

**TESTIMONY OF
S. ROY WOODALL, JR.
INDEPENDENT MEMBER HAVING INSURANCE EXPERTISE**

**BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCIAL SERVICES**

“OVERSIGHT OF THE FINANCIAL STABILITY OVERSIGHT COUNCIL”

DECEMBER 8, 2015

Thank you, Chairman Hensarling, Ranking Member Waters, and members of the Committee for inviting me to appear before you today, alongside my colleagues.

This past September, I began the fifth year of my six-year term as a voting member of the Financial Stability Oversight Council (Council or FSOC). I am now the second-longest serving voting member of the Council, exceeded only by National Credit Union Administration Chair Matz.

As provided in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), I serve as “*an independent member appointed by the President, by and with the advice and consent of the Senate, having insurance expertise.*”¹ As you know, in the U.S., insurance is generally regulated by the States, and not by the Federal government. Thus, the Independent Member serves in effect as a “proxy” in the absence of a Federal insurance regulator, and as the sole voting member of the Council with an insurance-focused perspective. This complements the expertise brought to the Council by the nine other voting members: five Federal regulators of depository institutions, two Federal market regulators, one Federal housing regulator, and a Cabinet member.

The Council’s Chairman, Treasury Secretary Lew, has often said that the Council is a young institution; and, as one would hope with any young institution, it is improving as it matures. I agree with him. That evolution of improvement is reflected in the Council’s recent enhancement to its procedural transparency, its process for identifying and designating *systemically important financial institutions* (SIFIs), and its new emphasis

¹ Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203 (July 21, 2010), §111(b)(J).

on studying systemically risky activities that cut across several types of financial institutions. I believe the Council and its work can continue to benefit from further reforms as its members gain experience in carrying out its charges.

Accordingly, I think it is timely and beneficial for Congress to be examining the early work of the Council and to be exploring additional ways to improve the Council's procedures and structure. Secretary Lew noted recently that the Administration is open to conversations about technical changes or improvements to Dodd-Frank. This Committee's success in having Congress clarify Section 171 of Dodd-Frank, colloquially known as the *Collins' Amendment*, is but one example of the kind of important technical improvements with which Congress can assist.

Mr. Chairman, your letter of invitation states that the focus of today's hearing is broadly on the Council's agenda, operations, and structure. As to its structure, an area in need of attention by Congress, in my view, is a technical clarification of the scope of authority and responsibilities assigned to the position I now hold.

"Three Lines" in the Statute

Other than a few lines in Dodd-Frank,² the law does not set out specific duties and authorities for the position of the Independent Member, other than being a voting member of the Council. Unlike my colleagues who run Federal agencies, I have no other statute setting forth my duties and authorities. Dodd-Frank does not provide the Independent Member a source of funding, a budget process, or an office or staff. Accordingly, since being confirmed, I have had to resolve whether the position is meant to be full time, overcome hurdles to the efficient operation of my office's day-to-day operations, and struggle for resources. Beyond these operational distractions, and more significantly, I have had to endeavor to define and establish my evolving role relative to those of my fellow Council members and others by relying primarily on the Council's general authorities and

² Section 111(b)(1) of Dodd-Frank lists the voting members of the Council and includes "(J) an independent member appointed by the President, by and with the advice and consent of the Senate, having insurance expertise." Section 111(c)(1) sets the Independent Member's term: "The independent member of the Council shall serve for a term of 6 years" Section 111(i)(2) sets the level of the Independent Member's compensation.

mandates in a manner consistent with the overall intent of Congress and the relevant provisions of Dodd-Frank.

Some have pointed to the law's absence of specific duties and authorities for the Independent Member as a limitation and justification for their attempts to marginalize the position. For example, my role in staying abreast and lending expertise on insurance matters internationally – where developments are occurring at a rapid pace – has been in constant dispute. This dispute has continued in spite the provisions of Section 112 of Dodd-Frank which specifically entrust the Council with the duty of monitoring international financial regulatory proposals and developments involving insurance issues.

International Developments

In June of 2013, I initially testified before your Subcommittee on Housing and Insurance that I had been prevented from even being “in the room” with international insurance policymakers at the International Association of Insurance Supervisors (IAIS) in their discussions concerning possible systemic risks related to insurers and the insurance sector.³ Despite the expressed desire of Subcommittee members from both sides of the aisle for the necessary collaboration that would allow the Independent Member to participate in insurance-related international discussions, obstacles persist. As noted in my subsequent September 29, 2015 testimony before the same Subcommittee, no progress had been made on this issue since my initial testimony.⁴ Today, I continue to be thwarted from engaging in any meaningful non-public or consultative role at the international level.

The Government Accountability Office (GAO) touched on this ongoing dispute when it noted in a recent report to Congress that “...*U.S. IAIS members disagreed on whether the FSOC independent member with insurance expertise would be a relevant participant in the U.S. collaborative*

³ Testimony of S. Roy Woodall, Jr., before the U.S. House Committee on Financial Services Subcommittee on Housing and Insurance, Hearing entitled: “*The Impact of International Regulatory Standards on the Competitiveness of U.S. Insurers*,” (June 13, 2013).

⁴ Testimony of S. Roy Woodall, Jr., before the U.S. House Committee on Financial Services Subcommittee on Housing and Insurance, Hearing entitled: “*The Impact of Domestic Regulatory Standards on the U.S. Insurance Market*,” (September 29, 2015).

efforts....”⁵ I am grateful that the representatives from two of the three U.S. IAIS members (the Board of Governors of the Federal Reserve System and the National Association of Insurance Commissioners) support allowing for the participation of the Independent Member at IAIS fora. Unfortunately, the third U.S. IAIS member maintains the position that Dodd-Frank does not specifically provide for the Independent Member to have any international role.

Just last month, the Bipartisan Policy Center and its Insurance Task Force issued a report that recommended that Congress should step in, if necessary, to resolve this ongoing dispute if the three U.S. IAIS members, referred to as “Team USA,” continue to be unable to reach consensus:

“The independent member has expertise in the business of insurance and also authority in matters of systemic risk and insurance. Therefore, the independent member should be included on ‘Team USA’ and consulted by its other members on all issues in which systemic risk overlaps with insurance.

“In addition, the independent member should have the opportunity to be fully informed on global debates on insurance oversight related to systemic risk and to offer his or her opinion on such issues in global forums. To that end, the Treasury Department, FIO, the Federal Reserve, and the NAIC should support giving the independent member formal access to any IAIS and FSB materials, meetings, and discussions related to insurance and systemic risk.

*“The task force sees real benefits, and no downside, to implementing this recommendation. It can be implemented without legislation, but Congress should step in if progress is not made to do so.”*⁶

⁵ United States Government Accountability Office, “International Insurance Capital Standards, Collaboration among U.S. Stakeholders Has Improved but Could Be Enhanced,” p. 46 (GAO Report 15-534, June 2015).

⁶ Bipartisan Policy Center, “Global Insurance Regulatory Issues: Implications for U.S. Policy and Regulation, p. 21 (November 2015).

It appears to me that after over three years of this continuing dispute, there is general agreement that the Council would benefit from the Independent Member's being a part of "Team USA." Indeed, I believe that to allow the Independent Member to continue to be blocked from participation in discussions regarding international insurance matters acts to interfere with Congress' overall intent that there should be an independent perspective within the Council in the carrying out of the Council's stated duties to monitor international financial regulatory proposals and developments involving insurance. Despite ongoing bipartisan calls for cooperation and my own best efforts, it appears that the current state of affairs can only be resolved by Congress.

Other Technical Corrections Needed

In addition to a possible clarification as to the Independent Member's participation in monitoring international insurance developments, other technical corrections to Dodd-Frank could further clarify Congressional intent as to the overall duties the Independent Member should perform, as well as confirm the contours of the authorities inherent in this unique, independent position. Technical corrections could bolster the independence of the Independent Member with clear statutory authorities that would guard against the possibility that employment, budgetary, staffing, and other pressures could be used to try to influence the effectiveness of the Independent Member. Finally, there are several other technical fixes or corrections that would address certain gaps in the *good government* functioning of this Federal position, such as who, if anyone, would fill the position in an acting capacity should the position become vacant, and whether the previously-confirmed occupant can continue to serve beyond an expired term until a new appointee is confirmed by the Senate. At present, in either situation, the seat for the insurance Independent Member would remain vacant.

That there are only "three lines" in Dodd-Frank is understandable, given that the Independent Member position was not proposed until near the end of the Conference Committee's deliberations, and the main purpose of the position was to fill the recognized insurance gap among the voting members of the Council. Now, however, Congress has the opportunity at this relatively early stage of the Council's operations, to consider clarifying specific duties and authorities for the position of the Independent Member. Doing so would ensure that expertise about the insurance sector of our economy has a true

independent voice at the Council table and that the person in this position can more meaningfully and effectively contribute to the fulfillment of the important goals and best ensure success of the Council in carrying out its statutory responsibilities.

Conclusion

I appreciate this Committee's efforts and interest in considering reforms to the structure and operations of the Council. I suggest that the role of the Independent Member is worthy of attention. I do have a set of specific, concrete proposals for additional legislative technical corrections relating to the position of the Independent Member, which I would be happy to share with you. I look forward to continuing to work with this Committee and Congress on this and other matters.

Thank you and I look forward to answering any questions you may have.