

Memorandum

To: Members of the Committee on Financial Services
From: Financial Services Committee Majority Staff
Date: October 29, 2015
Subject: November 3, 2015, Full Committee Markup

The Committee on Financial Services will meet to mark up the following measures in an order to be determined by the Chairman at 10:00 a.m. on Tuesday, November 3, 2015, and subsequent days if necessary, in room 2128 of the Rayburn House Office Building:

H.R. 1309, the “Systemic Risk Designation Improvement Act of 2015”

On March 4, 2015, Representative Blaine Luetkemeyer introduced H.R. 1309, to amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to authorize the Financial Stability Oversight Council (FSOC) to subject a bank holding company to enhanced supervision and prudential standards by the Board of Governors of the Federal Reserve System, if the FSOC makes a final determination that either material financial distress at the bank holding company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of its activities, could threaten the financial stability of the United States. This bill also requires that final determination to be based upon specified factors, using an indicator-based measurement approach established by the Basel Committee on Banking Supervision to determine systemic importance. Further, this bill deems any bank holding company designated as a Global Systemically Important Bank by the Financial Stability Board, as of the date of enactment of this Act, to have been the subject of a final determination that it could pose a threat to U.S. financial stability for any of those reasons. This bill also prohibits the FSOC from making a final determination concerning a bank holding company under this Act before one year after its enactment. Finally, this bill deems a bank holding company to have been the subject of such a final determination during this one-year period, however, if its total consolidated assets are \$50 billion or more.

H.R. 1478, the “Policyholder Protection Act of 2015”

Representatives Bill Posey and Brad Shearman introduced H.R. 1478, the “Policyholder Protection Act of 2015.” H.R. 1478 amends Section 38A of the Federal Deposit Insurance Act and sections 203 and 204 of the Dodd-Frank Act. The bill would

prohibit federal banking regulators from moving the assets of state-regulated insurance companies, structured under larger financial firms, to a bank if the state insurance regulator determines the transfer would harm the status of the insurer. The bill, as amended by an amendment in the nature of a substitute expected to be offered by Mr. Posey and being circulated with this memorandum, would also require a consultation between the Federal Deposit Insurance Corporation and the state insurance regulatory authority regarding whether a lien or seizure would unduly impede or delay the liquidation or rehabilitation of an insurance company.

H.R. 1550, the “Financial Stability Oversight Council Improvement Act of 2015”

On March 23, 2015, Representative Dennis Ross and John Delaney introduced H.R. 1550, to amend the Financial Stability Act of 2010 to require the FSOC, when determining whether to subject a nonbank financial company to supervision by the Board of Governors of the Federal Reserve System, to consider the appropriateness of imposing such standards as opposed to other forms of regulation to mitigate identified risks to U.S. financial stability. The bill also provides for annual and periodic reevaluation of FSOC determinations, enhanced procedures for making additional determinations, and periodic FSOC assessments of the impact of its designations.

H.R. 1660, the “Federal Savings Association Charter Flexibility Act of 2015”

On March 23, 2015, Representatives Keith Rothfus and Jim Himes introduced H.R. 1660, to amend the Home Owners' Loan Act to permit a federal savings association to elect to operate subject to supervision by the Comptroller of the Currency with the rights and duties of a national bank.

H.R. 2209, to require the appropriate Federal banking agencies to treat certain municipal obligations as level 2A liquid assets, and for other purposes.

On May 1, 2015, Representative Luke Messer introduced H.R. 2209, to amend the Federal Deposit Insurance Act to require federal banking agencies (the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency) to treat certain municipal securities that are liquid, readily marketable, and investment grade as of the calculation date as high-quality level 2A liquid assets. Such change shall be implemented by amending the rule titled “Liquidity Coverage Ratio: Liquidity Risk Measurement Standards; Final Rule.”

H.R. 3340, the “Financial Stability Oversight Council Reform Act”

On July 29, 2015, Representative Tom Emmer introduced H.R. 3340, to amend the Financial Stability Act of 2010 to make funds in the Financial Research Fund available to the Office of Research (OFR) as provided for in appropriations acts. The bill also

requires OFR to submit quarterly reports to Congress regarding its activities and to provide a public notice and comment period of at least 90 days before issuing any report, rule, or regulation.

H.R. 3557, the “FSOC Transparency and Accountability Act”

On September 18, 2015, Capital Markets and Government Sponsored Enterprises Subcommittee Chairman Scott Garrett introduced H.R. 3557, the “FSOC Transparency and Accountability Act.” H.R. 3557 amends Section 111 of the Dodd-Frank Act to make the FSOC subject to both the Government in the Sunshine Act and the Federal Advisory Committee Act. The bill allows all members of the commissions and boards represented on the FSOC—such as the Securities and Exchange Commission (“SEC”), the Federal Reserve, the Commodity Futures Trading Commission, and the National Credit Union Administration—to attend and participate in the FSOC’s meetings. The bill also requires that before the principal of a Commission or Board represented on the FSOC votes as an FSOC member on an issue before the FSOC, the Commission or Board must vote on the issue, and the principal must follow that vote at the FSOC meeting. Finally, the bill permits Members of the Committee on Financial Services and the Committee on Banking, Housing, and Urban Affairs to attend all FSOC meetings, whether or not the meeting is open to the public.

H.R. 3738, the “Office of Financial Research Accountability Act of 2015”

Representatives Ed Royce and Patrick Murphy have introduced H.R. 3738, the “Office of Financial Research Accountability Act of 2015,” to amend Section 153 of the Dodd-Frank Act to require the Director of the OFR to, after a notice and comment period, publish a detailed strategic plan concerning the priorities of the OFR for the upcoming fiscal year. Additionally, H.R. 3738 requires the Director to, before issuing any public report with respect to a specific entity, class of entities, or financial product or service, (i) consult with and incorporate any changes provided by the federal department or agency with expertise in regulating the product or entity and (ii) provide a period of 90 days for public notice and comment on the report after incorporating changes provided by the relevant federal agency. Finally, H.R. 5037 requires the OFR to develop and implement a cybersecurity plan that uses appropriate safeguards adequate to protect the data of the OFR. Under H.R. 3738, the Government Accountability Office shall annually audit OFR’s cybersecurity plan and its implementation.

H.R. 3857, to require the Board of Governors of the Federal Reserve System and the Financial Stability Oversight Council to carry out certain requirements under the Financial Stability Act of 2010 before making any new determination under section 113 of such Act, and for other purpose.

On October 29, 2015, Representative Luke Messer introduced H.R. 3857 to prevent the FSOC from designating any non-bank financial institution for heightened Fed supervision until 90 days after: the Federal Reserve establishes prudential standards for nonbank financial companies and bank holding companies, as required by Section 165(a) and (b) of the Dodd-Frank Act; the Federal Reserve promulgates regulations setting forth criteria for exempting certain types of classes of U.S. nonbank financial companies or foreign nonbank financial companies from supervision, as required by Section 170 of Dodd-Frank; and the FSOC reevaluates within calendar year 2016 each previous SIFI designation and rescinds any such designation if it determines that the nonbank financial company no longer meets the standards for designation and submits a report to the House and Senate Banking Committees explaining the reasons that the Council did not rescind any such designation.

H.R. ____, the “Small Business Credit Availability Act”

Representative Mick Mulvaney will introduce H.R. ____, the Small Business Credit Availability Act, to amend the Investment Company Act of 1940 to modernize the regulatory regime for Business Development Companies (“BDCs”). BDCs are investment vehicles designed to facilitate capital formation for small and middle-market companies. The legislation includes provisions to streamline the offering, filing, and registration processes for BDCs with the SEC to eliminate significant regulatory burdens; increase a BDCs’ ability to deploy capital to businesses by reducing their asset coverage ratio, or required ratio of assets to debt, from 200% to 150% if certain requirements are met; inform shareholders of a decision to avail itself of the asset coverage ratio and to provide liquidity to investors if a BDC or its funds are not publicly-traded. The legislation directs the SEC, within one year, to codify an order to govern a BDC’s relationship with an investment adviser and revise its rules to allow BDCs to use the streamlined securities offering provisions available to other registrants under the Securities Act of 1933 such as the ability to be a WKSI, use shelf offerings, and communicate directly with shareholders. If the SEC does not act within one year to codify its order or update its rules, the provisions shall take effect and shall remain effective until the SEC acts.

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