Minutes of the Financial Stability Oversight Council

March 26, 2020

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)
Jelena McWilliams, Chairman, Federal Deposit Insurance Corporation (FDIC)
Jay Clayton, Chairman, Securities and Exchange Commission (SEC)
Heath P. Tarbert, Chairman, Commodity Futures Trading Commission (CFTC)
Kathleen Kraninger, Director, Consumer Financial Protection Bureau (CFPB)
Mark Calabria, Director, Federal Housing Finance Agency (FHFA)
Joseph Otting, Comptroller of the Currency, Office of the Comptroller of the Currency (OCC)
Rodney Hood, Chairman, National Credit Union Administration (NCUA)
Thomas E. Workman, Independent Member with Insurance Expertise
Dino Falaschetti, 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)
Eric Cioppa, Superintendent, Maine Bureau of Insurance (non-voting member)
Melanie Lubin, Securities Commissioner, Maryland Office of the Attorney General, Securities Division (non-voting member)

GUESTS:

Department of the Treasury (Treasury)
Justin Muzinich, Deputy Secretary of the Treasury
Brent McIntosh, Under Secretary for International Affairs
Bimal Patel, Assistant Secretary for Financial Institutions
Howard Adler, Deputy Assistant Secretary for the Council
Eric Froman, Assistant General Counsel (Banking and Finance)
Stephen Ledbetter, Director of Policy, Office of the Financial Stability Oversight Council, and Executive Director of the Council

Board of Governors of the Federal Reserve System
Randal Quarles, Vice Chairman for Supervision
Andreas Lehnert, Director, Division of Financial Stability

Federal Deposit Insurance Corporation
Travis Hill, Deputy to the Chairman for Policy

Securities and Exchange Commission
Jeffrey Dinwoodie, Chief Counsel/Senior Policy Advisor for Market and Activities-Based Risk

Commodity Futures Trading Commission
Jaime Klima, Chief of Staff and Chief Operating Officer

Consumer Financial Protection Bureau
Thomas Pahl, Policy Associate Director

Federal Housing Finance Agency
Sandra Thompson, Deputy Director, Division of Housing Mission and Goals
John Roscoe, Chief of Staff, Office of the Director

Comptroller of the Currency
Jonathan Fink, Assistant Chief Counsel

National Credit Union Administration
Andrew Leventis, Chief Economist

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

Federal Reserve Bank of New York
John Williams, President and Chief Executive Officer
Daleep Singh, Executive Vice-President and Head of the Markets Group

Office of Financial Research
Alexander Pollock, Principal Deputy Director for Research and Analysis

Federal Insurance Office
Bruce Saul, Senior Insurance Regulatory Policy Analyst

Texas Department of Banking
Michael Townsley, Policy Counsel, Conference of State Bank Supervisors (CSBS)

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

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

PRESENTERS:

Nonbank Mortgage Origination and Servicing Update

- *Stephen Ledbetter, Director of Policy, Office of the Financial Stability Oversight Council, and Executive Director of the Council, Treasury*
- *Kevin Silva, Manager, Enterprise Risk Metrics, FHFA (available for questions)*
- *Karen Pence, Deputy Associate Director, Research and Statistics, Federal Reserve (available for questions)*
- *Chuck Cross, Senior Vice President, Nonbank Supervision and Enforcement, CSBS (available for questions)*

Executive Session

The Chairperson called the executive session of the meeting of the Council to order at approximately 2:35 P.M. The Council convened by conference call.

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 of the meeting included COVID-19 and an update on nonbank mortgage origination and servicing.

1. COVID-19

The Chairperson then introduced the first agenda item, Coronavirus Disease 2019 (COVID-19). He noted the health risks for certain segments of the population, and asked Council members to advise on recent developments.

Members of the Council then had a discussion regarding their regulatory and supervisory activities and developments related to financial markets and institutions. Council members described their interagency collaboration and issues including loan modifications, small-dollar lending, the temporary suspension of accounting principles related to troubled debt restructuring, and the deferment of the implementation of the current expected credit losses accounting methodology. Regulators also described their market-monitoring efforts, impacts on regulated entities, and the importance of keeping financial markets open. In addition, regulators discussed impacts on the housing finance market, efforts to provide relief to borrowers and consumers, and certain areas of market stress, including nonbank mortgage servicing.

2. Nonbank Mortgage Origination and Servicing Update

The Chairperson then introduced the next agenda item, an update on nonbank mortgage origination and servicing. The Chairperson introduced Stephen Ledbetter, Director of Policy in the Office of the Financial Stability Oversight Council and Executive Director of the Council at Treasury; Kevin Silva, Manager of Enterprise Risk Metrics at the FHFA; Karen Pence, Deputy Associate Director of the Division of Research and Statistics at the Federal Reserve; and Chuck Cross, Senior Vice President for Nonbank Supervision and Enforcement at the CSBS.

Mr. Silva began by explaining how staff had organized their analysis of potential risks related to nonbank mortgage origination and servicing. He then turned to Mr. Ledbetter, who described potential sources of stress for nonbank mortgage servicers. Mr. Ledbetter noted that mortgage forbearance or modification programs assist households but exacerbate liquidity strains on servicers. He noted that servicers could be required to write down the value of the mortgage servicing rights in certain circumstances, which could lead to margin calls for the nonbanks. He also noted the difficulty of hedging risks due to interest rate volatility. He then described certain policy options that had been proposed to support nonbanks, such as actions to reduce operational concerns, increase liquidity, and provide regulatory relief.

The Chairperson then stated that he was convening a Council task force on nonbank mortgage liquidity, for a meeting the following week. Council members then discussed potential risks and regulatory responses related to nonbank mortgage origination and servicing.

The Chairperson adjourned the executive session of the meeting at approximately 3:14 P.M.

Public Session

The Chairperson called the open session of the meeting of the Council by conference call to order at approximately 3:23 P.M.

The Chairperson outlined the agenda for the open session, which included (1) COVID-19, and (2) a vote on the minutes of the Council's meeting on December 4, 2019.

1. COVID-19

The Chairperson then introduced the first agenda item, COVID-19. The Chairperson thanked the members of the Council for their recent engagement in an unprecedented economic time, as the country closed down significant parts of the economy due to the COVID-19 outbreak. The Chairperson stated that the outbreak was not like a financial crisis, but rather was a specific issue for which the country had shut down major parts of the economy, and he stated that he looked forward to health professionals making progress so that once COVID-19 was addressed, the economy could reopen. The Chairperson noted that the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) had been passed by the Senate by a vote of 96 to 0 on March 25. He stated that he looked forward to the House taking up the CARES Act on the following day and passing it.

The Chairperson stated that the CARES Act focused on protecting American workers and American businesses. He noted that the combination of the small business lending program, the tax credit program, and the enhanced unemployment insurance was meant to protect American workers. He stated that the CARES Act would provide Treasury with $500 billion that it could use for a combination of direct loans and working with the Federal Reserve on facilities under section 13(3) of the Federal Reserve Act. He stated that before the legislation was passed, Treasury had used funds available in its Exchange Stabilization Fund, and that he had given the Federal Reserve his approval of facilities under section 13(3). The Chairperson stated that those efforts were having an immediate impact in helping American workers and American businesses. He also noted that the CARES Act provided over $100 billion for hospitals and $150 billion for states. In closing, he stated that the Council provided an important forum as officials confronted a unique situation. The Chairperson called on other Council members to provide comments on the COVID-19 response.

Jerome Powell, Chairman of the Federal Reserve, stated that the country was facing an unprecedented situation, and the Federal Reserve's foremost concern was the human toll for those stricken by the virus. He stated that the Federal Reserve had taken aggressive actions in a multifaceted and collaborative response across public and private sector institutions. Chairman Powell noted that the Federal Reserve's first priority was using its tools to support households and businesses and see that they have access to the financial resources they need. He stated that the Federal Reserve had taken steps to increase both the availability of credit and the capacity to lend. He noted that the Federal Reserve had lowered the federal funds rate to close to zero, which he stated will make loans more accessible and affordable. Chairman Powell stated that the Federal Reserve expected to keep the rate there until the Federal Reserve was confident the economy had weathered recent events and was on track to achieve the Federal Reserve's goals of maximum employment and price stability. He stated that the Federal Reserve had taken steps to increase liquidity in financial markets and encourage lending, in collaboration with Treasury. Chairman Powell stated that the Federal Reserve had eased the terms on which banks could borrow from the Federal Reserve and was working with central banks around the world to ensure the dollar funding markets are working.

Finally, Chairman Powell noted that the Federal Reserve announced actions on March 23 to support the flow of credit to households and businesses. He stated that the Federal Open Market Committee would purchase Treasury securities and agency mortgage-backed securities (MBS) in the amounts needed to support the smooth functioning of those markets. He noted that the Federal Reserve was working on a Main Street business lending program to support lending to small and medium-sized businesses that would complement the Small Business Administration provisions of the CARES Act. Chairman Powell stated that the Federal Reserve was committed to using all of its tools to safeguard the economy and serve the American public.

Jay Clayton, Chairman of the SEC, stated that SEC staff was focused on two overriding issues—first, that the unprecedented health and safety crisis had required all Americans to significantly change their behavior, including behavior at financial institutions, and second, that the continuing orderly operation of credit and other capital markets was an essential factor in driving an effective health and safety response to COVID-19. Chairman Clayton noted that many industries depended on the continuing provision and receipt of capital and credit and the flow of capital more generally. He stated that the SEC had focused on the continued orderly functioning of securities markets. He noted that the SEC had worked with market participants to ensure their business continuity plans were consistent with state and local health directives and other measures, as well as the continued orderly operation of markets and regulatory safeguards, including investor protection.

Chairman Clayton stated that—in part due to coordination and collaboration among regulators—the securities exchanges, central clearing facilities, and other critical market infrastructure had functioned in an orderly manner as market participants had transitioned to business continuity plans. He noted that this had been accomplished in a period of record volatility and capital flows. He stated that this continued flow of capital greatly reduced the possibility that the unprecedented exogenous shock to the U.S. economy would transition to a systemic financial risk. Chairman Clayton stated that SEC staff had also continued its focus on Main Street investors and investor protection, as well as market integrity and cyber security.

Heath Tarbert, Chairman of the CFTC, highlighted steps the CFTC was taking in response to the outbreak. He stated that the CFTC was monitoring derivatives markets, in contact with trading venues, and checking on the financial resources and operational status of key market participants. He noted that the CFTC was focused on clearinghouses, through which trades were margined and settled. Chairman Tarbert stated that market infrastructures continued to operate seamlessly. He stated that clearinghouses had issued, and brokers and dealers had met, margin calls occurring multiple times each day. He noted that the value of investments may have dropped significantly, but that the markets had not frozen as some did in 2008. Chairman Tarbert stated that the CFTC was granting targeted relief. He noted that social distancing had created hurdles to complying with regulatory requirements. For instance, he stated that teleworking traders may not have access to recorded phone lines which the CFTC otherwise requires when brokers take customer orders by phone. Chairman Tarbert stated that the previous week, the CFTC had issued nine no-action letters to provide temporary relief from those kinds of recordkeeping and operational requirements. He stated that in addition, the CFTC had extended temporary margin relief for market participants with the smallest uncleared swaps portfolios. He noted that the CFTC continued to encourage registrants to identify additional potential relief that the CFTC could provide.

Finally, Chairman Tarbert stated that the coronavirus pandemic had led to one of the most volatile periods the derivatives markets had ever experienced. He noted that the number of futures, options, and swaps contracts and trades had surged to an all-time high. Chairman Tarbert stated that rather than amplifying risks, however, the U.S. derivatives markets so far had acted as shock absorbers to this volatility.

Jelena McWilliams, Chairman of the FDIC, stated that the spread of COVID-19 had impacted the U.S. economy and had increased volatility in global financial markets. She underscored that U.S. banks and FDIC-insured deposits were safe, and that this crisis did not originate in banks. She stated that banks were well-positioned to deliver capital and liquidity to communities across the United States. She noted that the FDIC was working with other financial regulators to provide flexibility to banks and customers. Chairman McWilliams stated that the brunt of the economic impact was going to fall on consumers, small businesses, independent contractors, low-income borrowers, and hourly workers. She stated that the FDIC had taken several regulatory actions to provide banks with more flexibility to deploy capital to these borrowers and to the broader economy. Chairman McWilliams stated that the FDIC had encouraged banks to work with borrowers. She noted that the FDIC would continue to closely monitor the economic health and well-being of financial markets, the banking industry, and consumers.

Lastly, Chairman McWilliams warned the public about misinformation regarding the safety of bank deposits and the ability of consumers to access cash. She stated that consumers should have heightened awareness of imposters pretending to be FDIC representatives, or anyone offering unsolicited financial advice.

Joseph Otting, Comptroller of the Currency, stated that the banks the OCC oversaw were open for business and that deposits in national banks and federal savings associations remained safe. He stated that the federal banking system was a source of strength for the national economy. Comptroller Otting stated that in the previous decade, banks had built capital and liquidity to historic highs. He stated that regulators had acted to provide banks greater flexibility to assist their customers. He noted that the OCC and other federal regulators had taken steps to ensure ample liquidity was available to meet customer demands and enable banks to use the temporary facilities that federal agencies set up to meet liquidity needs. He noted that the OCC had taken additional steps to ease pressure on short-term investment funds by authorizing banks to extend maturities on those funds in response to COVID-19. Comptroller Otting stated that the OCC had also joined federal and state bank regulators to provide information on loan modifications and troubled debt restructuring, making it clear that banks the OCC regulates would not be criticized for prudently working with customers affected by COVID-19, and regulators would not direct supervised institutions to automatically categorize loan modifications as troubled debt restructurings. Comptroller Otting stated that supporting customers included easing terms on new loans and modifying or restructuring existing borrower debt obligations because of temporary hardships. He stated that the OCC had also provided more incentive for banks to support community relief by temporarily expanding Community Reinvestment Act credit for retail lending, community development activities, and services that support communities in response to COVID-19.

Comptroller Otting stated that the OCC and other regulators would consider additional regulatory and supervisory actions to support the orderly functioning of banks. He stated the OCC continued to discuss other topics, including small-dollar lending, the current expected credit losses accounting methodology, and appraisals for commercial loans. He stated that banks also had the flexibility to adjust hours and provide alternative service options for their customers. Comptroller Otting stated that the OCC had also taken steps to ensure its continuity of operations. He noted that the OCC remained fully operational as staff members worked with national banks and federal savings associations.

Kathleen Kraninger, Director of the CFPB, stated that the CFPB was working to protect consumers in the financial services marketplace. She highlighted several efforts underway at the CFPB. First, Director Kraninger stated that the CFPB had provided guidance to financial institutions, lenders, and creditors, encouraging them to work with borrowers and customers affected by COVID-19. Director Kraninger recommended that consumers who may be facing financial difficulty contact their financial institutions to discuss their specific circumstances. She stated that, as a backstop, the CFPB was ready to help consumers resolve issues with their financial service providers through its consumer complaint system.

Second, Director Kraninger noted that the CFPB had engaged with stakeholders to ensure they were providing appropriate flexibilities to benefit consumers. She stated that the CFPB had announced temporary regulatory flexibility, for example, delaying reporting requirements with the goal of facilitating help to consumers. She stated that the CFPB would continue to provide further relief as needed. Third, Director Kraninger stated that the CFPB had launched a webpage for COVID-19 resources. She stated that there were a number of steps consumers could take.

She noted that the website information outlined steps to take, such as if consumers had trouble meeting their financial obligations, experienced a loss of income, or were targeted by a scammer. She stated that social isolation was an issue for older adults and could lead to a host of challenges, including an increased likelihood of falling for scams. Director Kraninger encouraged consumers to visit consumerfinance.gov.

Mark Calabria, Director of FHFA, stated that his agency had seen disruptions to both the primary and secondary mortgage markets from the coronavirus. He stated that in the primary market, FHFA continued to see bottlenecks, particularly in the origination process. Director Calabria stated that in the secondary market, liquidity in agency MBS had declined until the Federal Reserve intervened in that market, which brought stability to the market. He stated that FHFA had taken a number of important steps to provide both support to the market and relief for homeowners, renters, and multi-family property owners. Director Calabria commended the Department of Housing and Urban Development for the efforts at the Federal Housing Administration to align with many of the standards FHFA had put in place to bring relief.

Director Calabria stated that for those facing foreclosure before the coronavirus crisis, FHFA had directed the government-sponsored enterprises to suspend all foreclosures and evictions for at least 60 days. He noted that for homeowners struggling to pay their mortgages because of the loss of income or other coronavirus-related hardships, the enterprises were offering mortgage forbearance for up to 12 months. Director Calabria stated that for renters and multi-family properties struggling to pay rent because of the virus, FHFA had announced forbearance for property owners with enterprise-backed mortgages. He noted that FHFA would take steps to ensure that tenants will not be evicted while the owner of their multi-family property is in such a forbearance plan. He stated that FHFA had also directed the enterprises to streamline appraisal and employment verification requirements for 90 days in order to allow the mortgage process to work while allowing social distancing to occur. Director Calabria noted that the Federal Home Loan Banks continued to provide advance support for liquidity to their members.

Rodney Hood, Chairman of the NCUA, provided an update on the NCUA's activities. He stated that the nation's credit union system was liquid and well-capitalized. Chairman Hood noted that all deposits at federally insured credit unions were protected by the National Credit Union Share Insurance Fund, with deposits insured up to at least $250,000 per depositor. Chairman Hood stated that on March 16, NCUA had released its first letter to credit unions on actions related to COVID-19. He noted that the letter encouraged credit unions to work with affected members by reminding them of the options they could consider in providing financial relief and greater access to credit for their members. He stated that the letter included other specific recommendations for credit unions to help consumers, including offering or expanding small dollar loan products; offering payment accommodations, such as allowing borrowers to defer or skip payments or extending the payment due dates; and easing credit terms for new loans. He stated that the letter also emphasized the prudent efforts that credit unions could take to adjust or alter terms on existing loans in affected areas, which would not be subject to examiner criticism. Chairman Hood noted that the NCUA's public website launched a page of COVID-19 resources. He concluded by stating that the credit union system would continue to meet the financial services needs of its members.

Dino Falaschetti, Director of the OFR, stated that Congress established the OFR to support the Council and its members with data and research to help better gauge and understand complex risks to financial stability. He noted that the OFR monitored and analyzed developments that helped measure stress in financial markets and organizations, while looking to clarify the causes and extent of vulnerabilities. He stated that recent extreme volatility in equity markets and increasing credit market disruptions contributed to the current challenge. Director Falaschetti stated that the OFR's financial stress index provided a daily market-based snapshot of stress in global financial markets. He stated that this index had risen sharply since earlier that month. He noted that while elevated, the level remained well below the highest levels seen in the 2008 financial crisis. Director Falaschetti stated that as COVID-19 disruptions evolved, the OFR would continue to further its contributions, the inter-agency analyses, and information exchanges. He concluded by stating that the OFR would monitor, analyze, and share what it saw with its Council colleagues, while highlighting and delivering on recommendations and requests for data and analysis.

Charles Cooper, Commissioner of the Texas Department of Banking, stated that state banking regulators were working with governors and state emergency management to ensure that banking and other financial service providers were treated as essential services. Commissioner Cooper stated that banks were facing logistical and practical issues resulting from efforts to contain the virus. He noted that the work of state banking regulators was focused on supporting their regulated banks' work with customers affected by the crisis. He stated that, at the same time, regulators were working with banks seeking options for maintaining their operations. He noted that state regulators also oversaw a range of nonbank financial service providers, such as mortgage companies and money service businesses. He stated that state banking regulators were working with those businesses also. He concluded by stating that state banking regulators were working closely with their regulated institutions and federal counterparts.

Eric Cioppa, Superintendent of the Maine Bureau of Insurance, stated that state insurance regulators were engaged in heightened monitoring of the insurance sector and continued to assess the impact of COVID-19 on various types of insurance, individual companies, and the sector as a whole. He noted that regulators were in ongoing communication with companies to evaluate any financial impact on insurers. He stated that the insurance business model and its regulatory regime were designed to manage risk and required insurers to prepare for severe events. Superintendent Cioppa stated that leading up to the crisis, the sector was in a strong financial position and remained so. He stated that to the extent the country was able to flatten the curve of the virus, there would likely be few if any immediate solvency issues for the industry due to increases in insurance claims. He stated that, furthermore, all three insurance sectors (health, life, and property and casualty) had significant holdings of cash and marketable securities. He noted that much of the industry's exposure to equities was small. He stated that the largest asset class for insurers was bonds and that over 95 percent were in investment-grade securities. Superintendent Cioppa stated that while the industry may feel material impacts, insurance regulators would be monitoring the sector, in particular those companies that could have the greatest exposure. Superintendent Cioppa also described actions regulators had taken to help insurance consumers. He noted that some insurance policies contained conditions addressing whether losses related to a pandemic like COVID-19 were covered and that policyholders should examine their policies. He concluded that state insurance regulators would continue to coordinate on the COVID-19 response with federal agencies.

Melanie Lubin, Securities Commissioner in the Securities Division of the Maryland Office of the Attorney General, remarked that state securities regulators had been working to provide financial service professionals with the temporary relief needed to withstand challenges caused by the COVID-19 outbreak, while at the same time ensuring that investors were protected from fraud. She stated that over 30 states had taken steps to extend certain deadlines and provide temporary relief from a variety of requirements. Commissioner Lubin noted that the North American Securities Administrators Association (NASAA) had drafted a model emergency order for states to use to grant temporary relief from certain registration filing and form delivery requirements. She stated that state securities authorities remained focused on their mission to protect investors from fraud. Commissioner Lubin stated that regulators were diligently monitoring for fraudulent activities. She stated that both individual states and NASAA had issued investor advisories regarding potential fraud. Commissioner Lubin stated that state securities regulators recommended that investors perform due diligence on financial professionals by contacting their state securities regulator or searching on FINRA's BrokerCheck service or the Investment Adviser Public Disclosure website.

2. Resolution Approving the Minutes of the Meeting Held on December 4, 2019

BE IT RESOLVED, by the Financial Stability Oversight Council (the "Council"), that the minutes attached hereto of the meeting held on December 4, 2019 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.

3. Other Business

Before concluding the meeting, the Chairperson stated that in the coming weeks the Council would remain focused on the nonbank mortgage servicing business, particularly given the forbearance issues and liquidity issues this business sector may experience. He noted that he had asked several Council members to establish a task force to evaluate nonbank mortgage servicing issues related to the COVID-19 outbreak and report back to the Council the following week. In addition, the Chairperson noted the importance of keeping financial markets open. He stated that if market regulators determined that markets could not stay open full hours, regulators may consider limiting the trading hours, but he stated that their preference was to maintain normal market operations.

The Chairperson adjourned the meeting at approximately 4:04 P.M.