

## Minutes of the Financial Stability Oversight Council

April 12, 2018

### PRESENT:

Steven T. Mnuchin, Secretary of the Treasury and Chairperson of the Financial Stability Oversight Council (Council)  
Jerome H. Powell, Chairman, Board of Governors of the Federal Reserve System (Federal Reserve)  
Martin J. Gruenberg, Chairperson, Federal Deposit Insurance Corporation (FDIC)  
Jay Clayton, Chairman, Securities and Exchange Commission (SEC)  
J. Christopher Giancarlo, Chairman, Commodity Futures Trading Commission (CFTC)  
Melvin Watt, Director, Federal Housing Finance Agency (FHFA) (by telephone)  
Joseph Otting, Comptroller of the Currency, Office of the Comptroller of the Currency (OCC) (by telephone)  
J. Mark McWatters, Chairman, National Credit Union Administration (NCUA)  
Thomas E. Workman, Independent Member with Insurance Expertise  
Ken Phelan, Acting Director, Office of Financial Research (OFR), Department of the Treasury (non-voting member)  
Ray Grace, Commissioner, North Carolina Office of the Commissioner of Banks (non-voting member)  
Peter Hartt, Director, Insurance Division, New Jersey Department of Banking & Insurance (non-voting member) (by telephone)  
Melanie Lubin, Securities Commissioner, Maryland Office of the Attorney General, Securities Division (non-voting member)

### GUESTS:

#### Department of the Treasury (Treasury)

Brent McIntosh, General Counsel  
Brian Callanan, Deputy General Counsel  
Bimal Patel, Deputy Assistant Secretary for the Council  
Eric Froman, Principal Deputy Assistant General Counsel (Banking and Finance) and Executive Director of the Council  
Stephen Ledbetter, Director of Policy, Office of the Financial Stability Oversight Council

#### Board of Governors of the Federal Reserve System

Andreas Lehnert, Director, Division of Financial Stability

#### Federal Deposit Insurance Corporation

Jason Cave, Special Advisor to the Chairman for Supervisory Matters

#### Securities and Exchange Commission

Michael Piwowar, Commissioner (by telephone)  
Jaime Klima, Chief Counsel

Commodity Futures Trading Commission

Richard Danker, Special Advisor

Consumer Financial Protection Bureau

Brian Johnson, Senior Advisor to the Acting Director

Federal Housing Finance Agency

Sandra Thompson, Deputy Director, Division of Housing Mission and Goals

Comptroller of the Currency

Grace Dailey, Senior Deputy Comptroller for Bank Supervision Policy and Chief National Bank Examiner

National Credit Union Administration

Ralph Monaco, Chief Economist

Office of the Independent Member with Insurance Expertise

Charles Klingman, Senior Policy Advisor

Federal Reserve Bank of New York

William Dudley, President and Chief Executive Officer (by telephone)

Office of Financial Research

Stacey Schreft, Deputy Director for Research and Analysis

Federal Insurance Office

Steven Seitz, Deputy Director

North Carolina Office of the Commissioner of Banks

Michael Stevens, Senior Vice President, Conference of State Bank Supervisors

New Jersey Department of Banking & Insurance

Mark Sagat, Assistant Director, Financial Policy and Legislation, National Association of Insurance Commissioners

Maryland Office of the Attorney General, Securities Division

Zachary Knepper, Deputy General Counsel, North American Securities Administrators Association

PRESENTERS:

*Interpretive Guidance on Nonbank Financial Company Designations*

- *Bimal Patel, Deputy Assistant Secretary for the Council, Treasury*
- *Stephen Ledbetter, Director of Policy, Office of the Financial Stability Oversight Council, Treasury*

*Update on Annual Reevaluation of Nonbank Financial Company Designation*

- *Bimal Patel, Deputy Assistant Secretary for the Council, Treasury*
- *Stephen Ledbetter, Director of Policy, Office of the Financial Stability Oversight Council, Treasury*

*Potential Application to the Council Under Section 117 of the Dodd-Frank Act*

- *Bimal Patel, Deputy Assistant Secretary for the Council, Treasury*
- *Stephen Ledbetter, Director of Policy, Office of the Financial Stability Oversight Council, Treasury*

*Council Bylaws*

- *Bimal Patel, Deputy Assistant Secretary for the Council, Treasury*
- *Eric Froman, Principal Deputy Assistant General Counsel (Banking and Finance) and Executive Director of the Council, Treasury*

**Executive Session**

The Chairperson called the executive session of the meeting of the Council to order at approximately 4:33 P.M.

The Chairperson began by welcoming Thomas E. Workman, independent member with insurance expertise, to his first meeting of the Council. The Chairperson noted that this might be the last Council meeting for William Dudley, President and Chief Executive Officer of the Federal Reserve Bank of New York, and he thanked Mr. Dudley for his significant contributions. The Chairperson then outlined the meeting agenda, which had previously been distributed to the members together with other materials. The agenda for the executive session of the meeting included (1) the Council's interpretive guidance on nonbank financial company designations, (2) an update on the annual reevaluation of the designation of a nonbank financial company, (3) a potential application to the Council under section 117 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), (4) potential amendments to the Council's rules of organization (Bylaws), and (5) a vote on the minutes of the Council's meeting on February 21, 2018.

1. Interpretive Guidance on Nonbank Financial Company Designations

The Chairperson then introduced the first agenda item, a discussion of the Council's interpretive guidance on nonbank financial company designations under section 113 of the Dodd-Frank Act. The Chairperson introduced Bimal Patel, Deputy Assistant Secretary for the Council at Treasury, and Stephen Ledbetter, Director of Policy in the Office of the Financial Stability Oversight Council at Treasury. Mr. Patel described staff efforts to develop potential amendments to the Council's interpretive guidance on nonbank financial company designations. He explained the ongoing consideration of issues associated with the report issued by the Secretary of the Treasury on November 17, 2017, regarding the Council's processes for designating nonbank financial companies and financial market utilities. In particular, Mr. Patel stated that staff were considering Treasury's recommendations regarding (1) an activities- or industry-based approach

to addressing potential risks to financial stability; (2) an assessment of costs and benefits of designations; and (3) the consideration of the likelihood of a firm's material financial distress as part of the designation process.

## 2. Update on Annual Reevaluation of Nonbank Financial Company Designation

The Chairperson then introduced the next agenda item, an update on the annual reevaluation of a nonbank financial company that the Council had previously designated under section 113 of the Dodd-Frank Act. The Chairperson introduced Bimal Patel, Deputy Assistant Secretary for the Council at Treasury, and Stephen Ledbetter, Director of Policy in the Office of the Financial Stability Oversight Council at Treasury. Chairman Clayton recused himself from participating in the discussion, and Michael Piwowar, SEC Commissioner, participated in the discussion. Mr. Ledbetter provided an update regarding the status of the Council's annual reevaluation of the company. He described the Council's engagement with the company, including information the Council had requested from the company. He also described the anticipated timing of the Council's review.

## 3. Potential Application to the Council Under Section 117 of the Dodd-Frank Act

The Chairperson then introduced the next agenda item, a potential application to the Council under section 117 of the Dodd-Frank Act. Chairman Clayton recused himself from participating in the discussion, and Michael Piwowar, SEC Commissioner, participated in the discussion. The Chairperson turned to Bimal Patel, Deputy Assistant Secretary for the Council at Treasury, and Stephen Ledbetter, Director of Policy in the Office of the Financial Stability Oversight Council at Treasury.

Mr. Patel briefly described section 117 of the Dodd-Frank Act. Section 117 applies to any entity (or its successor) that was a bank holding company with assets of at least \$50 billion as of January 1, 2010, and participated in the Capital Purchase Program under the Troubled Asset Relief Program. Mr. Patel noted that under section 117, if such an entity ceases to be a bank holding company, it is automatically treated as if the Council had designated it as a nonbank financial company for Federal Reserve supervision and enhanced prudential standards. Such a company may appeal its treatment under section 117 to the Council. Mr. Patel then described an application that a company had announced that it intended to submit to the Council under section 117. He then summarized staff's preliminary analysis regarding the company under the three transmission channels the Council uses in evaluating nonbank financial companies under section 113 of the Dodd-Frank Act (the exposure, asset liquidation, and critical function or service transmission channels). He also explained the statutory timeline for the Council's consideration of an application under section 117. Members of the Council then asked questions and had a discussion, including regarding the applicable statutory requirements and the scope of the Council's authority under section 117.

## 4. Council Bylaws

The Chairperson then introduced the next agenda item, proposed amendments to the Council's Bylaws. He introduced Eric Froman, Principal Deputy Assistant General Counsel (Banking and

Finance) and Executive Director of the Council at Treasury.

Mr. Froman stated that staff had prepared potential amendments to the Bylaws. He stated that the purpose of the proposed amendments was to ensure that if a voting member of the Council who is the head of a federal agency is recused from participating in a Council action, another official from the relevant agency can participate in the Council action in place of the recused member. He noted that for most of the voting Council members, in the event of a recusal, the acting head of the relevant member agency serves as a Council member by operation of law. He stated that for some agencies, no individual serves as acting agency head by operation of law, and that as a result, those agencies did not have an effective way to participate in important Council matters when their agency head is recused.

He then described the proposed amendments to the Bylaws. The Bylaws allowed any voting Council member who is the head of a federal agency to delegate his or her individual authority to another officer or employee of their agency, but the Bylaws precluded that option for certain specific matters listed in the Bylaws. Mr. Froman stated that under the proposed amendments, if a recused voting Council member who is the head of a federal agency delegates his or her voting authority to an officer of that agency who was appointed by the President with the advice and consent of the Senate, or who is the first assistant to the office of the recused Council member for purposes of the Federal Vacancies Reform Act of 1998, the delegee could participate in any Council action to the extent permitted by the Dodd-Frank Act. He stated that the proposed amendments would enable Council member agencies to participate in Council actions even when there is a recusal, while also ensuring that an individual who votes on key Council actions will be a senior agency official. Mr. Froman described the staff discussions regarding the proposed amendment, and stated that after any further input from Council members, the Council could vote on the proposed amendments soon.

5. Resolution Approving the Minutes of the Meeting Held on February 21, 2018

*BE IT RESOLVED, by the Financial Stability Oversight Council (the "Council"), that the minutes attached hereto of the meeting held on February 21, 2018 of the Council are hereby approved.*

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

The Chairperson adjourned the meeting at approximately 5:04 P.M.