



Statement of the U.S. Chamber of Commerce

ON: Hearing entitled “Oversight of the Office of Financial Research and the Financial Stability Oversight Council”

TO: Subcommittee on Oversight and Investigations, U.S. House of Representatives

DATE: July 14, 2011

The Chamber’s mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

**Statement for the Record
U.S. Chamber of Commerce**

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The U.S. Chamber of Commerce (the “Chamber”) is the world’s largest business federation, representing the interests of over three million businesses and organizations of every size, sector, and region and believes that a coherent, streamlined regulatory structure and effective commonsense regulations would ensure the safety and soundness of the financial markets while promoting economic growth and job creation. As the House Financial Services Subcommittee on Oversight and Investigations holds a hearing entitled “Oversight of the Office of Financial Research and the Financial Stability Oversight Council,” the Chamber would like to share its views on the Office of Financial Research.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank”) created the Office of Financial Research (“OFR”) for the purpose of collecting data and performing applied research to support the efforts of the Financial Oversight Council (“FSOC”) to identify emerging threats to the stability of the U.S. financial system. The Chamber supports the efforts of OFR and FSOC to monitor systemic risk and believes that more efficient access to comprehensive market and industry data in ways that are not unnecessarily burdensome will assist in identifying and understanding systemic risks.

The Chamber also believes that effective and even-handed regulation is an important component for efficient capital markets. A failure to effectively regulate these markets was a contributing cause to the financial crisis. A key lynch-pin of effective regulation is data collection and analysis. Nonetheless, a balance must be struck to satisfy the needs of the regulators without hampering businesses with unreasonable or burdensome requests.

Accordingly, we would like to share our concerns with various structural and operational aspects of the OFR, including its overreach of entities, duplicative data requests, and confidentiality concerns.

Overreach of the OFR

Dodd-Frank provided OFR with authority to gather financial transaction data and position data from financial companies, whether through an ordinary request or subpoena, in order to help identify emerging threats to the financial system. A financial company is defined in Section 151(2) of Dodd-Frank by reference to Title II of the legislation, which is limited to companies that are predominantly engaged in financial activities. These boundaries set by Congress are reasonable and necessary.

However, the OFR in its November 30, 2010 Statement of Policy regarding legal entity identification for financial contracts appears to overreach beyond the statutory authority granted. The Statement of Policy expands the OFR's jurisdiction from financial companies to "eligible markets participants, including but not limited to all financial intermediaries, all companies that issue stock or debt listed on an exchange, all companies that trade stock or debt, infrastructure providers, all entities subject to financial regulation, and firms affiliated with such entities."¹ The inclusion of all such companies, and potentially others, regardless of the extent of their financial activities, in OFR's reach is an unauthorized expansion of jurisdiction that may be intrusive and burdensome to numerous companies that pose no or limited risk to the financial markets. The Chamber is concerned that the OFR, immediately out of the gate, is exceeding its authority, and we urge the Committee to rein in this new agency.

Duplicative Data Requests

While the OFR must coordinate with a financial company's primary financial regulatory agency before issuing a subpoena, it is unclear whether and how the OFR will ensure there is a streamlined process for data requests from all financial regulators. Too often, financial companies whose activities are subject to the jurisdiction of multiple financial regulatory agencies are inundated with redundant requests for the same or similar data to be provided in different formats to different regulators. In some instances, financial companies receive similar data requests from

¹ Office of Financial Research, Proposed Statement of Policy – Legal Entity Identification for Financial Contracts; November 30, 2011, page 74147, Section II (A)(6). Proposal may be found at <http://www.gpo.gov/fdsys/pkg/FR-2010-11-30/pdf/2010-30018.pdf>

different offices within the same financial regulatory agency. These duplicative data requests are burdensome, costly, and time-consuming. In the end, such requests, like all forms of regulation, create increased cost that must be borne by businesses or their customers.

In addition to the costs of complying with the onslaught of Dodd-Frank regulations, the compliance costs of duplicative data requests may further hamper a company's ability to remain competitive or result in higher costs for consumers. Considering the large number of companies whose limited resources would be diverted away from more economically beneficial activities, the lack of standardization and coordination of these requests will complicate companies' ability to focus on job creation. The OFR's obligations to coordinate with the relevant primary financial regulatory agency should be enhanced by ensuring that coordination within financial regulatory agencies occurs as well.

Confidentiality Concerns

Information drives the financial industry and often separates successful companies from unsuccessful ones. Data generally provided to financial regulatory agencies is confidential, proprietary information that could place a financial company at a significant competitive disadvantage or cause the financial markets to react if released. Thus, the OFR should provide the strongest possible assurances to financial companies that it will vigilantly protect identifiable company-specific data from public disclosure. In this regard, the OFR should clarify how it intends to treat such data under FOIA, the Privacy Act, judicial or administrative subpoenas, and other lawful orders or actions. If the OFR determines that it cannot provide complete protection of the data, notification should be made to financial companies and the OFR should consider whether legislative remedies should be pursued.

The OFR's Research and Analysis Center is tasked with the responsibility to coordinate and sponsor research to support and improve the regulation of financial entities and markets. As such, the OFR may be expected to disseminate data and encourage its use by academic researchers and private analysts. Because of the highly sensitive nature of the company-specific data that may be collected by the OFR, it should take all necessary steps to redact confidential, proprietary information from data provided to researchers and analysts. To the extent the OFR does in fact release such data to academic researchers, private analysts and other third parties, it should ensure that such parties are subject to enforceable restrictions regarding their use of such data and the protection of such data while in their hands.

Conclusion

In conclusion, the Chamber believes that the OFR could be an effective agency to identify threats to the financial systems; we support such a goal. However, as the agency takes shape, its success will only be achieved if the appropriate checks and balances are implemented, it ensures enormous integration and coordination among financial regulatory agencies on data requests, and it protects any data gathered with the utmost confidentiality. Failure to give adequate assurances in any of these areas would significantly undermine public confidence in the agency and its important mission. The Chamber appreciates the opportunity to submit this statement for the record and would be glad to assist the Subcommittee in any way in its oversight of the OFR.