

SHORT TITLE

This subchapter known as the “Financial Stability Act of 2010”, see Short Title note set out under section 5301 of this title.

PART A—FINANCIAL STABILITY OVERSIGHT COUNCIL

§ 5321. Financial Stability Oversight Council established**(a) Establishment**

Effective on July 21, 2010, 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 non-

voting 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.

(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 chapter 10 of title 5

Chapter 10 of title 5 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 spe-

cial 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) Omitted

(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.

(Pub. L. 111-203, title I, §111, July 21, 2010, 124 Stat. 1392; Pub. L. 115-61, §2, Sept. 27, 2017, 131 Stat. 1158; Pub. L. 117-286, §4(a)(58), Dec. 27, 2022, 136 Stat. 4311.)

Editorial Notes

CODIFICATION

Section is comprised of section 111 of Pub. L. 111-203. Subsec. (i)(2) of section 111 of Pub. L. 111-203 amended section 5314 of Title 5, Government Organization and Employees.

AMENDMENTS

2022—Subsec. (g). Pub. L. 117-286 substituted “chapter 10 of title 5” for “FACA” in heading and “Chapter 10 of title 5” for “The Federal Advisory Committee Act (5 U.S.C. App.)” in text.

2017—Subsec. (c)(4). Pub. L. 115-61 added par. (4).

§ 5322. Council authority

(a) Purposes and duties of the Council

(1) In general

The purposes of the Council are—

(A) to identify risks to the financial stability of the United States that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected bank holding companies or nonbank financial companies, or that could arise outside the financial services marketplace;

(B) to promote market discipline, by eliminating expectations on the part of shareholders, creditors, and counterparties of such companies that the Government will shield them from losses in the event of failure; and

(C) to respond to emerging threats to the stability of the United States financial system.

(2) Duties

The Council shall, in accordance with this subchapter—

(A) collect information from member agencies, other Federal and State financial

regulatory agencies, the Federal Insurance Office and, if necessary to assess risks to the United States financial system, direct the Office of Financial Research to collect information from bank holding companies and nonbank financial companies;

(B) provide direction to, and request data and analyses from, the Office of Financial Research to support the work of the Council;

(C) monitor the financial services marketplace in order to identify potential threats to the financial stability of the United States;

(D) to¹ monitor domestic and international financial regulatory proposals and developments, including insurance and accounting issues, and to advise Congress and make recommendations in such areas that will enhance the integrity, efficiency, competitiveness, and stability of the U.S. financial markets;

(E) facilitate information sharing and coordination among the member agencies and other Federal and State agencies regarding domestic financial services policy development, rulemaking, examinations, reporting requirements, and enforcement actions;

(F) recommend to the member agencies general supervisory priorities and principles reflecting the outcome of discussions among the member agencies;

(G) identify gaps in regulation that could pose risks to the financial stability of the United States;

(H) require supervision by the Board of Governors for nonbank financial companies that may pose risks to the financial stability of the United States in the event of their material financial distress or failure, or because of their activities pursuant to section 5323 of this title;

(I) make recommendations to the Board of Governors concerning the establishment of heightened prudential standards for risk-based capital, leverage, liquidity, contingent capital, resolution plans and credit exposure reports, concentration limits, enhanced public disclosures, and overall risk management for nonbank financial companies and large, interconnected bank holding companies supervised by the Board of Governors;

(J) identify systemically important financial market utilities and payment, clearing, and settlement activities (as that term is defined in subchapter IV);

(K) make recommendations to primary financial regulatory agencies to apply new or heightened standards and safeguards for financial activities or practices that could create or increase risks of significant liquidity, credit, or other problems spreading among bank holding companies, nonbank financial companies, and United States financial markets;

(L) review and, as appropriate, may submit comments to the Commission and any standard-setting body with respect to an existing or proposed accounting principle, standard, or procedure;

¹ So in original. The word “to” probably should not appear.