

Minutes of the Financial Stability Oversight Council

November 16, 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) (by telephone)
J. Christopher Giancarlo, Chairman, Commodity Futures Trading Commission (CFTC) (by telephone)
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, Chairman, National Credit Union Administration (NCUA)
S. Roy Woodall, Independent Member with Insurance Expertise
Richard Berner, Director, Office of Financial Research (OFR), Department of the Treasury (non-voting member) (by telephone)
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, Deputy General Counsel
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

Randal Quarles, Vice Chairman for Supervision
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

Jaime Klima, Chief Counsel

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

National Credit Union Administration

Ralph Monaco, Chief Economist

Office of the Independent Member with Insurance Expertise

Diane Fraser, Senior Policy Advisor

Federal Reserve Bank of New York

William Dudley, President and Chief Executive Officer (by telephone)

Office of Financial Research

Stacey Schreft, Deputy Director for Research and Analysis

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

Christopher Staley, Counsel, North American Securities Administrators Association

PRESENTERS:

Update on 2017 Annual Report

- *Bimal Patel, Deputy Assistant Secretary for the Council, Treasury*
- *Stephen Ledbetter, Director of Policy, Office of the Financial Stability Oversight Council, Treasury*

Alternative Reference Rates Committee and Bilateral Repurchase Agreement Data Collection Update

- *David Bowman, Special Advisor to the Board of Governors, Federal Reserve*
- *Stacey Schreft, Deputy Director for Research and Analysis, OFR*

Executive Session

The Chairperson called the executive session of the meeting of the Council to order at approximately 3:11 P.M.

The Chairperson began by acknowledging the recent announcement by Richard Cordray, Director of the CFPB, that he intended to resign from the CFPB, and thanked him for his service. He also thanked Keith Noreika, Acting Comptroller of the Currency, for his service. He then outlined 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 the Council's 2017 annual report.

1. 2017 Annual Report

The Chairperson then introduced the first agenda item, the Council's 2017 annual report, and turned to Bimal Patel, Deputy Assistant Secretary for the Council at Treasury, and Stephen Ledbetter, Director of Policy in the Office of the Financial Stability Oversight Council at Treasury.

Mr. Patel first provided an overview of the process for developing the Council's annual report. He stated that it was a collaborative process and that interagency discussions regarding the draft had been positive. He then described the structure of the report, which includes a signed statement by Council members, Council recommendations, descriptions of financial and regulatory developments, and a discussion of potential emerging threats and vulnerabilities. Messrs. Patel and Ledbetter then elaborated on recommendations that may be included in the report and potential emerging threats and vulnerabilities to financial stability that the report may identify.

Members of the Council then asked questions and had a discussion, including regarding the expected timeline for drafting the report, potential emerging threats to be identified in the report, and the recommendations that may be included in the report.

2. Other Business

The Chairperson then noted that Treasury would soon release a report on the Council's designation processes pursuant to a presidential memorandum issued on April 21, 2017. With respect to the pending litigation brought by MetLife against the Council relating to the Council's final determination regarding the company, the Chairperson requested other Council members' views regarding a proposal that the government ask the court to set a schedule for the parties to file briefs regarding the report. No Council members expressed opposition to that proposal.

Chairman Clayton recused himself from participating in the discussion.

The Chairperson then turned to Craig Phillips, Counselor to the Secretary at Treasury, to discuss the OFR. Mr. Phillips noted that Richard Berner, Director of the OFR, had recently announced his intention to depart the OFR. Director Berner thanked the Chairperson and the other Council members. Mr. Phillips then stated that Ken Phelan, Chief Risk Officer at Treasury, would fill in after Director Berner's departure, with the support of other Treasury and OFR staff. He noted that Treasury has studied the OFR and intends to focus on how the OFR can efficiently accomplish its mission. He stated that Treasury would seek input from other Council members regarding the OFR and how to calibrate it to the future of FSOC.

The Chairperson adjourned the executive session of the meeting at approximately 3:38 P.M.

Public Session

The Chairperson called the open session of the meeting of the Council to order at approximately 3:43 P.M.

The Chairperson began by noting that this was the first public meeting of the year and stated that the Council is an important venue for regulators to come together, discuss pressing issues affecting financial firms and markets, and collaborate on the best path forward. He stated that he intended to continue using the Council to help ensure that the financial regulatory system is effective and efficient, and he thanked the other Council members for their continued engagement.

The Chairperson then outlined the agenda for the open session, which included: (1) a vote on a Council regulation implementing the Freedom of Information Act; (2) votes on the minutes of the Council's meetings on September 22, 2017, and September 29, 2017; and (3) an update on the work of the Alternative Reference Rates Committee and efforts to collect bilateral repurchase agreement data.

1. Freedom of Information Act Regulations

The Chairperson introduced the first agenda item, a vote to approve revised Freedom of Information Act (FOIA) regulations for the Council. He noted that the previous year, Congress had adopted amendments to FOIA that required federal agencies to enact changes to their FOIA regulations. He stated that the previous November, the Council had issued an interim final rule reflecting those statutory requirements, and that the Council was now voting to approve a final rule. He remarked that this was an important piece of housekeeping to ensure that the Council's FOIA rules stay up to date.

The Chairperson then presented to the Council the following resolution approving the final rule:

WHEREAS, the Freedom of Information Act (the "FOIA") governs public access to federal agency records and requires each agency to publish implementing regulations; and

WHEREAS, the FOIA Improvement Act of 2016 requires all agencies to revise the regulations they have adopted to implement the FOIA; and

WHEREAS, on November 16, 2016, the Council approved an interim final rule that made the changes mandated by the FOIA Improvement Act of 2016 and certain other technical changes; and

WHEREAS, the staffs of Council members and their agencies have prepared a final rule that addresses comments received and makes certain additional technical changes; and

WHEREAS, the staffs of Council members and their agencies recommend that the Council approve the final rule and publish it as set forth in the attached Federal Register document.

NOW, THEREFORE, BE IT RESOLVED, that the Council hereby approves the final rule as presented and authorizes the Chairperson, or his designee, to cause the attached final rule 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 final rule to ensure that it can be published 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 and seconded. The Council approved the resolution by unanimous vote.

2. Resolutions Approving the Minutes of the Meetings Held on September 22, 2017, and September 29, 2017

BE IT RESOLVED, by the Financial Stability Oversight Council (the "Council"), that the minutes attached hereto of the meeting held on September 22, 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.

BE IT RESOLVED, by the Financial Stability Oversight Council (the "Council"), that the minutes attached hereto of the meeting held on September 29, 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.

3. Alternative Reference Rates Committee and Bilateral Repurchase Agreement Data Collection Update

The Chairman then introduced David Bowman, Special Advisor to the Board of Governors at the Federal Reserve, to provide an update on the work of the Alternative Reference Rates Committee (ARRC), and Stacey Schreft, Deputy Director for Research and Analysis at the OFR, to provide an update on the OFR's bilateral repurchase agreement (repo) data collection initiative.

Mr. Bowman began by noting that, although the Council has long endorsed the goal of strengthening the London Interbank Offered Rate (LIBOR), it has also warned of the potential risks of LIBOR and encouraged work aimed at identifying alternative rates and promoting their use where appropriate. He described how efforts to strengthen LIBOR had been hampered by the fact that there are very few transactions in the underlying wholesale funding markets that LIBOR is meant to represent. He noted that the United Kingdom's Financial Conduct Authority was seeking an agreement with banks on the LIBOR panel to stay on voluntarily through the end of 2021.

Mr. Bowman explained that the Federal Reserve had convened the ARRC in 2014 in cooperation with Treasury, the CFTC, and the OFR to develop alternatives to the use of LIBOR, develop plans for the use of those alternatives, and recommend best practices for contract robustness. Mr. Bowman stated that in June 2017 the ARRC had selected a broad Treasury repo rate, the secured overnight financing rate (SOFR), as its recommended alternative to LIBOR. He said that SOFR will be published by the Federal Reserve Bank of New York in cooperation with the OFR beginning in the second quarter of 2018, including both tri-party and cleared bilateral repo transactions collateralized by Treasury securities. Mr. Bowman then discussed the characteristics of the rate compared to other market rates, and he said that the OFR's authority to collect data will help to ensure the stability of the rate's production and its ability to expand to incorporate new sources as warranted.

Mr. Bowman said that, given the magnitude of the transition that will be necessary if LIBOR does not continue, it would be prudent for market participants to consider the long-term prospects of the alternatives they use as a replacement for LIBOR. He explained that the current definition of LIBOR embedded in the documentation of the International Swaps and Derivatives Association (ISDA) specifies that agents should seek quotes from London or New York banks if LIBOR is not published, but he stated that it seems likely that banks would not be willing to quote a rate in that circumstance. He said that ISDA expects to update its definitions and offer a protocol to allow users to build more robust contract language into their legacy contracts, with the primary backup expected to be based on SOFR. He said that it will be important that the updated ISDA protocol be widely adopted once it is available.

Mr. Bowman said that the ARRC has also developed plans to promote the use of SOFR in derivatives, the goal being to develop a liquid derivatives market that would be the basis for developing a term reference rate by the end of 2021. He said that this plan and the work by ISDA have both centered on derivatives but that many cash instruments have fallback language similar to that in the ISDA definitions. He explained that ARRC is working to catalog these fallbacks and to develop strategies to address risks that they may pose. He stated that, in order to

aid in these efforts, the ARRC will expand its membership to incorporate a wider set of end users and trade groups into its work.

Mr. Bowman concluded by stating that the next four years will be crucial in ensuring that the ARRC's plans are able to materially lessen the risks to the U.S. financial system associated with LIBOR. He said that the ARRC will need the active engagement of all market participants in order to ensure that transitions can be safely implemented and that the ARRC will need the continued support of Council members.

Ms. Schreft then provided an update on the OFR's bilateral repo data collection initiative. She noted that for several years the Council has called for better insight and transparency into markets for securities financing transactions. She said the OFR intended to collect data in two stages. She stated that the first stage would involve data on cleared repo transactions, for which the OFR intended to issue a notice of proposed rulemaking in the first half of 2018. The second stage would cover data on uncleared bilateral repo transactions.

She said that the OFR's data collections would permit the monitoring of tenor and rates across a broad range of collateral and would help provide an understanding of the functioning of, and identify stress in, asset and funding markets. She said that the interest rate information to be collected on cleared bilateral repo transactions is critical to the production of the SOFR. She stated that the collection of data on uncleared bilateral repo transactions would ensure the availability of comprehensive data as financial markets evolve. She also noted that by shedding light on repo funding, these collections would support other Council initiatives, including by providing a better understanding of the liquidity of Treasury securities markets.

The Chairperson adjourned the meeting at approximately 4:01 P.M.