

Minutes of the Financial Stability Oversight Council

September 23, 2022

PRESENT:

Janet L. Yellen, Secretary of the Treasury and Chairperson of the Financial Stability Oversight Council (Council)
Jerome H. Powell, Chair, Board of Governors of the Federal Reserve System (Federal Reserve)
Martin Gruenberg, Acting Chairman, Federal Deposit Insurance Corporation (FDIC)
Gary Gensler, Chair, Securities and Exchange Commission (SEC)
Rostin Behnam, Chairman, Commodity Futures Trading Commission (CFTC)
Rohit Chopra, Director, Consumer Financial Protection Bureau (CFPB)
Sandra L. Thompson, Director, Federal Housing Finance Agency (FHFA)
Michael J. Hsu, Acting Comptroller of the Currency, Office of the Comptroller of the Currency (OCC)
Todd M. Harper, Chairman, National Credit Union Administration (NCUA)
Thomas E. Workman, Independent Member with Insurance Expertise
James Martin, Acting Director, Office of Financial Research (OFR), Department of the Treasury (non-voting member)
Steven Seitz, Director, Federal Insurance Office (FIO), Department of the Treasury (non-voting member)
Charles G. Cooper, Commissioner, Texas Department of Banking (non-voting member)
Elizabeth K. Dwyer, Superintendent of Financial Services, Rhode Island Department of Business Regulation (non-voting member)
Melanie Lubin, Securities Commissioner, Maryland Office of the Attorney General, Securities Division (non-voting member)

GUESTS:

Department of the Treasury (Treasury)

Nellie Liang, Under Secretary for Domestic Finance
Sandra Lee, Deputy Assistant Secretary for the Council
Laurie Schaffer, Principal Deputy General Counsel
Eric Froman, Assistant General Counsel (Banking and Finance)
Sean Hoskins, Director of Policy, Office of the Financial Stability Oversight Council
Mark Schlegel, Attorney-Advisor

Board of Governors of the Federal Reserve System

Michael Barr, Vice Chair for Supervision
Andreas Lehnert, Director, Division of Financial Stability

Federal Deposit Insurance Corporation

James McGraw, Senior Deputy Director, Division of Complex Institution Supervision and Resolution

Securities and Exchange Commission
Amanda Fischer, Senior Counselor

Commodity Futures Trading Commission
David Gillers, Chief of Staff

Consumer Financial Protection Bureau
Gregg Gelzinis, Advisor to the Director

Federal Housing Finance Agency
Naa Awaa Tagoe, Acting Deputy Director, Division of Housing Mission and Goals

Comptroller of the Currency
Jay Gallagher, Acting Senior Deputy Comptroller for Supervision Risk and Analysis

National Credit Union Administration
Timothy Flynn, Economist, Office of the Chief Economist

Office of the Independent Member with Insurance Expertise
Charles Klingman, Senior Policy Advisor

Federal Reserve Bank of New York
Richard Crump, Vice President, Capital Markets Function

Office of Financial Research
Sriram Rajan, Associate Director, Research Analysis Center

Federal Insurance Office
Philip Goodman, Senior Insurance Regulatory Policy Analyst

Texas Department of Banking
Karen Lawson, Senior Vice President for Policy, Conference of State Bank Supervisors

Rhode Island Department of Business Regulation
Ethan Sonnichsen, Managing Director, National Association of Insurance Commissioners

Maryland Office of the Attorney General, Securities Division
Vincente Martinez, General Counsel, North American Securities Administrators Association

PRESENTERS:

Digital Assets Report Update

- *Sandra Lee, Deputy Assistant Secretary for the Council, Treasury*
- *Jonathan Rose, Senior Economist, Federal Reserve Bank of Chicago*
- *Daniel Sufranski, Attorney, Bank Advisory Group, Chief Counsel's Office, OCC (available for questions)*

FHFA Federal Home Loan Bank System Review

- *Joshua Stallings, Deputy Director, Division of Bank Regulation, FHFA*
- *Amy Bogdon, Associate Director of Regulatory Policy and Programs, Division of Bank Regulation, FHFA*

2022 Annual Report Update

- *Sandra Lee, Deputy Assistant Secretary for the Council, Treasury*
- *Jeff Gerlach, Vice President, Quantitative Supervision and Research Unit, Federal Reserve Bank of Richmond*
- *Kelsey Pristach, Senior Policy Advisor, Office of the Financial Stability Oversight Council, Treasury (available for questions)*

Fiscal Year 2023 Council Budget

- *Sandra Lee, Deputy Assistant Secretary for the Council, Treasury*
- *Samantha MacInnis, Director of Operations, Office of the Financial Stability Oversight Council, Treasury (available for questions)*
- *Dennis Lee, Management and Program Analyst, Office of the Financial Stability Oversight Council, Treasury (available for questions)*
- *Thomas Peddicord, Deputy Director, Division of Finance, FDIC (available for questions)*

Executive Session

The Chairperson called the executive session of the meeting of the Council to order at approximately 10:01 A.M. She outlined the meeting agenda, which had previously been distributed to the members together with other materials. The agenda for the executive session included (1) an update on the development of the Council’s digital assets report, (2) a presentation on the FHFA’s review of the Federal Home Loan Bank System, (3) an update on the Council’s 2022 annual report, (4) a vote on the Council’s fiscal year 2023 budget, and (5) a vote on the minutes of the Council’s meeting on July 28, 2022.

1. Update on Digital Assets Report

The Chairperson introduced the first agenda item, an update on the Council report being prepared in response to the Executive Order on Ensuring Responsible Development of Digital Assets, which was issued on March 9, 2022. She introduced Sandra Lee, Deputy Assistant Secretary for the Council at Treasury, and Jonathan Rose, Senior Economist at the Federal Reserve Bank of Chicago.

Ms. Lee stated that the report reflected interagency staff efforts. She noted that the report focused on the three areas identified in the Executive Order: financial stability risks, regulatory gaps, and recommendations to address those risks and gaps. She noted that interagency staff had participated in a digital assets working group to develop insights and recommendations for the report, and conducted outreach to industry participants and other stakeholders. She stated that the Council would vote on the report at an upcoming meeting.

Mr. Rose described certain financial stability risks that may be identified in the report. He also highlighted key findings that may be included in the report regarding the existing regulatory structure applicable to crypto-assets. Mr. Rose said the report would describe regulatory gaps, including the spot market for crypto-assets that are not securities; the potential for regulatory arbitrage; and direct retail access, in which investors interact with platforms directly, without the use of an intermediary. Mr. Rose concluded by describing certain recommendations that may appear in the report.

The Chairperson then underscored the potential financial stability risks and regulatory gaps related to crypto-assets, and she expressed support for collective efforts of Council member agencies to make progress in this area.

Council members then had a discussion about certain financial stability risks, vulnerabilities, and regulatory gaps that may be described in the report, including the potential need for additional legislation, international collaboration, or the use of agencies' existing authorities.

2. FHFA Federal Home Loan Bank System Review

The Chairperson then introduced the next agenda item, a presentation on the FHFA's review of the Federal Home Loan Bank System (FHLB System). She introduced Joshua Stallings, Deputy Director in the Division of Bank Regulation at FHFA, and Amy Bogdon, Associate Director of Regulatory Policy and Programs in the Division of Bank Regulation at FHFA.

Mr. Stallings stated that as the Federal Home Loan Banks approach their centennial, FHFA was conducting a comprehensive review to ensure the FHLB System remains positioned to serve the needs of communities. He noted that there had been efforts in the past to evaluate the role of the Federal Home Loan Banks, but it had been some time since the last in-depth review. He said that a number of recommendations developed as part of past studies were eventually the subject of legislation amending the Federal Home Loan Bank Act (FHLB Act), including the establishment of a new capital structure for the Federal Home Loan Banks and membership eligibility for non-depository community development financial institutions (CDFIs). He stated that the FHFA intended to examine the mission, purpose, structure, and operation of the Federal Home Loan Banks.

Mr. Stallings described the 11 Federal Home Loan Bank districts in the United States. He stated that the FHLB System was established by the FHLB Act to support liquidity in the mortgage market, but that the FHLB Act does not contain an explicit mission statement. He said that the mission of the Federal Home Loan Banks, as referenced in the Housing and Economic Recovery Act of 2008, is generally considered to be two-pronged: providing liquidity to members, and affordable housing and community development. He said that the Federal Home Loan Banks provide financial products and services to assist with the financing of housing and community lending. He noted that Federal Home Loan Bank membership provides the ability to obtain low-cost loans, referred to as advances, and other financial products and services.

Mr. Stallings stated that the Federal Home Loan Banks support low-income housing and community development by providing loans and grants to their members through three programs: the statutorily mandated Affordable Housing Program (AHP), funded by 10 percent of net earnings; the statutorily mandated Community Investment Program (CIP); and the voluntary Community Investment Cash Advance Program. He noted that from 1990, when the AHP was authorized, through 2021, the Federal Home Loan Banks awarded approximately \$7.3 billion to support about 1 million housing units. He stated that over the same period, the Federal Home Loan Banks provided \$82 billion in CIP advances.

Mr. Stallings noted that the FHLB Act sets forth the types of entities that are eligible for membership, including insured depository institutions, insurance companies, and CDFIs. He said that there were currently approximately 6,500 members. He stated that the FHLB Act had been amended over time to expand membership to include federally insured commercial banks and credit unions, CDFIs, and non-federally insured credit unions. He noted that Congress had never removed a type of eligible entity. He noted that the FHFA issued a rule in 2016 making captive insurance companies ineligible for membership because captives were being used as conduits by ineligible entities to gain access to the FHLB System. He noted that in 2020, FHFA had issued a request for information seeking input on Federal Home Loan Bank membership.

Mr. Stallings then stated that Federal Home Loan Bank advances generally increase during times of market stress. He noted that advances had risen to over \$800 billion at the end of the first quarter of 2020 and then declined to approximately \$350 billion in the third quarter of 2021, before rising again in 2022. Mr. Stallings noted that the types of entities eligible for membership in the Federal Home Loan Banks accounted for a decreasing share of the mortgage origination and servicing market, and that as a result the relative role of the Federal Home Loan Banks in the residential mortgage market had declined.

Mr. Stallings then described views of various stakeholders regarding the Federal Home Loan Banks' support for affordable and sustainable housing and community development.

Mr. Stallings stated that, as part of its review, the FHFA would host two listening sessions and a series of regional roundtable discussions to hear from stakeholders on the role or potential role of the Federal Home Loan Banks in addressing housing finance, community and economic development, affordability, and other issues. He stated that the FHFA was seeking input on six key areas: the mission and purpose of the Federal Home Loan Banks; the organization, operational efficiency, and effectiveness of the FHLB System; the role of the Federal Home Loan Banks in promoting affordable, sustainable, equitable, and resilient housing and community investment; addressing the needs of rural and financially vulnerable communities; member products, services, and collateral requirements; and membership eligibility and requirements.

Council members then asked questions and had a discussion about the FHFA review and the FHLB System, including insurers' use of Federal Home Loan Bank advances, interconnections between the Federal Home Loan Banks and the broader financial system, and potential risks related to Federal Home Loan Banks' activities.

3. Update on 2022 Annual Report

The Chairperson then turned to the next agenda item, an update on the Council's 2022 annual report. She introduced Sandra Lee, Deputy Assistant Secretary for the Council at Treasury, and Jeff Gerlach, Vice President of Quantitative Supervision and Research at the Federal Reserve Bank of Richmond.

Ms. Lee provided an overview of initial work on the Council's 2022 annual report. She stated that staff had gathered feedback from Council member agencies regarding the substance and structure of the report, with the intention of focusing the report on risks to financial stability.

Mr. Gerlach then described the proposed structure of the annual report and highlighted certain potential vulnerabilities that the report may address. He also provided an update regarding interagency staff deliberations about the report and the proposed timing for completion of the report.

Council members then asked questions and had a discussion about certain topics that may be included in the report.

4. Fiscal Year 2023 Council Budget

The Chairperson then introduced the next agenda item, the Council's fiscal year 2023 budget. She introduced Sandra Lee, Deputy Assistant Secretary for the Council at Treasury, for the presentation.

Ms. Lee noted that the Council is funded by the Financial Research Fund. She noted that the budget of the Council included the Office of the Financial Stability Oversight Council at Treasury and the office of the Council's independent member with insurance expertise. She said that the proposed fiscal year 2023 budget included \$13.4 million for these expenses, an increase of \$5.9 million from the budget approved for fiscal year 2022. She said that the Council's budget also included reimbursement of certain FDIC expenses related to the implementation of Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and noted that the proposed budget included \$2.9 million for the reimbursement of these expenses.

Ms. Lee stated that the proposed increase in funding was largely intended to enable the hiring of staff to support the Council's priorities. She said that additional funding would also expand resources for data and staff training. She stated that the proposed budget called for a total of 35 full-time-equivalent employees in the Office of the Financial Stability Oversight Council at Treasury. She stated that a larger staff would support a variety of Council priorities, including climate-related financial risks, the hedge fund risk monitoring framework, the Council's general risk monitoring and analysis function, and risks from central counterparties and financial market utilities. She stated that the Office of the Financial Stability Oversight Council at Treasury had been understaffed in recent years and that the budget would support back-filling staff in the office.

Council members then asked questions and had a discussion about the Council’s fiscal year 2023 budget, long-term planning, and related matters, including noting that the proposed budget contemplated an increase of four full-time-equivalent employees in the Office of the Financial Stability Oversight Council at Treasury compared to the Council’s fiscal year 2017 budget.

The Chairperson then presented to the Council the following resolution approving the Council’s budget for fiscal year 2023.

BE IT RESOLVED, by the Financial Stability Oversight Council (the “Council”), that the Council’s budget for fiscal year 2023 attached hereto is 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.

5. Resolution Approving the Minutes of the Meeting Held on July 28, 2022

BE IT RESOLVED, by the Financial Stability Oversight Council (the “Council”), that the minutes attached hereto of the meeting held on July 28, 2022 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 11:13 A.M.