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116TH CONGRESS
2D SESSION

H. R. 6501

To strengthen the Financial Stability Oversight Council, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2020

Mr. GARCÍA of Illinois (for himself, Ms. PORTER, Mr. GRIJALVA, Ms. SCHAKOWSKY, Mr. MCGOVERN, Ms. NORTON, and Mr. DANNY K. DAVIS of Illinois) introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To strengthen the Financial Stability Oversight Council, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Systemic Risk Mitigation Act of 2020''.

SEC. 2. MEMBER AGENCY FINANCIAL STABILITY MANDATE.

(a) IN GENERAL.—Subtitle A of the Financial Stability Act of 2010 (12 U.S.C. 5321 et seq.) is amended by adding at the end the following:

"SEC. 124. MEMBER AGENCY FINANCIAL STABILITY MANDATE.

"Each member agency shall have, as part of the agency's mission, a mandate to ensure the financial stability of the United States.".

(b) CLERICAL AMENDMENT.—The table of contents for the Dodd-Frank Wall Street Reform and Consumer Protection Act is amended by inserting after the item relating to section 123 the following:

"Sec. 124. Member agency financial stability mandate.".

SEC. 3. AUTOMATIC DESIGNATION OF CERTAIN LARGE NONBANK FINANCIAL COMPANIES.

(a) IN GENERAL.—The Financial Stability Act of 2010 (12 U.S.C. 5311 et seq.) is amended by inserting after section 113 the following:

"SEC. 113A. AUTOMATIC DESIGNATION OF CERTAIN LARGE NONBANK FINANCIAL COMPANIES.

"(a) NOTICE OF AUTOMATIC DESIGNATION.—If a nonbank financial company meets the criteria described in subsection (b), the Council shall notify such nonbank financial company that if, on the date that is 9 months after the date on which the notice is sent, such nonbank financial company meets the criteria described in subsection (b), such nonbank financial company shall be deemed to be designated as systemically important.

"(b) CRITERIA.—

''(1) IN GENERAL.—A nonbank financial company meets the criteria described in this subsection if such nonbank financial company satisfies—

''(A) the asset criteria in paragraph (2) and the other criteria in paragraph (3); or

''(B) the criteria for an investment adviser that is registered with the Commission under the Investment Advisers Act of 1940 in paragraph (4).

''(2) ASSET CRITERIA.—A nonbank financial company satisfies the asset criteria in this paragraph if such nonbank financial company has—

''(A) in the case of a company that would be an investment company (as defined in the Investment Company Act of 1940) but for section 3(c)(1) or 3(c)(7) of that Act, $400,000,000,000 or more in gross notional exposure (as defined in Form PF) individually or in combination with any feeder funds, parallel funds, or dependent parallel managed accounts of the company; or

''(B) in the case of any nonbank financial company not described under subparagraph (A) or paragraph (4), $50,000,000,000 or more in consolidated assets.

''(3) OTHER CRITERIA.—A nonbank financial company satisfies the criteria in this paragraph if such nonbank financial company has—

''(A) $30,000,000,000 or more in gross notional credit default swaps outstanding for which the nonbank financial company is the reference entity;

''(B) $3,500,000,000 or more of derivatives liabilities;

''(C) $20,000,000,000 or more in total debt outstanding;

''(D) a 15–1, or higher, leverage ratio; or

''(E) a 10 percent, or higher, short-term debt ratio.

''(4) INVESTMENT ADVISER CRITERIA.—With respect to an investment adviser that is registered with the Commission under the Investment Advisers Act of 1940, the criteria in this paragraph is that the investment adviser has more than $1,500,000,000,000 in assets under management.

''(c) RESCISSION OF DESIGNATION.—

''(1) IN GENERAL.—With respect to a nonbank financial company designated as systemically important under subsection (a), if the Council determines that neither material financial distress at the

nonbank financial company, nor the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the nonbank financial company, could pose a threat to the financial stability of the United States, the Council may rescind such designation (in this subsection referred to as a 'rescission determination') for a period of 2 years.

''(2) AUTHORITY TO RENEW RESCISSION.—The Council may renew a rescission determination made under paragraph (1) for an unlimited number of additional 2-year periods, if the Council makes a new determination that the nonbank financial company meets the criteria described under paragraph (1) at the beginning of each such renewal.

''(3) AUTHORITY TO REVIEW RESCISSION.—The Chairperson may review the status of a nonbank financial company with respect to a rescission determination before the end of a 2-year period described under paragraph (1) or (2) for any reason. The Chairperson shall notify the members of the Council of such review and shall call a vote to renew the rescission determination within 7 days of such notification. If the Council fails to renew the rescission determination, the nonbank financial company shall

be deemed once again to be designated as systemically important.

''(d) AUTOMATIC RESCISSION OF DESIGNATION.—If a nonbank financial company does not meet the criteria described in subsection (b) for 9 consecutive months, the Council shall immediately, and automatically rescind the designation of the nonbank financial company as systemically important.

''(e) APPLICATION.—For purposes of this section, the term 'nonbank financial company' does not include a Government-sponsored enterprise or an investment company registered with the Commission under the Investment Company Act of 1940.

''(f) DEFINITION.—In this section and with respect to a nonbank financial company, the term 'designated as systemically important' means the nonbank financial company is subject to a determination under section 113 that the nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards, in accordance with this title.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Dodd-Frank Wall Street Reform and Consumer Protection Act is amended by inserting after the item relating to section 113 the following:

''Sec. 113A. Automatic designation of certain large nonbank financial companies.''.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect not later than 9 months after the date of the enactment of this Act.

SEC. 4. COUNCIL REGULATION OF SYSTEMICALLY RISKY ACTIVITIES.

(a) IN GENERAL.—Subtitle A of the Financial Stability Act of 2010 (12 U.S.C. 5321 et seq.), as amended by section 2, is further amended by adding at the end the following:

"SEC. 125. COUNCIL REGULATION OF SYSTEMICALLY RISKY ACTIVITIES.

''(a) AUTHORITY OF THE COUNCIL.—Subject to subsection (b), the Council shall issue such rules as may be required to regulate an activity or practice if the Council determines that the conduct, scope, nature, size, scale, concentration, or interconnectedness of such activity or practice could create or increase the risk of significant liquidity, credit, or other problems spreading among bank holding companies and nonbank financial companies, financial markets of the United States, or low-income, minority, or under-served communities.

''(b) COUNCIL DELEGATION TO THE PRIMARY REGULATOR.—With respect to an activity or practice that the council determines meets the standard outlined in subsection (a)—

''(1) the Council shall issue recommendations to the primary regulator for a rulemaking to address the risk posed by the activity, and provide the primary regulator with a 12-month period to issue a final rule to address such risk; and

''(2) if the primary regulator does not issue such a final rule within the period described under paragraph (1) or the Council determines that such final rule is insufficient to address the risk, the Council may—

''(A) terminate such final rule, if applicable; and

''(B) issue a rule to address the risk.

''(c) BACKUP AUTHORITY OF THE COUNCIL FOR MEMBER AGENCY RULEMAKINGS.—With respect to any rulemaking required of a member agency by Federal statute, if the member agency does not issue the rule within the time frame required by such Federal statute, the Council may issue such rule in place of the member agency.

''(d) PRIMARY REGULATOR DEFINED.—With respect to an activity, the term 'primary regulator' means—

''(1) one or more member agencies that the Council determines are primarily responsible for regulating the activity; or

''(2) if the Council cannot make a determination under paragraph (1), the member agency that the Council determines is the best choice to serve as the primary regulator with respect to such activity.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Dodd-Frank Wall Street Reform and Consumer Protection Act, as amended by section 2, is further amended by inserting after the item relating to section 124 the following:

''Sec. 125. Council regulation of systemically risky activities.''.

SEC. 5. MINIMUM STAFFING AND FUNDING LEVELS FOR THE COUNCIL AND THE OFFICE OF FINANCIAL RESEARCH.

(a) IN GENERAL.—The Financial Stability Act of 2010 (12 U.S.C. 5311 et seq.) is amended—

(1) in section 118—

(A) in the section heading, by adding ''**AND STAFFING**'' at the end;

(B) by striking ''Any expenses'' and inserting the following:

''(a) EXPENSES.—Any expenses'';

(C) by inserting after ''Office of Financial Research.'' the following: ''The Office of Financial Research shall transfer a minimum of $18,000,000 to the Council each year (adjusted for inflation) to pay for the costs of the Council

in carrying out the duties and responsibilities of the Council.''; and

(D) by adding at the end the following:

''(b) MINIMUM STAFFING LEVELS.—The Council shall maintain a minimum staff of 75 employees.'';

(2) in section 152—

(A) in subsection (c), by striking '', in consultation with the Chairperson,''; and

(B) in subsection (d)(1)—

(i) by striking '', in consultation with the Chairperson,''; and

(ii) by inserting before the period at the end the following: '', except that the Office shall maintain a minimum staff of 300 employees'';

(3) in section 153(b)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period on the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) require any member agency to produce such data and other information as the Director may determine necessary to carry out the duties of the Office.''; and

(4) in section 155(d)—

(A) by striking ''the Secretary'' and inserting ''the Office''; and

(B) by adding at the end the following: ''The aggregate amount of assessments under this subsection with respect to a calendar year shall not be less than $168,000,000 (adjusted for inflation).''.

(b) CLERICAL AMENDMENT.—The table of contents for the Dodd-Frank Wall Street Reform and Consumer Protection Act is amended in the item relating to section 118 by adding at the end the following: ''and staffing''.

SEC. 6. TRANSPARENCY IN OPERATIONS OF THE FINANCIAL STABILITY OVERSIGHT COUNCIL.

(a) MEETINGS.—Section 111(e) of the Financial Stability Act of 2010 (12 U.S.C. 5321(e)) is amended—

(1) in paragraph (1), by striking ''not less frequently than quarterly.'' and inserting ''not less frequently than twice each quarter. At least 1 of such quarterly meetings shall be open to the public.''; and

(2) by adding at the end the following:

''(3) TRANSCRIPTS.—The Council shall publicly release transcripts of meetings held pursuant to paragraph (1) not later than 5 years after the date of such meeting.''.

(b) TESTIMONY.—Section 112(c) of the Financial Stability Act of 2010 (12 U.S.C. 5322(c)) is amended—

(1) in the subsection heading, by striking ''BY THE CHAIRPERSON''; and

(2) by inserting ''and each voting member of the Council'' after ''The Chairperson''.

(c) MEMBER AGENCY STATEMENTS.—Section 112 of the Financial Stability Act of 2010 (12 U.S.C. 5322) is amended by adding at the end the following:

''(e) MEMBER AGENCY STATEMENTS.—After providing testimony pursuant to subsection (c), the head of each member agency shall submit to Congress a signed statement—

''(1) affirming that the member agency is taking all reasonable steps to ensure financial stability and to mitigate systemic risk that would negatively affect the economy; or

''(2) detailing additional steps that the member agency should take to ensure financial stability and to mitigate systemic risk that would negatively affect the economy.''.

SEC. 7. CLIMATE CHANGE SUBCOMMITTEE.

(a) IN GENERAL.—Subtitle A of the Financial Stability Act of 2010 (12 U.S.C. 5321 et seq.), as amended

by section 4, is further amended by adding at the end the following:

"SEC. 126. CLIMATE CHANGE SUBCOMMITTEE.

"(a) IN GENERAL.—The Council shall establish a subcommittee of the Council that shall support the Council in identifying risks to, and in responding to emerging threats to, the stability of the United States financial system as a result of climate change.

"(b) RESPONSIBILITIES.—

"(1) SUBCOMMITTEE.—The subcommittee established under subsection (a) shall, not later than 1 year after the date of enactment of this section, and in consultation with the Office of Financial Research, submit to Congress an assessment of the risk posed by climate change to the efficiency, competitiveness, and stability of the United States financial system as a whole.

"(2) COUNCIL.—For each year after the year in which the assessment required under paragraph (1) is submitted, the Financial Stability Oversight Council shall include in the annual report required under section 112(a)(2)(N) an update to that assessment.

"(c) COMPOSITION.—The subcommittee established under subsection (a) shall be composed of—

''(1) the Chairman of the Board of Governors of the Federal Reserve System;

''(2) the Secretary of the Treasury;

''(3) the Comptroller of the Currency;

''(4) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

''(5) the Chairman of the Securities and Exchange Commission;

''(6) the Chairperson of the Commodity Futures Trading Commission; and

''(7) any other voting or nonvoting members that the Council determines to be appropriate.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Dodd-Frank Wall Street Reform and Consumer Protection Act, as amended by section 4, is further amended by inserting after the item relating to section 125 the following:

''Sec. 126. Climate change subcommittee.''.

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