discussed in closed-door council meetings and of proprietary information used in the SIFI designation process.

U.S. Chamber of Commerce, "Financial Stability Oversight Council Reform Agenda," August 2013

Meet regularly with outside experts: FSOC should prioritize meeting with outside experts to gather a wider range of input.

American Action Forum, "Reform Principles for FSOC Designation Process (Cont'd)," January 2015

PART I. IMPROVING TRANSPARENCY AND COMMUNICATIONS

ISSUE 3: FSOC does not give companies sufficient details about why they are being considered for SIFI designation or are already designated as SIFIs. FSOC should give such companies reasonable opportunities to correct information being evaluated and to contest specific allegations of the risks they pose to financial stability.

Add detail to "Stage 3" review notice for proposed designation: When FSOC provides notice to a company that it is being considered for designation in "Stage 3," it should include the factual basis for the council's decision and an analysis of each statutory consideration for how the company threatens financial stability.

SIFMA et al., "Petition for Financial Stability Oversight Council Rulemaking Regarding the Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies," August 2014

Add detail to explanations of designations: FSOC should provide more detail on why future SIFI designees meet one or both of the statutory designation standards set forth in Dodd-Frank. If FSOC concludes that a company does not meet one of the two standards, it should evaluate the company under the second standard as well or provide reasons why the second standard is not relevant.

Government Accountability Office, "Further Actions Could Improve the Nonbank Designation Process," November 2014

PART II. REFORMING THE "SIFI" DESIGNATION PROCESS

ISSUE 4: FSOC designates large financial institutions as SIFIs before exhausting alternative ways to mitigate risks to financial stability that may be more effective and less costly. SIFI designation should be the policy option of last resort.

Evaluate alternatives to designation and allow the primary regulator and company the opportunity to mitigate risk and avoid designation: Prior to proposing designation, FSOC must:

- Pass a resolution that identifies the specific risks to financial stability that a company could pose and then give the company's primary regulator at least 180 days—which the primary regulator can waive—to take action to mitigate those risks prior to a proposed determination;
- Consider whether imposing prudential standards via designation is the most appropriate means of mitigating risks to U.S. financial stability; and
- Establish an opportunity for a company to show it can mitigate risk.

If FSOC moves ahead with a proposed determination, it must then provide written notice to the company under review, allow the company to submit written materials for consideration, and provide written notice when FSOC deems its evidentiary record to be complete. If a proposed determination is not made within 180 days of completion of the evidentiary record, FSOC must restart this process with a new resolution. FSOC must give the company in question the opportunity to present a risk mitigation plan in order to avoid designation. The council can approve the risk mitigation plan by a two-thirds vote (including the FSOC chair) and may rescind its approval of the plan by a similar action. Risk mitigation plans must be implemented within a year, but FSOC can grant extensions. A proposed determination must provide a detailed assessment of risks to financial stability and why FSOC rejected the company's plan, including an explanation of why those risks would not be sufficiently mitigated by actions proposed or taken by the company's primary regulator.

Financial Stability Oversight Improvement Act of 2014 (H.R. 5180), Ross (R-FL) and Delaney (D-MD)

Encourage risk mitigation measures: Where possible, FSOC should give companies an opportunity to avoid designation if they can remediate problems that threaten financial stability.

American Action Forum, "Reform Principles for FSOC Designation Process," November 2014

Primary regulator certification of risk mitigation measures: FSOC should give the primary regulator of the company and/or its material subsidiaries an opportunity to certify that its regulatory regime adequately addresses any threats to financial stability from the company that the council has identified.

SIFMA et al., "Petition for Financial Stability Oversight Council Rulemaking Regarding the Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies," August 2014

Give more deference to primary regulators in the SIFI designation process: If a company's primary regulator—or independent FSOC member if the vote is on an insurance company—does not vote in favor of designation, the primary regulator or independent member should issue a report within 30 days explaining its decision. A second vote on whether to designate the company would be scheduled to occur within 45 days of the original designation vote.

U.S. Chamber of Commerce, "Financial Stability Oversight Council Reform Agenda," August 2013

PART II. REFORMING THE "SIFI" DESIGNATION PROCESS

ISSUE 5: FSOC's process for SIFI designation and the criteria it uses to make designation decisions are unclear and too informal. FSOC should add detail and clarity and make its changes publicly known.

Clarify the SIFI designation process and policies: FSOC should clarify its processes and criteria for designation and other decisions, specifically:

- Prior to considering any specific company, inform the company of what behaviors FSOC considers systemically risky and what the consequences of designation will be, and give the company a chance to make changes to avoid designation;
- Prior to designation, prove both that a company poses a threat to financial stability and that designation is the only effective remedy;
- Annually evaluate the consequences of designation to a company to ensure that designation and enhanced prudential standards continue to be appropriate;
- Make the metrics used to trigger "Stage 2" consideration more explicit and clear; and
- Consider only companies "predominantly engaged in financial activities" when making further SIFI determinations.

U.S. Chamber of Commerce, "Financial Stability Oversight Council Reform Agenda," August 2013

Clarify internal communications: FSOC should document and publicly disclose its practices on when companies in "Stage 3" evaluations can interact with council members or deputies.

Government Accountability Office, "Further Actions Could Improve the Nonbank Designation Process," November 2014

Fill gaps in "Stage 1" preliminary data collection: FSOC should develop a process to collect the information it needs for "Stage 1" analysis from certain nonbank financial companies—for example, by having the Office of Financial Research collect it when FSOC cannot otherwise get it from public or regulatory sources.

Government Accountability Office, "Further Actions Could Improve the Nonbank Designation Process," November 2014

Monitor the designation process better: FSOC should record the dates of and staff involved with key process steps to aid in evaluating the designation process.

Government Accountability Office, "Further Actions Could Improve the Nonbank Designation Process," November 2014

Mandate compliance with rulemaking processes: FSOC must comply with the Administrative Procedure Act, which sets forth processes for rulemaking that most federal agencies must follow.

Financial Stability Oversight Improvement Act of 2014 (H.R. 5180), Ross (R-FL) and Delaney (D-MD)

Provide a 90-day decision-making requirement: Within 90 days of a hearing to contest a proposed determination, which includes an opportunity to present a plan to mitigate the risk(s) detailed in the proposed determination, FSOC must notify the institution under review whether it has decided to designate the company, approve its mitigation plan, or take no further action.

Financial Stability Oversight Improvement Act of 2014 (H.R. 5180), Ross (R-FL) and Delaney (D-MD)

Give primary regulators an enhanced role: When an FSOC member is the primary regulator of a firm of industry sector under consideration by the council, that regulator should be given an enhanced role in related discussions and proceedings. For example, the primary regulator may be given formal opportunities to respond to questions and council resolutions.

American Action Forum, "Reform Principles for FSOC Designation Process (Cont'd)," January 2015

Improve the "Stage 2" SIFI designation process: FSOC should improve the clarity and transparency of the "Stage 2" SIFI designation process by:

- Notifying companies that they have been moved to "Stage 2" consideration;
- Giving considered companies access to information being used to evaluate them; and
- Publicly releasing a checklist of findings about a company along the six categories FSOC uses to evaluate a company: size, interconnectedness, leverage, substitutability, liquidity risk and maturity mismatch, and existing regulatory scrutiny.

American Action Forum, "Reform Principles for FSOC Designation Process (Cont'd)," January 2015

Document the designation process better: Following the designation of a company, FSOC should publicly release documentation of the process and an explanation for its designation decision. The documentation should mention specific activities or subsidiaries that FSOC believes constitute particularly serious threats to financial stability. It should also include any proposed alternatives to designation and why those alternatives were judged to be insufficient to mitigate threats to financial stability.

American Action Forum, "Reform Principles for FSOC Designation Process (Cont'd)," January 2015

PART II. REFORMING THE "SIFI" DESIGNATION PROCESS

ISSUE 6: FSOC's SIFI designation process is fundamentally flawed as currently designed. The process should be fixed, and designations should either be ended or delayed until the process flaws are addressed.

Establish a six-month moratorium on nonbank SIFI designations: FSOC may not designate any nonbank as a SIFI for six months following enactment. On June 20, 2014, this bill was amended in committee to increase the moratorium to one year.

To Place a 6-Month Moratorium on the Authority of the Financial Stability Oversight Council to Make Financial Stability Determinations (H.R. 4881), Neugebauer (R-TX)

Delay SIFI designations of nonbanks until regulatory rules are less bank-centric: FSOC should delay nonbank SIFI designations until the Federal Reserve knows and publicly states what prudential standards it will apply to those companies from nonbank industries, such as insurance companies and asset managers.

American Action Forum, "Reform Principles for FSOC Designation Process," November 2014

Raise the supermajority threshold and apply it to all FSOC actions: Any action taken by FSOC, including SIFI designation, should require the votes of three-quarters of the council. Currently, FSOC actions require either a two-thirds majority or a simple majority.

U.S. Chamber of Commerce, "Financial Stability Oversight Council Reform Agenda," August 2013

Ban funding for SIFI designation: Funds from this act may not be used to designate any nonbank financial company as a SIFI, or as "too-big-to-fail."

Financial Services and General Government Appropriations Act of 2015 (H.R. 5016), Crenshaw (R-FL)

Amend the SIFI designation process and oversight by the Federal Reserve Board: The Federal Reserve Board would no longer supervise nonbank SIFIs or impose heightened standards and safeguards or minimum leverage capital requirements. The FSOC would no longer identify systemically important financial market utilities or payment, clearing and settlement activities. The FSOC would no longer be able to ask the Office of Financial Research to require the submission of reports from financial institutions, or to ask the Federal Reserve Board to examine a nonbank to determine whether it should be designated as a SIFI. The FSOC would no longer be able to recommend prudential standards for nonbank SIFIs to the Federal Reserve Board. Nonbank SIFIs would no longer be required to report on their credit exposures or produce living wills.

Terminating the Expansion of Too-Big-to-Fail Act of 2015 (S. 107), Vitter (R-LA)

PART II. REFORMING THE "SIFI" DESIGNATION PROCESS

ISSUE 7: Making "bank SIFIs" automatically subject to enhanced prudential standards is flawed. Congress should revamp its criteria.

Raise the "bank SIFI" threshold: Enhanced prudential requirements are not as appropriate or as cost-effective for medium-sized bank holding companies (BHCs). The threshold by which BHCs are automatically subject to such requirements should be raised, allowing financial regulatory agencies to focus their oversight on the most systemically important BHCs. Congress should:

- Raise the bank SIFI threshold from $50 billion to $250 billion and make it presumptive; that is, allow regulators discretion on whether to subject a BHC with assets lower than the threshold to enhanced requirements, or to not subject a BHC with assets higher than the threshold to those requirements.

Bipartisan Policy Center, "Dodd-Frank's Missed Opportunity: A Road Map for a More Effective Regulatory Architecture," April 2014

- Congress should raise the bank SIFI threshold, perhaps to $100 billion, and give regulators discretion on applying it to BHCs below that threshold.

Daniel K. Tarullo, Federal Reserve Board Governor, "Rethinking the Aims of Prudential Regulation," Speech at the Federal Reserve Bank of Chicago Bank Structure Conference, Chicago, Illinois, May 8, 2014

End automatic "bank SIFI" status and change evaluations criteria for designations:

- Instead of automatically subjecting BHCs with more than $50 billion in assets—sometimes called bank SIFIs—to heightened prudential standards like nonbank SIFIs, FSOC must evaluate and designate them by a two-thirds majority (including an affirmative vote from the Chairperson) using the same criteria it uses for nonbanks. Those criteria would be changed to the criteria used by the Basel Committee to designate global systemically important banks (G-SIBs), which include the size, complexity, interconnectedness, substitutability, and global cross-jurisdictional activity of institutions.
- However, any BHC designated as a G-SIB at the time of enactment will be subject to enhanced prudential standards and supervision by the Federal Reserve Board.
- FSOC is prohibited from making a final determination regarding any non-G-SIB BHC until one year after enactment of the legislation. However, FSOC may begin the evaluation process on these institutions upon enactment and those institutions will still be subject to enhanced prudential standards and supervision by the Federal Reserve Board during that year-long period."

Systemic Risk Designation Improvement Act of 2015 (H.R. 1309), Luetkemeyer (R-MO)

PART II. REFORMING THE "SIFI" DESIGNATION PROCESS

ISSUE 8: FSOC does not currently have a clear, formal process for nonbank financial institutions designated as SIFIs to later be "de-designated" so that they no longer face enhanced prudential supervision. FSOC should clarify its de-designation processes and improve its communications with companies throughout.

Establish a more robust SIFI de-designation process: FSOC should determine criteria and a process for SIFIs to achieve "de-designation."

U.S. Chamber of Commerce, "Financial Stability Oversight Council Reform Agenda," August 2013

Provide detailed reasoning for not de-designating a SIFI: If a SIFI's status is not rescinded, FSOC should provide the company with a detailed assessment of each statutory consideration FSOC must evaluate, as well as why actions taken by the company did remove the threat(s) to financial stability that caused FSOC to designate the company.

SIFMA et al., "Petition for Financial Stability Oversight Council Rulemaking Regarding the Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies," August 2014

Amend the formal re-evaluation process: FSOC must give written notice to all designated SIFIs when their designations are annually reevaluated and must allow those SIFIs to submit written materials and to contest the designations. In addition, FSOC must conduct a separate re-evaluation upon SIFI request, which can be made every five years.

Financial Stability Oversight Improvement Act of 2014 (H.R. 5180), Ross (R-FL) and Delaney (D-MD)

PART II. REFORMING THE "SIFI" DESIGNATION PROCESS

ISSUE 9: FSOC has not adequately analyzed whether the benefits of its actions, including designation, outweigh the costs. FSOC should develop and conduct formal cost-benefit analyses.

Require designation impact studies every five years: Every five years, FSOC must study and report on the impact of SIFI designations on the economy and financial stability, whether any of FSOC's designations should be rescinded, or whether any related FSOC regulations or guidance should be changed.

Financial Stability Oversight Improvement Act of 2014 (H.R. 5180), Ross (R-FL) and Delaney (D-MD)

Study the impacts of SIFI designation. FSOC should develop a framework for assessing the impact of its designations on the economy and on SIFIs. This framework should establish a baseline for measuring the effects of new regulatory standards, requirements and restrictions on such companies.

Government Accountability Office, "New Council and Research Office Should Strengthen Accountability and Transparency of Decisions," September 2012

Assess the costs and benefits of regulations: Before issuing any major rule, FSOC would be required to identify and assess the problem to be addressed by the rule, conduct a cost-benefit analysis, and assess the rule's impact after it is adopted.

Federal Reserve Accountability and Transparency Act of 2015 (H.R. 113), Garrett (R-NJ)

Weigh costs and benefits, making FSOC actions more predictable while preserving discretion: FSOC should analyze the costs and benefits of the actions it takes and justify those actions in that context. Member agencies should do the same when dealing with issues that have systemic significance.

Donald Kohn, Member of the United Kingdom's Financial Policy Committee and former Federal Reserve Board Vice Chairman, "Institutions For Macroprudential Regulation: The U.K. and the U.S.," Speech at the Kennedy School of Government, Harvard University, Cambridge, Massachusetts, April 2014

Establish SIFI designation impact studies: FSOC should fully assess the economic costs of a company's failure and the costs and benefits of designation during the designation process.

American Action Forum, "Reform Principles for FSOC Designation Process," November 2014

Part III. REVAMPING FSOC'S STRUCTURE AND MEMBERSHIP

ISSUE 10: FSOC was not designed to allow it to fulfill the mandates it was given. FSOC's structure and authorities should be revamped to better align with its mandates.

Strengthen FSOC's existing legal authorities: Congress should give FSOC authority to issue regulations on its own via a supermajority vote when:

- One or more agencies fail to meet a congressionally mandated deadline for finalizing a regulation on their own by more than 180 days; and
- To address serious and material threats to financial stability, either when:
- One or more member agencies fails to act to address such a threat; or
- The council determines that heightened safeguards and standards are needed to address such a threat.

Bipartisan Policy Center, "Dodd-Frank's Missed Opportunity: A Road Map for a More Effective Regulatory Architecture," April 2014 also: Bipartisan Policy Center, "Responding to Systemic Risk: Restoring the Balance," September 2014

Make it easier for the FSOC to overturn CFPB rules: The FSOC's authority to set aside regulations or provisions of regulations promulgated by the Consumer Financial Protection Bureau would be changed as follows:

- The standard for setting aside would be changed from whether the CFPB "regulation or provision would put the safety and soundness of the U.S. banking system or U.S financial stability at risk," to whether the regulation or provision "is inconsistent with the safe and sound operations" of U.S. financial institutions;
- The FSOC would be required rather than allowed to set aside regulations or provisions that meet the updated standard;
- Setting aside such regulations or provisions would require a majority vote rather than the current supermajority standard; and
- The director of the CFPB would be excluded from such votes.

Consumer Financial Protection Safety and Soundness Improvement Act of 2015 (H.R. 1263), Duffy (R-WI)

Change FSOC's voting structure so that agencies with objectives most oriented toward financial stability are the ones that are empowered to vote:

- The Office of Financial Research (OFR) director becomes a voting member; and
- The National Credit Union Administration chair becomes a non-voting member.

Bipartisan Policy Center, "Dodd-Frank's Missed Opportunity: A Road Map for a More Effective Regulatory Architecture," April 2014

Ensure SIFI regulators have industry expertise: A nonbank SIFI's primary regulator should be the prudential regulator it had before designation rather than the Federal Reserve. This ensures that the primary regulator has expertise in the relevant industry.

U.S. Chamber of Commerce, "Financial Stability Oversight Council Reform Agenda," August 2013

Add macroprudential tools: FSOC should be given additional tools to address potential systemic risks. This might include expecting FSOC to make regular recommendations on the countercyclical buffer for banks and the appropriateness of capital and other prudential requirements in addressing risks that may build outside the banking sector. Further, FSOC should be able to fast-track the response period for its recommendations when necessary.

Donald Kohn, Member of the United Kingdom's Financial Policy Committee and former Federal Reserve Board Vice Chairman, "Institutions For Macroprudential Regulation: The U.K. and the U.S.," Speech at the Kennedy School of Government, Harvard University, Cambridge, Massachusetts, April 2014

Improve annual reports: FSOC should improve its annual report by specifying which member agencies should take and monitor recommended actions, and within what time frame. It should also create systematic forward-looking approaches to reporting on potential threats to financial stability in FSOC annual reports.

Government Accountability Office, "New Council and Research Office Should Strengthen Accountability and Transparency of Decisions," September 2012

Part III. REVAMPING FSOC'S STRUCTURE AND MEMBERSHIP

ISSUE 11: FSOC members that represent boards or commissions do not always reflect the views of their full boards or commissions. FSOC's voting structure should be revamped to include a wider range of views while preserving the independence of the council and its member agencies.

Broaden FSOC meeting representation: Members of congressional FSOC oversight committees may attend all FSOC meetings. All FSOC meetings, other than meetings of the members themselves, will be open to staff of the House Financial Services and Senate Banking committees and to staff of FSOC member agencies that FSOC members have selected to attend.

FSOC Transparency and Accountability Act (H.R. 4387), Garrett (R-NJ)

Require FSOC members to vote on behalf of their agency: The voting position taken by FSOC members that chair financial agencies overseen by commissions or boards must represent their full commissions or boards.

FSOC Transparency and Accountability Act (H.R. 4387), Garrett (R-NJ)

Seek out divergent views within member agencies: FSOC members representing commissions or boards should consult with their fellow commissioners or board members on FSOC matters, and FSOC staff working groups should include staff from other commissioners and board members.

U.S. Chamber of Commerce, "Financial Stability Oversight Council Reform Agenda," August 2013

Establish greater independence for the council:

- FSOC should be led by an independent, Senate-confirmed FSOC chair, who would be a new voting member. Currently, the secretary of the Treasury is chairman of FSOC and would remain an FSOC voting member and take a lead role when public money is involved.
- FSOC should be set up as an independent office within Treasury, such as the Office of the Comptroller of the Currency, or as a fully independent agency outside the purview of the Treasury secretary.
- FSOC should have independent staff and funding, which could be accomplished by folding the OFR, which sets its own funding, into FSOC.

Donald Kohn, Member of the United Kingdom's Financial Policy Committee and former Federal Reserve Board Vice Chairman, "Institutions For Macroprudential Regulation: The U.K. and the U.S.," Speech at the Kennedy School of Government, Harvard University, Cambridge, Massachusetts, April 2014

Part III. REVAMPING FSOC'S STRUCTURE AND MEMBERSHIP

ISSUE 12: FSOC's work is often duplicative and inefficient. FSOC could improve its effectiveness by improving collaboration among its member agencies and clarifying responsibilities and future needs.

Clarify financial-stability-monitoring responsibilities: FSOC should clarify the responsibilities of the council and its members for monitoring threats to financial stability to ensure comprehensiveness and avoid duplication.

Government Accountability Office, "New Council and Research Office Should Strengthen Accountability and Transparency of Decisions," September 2012

Improving data-sharing: FSOC should require agencies to share data with FSOC/OFR and other member agencies upon request, and to respond to FSOC requests to collect additional data, rather than working through ad hoc methods or memoranda of understanding.

Donald Kohn, Member of the United Kingdom's Financial Policy Committee and former Federal Reserve Board Vice Chairman, "Institutions For Macroprudential Regulation: The U.K. and the U.S.," Speech at the Kennedy School of Government, Harvard University, Cambridge, Massachusetts, April 2014

Improve information-sharing and coordination: FSOC should systematically share key financial risk indicators across FSOC member agencies to help in identifying potential systemic threats. It should also establish formal policies, and incorporate best practices, for collaboration and coordination between agencies.

Government Accountability Office, "New Council and Research Office Should Strengthen Accountability and Transparency of Decisions," September 2012

Establish an annual regulatory perimeter assessment: FSOC should include an assessment of risks that are building outside of the most heavily regulated financial sectors (i.e., the "regulatory perimeter") in its annual report and provide recommendations to address them.

Donald Kohn, Member of the United Kingdom's Financial Policy Committee and former Federal Reserve Board Vice Chairman, "Institutions For Macroprudential Regulation: The U.K. and the U.S.," Speech at the Kennedy School of Government, Harvard University, Cambridge, Massachusetts, April 2014

Assign each FSOC agency a financial stability objective: Doing so would better align the goals of member agencies with the goals of the council.

Donald Kohn, Member of the United Kingdom's Financial Policy Committee and former Federal Reserve Board Vice Chairman, "Institutions For Macroprudential Regulation: The U.K. and the U.S.," Speech at the Kennedy School of Government, Harvard University, Cambridge, Massachusetts, April 2014