

# Treasury Releases Memorandum to the President on FSOC's Designation Processes For Nonbank Financial Companies and Financial Market Utilities

November 17, 2017

**Washington** – The U.S. Department of the Treasury today released a memorandum to the President regarding its review of the designation processes of the Financial Stability Oversight Council (FSOC). In response to the April 21, 2017 Presidential Memorandum, Treasury makes recommendations on ways to improve FSOC's processes both for nonbank financial company and for financial market utility designations. The memorandum released today responds to the Presidential Memorandum issued on April 21, 2017 that directed Treasury to evaluate and make recommendations on FSOC's designation processes.

“In our recommendations we identify several ways to improve FSOC's processes for designating nonbanks and financial market utilities,” said Secretary Steven T. Mnuchin. “Our recommendations include enhancing FSOC's analytic process, implementing cost-benefit analysis, and increasing transparency.”

Treasury identifies five policy goals that should be achieved by FSOC's designation processes, which include: leveraging the expertise of primary financial regulatory agencies; promoting market discipline; maintaining a level playing field among firms; appropriately tailoring regulations to minimize burdens; and ensuring FSOC's designation analyses are rigorous, clear, and transparent.

For nonbank financial company designations, Treasury recommends that FSOC prioritize its efforts to address risks to financial stability through a process that emphasizes an activities-based or industry-wide approach. Treasury recommends that FSOC implement a process for assessing and addressing potential risks to financial stability that includes three steps: reviewing potential risks to financial stability from activities and products; working with relevant regulators to address any identified potential risks to financial stability; and considering company-specific designations only after consultation with relevant regulators.

Treasury makes the following recommendations to enhance the analytical process, engagement, and transparency of FSOC's nonbank financial company designation process:

- FSOC should revise its guidance to provide that FSOC will assess the likelihood of a firm's material financial distress as part of analysis;
- FSOC should revise its guidance to provide that FSOC will conduct a cost-benefit analysis as part of its analyses, and FSOC should only designate a company if the expected benefits to financial stability outweigh the costs of designation;
- FSOC should enhance its communication with nonbank financial companies under review and their primary financial regulators; and
- FSOC should provide a clear “off-ramp” to designated nonbank financial companies and adopt a more robust and transparent process for its annual reevaluations.

With respect to the financial market utilities (FMU), Treasury recommends that FSOC add important enhancements to improve the analytical rigor, engagement, and transparency of the process, and to ensure that the designation process is individualized and appropriately tailored. Additionally, FSOC should continue to study key issues related to FMU operation, designation, and resolution. Treasury recommends that the Council consider incorporating cost-benefit analyses into its FMU evaluation process as well.

[View the memorandum.](#) 

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