

Minutes of the Financial Stability Oversight Council

February 23, 2024

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, 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

Stacey Schreft, Deputy Director, Research and Analysis (acting pursuant to delegated authority), 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)

Adrienne Harris, Superintendent, New York State Department of Financial Services (non-voting member) (via videoconference)

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 (via videoconference)

Sandra Lee, Deputy Assistant Secretary for the Council

Eric Froman, Assistant General Counsel (Banking and Finance)

Sean Hoskins, Director of Policy, Office of the Financial Stability Oversight Council

Nicholas Steele, Director of Analysis, Office of the Financial Stability Oversight Council

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

Susan Baker, Corporate Expert, Division of Complex Institution Supervision and Resolution

Securities and Exchange Commission

Amanda Fischer, Chief of Staff

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, Deputy Director, Division of Housing Mission and Goals

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

National Credit Union Administration
Elizabeth Eurgubian, Director of External Affairs and Communications

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

Federal Reserve Bank of New York
John Williams, President
Anna Kovner, Director, Financial Stability Policy & Research Division

Office of Financial Research
Michael Passante, Chief Counsel

Federal Insurance Office
Philip Goodman, Senior Insurance Regulatory Policy Analyst

New York State Department of Financial Services
Karen Lawson, Executive Vice President for Policy and Supervision, 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:

Banking and Commercial Real Estate Developments

- *Jay Gallagher, Senior Deputy Comptroller, Supervision Risk and Analysis, OCC*
- *Andrew Felton, Deputy Director, Division of Complex Institution Supervision and Resolution, FDIC (available for questions)*
- *Jennifer Burns, Deputy Director, Division of Supervision and Regulation, Federal Reserve (available for questions)*

CFPB Rulemaking Update

- *Lorelei Salas, Supervision Director, CFPB*
- *Owen Bonheimer, Senior Counsel, Office of Supervision Policy, CFPB*

2024 Council Priorities

- *Sandra Lee, Deputy Assistant Secretary for the Council, Treasury*

OFR Bilateral Repo Data Collection

- *Sriram Rajan, Associate Director, Research and Analysis Center, OFR*

Executive Session

The Chairperson called the executive session of the meeting of the Council to order at approximately 10:29 A.M. The Chairperson began by outlining 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 SEC's regulatory agenda, (2) an update on banking and commercial real estate developments, (3) an update on a CFPB rulemaking, (4) the Council's 2024 priorities, (5) the OFR's bilateral repurchase agreement (repo) data collection, and (6) a vote on the minutes of the Council's meeting on December 14, 2023.

1. SEC Regulatory Agenda Update

The Chairperson introduced the first agenda item, an update on the SEC's regulatory agenda, and turned to Gary Gensler, Chair of the SEC.

Chair Gensler began by noting that the SEC has a three-part mission: protecting investors, facilitating capital formation, and maintaining fair, orderly, and efficient markets. He noted that financial stability was not expressly mentioned in the SEC's statutes, but that it is implicit in the agency's mission and embedded in those statutes. He then described progress on the SEC's regulatory agenda. First, he noted several rulemakings related to Treasury markets. He stated that in December 2023, the SEC had adopted a rule expanding central clearing in the market for Treasury securities, and that in February 2024 the SEC had adopted a rule regarding dealer registration of principal trading firms. He also noted SEC rulemaking efforts regarding the registration of interdealer brokers and request-for-quote platforms. In addition, he stated that the SEC had worked with Treasury and the Financial Industry Regulatory Authority (FINRA) on post-trade transparency for Treasury securities, with a rule adopted in February 2024.

With respect to investment funds, Chair Gensler stated that the SEC had adopted a rule regarding money market funds in July 2023, with a compliance date of April 2024. He also stated that the SEC had proposed rules in November 2022 regarding liquidity and risk management at open-end funds. He noted that over \$6 trillion is also held in collective investment trusts.

Chair Gensler noted that with respect to private funds, the SEC and the CFTC had finalized a joint rule on hedge fund reporting in February 2024, and that the SEC had also issued rules regarding reporting requirements for private fund advisors in May 2023.

Chair Gensler then described rules the SEC had adopted in November 2023 regarding clearing agency governance. He also noted that under rules adopted by the SEC in February 2023, the securities settlement cycle would be shortened to T+1 for trades occurring on or after May 28, 2024 in stocks, bonds, exchange-traded funds, and certain other instruments.

With respect to cybersecurity, Chair Gensler noted that the SEC had issued proposed rules for risk management by broker-dealers and investment advisers in March 2023 and February 2022, respectively. He said that recent cybersecurity events illustrated the importance of these initiatives.

Council members had a discussion regarding risk management practices, potential risks posed by central counterparties and investment funds, and the nexus between the SEC's efforts and financial stability.

The Chairperson expressed support for the SEC's efforts, including on matters affecting financial stability.

2. Banking and Commercial Real Estate Developments

The Chairperson then introduced the next agenda item, an update on banking and commercial real estate developments. She turned to Jay Gallagher, Senior Deputy Comptroller for Supervision Risk and Analysis at the OCC, for the presentation.

Mr. Gallagher provided an update on the banking sector. He noted recent volatility in the share prices of certain banks with concentrations in commercial real estate, and stated that there had not been significant evidence of contagion at that time. He explained that the OCC was closely monitoring OCC-regulated banks and financial markets, including conducting more-frequent assessments of banks' financial conditions, liquidity positions, and commercial real estate portfolios. He also described federal banking agencies' coordination to discuss risks and trends.

Council members then asked questions and had a discussion, including regarding risks related to banks' commercial real estate exposures, uninsured deposits, merger integration, and liquidity. Council members also noted the coordination among banking agencies and the agencies' work to monitor banks' liquidity positions and exposures.

1. CFPB Rulemaking Update

The Chairperson introduced the next agenda item, an update on the CFPB's proposed rule for defining larger participants of a market for general-use digital consumer payment applications (apps), and turned to Lorelei Salas, Supervision Director at the CFPB, and Owen Bonheimer, Senior Counsel in the Office of Supervision Policy at the CFPB, for the presentation.

Ms. Salas stated that the presenters would discuss the market for digital payments, major market participants, and CFPB efforts to supervise the largest participants in this market.

Mr. Bonheimer highlighted the growth in consumer use of large nonbank technology firms' payment services on phones and other devices for payments to other individuals and for retail spending. He noted that the sources of consumer funds for these payments include funds held at banks and credit unions. He noted an estimate that in 2021, consumers used these apps for almost 15 billion payment transactions. He also noted estimates that in 2022, two-thirds or more of Americans had used payment apps for a payment within the previous 12 months.

Ms. Salas stated that payment-related products offered by very large technology firms had driven the growth of this market, with a general move toward "one-stop shopping" for an array of consumer needs. She noted that many of these firms are licensed by states as money transmitters.

Mr. Bonheimer then noted an estimate that the mobile app share of person-to-person payments had increased from 11 percent in 2019 to 29 percent in 2021. He also noted estimates that app-based payments for retail spending had gained a larger share of retail spending than cash, and in e-commerce, a larger share than credit cards or debit cards used outside of apps.

Ms. Salas then explained the nexus between this market and financial stability. She stated that as more U.S. consumers adopt payment apps, their experience can affect trust in the financial system. She also noted the size and scale of large nonbank companies participating in this market, their interconnections with traditional financial institutions, operational risks, and maturity mismatch and liquidity transformation. She noted that there is limited regulatory authority over the market.

Mr. Bonheimer stated that the CFPB does not have general supervisory authority with respect to nonbank market participants. He stated that the CFPB had proposed a rule that would establish CFPB authority to supervise nonbanks that are "larger participants" in this market – firms that engage in 5 million or more consumer payment transactions per year. He stated that the proposed rule excluded small businesses. He stated that the proposed rule would cover approximately 9 percent of nonbank market participants, including the largest firms. He stated that the CFPB was reviewing public comments on the proposal.

Ms. Salas then described the proposed rule's anticipated impact on consumers. She stated that digital payments expose consumers to financial, privacy, and security risks. She said the intention of the proposed rule was to facilitate early detection through supervision of any noncompliance with consumer financial protection laws. She then described the CFPB's next steps, including with respect to interagency information sharing, coordination among state and federal regulators, and additional potential steps by the CFPB or other agencies.

Council members then asked questions and had a discussion, including regarding the role of large technology companies and nonbank financial firms in the payments market, the scope of the CFPB's regulation and supervision of market participants, and potential risks associated with products that are not insured by the FDIC.

2. 2024 Council Priorities

The Chairperson then introduced the next agenda item, the Council's 2024 priorities. She turned to Sandra Lee, Deputy Assistant Secretary for the Council at Treasury, for the presentation.

Ms. Lee first described the Council's progress on its 2023 priorities. In the area of climate-related financial risk, she noted that the Council had established and conducted three meetings of its external expert advisory group, the Climate-related Financial Risk Advisory Committee (CFRAC). She said that in July 2023 the Council's staff-level Climate-related Financial Risk Committee (CFRC) had published its first staff report, which provided an update on the work of the Council and member agencies. She stated that in the area of nonbank financial intermediation, the Council had voted unanimously in November to approve both an analytic framework for financial stability risk identification, assessment, and response, and interpretive guidance on nonbank financial company determinations. She said that the Council's Hedge Fund Working Group had continued its risk-monitoring activities and proposed a work plan to assess relevant tools for the Council's consideration. She also noted that the Council's Nonbank Mortgage Servicing Task Force had identified risks and recommended policy options to the Council. In the area of digital assets, she said that the Council's Digital Assets Working Group had convened agency staff to discuss evolving risks, including tokenization and the interconnections between the crypto-asset ecosystem and traditional finance. Finally, she said that in the area of Treasury market resilience, the Council's work on hedge funds and open-end funds had informed the efforts of the Inter-Agency Working Group on Treasury Market Surveillance to examine the effects of leverage and fund liquidity risk management practices in the Treasury market.

Ms. Lee noted that the Council expected to continue working on certain of its 2023 priorities, including climate-related financial risk, nonbank financial intermediation, risks related to digital assets, and Treasury market resilience. She also described additional potential 2024 initiatives, including cyber resilience, financial market utilities, and artificial intelligence.

Council members then discussed potential priorities for 2024, including the application of the Council's recently adopted analytic framework to identify, assess, and address financial stability risk.

3. OFR Bilateral Repo Data Collection

The Chairperson then introduced the next agenda item, the OFR's collection of data on bilateral repo. She introduced Sriram Rajan, Associate Director in the Research and Analysis Center at the OFR.

Mr. Rajan stated that the OFR had presented to the Council on non-centrally cleared bilateral repurchase agreements (NCCBR) in July 2022. He stated that at that time, the OFR had been conducting outreach regarding a data collection pilot on this market, which he noted is an important source of secured financing for financial institutions. He stated that the OFR's pilot study had informed the OFR about collateral, counterparties, pricing terms, market size, and other market characteristics in this market.

He stated that the OFR had subsequently issued a proposed rulemaking in January 2023 to establish an ongoing collection regarding NCCBR transactions. He stated that the proposed rule was designed to fill a data gap in the short-term funding market. He stated that the proposed rule would require daily, transaction-level reporting from financial companies. He noted that companies required to report under the proposed rule would be those with average daily outstanding commitments to borrow cash and extend guarantees during the prior calendar quarter of at least \$10 billion. He noted that the most recent estimates were that as proposed, the NCCBR collection initially would capture reporting on over \$2 trillion in daily transaction volume through approximately 40 companies.

He stated that the OFR had received over 30 public comments on the proposed rule. He stated that commenters had supported the objectives of the proposed collection. He noted that the OFR was considering certain issues raised by the comment letters. He noted that the SEC had published a final rule regarding central clearing in Treasury markets in December 2023, and that the SEC's rule would require the clearing of repo transactions on Treasury collateral. He noted that upon implementation in June 2026, the SEC's rule may reduce the NCCBR collection's coverage and volume. He noted, however, that the OFR's collection remained critical, including because it would provide regulators with market data prior to the implementation of the SEC's rule and would provide transparency on the migration of trading to central clearing, and on transactions in the NCCBR market following implementation of the SEC's rule. He concluded by noting that the OFR expects to publish its final rule in the spring of 2024.

Council members expressed support for the OFR's rulemaking.

4. Resolution Approving the Minutes of the Meeting Held on December 14, 2023

BE IT RESOLVED, by the Financial Stability Oversight Council (Council), that the minutes attached hereto of the meeting held on December 14, 2023 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 12:00 p.m.