

Minutes of the Financial Stability Oversight Council

Held October 1, 2010

PRESENT:

Timothy F. Geithner, Secretary of the Treasury and Chairperson of the Financial Stability Oversight Council

Sheila Bair, Chairperson, Federal Deposit Insurance Corporation

Ben Bernanke, Chairman, Board of Governors of the Federal Reserve System

Edward DeMarco, Acting Director, Federal Housing Finance Agency

Gary Gensler, Chairman, Commodity Futures Trading Commission

Debbie Matz, Chairman, National Credit Union Administration

Mary Schapiro, Chairman, Securities and Exchange Commission

John Walsh, Acting Comptroller of the Currency

William Haraf, Commissioner, California Department of Financial Institutions (non-voting member)

John Huff, Director, Missouri Department of Insurance, Financial Institutions, and Professional Registration (non-voting member)

David Massey, Deputy Securities Administrator, North Carolina Department of the Secretary of State, Securities Division (non-voting member)

GUESTS:

Department of the Treasury

Neal Wolin, Deputy Secretary

Jeffrey Goldstein, Under Secretary for Domestic Finance

Amias Gerety, Senior Adviser

Laurie Schaffer, Assistant General Counsel (Banking and Finance)

Federal Deposit Insurance Corporation

Art Murton, Director, Division of Insurance and Research

Board of Governors of the Federal Reserve System

Daniel Tarullo, Governor

Federal Housing Finance Agency

Mario Ugoletti, Special Advisor

Commodity Futures Trading Commission

Cyrus Amir-Mokri, Senior Counsel to the Chairman

National Credit Union Administration

David Marquis, Executive Director

Securities and Exchange Commission

Ricardo Delfin, Special Counsel to the Chairman

Comptroller of the Currency
Tim Long, Senior Deputy Comptroller

Federal Reserve Bank of New York
William Dudley, President and Chief Executive Officer

Executive Session

Secretary Geithner called the executive session of the meeting of the Financial Stability Oversight Council (Council) to order at 1:30 p.m. The Chairperson welcomed his fellow Council members to the first meeting of the Council. In his opening remarks, the Chairperson highlighted the precedential nature of the Council. The Chairperson discussed the importance of the collaborative nature of the Council and of preserving the independent authority of the member agencies of the Council.

The Chairperson then outlined the meeting agenda, which had been previously distributed to the member agencies together with copies of the resolutions and other materials. The agenda for the meeting included the following subjects: (1) systemic risk monitoring process; (2) criteria for designating nonbank financial firms for supervision by the Board of Governors of the Federal Reserve System (Federal Reserve); and (3) consideration of resolutions approving: (a) the by-laws of the Council; (b) publication of an Advanced Notice of Proposed Rulemaking (ANPR) regarding the criteria for designating nonbank financial firms for supervision by the Federal Reserve; (c) publication of a request for comments regarding implementation of the prohibition on proprietary trading and sponsoring and investing in private equity and hedge funds; and (d) the transparency policy of the Council. The Chairperson indicated that the first two items on the agenda would be discussed in the executive session and that the resolutions would be considered in the open session of the meeting.

1. Discussion of Systemic Risk Monitoring Process

The Chairperson turned to the agenda item regarding the systemic risk monitoring process and asked the members to discuss how the Council should perform this function, how the Council's annual report to Congress regarding systemic risk should be constructed, and what reports their agencies currently publish.

The members discussion included consideration of establishing a rotating regularly scheduled discussion of risk in major components of the financial system in preparation for building the annual report to Congress and of making the Deputies Committee or a committee composed of senior staff of the member agencies responsible for identifying, and gathering information about, issues related to systemic risk and insuring that reports are presented to the Council. The Council also discussed that systemic risk monitoring process should take into account economic conditions affecting the financial services industry and related risk issues. It was also suggested that the Council establish a mechanism to facilitate bringing issues to the Council quickly through a coordination process established in the Council's secretariat function.

The members described the type of reports that their respective agencies publish.

2. Discussion of Designations

The Chairperson then turned to the agenda item regarding the Advanced Notice of Proposed Rulemaking (ANPR) for designations of nonbank financial firms. The Chairperson described the ANPR seeking comment regarding the criteria for designation set forth in the Dodd-Frank Act. The members of the Council also discussed the statutory framework for designations of financial market utilities and the anticipated rulemaking process for such designations.

3. Other Matters

The Council members also discussed, and expressed support for, the proposed transparency policy for the Council that was distributed to the members in advance of the meeting and was scheduled for consideration as part of the meeting's Open Session. The Council members also considered whether principles should be established regarding consultation among the Council members in light of the new requirements for consultation and coordination among the agencies in the Dodd-Frank Act. The FDIC and SEC agreed to work together to develop a set of draft principles.

In addition, the members discussed the appropriate level of confidentiality of Council information and requested that appropriate staff from each of the member agencies review and discuss confidentiality-related issues.

Chairmen Schapiro and Gensler then discussed the report issued by the SEC and CFTC on the market event of May 6, 2010. Chairmen Schapiro and Gensler provided the Council with an overview of the report.

The executive session of the meeting ended and the open session commenced.

Open Session

Secretary Geithner called the open session of the meeting of the Council to order. After remarks made by each member of the Council, the Chairperson presented four resolutions for consideration by the Council.

1. Resolution regarding Rules of Organization of the Council

The Chairperson presented to the Council the following resolution approving the Rules of Organization of the Council as distributed to the Council.

*“WHEREAS, the Financial Stability Oversight Council (the “Council”) was established July 21, 2010, pursuant to section 111(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “DFA”); and
WHEREAS, the purposes of the Council are to identify risks to the financial stability of the United States that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected bank holding companies or nonbank financial companies, or that could arise outside the financial services marketplace; to promote market discipline, by eliminating expectations on the part of shareholders, creditors, and counterparties of such*

companies that the Government will shield them from losses in the event of failure; and to respond to emerging threats to the stability of the United States financial system; and WHEREAS, section 111(e)(2) of the DFA requires the Council to adopt such rules as may be necessary for the conduct of the business of the Council; and WHEREAS, such rules will describe the Council's authorities, organizational structure, and the rules by which the Council takes actions; and WHEREAS, the staffs of the Council Agencies have prepared "Rules of Organization for the Financial Stability Oversight Council;" and WHEREAS, staff from the Council Agencies recommend that the Council publish the "Rules of Organization for the Financial Stability Oversight Council" as set forth in the attached Federal Register document. NOW, THEREFORE, BE IT RESOLVED, that the Council hereby adopts the attached "Rules of Organization for the Financial Stability Oversight Council" and authorizes the Chairperson, or his designee, to cause the "Rules of Organization for the Financial Stability Oversight Council" to be published in the Federal Register, in a form and manner acceptable to the Chairperson, or his designee. BE IT FURTHER RESOLVED, that the Council hereby delegates authority to the Chairperson, or his designee, to make technical, nonsubstantive, or conforming changes to the text of the attached Federal Register document to ensure that the Council can issue this document in the Federal Register, and to take such other actions and issue such other documents incident and related to the foregoing as they deem necessary or appropriate to fulfill the Council's objectives in connection with its publication."

The Chairperson asked for a motion to approve the Rules of Organization which was made and seconded. The Council then approved the resolution by unanimous voice vote.

2. Resolution regarding publication of the Advanced Notice of Proposed Rulemaking seeking comments regarding the criteria and analytical framework for designation of nonbank financial firms

The Chairperson presented to the Council the following resolution approving the publication of the Advanced Notice of Proposed Rulemaking seeking comments regarding the criteria and analytical framework for designation of nonbank financial firms in the form previously distributed to the Council.

"WHEREAS, the Financial Stability Oversight Council (the "Council") was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "DFA") for the purposes of "(A) ... identify[ing] risk to the financial stability of the United States that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected bank holding companies or nonbank financial companies, or that could arise outside the financial services marketplace; (B) . . . promot[ing] market discipline, by eliminating expectations on the part of shareholders, creditors, and counterparties of such companies that the Government will shield them from losses in the event of failure; and (C) . . . respond[ing] to emerging threats to the stability of the United States financial system;" and WHEREAS, section 113 of the DFA gives the Council the authority to require that a nonbank financial company be supervised by the Board of Governors of the Federal Reserve System and subject to prudential standards if the Council determines that material financial distress at such

a firm, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the firm, could pose a threat to the financial stability of the United States; and WHEREAS, under the provisions of the DFA, in making a determination on whether the company should be subject to supervision by Board of Governors of the Federal Reserve System, the Council must consider a number of factors including (A) the extent of the leverage of the company; (B) the extent and nature of the off-balance-sheet exposures of the company; (C) the extent and nature of the transactions and relationships of the company with other significant nonbank financial companies and significant bank holding companies; (D) the importance of the company as a source of credit for households, businesses, and State and local governments and as a source of liquidity for the United States financial system; (E) the importance of the company as a source of credit for low-income, minority, or underserved communities, and the impact that the failure of such company would have on the availability of credit in such communities; (F) the extent to which assets are managed rather than owned by the company, and the extent to which ownership of assets under management is diffuse; (G) the nature, scope, size, scale, concentration, interconnectedness, and mix of the activities of the company; (H) the degree to which the company is already regulated by 1 or more primary financial regulatory agencies; (I) the amount and nature of the financial assets of the company; (J) the amount and types of the liabilities of the company, including the degree of reliance on short-term funding; and (K) any other risk-related factors that the Council deems appropriate; and WHEREAS, the staffs of the Council Agencies have prepared an advance notice of proposed rulemaking (“ANPR”) that, consistent with the DFA; seeks to gather information as the Council begins to develop the criteria and analytical framework by which it will designate nonbank financial companies for enhanced supervision under the DFA; and WHEREAS, staff from the Council Agencies recommend that the Council publish the ANPR as set forth in the attached Federal Register document. NOW, THEREFORE, BE IT RESOLVED, that the Council hereby authorizes the Chairperson, or his designee, to cause the attached ANPR to be published in the Federal Register, in a form and manner acceptable to the Chairperson, or his designee. BE IT FURTHER RESOLVED, that the Council hereby delegates authority to the Chairperson, or his designee, to make technical, nonsubstantive, or conforming changes to the text of the attached Federal Register document to ensure that the Council can issue this document in the Federal Register, and to take such other actions and issue such other documents incident and related to the foregoing as they deem necessary or appropriate to fulfill the Council's objectives in connection with its publication.”

The Chairperson asked for a motion to approve the resolution which was made and seconded. The Council then approved the resolution by unanimous voice vote.

3. Resolution regarding publication of a request for comments in connection with the Council’s study on implementation of the prohibition on proprietary trading and sponsoring and investment in private equity and hedge funds.

The Chairperson presented to the Council the following resolution approving the publication a request for comments in connection with the Council’s study on implementation of the prohibition on proprietary trading and sponsoring and investment in private equity and hedge funds in the form previously distributed to the Council.

“WHEREAS, the Financial Stability Oversight Council (the “Council”) under the provisions of section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “DFA”) is required to study and make recommendations on implementing the section 619 provisions; and WHEREAS, section 619 of the DFA (commonly referred to as the “Volcker Rule”) generally prohibits banking entities from engaging in proprietary trading and from maintaining certain relationships with hedge funds and private equity funds; and WHEREAS, to assist the Council in conducting the study and formulating its recommendations concerning the Volcker Rule, the staffs of the Council Agencies have prepared a “Notice and Request for Information” seeking public comment on the implementation of the Volcker Rule; and WHEREAS, staff from the Council Agencies recommend that the Council publish the “Notice and Request for Information” as set forth in the attached Federal Register document. NOW, THEREFORE, BE IT RESOLVED, that the Council hereby authorizes the Chairperson, or his designee, to cause the attached “Notice and Request for Information” to be published in the Federal Register, in a form and manner acceptable to the Chairperson, or his designee. BE IT FURTHER RESOLVED, that the Council hereby delegates authority to the Chairperson, or his designee, to make technical, nonsubstantive, or conforming changes to the text of the attached Federal Register document to ensure that the Council can issue this document in the Federal Register, and to take such other actions and issue such other documents incident and related to the foregoing as they deem necessary or appropriate to fulfill the Council's objectives in connection with its publication.”

The Chairperson asked for a motion to approve the resolution which was made and seconded. The Council then approved the resolution by unanimous voice vote.

4. Resolution regarding a policy on transparency for the Council

The Chairperson presented to the Council the following resolution approving the policy on transparency in the form previously distributed to the Council.

“WHEREAS, the Financial Stability Oversight Council (the “Council”) is committed to conducting its business in an open and transparent manner to the extent practicable; and WHEREAS, the Council plans to make its meetings open to the press and to the public via a live webstream, except as necessary in certain circumstances; and WHEREAS, the Council plans to release minutes of meetings after each meeting and, as part of its annual report to Congress under the DFA, will report on compliance with its transparency policy; and WHEREAS, the Council recognizes that some meetings may be closed to the public in order for Council members to discuss supervisory and other market-sensitive data, including information about individual firms, transactions and markets; and WHEREAS, the staffs of the Council Agencies have prepared the attached “Transparency Policy;” and WHEREAS, staffs from the Council Agencies recommend that the Council publish on the Council’s website the “Transparency Policy” as set forth in the attached document.

NOW, THEREFORE, BE IT RESOLVED, that the Council hereby adopts the attached “Transparency Policy” to be published on the Council’s website, in a form and manner acceptable to the Chairperson, or his designee.

BE IT FURTHER RESOLVED, that the Council hereby delegates authority to the Chairperson, or his designee, to make technical, nonsubstantive, or conforming changes to the text of the attached document to ensure that the Council can publish this document on the Council’s website, and to take such other actions incident and related to the foregoing as they deem necessary or appropriate to fulfill the Council's objectives in connection with its publication.”

The Chairperson asked for a motion to approve the resolution which was made and seconded. The Council then approved the resolution by unanimous voice vote.

The Chairperson then asked for a motion to adjourn the meeting which was made and seconded. The Chairperson adjourned the meeting at approximately 3:30 p.m. (EDT).

OTHER ACTIONS OF THE COUNCIL

Notational vote approving initial budget

The voting members of the Financial Stability Oversight Council, currently serving approved unanimously through a notational vote on November 9, 2010, the following resolution:

BE IT RESOLVED, by the Financial Stability Oversight Council (Council), that the initial budget request attached hereto is hereby approved.

Estimated FSOC Expenses for FY11

| Category | Expense |
|-----------------------------------|--------------------|
| Salaries and Expenses | \$4,434,676 |
| IT Operations & Maintenance | \$420,000 |
| IT One-time Development | \$2,180,000 |
| Other Administrative | \$400,000 |
| Total: | \$7,434,676 |
| <i>Recurring Costs:</i> | <i>\$5,254,676</i> |
| <i>One-Time IT Support Costs:</i> | <i>\$2,180,000</i> |

- This budget request seeks funds to cover initial start-up for the FSOC. As the FSOC continues to develop, it is expected that there may be a need for additional staffing, which would require a supplemental budget request during 2011.
- The salaries and expenses estimate assumes salary and benefits costs for 17 employees for administrative, legal, and policy support of the Council.
- IT support: one-time start up costs include funding to support web site development and records management software.
- Other administrative includes funding for overhead costs associated with FSOC support, including procurement services and renting space.

Funding and Governance of FSOC Budget

Under Section 118 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act), “any expenses of the Council shall be treated as, and paid by, the Office of Financial Research.” Under Section 155 of the Act, the Office of Financial Research (OFR) and therefore the FSOC will be funded by transfers from the Federal Reserve for the first two years after enactment. After two years, the statute stipulates that expenses of OFR and therefore FSOC will be funded through assessments on bank holding companies with greater than \$50B in assets and

nonbank financial companies supervised by the Federal Reserve. Assessments will be set through regulation by the Treasury Secretary, with the approval of the Council. Pursuant to section 3(a)(3)(B)(i) of the FSOC's Rules of Organization, the budget for the FSOC shall be proposed by the Chairperson and shall be adopted as the annual budget of the FSOC upon an affirmative vote of the majority of the voting members then serving. The Rules of Organization also state that the first annual budget shall be proposed for the FSOC no later than November 30, 2010. Under 3(a)(3)(A) of the FSOC's Rules of Organization, the FSOC shall periodically review the expenses of the FSOC and the Chairperson shall submit a report of expenses no later than September 1 of each year.