

Minutes of the Financial Stability Oversight Council

Held January 18, 2011

PRESENT:

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

Sheila Bair, Chairperson, Federal Deposit Insurance Corporation (FDIC)

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

Edward DeMarco, Acting Director, Federal Housing Finance Agency (FHFA)

Gary Gensler, Chairman, Commodity Futures Trading Commission (CFTC)

Debbie Matz, Chairman, National Credit Union Administration (NCUA)

Mary Schapiro, Chairman, Securities and Exchange Commission (SEC)

John Walsh, Acting Comptroller of the Currency (OCC)

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 Advisor

Laurie Schaffer, Assistant General Counsel (Banking and Finance)

Board of Governors of the Federal Reserve System

Daniel Tarullo, Governor

Commodity Futures Trading Commission

Cyrus Amir-Mokri, Senior Counsel to the Chairman

Comptroller of the Currency

Tim Long, Senior Deputy Comptroller

Federal Deposit Insurance Corporation

Arthur Murton, Director, Division of Insurance and Research

Federal Housing Finance Agency

Mario Ugoletti, Special Advisor to the Director

National Credit Union Administration

David Marquis, Executive Director of NCUA

Securities and Exchange Commission

Ricardo Delfin, Special Counsel to the Chairman

Federal Reserve Bank of New York

William Dudley, President and Chief Executive Officer

California Department of Financial Institutions

Michael Stevens, Senior Vice President & Director of Regulatory Affairs, Conference of State Bank Supervisors

Missouri Department of Insurance, Financial Institutions, and Professional Registration

Mark Sagat, Government Relations Analyst and Counsel, National Association of Insurance Commissioners

North Carolina Department of the Secretary of State, Securities Division

Deborah House, Director of Policy, North American Securities Administrators Association

PRESENTERS

Mortgage Servicing and Foreclosure Issues

- *John Walsh, Acting Comptroller of the Currency*
- *Thomas Perelli, Associate Attorney General, Department of Justice*
- *David Stevens, Assistant Secretary for Housing and Commissioner of the Federal Housing Administration (FHA), Department of Housing and Urban Development*
- *William Haraf, Commissioner of the California Department of Financial Institutions*
- *Scott Alvarez, General Counsel, Federal Reserve*
- *Michael Alix, Senior Vice President, Federal Reserve Bank of New York*
- *Mario Ugoletti, Special Advisor to the Director, FHFA*

Systemic Risk Monitoring Process

- *Nellie Liang, Director, Office of Financial Stability Policy and Research, Federal Reserve*
- *Arthur Murton, Director, Division of Insurance and Research, FDIC*
- *Ricardo Delfin, Special Counsel to the Chairman, SEC*
- *Cyrus Amir-Mokri, Senior Counsel to the Chairman, CFTC*

Section 619 Study (Volcker Rule)

- *Mary Miller, Assistant Secretary for Financial Markets, Treasury*
- *Robert Cook, Director, Division of Trading and Markets, SEC*
- *Kurt Wilhelm, Director of the Financial Markets Group, OCC*

Designations of Financial Markets Utilities

- *Lance Auer, Deputy Assistant Secretary for Financial Institutions, Treasury*
- *Jason Cave, Deputy to the Chairman, FDIC*
- *Kieran Fallon, Associate General Counsel, Federal Reserve*

Section 622 Study (Concentration Limit)

- *Mark Van der Weide, Chief of Staff for Policy Supervision, Federal Reserve*
- *Robin Prager, Assistance Director of Research and Statistics, Federal Reserve*
- *Amias Gerety, Senior Advisor, Treasury*

Executive Session

Secretary Geithner called the executive session of the meeting of the Financial Stability Oversight Council (Council) to order at 1 p.m. (EDT). In his opening remarks, the Chairperson complimented the staff on its hard work in completing the statutorily-mandated studies on time and in preparing the other materials for the Council's consideration.

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) an update on mortgage servicing and foreclosure issues; (2) an update on systemic risk monitoring; (3) consideration of, and vote on, the study required by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("DFA") (Volcker Rule); (4) consideration of, and vote on, the study required by section 622 of DFA (concentration limit); (5) consideration of, and vote on, publication of a Notice of Proposed Rulemaking (NPR) regarding designation of nonbank financial companies for heightened supervision; and, (6) consideration of, and vote on, the minutes from the November 23, 2010 meeting. The Chairperson indicated that the first two items on the agenda would be discussed in the executive session and that a mortgage servicing and foreclosure issues update would also be provided in the open session as would consideration of, and votes on, the studies and minutes.

1. Discussion of Mortgage Servicing and Foreclosure Issues

The Chairperson turned to the agenda item regarding an update of mortgage servicing and foreclosure issues and asked for an update from the following: John Walsh, Acting Comptroller of the Currency, Thomas Perelli, Associate Attorney General, Department of Justice, David Stevens, Assistant Secretary for Housing and Commissioner of the FHA, Department of Housing and Urban Development, William Haraf, Commissioner of the California Department of Financial Institutions, Scott Alvarez, General Counsel, Federal Reserve, Michael Alix, Senior Vice President, Federal Reserve Bank of New York, and Mario Ugoletti, Special Advisor to the Director, FHFA.

The individuals listed above provided presentations concerning: (1) the mortgage processing and the foreclosure process including related examinations and investigations; (2) the potential impact of mortgage put backs to financial institutions; (3) issues related to securitization trusts; and (4) disclosure obligations of financial institutions and servicers. The members of the Council asked questions and discussed the mortgage servicing and foreclosure issues.

2. Systemic risk monitoring

The Chairperson then turned to the agenda item regarding an update on the work of Deputies Committee and the Systemic Risk Committee in developing a process for systemic risk monitoring. Members of the Council discussed the work of the Deputies Committee and the Systemic Risk Committee.

Open Session

The Chairperson called the open session of the meeting of the Council to order at 2:05 p.m. (EDT). The Chairperson presented three resolutions for consideration by the Council.

1. Discussion and Vote on Resolution Approving the Study and Recommendations Required by Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Volcker Rule)

The Chairperson recognized Mary Miller to give a presentation on the key issues raised in public comments and the recommendations contained in the study. After Ms. Miller's presentation, the Chairperson presented to the Council the following resolution approving the Study and Recommendations.

“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 Council published a “Notice and Request for Information” on October 6, 2010 seeking public comment on the implementation of the Volcker Rule; and

WHEREAS, staff from the Council Agencies reviewed the public comments received in response to the “Notice and Request for Information;” and

WHEREAS, staff from the Council Agencies developed the attached study and recommendations pursuant to section 619 of the DFA.

NOW, THEREFORE, BE IT RESOLVED, that the Council hereby approves the attached study and recommendations prepared under the provisions of section 619 of the DFA and authorizes the Chairperson, or his designee, to take such action as necessary to transmit formally the attached study and recommendations to the chairmen and ranking members of the House of Representatives Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs and to such other committees of the Congress of the United States as appropriate and to make the study and recommendations available to the public.

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 study and recommendations and to take such other actions as necessary to prepare the study and recommendations for release to the Congress and to the public.”

The Chairperson asked for a motion approving the resolution which was made by Chairman Gensler and seconded by Chairman Matz. The Council then approved the resolution by unanimous voice vote.

2. Discussion and Vote on Resolution Approving the Study and Recommendations Required by Section 622 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Concentration Limit)

The Chairperson recognized Robin Prager to give a presentation on the key issues raised in public comments and the recommendations contained in the study. After their presentation, the Chairperson presented to the Council the following resolution approving the Study and Recommendations.

“WHEREAS, the Financial Stability Oversight Council (the “Council”) under the provisions of section 622 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “DFA”) is required to study and make recommendations on implementing the section 622 provisions; and

WHEREAS, section 622 of the DFA generally prohibits a financial company from merging or consolidating with, or acquiring, another company if the resulting company’s consolidated liabilities would exceed 10 percent of the aggregate consolidated liabilities of all financial companies; and

WHEREAS, staff from the Council Agencies developed the attached study and recommendations pursuant to section 622 of the DFA; and

WHEREAS, staff from the Council Agencies recommend that the Council approve the attached study and recommendations.

NOW, THEREFORE, BE IT RESOLVED, that the Council approves the attached study and recommendations prepared under the provisions of section 622 of the DFA and authorizes the Chairperson, or his designee, to take such action as necessary to transmit formally the attached study and recommendations to the chairmen and ranking members of the House of Representatives Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs and to such other committees of the Congress of the United States as appropriate and to otherwise make it available to the public as the Chairperson deems appropriate; and

BE IT FURTHER RESOLVED, that the Council hereby authorizes the Chairperson, or his designee, to publish the recommendations in the Federal Register for the purpose of seeking public comment on such recommendations, and to take such other actions and issue such other documents incident and related to the foregoing as the Chairperson, or his designee, deems

necessary or appropriate to fulfill the Council's objectives in connection with its publication; and,

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 study and recommendations and to take such other actions as necessary to prepare the study and recommendations for release to the Congress and the public.”

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

3. Resolution approving the publication of a notice of proposed rulemaking regarding designations of nonbank financial companies

The Chairperson recognized Lance Auer to provide a presentation on the major components of the Notice of Proposed Rulemaking including changes that were made to address the key issues raised in the comment letters. After Mr. Auer’s presentation, the Chairperson presented to the Council the following resolution approving publication of the Notice of Proposed Rulemaking.

“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 be 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, the Council published an advance notice of proposed rulemaking (“ANPR”) on October 6, 2010, through which it sought public comment to gather information in developing the criteria and analytical framework by which it will consider designating nonbank financial companies for enhanced supervision under the DFA; and

WHEREAS, the staffs of the Council Agencies have reviewed the public comments received in response to the ANPR and have prepared a notice of proposed rulemaking (“NPR”) that, consistent with the DFA, describes the criteria that will inform the Council’s designation of nonbank financial companies for enhanced supervision under the DFA and sets forth the process for the Council’s consideration of such designations; and

WHEREAS, staff from the Council Agencies recommend that the Council approve the attached NPR and publish it as set forth in the attached Federal Register document.

NOW, THEREFORE, BE IT RESOLVED, that the Council hereby approves the NPR and authorizes the Chairperson, or his designee, to cause the attached NPR to be published in the Federal Register, in a form and manner acceptable to the Chairperson, or his designee, and to otherwise make it available to the public as the Chairperson deems appropriate.

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 the attached NPR in the Federal Register, and to take such other actions and issue such other documents incident and related to the foregoing as the Chairperson, or his designee, deems 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 by Chairperson Bair and seconded by Chairman Schapiro. The Council then approved the resolution by unanimous voice vote.

The Chairperson then recognized Acting Comptroller Walsh to provide an update on the mortgage servicing and foreclosure issues. After the update on the mortgage servicing and foreclosure issues, the Chairperson presented a fourth resolution approving the minutes for the November 23, 2010 meeting for consideration by the Council.

4. Resolution approving the minutes of the November 23, 2010 meeting

“BE IT RESOLVED, by the Financial Stability Oversight Council (the “Council”) that the minutes attached hereto of the November 23, 2010 meeting of the Council are hereby approved”.

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

The Chairperson then asked for a motion to adjourn the meeting which was made by Chairman Gensler. The Chairperson adjourned the meeting at approximately 2:50 p.m. (EDT).