

Minutes of the Financial Stability Oversight Council

May 8, 2017

PRESENT:

Steven T. Mnuchin, Secretary of the Treasury and Chairperson of the Financial Stability Oversight Council (Council)
Janet Yellen, Chair, Board of Governors of the Federal Reserve System (Federal Reserve)
Martin J. Gruenberg, Chairperson, Federal Deposit Insurance Corporation (FDIC)
Jay Clayton, Chairman, Securities and Exchange Commission (SEC)
J. Christopher Giancarlo, Acting Chairman, Commodity Futures Trading Commission (CFTC)
Richard Cordray, Director, Consumer Financial Protection Bureau (CFPB)
Melvin Watt, Director, Federal Housing Finance Agency (FHFA)
Keith Noreika, Acting Comptroller of the Currency, Office of the Comptroller of the Currency (OCC)
J. Mark McWatters, Acting Chairman, National Credit Union Administration (NCUA) (by telephone)
S. Roy Woodall, Independent Member with Insurance Expertise
Richard Berner, Director, Office of Financial Research (OFR), Department of the Treasury (non-voting member)
Ray Grace, Commissioner, North Carolina Office of the Commissioner of Banks (non-voting member)
Peter Hartt, Director, Insurance Division, New Jersey Department of Banking & 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)

Craig Phillips, Counselor to the Secretary
Brian Callanan, Acting General Counsel
David Lebryk, Fiscal Assistant Secretary
Bimal Patel, Deputy Assistant Secretary for the Council
Eric Froman, Principal Deputy Assistant General Counsel (Banking and Finance) and Executive Director of the Council

Board of Governors of the Federal Reserve System

Andreas Lehnert, Director, Division of Financial Stability

Federal Deposit Insurance Corporation

Jason Cave, Special Advisor to the Chairman for Supervisory Matters

Securities and Exchange Commission

Richard Grant, Co-Chief of Staff

Commodity Futures Trading Commission

Richard Danker, Special Advisor

Consumer Financial Protection Bureau

Ron Borzekowski, Assistant Director for Research

Federal Housing Finance Agency

Sandra Thompson, Deputy Director, Division of Housing Mission and Goals

Comptroller of the Currency

Grace Dailey, Senior Deputy Comptroller for Bank Supervision Policy and Chief National Bank Examiner (by telephone)

National Credit Union Administration

Ralph Monaco, Chief Economist

Office of the Independent Member with Insurance Expertise

Diane Fraser, Senior Policy Advisor

Office of Financial Research

Matthew Reed, Chief Counsel

Federal Insurance Office

Steven Seitz, Deputy Director

North Carolina Office of the Commissioner of Banks

Margaret Liu, Senior Vice President and Deputy General Counsel, Conference of State Bank Supervisors

New Jersey Department of Banking & Insurance

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

Maryland Office of the Attorney General, Securities Division

Zachary Knepper, Deputy General Counsel, North American Securities Administrators Association

PRESENTERS:

Presidential Memorandum on Council Designations

- *Bimal Patel, Deputy Assistant Secretary for the Council, Treasury*
- *Craig Phillips, Counselor to the Secretary, Treasury (available for questions)*
- *Eric Froman, Principal Deputy Assistant General Counsel (Banking and Finance) and Executive Director of the Council, Treasury (available for questions)*

Update on Annual Reevaluation of Nonbank Financial Company Designation

- *Stephen Ledbetter, Director of Policy, Office of the Financial Stability Oversight Council, Treasury*
- *Eric Reinauer, Policy Advisor, Office of the Financial Stability Oversight Council, Treasury*
- *Eric Froman, Principal Deputy Assistant General Counsel (Banking and Finance) and Executive Director of the Council, Treasury (available for questions)*
- *Bruce Saul, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Treasury (available for questions)*

Interagency Regulatory Collaboration and the Presidential Executive Order on Core Principles for Regulating the U.S. Financial System

- *Craig Phillips, Counselor to the Secretary, Treasury*

Resolution Plans Update

- *Michael Gibson, Director, Division of Supervision and Regulation, Federal Reserve*
- *Arthur Murton, Director, Office of Complex Financial Institutions, FDIC*

Executive Session

The Chairperson called the executive session of the meeting of the Council to order at approximately 1:03 P.M. (EDT).

He began by welcoming Jay Clayton, Chairman of the SEC, and Keith Noreika, Acting Comptroller of the Currency, to their first Council meeting. He then outlined the meeting agenda, which had previously been distributed to the members together with other materials. The agenda for the meeting included the following subjects: (1) the presidential memorandum on Council designations; (2) an update on the annual reevaluation of a nonbank financial company designation; (3) interagency regulatory collaboration and the presidential executive order on core principles for regulating the U.S. financial system; (4) a resolution plans update; and (5) consideration of, and a vote on, a resolution approving the minutes of the Council's meeting on March 2, 2017.

1. Presidential Memorandum on Council Designations

The Chairperson then introduced the first agenda item, a presidential memorandum on Council designations. He introduced Bimal Patel, Deputy Assistant Secretary for the Council at Treasury, and Craig Phillips, Counselor to the Secretary at Treasury, who presented on Treasury's anticipated approach to responding to the presidential memorandum.

Mr. Patel explained that the presidential memorandum had been issued April 21, 2017, directing Treasury to review the Council's processes for designating nonbank financial companies and financial market utilities and to report to the President within 180 days. He noted that the presidential memorandum specifically called for a review of factors including the transparency of the processes, whether the Council should consider the costs of designation on the company, and whether the Council should assess the likelihood of the company's distress. He also noted

that the presidential memorandum directs Treasury to consider whether the Council's designations processes are consistent with the core principles for regulating the U.S. financial system set forth in the President's executive order issued February 3, 2017. He then described Treasury's anticipated process for its review under the presidential memorandum. He stated that as part of Treasury's development of its report under the presidential memorandum, Treasury would work with the Council member agencies as well as other stakeholders. He said that after Treasury submits the report to the President, Treasury would present the report to the Council and seek the implementation of its recommendations.

The Chairperson then asked Brian Callanan, Acting General Counsel at Treasury, to comment on the pending litigation relating to the Council's final determination regarding MetLife, Inc. Mr. Callanan described recent filings in the litigation. Council members then asked questions and had a discussion about potential next steps in the litigation. The Chairperson noted that the litigation is a separate process from the presidential memorandum on Council designations but that the relevant issues overlap.

2. Update on Annual Reevaluation of Nonbank Financial Company Designation

The Chairperson then introduced the next agenda item, an update on the annual reevaluation of a nonbank financial company that the Council had previously designated under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Chairperson introduced Stephen Ledbetter, Director of Policy in the Office of the Financial Stability Oversight Council at Treasury; Eric Reinauer, Policy Advisor in the Office of the Financial Stability Oversight Council at Treasury; and Bruce Saul, Senior Insurance Regulatory Policy Analyst in the Federal Insurance Office at Treasury. Chairman Clayton recused himself from participating in the discussion.

Mr. Ledbetter explained that the Council is required at least annually to reevaluate each of its nonbank financial company determinations and rescind any determination if the Council determines that the company no longer meets the statutory standards for a determination. He then described the Council's engagement with the nonbank financial company under review. He also provided a brief corporate overview of the company.

Mr. Reinauer then described the preliminary staff analysis with respect to the three transmission channels through which the Council assesses the potential for material financial distress at a nonbank financial company to pose a threat to financial stability. Together with Mr. Ledbetter, he described factors relating to the exposures of customers, counterparties, and other market participants to the company, and the potential for forced asset liquidations by the company. They also highlighted gaps in data available to the Council.

Council members then asked questions and had a discussion, including regarding potential asset liquidation risks identified in the preliminary analysis and potential mitigants to those risks.

Mr. Reinauer then described potential risks related to critical functions or services provided by the company, including the company's market share in key markets. The presenters then described the preliminary analysis related to the company's resolvability and complexity and

certain market-based risk metrics that provide estimates of a firm's importance to the financial system.

Members of the Council then asked questions and had a discussion, including regarding the timing for completing the review of the company.

3. Interagency Regulatory Collaboration and the Presidential Executive Order on Core Principles for Regulating the U.S. Financial System

The Chairperson then introduced the next agenda item, a discussion regarding interagency regulatory collaboration and the presidential executive order on core principles for regulating the U.S. financial system, issued February 3, 2017. The Chairperson then introduced Craig Phillips, Counselor to the Secretary at Treasury.

Mr. Phillips thanked the Council member agencies for their engagement with Treasury regarding its review under the executive order. He also noted that Treasury had hosted numerous stakeholder roundtables and received written submissions. He explained that Treasury would issue four separate reports under the executive order. He stated that the first report would cover the banking sector, and subsequent reports would address capital markets and derivatives; asset management and insurance; and nonbank financial institutions and financial innovation. He also noted that, pursuant to two presidential memoranda issued on April 21, 2017, Treasury would also prepare reports on the orderly liquidation authority under Title II of the Dodd-Frank Act and the Council's designation processes for nonbank financial companies and financial market utilities.

Mr. Phillips then described areas of focus for the first report to be issued under the executive order, including regulatory fragmentation and overlap; regulatory burden; opportunities to improve market liquidity; and improving access to credit.

Mr. Phillips then highlighted the Volcker Rule as an opportunity for regulatory coordination. He noted the importance of coordination among the five agencies responsible for implementing the Volcker Rule, and stated that the Council could help promote regulatory harmonization. He also described potential concerns with the effectiveness and efficacy of the Volcker Rule. In particular, he noted the potential for improved tailoring of the rule for smaller institutions, clarifying the rule's definition of "proprietary trading," improving the rule's exemptions for market-making and risk-mitigating hedging activities, and enhancing the rule's definition of "covered fund."

Members of the Council then asked questions and had a discussion, including regarding definitions of key terms under the Volcker Rule, Treasury's proposed process for helping coordinate the Council member agencies responsible for implementing the Volcker Rule, and the benefits of coordination among the relevant agencies on this issue.

The Chairperson then asked J. Christopher Giancarlo, Acting Chairman of the CFTC, to provide an update on the CFTC's efforts to solicit public input on a review of its rules. Acting Chairman Giancarlo described the CFTC's "Project KISS," which stands for "keep it simple, stupid." He

explained that the CFTC is reviewing whether it can make its existing rules, such as reporting requirements, simpler and less costly.

4. Resolution Plans Update

The Chairperson then introduced the next agenda item, an update related to bank holding companies' resolution plans. He introduced Michael Gibson, Director of the Division of Supervision and Regulation at the Federal Reserve, and Arthur Murton, Director of the Office of Complex Financial Institutions at the FDIC.

Mr. Gibson provided background regarding the resolution plan process. He noted that before the financial crisis, large financial institutions were not required to consider how they might be resolved or the risks arising from their potential resolution. He stated that this was a significant contributor to instability during the financial crisis. He said that the resolution plan requirement in the Dodd-Frank Act, together with other regulatory changes since the financial crisis, had made financial institutions stronger. The Dodd-Frank Act requires all bank holding companies with total consolidated assets of \$50 billion or more and nonbank financial companies designated by the Council for supervision by the Federal Reserve to submit plans periodically for their rapid and orderly resolution under the U.S. Bankruptcy Code in the event of their material financial distress or failure. Mr. Gibson noted that the Federal Reserve and FDIC review resolution plans jointly. He explained that the resolution plan process has evolved to focus less on the assumptions and scenarios in the resolution plans and more on issues relating to the firms themselves, such as changes to their structure. He stated that as part of their review of resolution plans, the Federal Reserve and FDIC also consider options firms would have in the event of their resolution. He noted that the agencies have released public guidance regarding resolution plans, participated in many meetings with firms subject to the resolution plan requirement, and released frequently asked questions regarding the process. He then described changes that firms have made to make themselves more resolvable.

Mr. Murton then provided an update regarding the resolution plans of 12 banking organizations, including eight U.S. global systemically important banks and four foreign banking organizations. He noted that these 12 banking organizations had filed resolution plans in July 2015, and that the Federal Reserve and FDIC had provided them with feedback in April 2016. He noted that the agencies had issued joint notices of deficiencies to five of the banking organizations but that each of the five had subsequently remedied the deficiencies. He noted, however, that the Federal Reserve and FDIC had identified shortcomings in the plans, and that the agencies had publicly issued guidance regarding how banking organizations could remedy shortcomings. While material deficiencies result in a resolution plan being "not credible," shortcomings alone do not result in a determination that the plan is not credible. He explained that updated resolution plans were due from U.S. banking organizations in July 2017 and from foreign banking organizations in July 2018. He stated that the resolution plans could become more integrated into the agencies' supervisory process over time. He also noted that the portions of the resolution plans that are publicly released have become more useful to outside parties over time. He also discussed the frequency of banking organizations' resolution plan submissions.

5. Resolution Approving the Minutes of the Meeting Held on March 2, 2017

“BE IT RESOLVED, by the Financial Stability Oversight Council (the “Council”), that the minutes attached hereto of the meeting held on March 2, 2017, 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 2:34 P.M. (EDT).