

FINANCIAL STABILITY OVERSIGHT COUNCIL INSURANCE
MEMBER CONTINUITY ACT

SEPTEMBER 5, 2017.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 3110]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3110) to amend the Financial Stability Act of 2010 to modify the term of the independent member of the Financial Stability Oversight Council, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

On June 29, 2017, H.R. 3110, the Financial Stability Oversight Council Insurance Member Continuity Act was introduced by Rep. Randy Hultgren.

H.R. 3110 would amend Section 111(c) of Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to alter the term of the Independent Member with insurance expertise of the Financial Stability Oversight Council (FSOC). The legislation would permit the Independent Member, after the expiration of their term, to serve on the FSOC until the earlier of 18 months after the date on which the term of service ends or the date on which a successor to such member is appointed and confirmed.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3110 will provide continuity and certainty for insurance representation on the FSOC, address a statutory oversight, and clarify the term of the Independent Member.

Under Title I of the Dodd-Frank Act, also known as the *Financial Stability Act of 2010*, the FSOC's voting members include an Independent Member with insurance expertise, who is appointed by the President and confirmed by the Senate. The Independent Member is the only member appointed by the President to specifically serve on FSOC.

Title I of the Dodd-Frank Act established a six-year term for the Independent Member. The current incumbent's term would expire on September 30, 2017. Absent the appointment and confirmation of a successor, the expiration of the Independent Member's term would leave the FSOC without a voting member with insurance expertise. There are no contingency plans for the status of the Independent Member's position following the six-year term's expiration. The Dodd-Frank Act is unclear if the President can fill the position with an acting official following the expiration of the Independent Member's term. H.R. 3110 removes this uncertainty and clarifies the term of the Independent Member.

HEARINGS

The Committee on Financial Services did not hold any hearings to examine matters related to H.R. 3110.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 25, 2017, and ordered H.R. 3110 to be reported favorably to the House without amendment by a recorded vote of 60 yeas to 0 nays (recorded vote no. FC-70), a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 60 yeas to 0 nays (Record vote no. FC-70 a quorum being present).

Present	Representative	Yeas	Nays
	Mr. HENSARLING, <i>Chairman</i>	✓	
	Mr. MCHENRY	✓	
	Mr. KING	✓	
	Mr. ROYCE	✓	
	Mr. LUCAS	✓	
	Mr. PEARCE	✓	
	Mr. POSEY	✓	
	Mr. LUETKEMEYER	✓	
	Mr. HUIZENGA	✓	
	Mr. DUFFY	✓	
	Mr. STIVERS	✓	
	Mr. HULTGREN	✓	
	Mr. ROSS	✓	
	Mr. PITTENGER	✓	
	Mrs. WAGNER	✓	
	Mr. BARR	✓	
	Mr. ROTHFUS	✓	
	Mr. MESSER	✓	
	Mr. TIPTON	✓	
	Mr. WILLIAMS	✓	
	Mr. POLIQUIN	✓	
	Mrs. LOVE	✓	
	Mr. HILL	✓	
	Mr. EMMER	✓	
	Mr. ZELDIN	✓	
	Mr. TROTT	✓	
	Mr. LOUDERMILK	✓	
	Mr. MOONEY	✓	
	Mr. MACARTHUR	✓	
	Mr. DAVIDSON	✓	
	Mr. BUDD	✓	
	Mr. KUSTOFF	✓	
	Ms. TENNEY	✓	
	Mr. HOLLINGSWORTH	✓	
	Ms. WATERS, <i>Ranking Member</i>	✓	
	Mrs. MALONEY	✓	
	Ms. VELÁZQUEZ	✓	
	Mr. SHERMAN	✓	
	Mr. MEEKS	✓	
	Mr. CAPUANO	✓	
	Mr. CLAY	✓	
	Mr. LYNCH	✓	
	Mr. SCOTT	✓	
	Mr. GREEN	✓	
	Mr. CLEAVER	✓	
	Ms. MOORE	✓	
	Mr. ELLISON	✓	
	Mr. PERLMUTTER	✓	
	Mr. HIMES	✓	
	Mr. FOSTER	✓	
	Mr. KILDEE	✓	
	Mr. DELANEY	✓	
	Ms. SINEMA	✓	
	Mrs. BEATTY	✓	
	Mr. HECK	✓	
	Mr. VARGAS	✓	
	Mr. GOTTHEIMER	✓	
	Mr. GONZALEZ	✓	
	Mr. CRIST	✓	
	Mr. KIHUEN	✓	

Committee on Financial Services

115th Congress

DATE: 7/25/17

Measure HR 3110

Amendment No. MJA

Offered by: _____

Agreed To	Yes	No	Wdrn
	✓		

Voice Vote	Yeas	Nays	Prsnt
	60	0	

Record vote no. FC-70

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 3110 will create continuity for insurance representation on the FSOC, address a statutory oversight, and clarify the term of the Independent Member by permitting the Independent Member, after the expiration of their term, to serve on the FSOC until the earlier of 18 months after the date on which the term of service ends or the date on which a successor to such member is appointed and confirmed.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 16, 2017.

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3110, the Financial Stability Oversight Council Insurance Member Continuity Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

KEITH HALL, *Director.*

Enclosure.

H.R. 3110—Financial Stability Oversight Council Insurance Member Continuity Act

Under current law, the Financial Stability Oversight Council (FSOC) is composed of ten voting members; the heads of nine federal financial agencies and an independent member with insurance expertise appointed by the President, with the advice and consent

of the Senate. The independent member serves a six year term. H.R. 3110 would allow the independent member to continue to serve on the FSOC for up to 18 months after the end of the member's term if a successor has not been appointed and confirmed.

Based on information from the FSOC, CBO estimates that implementing H.R. 3110 would cost less than \$500,000. That amount would cover the additional personnel costs for the independent member until a successor is appointed. Under current law, expenses of the FSOC are considered to be expenses of the Office of Financial Research (OFR), which is direct spending. The OFR is authorized to levy assessments, which are recorded in the budget as revenues, on certain financial institutions to offset its operating costs. Accordingly, CBO estimates that the bill's net effect on the deficit would be negligible.

Because enacting H.R. 3110 would affect direct spending and revenues, pay-as-you-go procedures apply.

CBO estimates that enacting H.R. 3110 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3110 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Stephen Rabent. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rulemakings: The Committee estimates that the bill requires no directed rulemakings within the meaning of such section.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Section cites H.R. 3110 as the “Financial Stability Oversight Council Insurance Member Continuity Act”.

Section 2. Financial Stability Oversight Council

This Section states that if a successor to the independent member of FSOC is not appointed and confirmed by the end of the term of service, the independent member may continue to service until the earlier of (1) 18 months after the date on which the term of service ends or (2) the date on which a successor to the independent member is appointed and confirmed.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

FINANCIAL STABILITY ACT OF 2010

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TITLE I—FINANCIAL STABILITY

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Subtitle A—Financial Stability Oversight Council

SEC. 111. FINANCIAL STABILITY OVERSIGHT COUNCIL ESTABLISHED.

(a) **ESTABLISHMENT.**—Effective on the date of enactment of this Act, there is established the Financial Stability Oversight Council.

(b) **MEMBERSHIP.**—The Council shall consist of the following members:

(1) **VOTING MEMBERS.**—The voting members, who shall each have 1 vote on the Council shall be—

(A) the Secretary of the Treasury, who shall serve as Chairperson of the Council;

(B) the Chairman of the Board of Governors;

(C) the Comptroller of the Currency;

(D) the Director of the Bureau;

(E) the Chairman of the Commission;

(F) the Chairperson of the Corporation;

(G) the Chairperson of the Commodity Futures Trading Commission;

(H) the Director of the Federal Housing Finance Agency;

(I) the Chairman of the National Credit Union Administration Board; and

(J) an independent member appointed by the President, by and with the advice and consent of the Senate, having insurance expertise.

(2) **NONVOTING MEMBERS.**—The nonvoting members, who shall serve in an advisory capacity as a nonvoting member of the Council, shall be—

(A) the Director of the Office of Financial Research;

(B) the Director of the Federal Insurance Office;

(C) a State insurance commissioner, to be designated by a selection process determined by the State insurance commissioners;

(D) a State banking supervisor, to be designated by a selection process determined by the State banking supervisors; and

(E) a State securities commissioner (or an officer performing like functions), to be designated by a selection process determined by such State securities commissioners.

(3) **NONVOTING MEMBER PARTICIPATION.**—The nonvoting members of the Council shall not be excluded from any of the proceedings, meetings, discussions, or deliberations of the Council, except that the Chairperson may, upon an affirmative vote of the member agencies, exclude the nonvoting members from any of the proceedings, meetings, discussions, or deliberations of the Council when necessary to safeguard and promote the free exchange of confidential supervisory information.

(c) **TERMS; VACANCY.**—

(1) **TERMS.**—The independent member of the Council shall serve for a term of 6 years, and each nonvoting member described in subparagraphs (C), (D), and (E) of subsection (b)(2) shall serve for a term of 2 years.

(2) **VACANCY.**—Any vacancy on the Council shall be filled in the manner in which the original appointment was made.

(3) **ACTING OFFICIALS MAY SERVE.**—In the event of a vacancy in the office of the head of a member agency or department, and pending the appointment of a successor, or during the absence or disability of the head of a member agency or department, the acting head of the member agency or department shall serve as a member of the Council in the place of that agency or department head.

(4) **TERM OF INDEPENDENT MEMBER.**—*Notwithstanding paragraph (1), if a successor to the independent member of the Council serving under subsection (b)(1)(J) is not appointed and confirmed by the end of the term of service of such member, such member may continue to serve until the earlier of—*

(A) 18 months after the date on which the term of service ends; or

(B) the date on which a successor to such member is appointed and confirmed.

(d) **TECHNICAL AND PROFESSIONAL ADVISORY COMMITTEES.**—The Council may appoint such special advisory, technical, or professional committees as may be useful in carrying out the functions of the Council, including an advisory committee consisting of State regulators, and the members of such committees may be members of the Council, or other persons, or both.

(e) **MEETINGS.**—

(1) **TIMING.**—The Council shall meet at the call of the Chairperson or a majority of the members then serving, but not less frequently than quarterly.

(2) **RULES FOR CONDUCTING BUSINESS.**—The Council shall adopt such rules as may be necessary for the conduct of the business of the Council. Such rules shall be rules of agency organization, procedure, or practice for purposes of section 553 of title 5, United States Code.

(f) **VOTING.**—Unless otherwise specified, the Council shall make all decisions that it is authorized or required to make by a majority vote of the voting members then serving.

(g) **NONAPPLICABILITY OF FACA.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council, or to any special advisory, technical, or professional committee appointed by the Council, except that, if an advisory, technical, or professional committee has one or more members who are not employees of or affiliated with the United States Government, the Council shall publish a list of the names of the members of such committee.

(h) **ASSISTANCE FROM FEDERAL AGENCIES.**—Any department or agency of the United States may provide to the Council and any special advisory, technical, or professional committee appointed by the Council, such services, funds, facilities, staff, and other support services as the Council may determine advisable.

(i) **COMPENSATION OF MEMBERS.**—

(1) **FEDERAL EMPLOYEE MEMBERS.**—All members of the Council who are officers or employees of the United States shall

serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) COMPENSATION FOR NON-FEDERAL MEMBER.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:“Independent Member of the Financial Stability Oversight Council (1).”.

(j) DETAIL OF GOVERNMENT EMPLOYEES.—Any employee of the Federal Government may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege. An employee of the Federal Government detailed to the Council shall report to and be subject to oversight by the Council during the assignment to the Council, and shall be compensated by the department or agency from which the employee was detailed.

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