

execution facility, or security-based swap data repository registered with the Commission, or a board of trade designated as a contract market (or parent thereof), or a derivatives clearing organization (or parent thereof, unless the parent is a bank holding company), swap execution facility or a swap data repository registered with the Commodity Futures Trading Commission), that is—

- (i) incorporated or organized under the laws of the United States or any State; and
- (ii) predominantly engaged in financial activities, as defined in paragraph (6).

(C) Nonbank financial company

The term “nonbank financial company” means a U.S. nonbank financial company and a foreign nonbank financial company.

(D) Nonbank financial company supervised by the Board of Governors

The term “nonbank financial company supervised by the Board of Governors” means a nonbank financial company that the Council has determined under section 5323 of this title shall be supervised by the Board of Governors.

(5) Office of Financial Research

The term “Office of Financial Research” means the office established under section 5342 of this title.

(6) Predominantly engaged

A company is “predominantly engaged in financial activities” if—

(A) the annual gross revenues derived by the company and all of its subsidiaries from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956 [12 U.S.C. 1843(k)]) and, if applicable, from the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated annual gross revenues of the company; or

(B) the consolidated assets of the company and all of its subsidiaries related to activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and, if applicable, related to the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated assets of the company.

(7) Significant institutions

The terms “significant nonbank financial company” and “significant bank holding company” have the meanings given those terms by rule of the Board of Governors, but in no instance shall the term “significant nonbank financial company” include those entities that are excluded under paragraph (4)(B).

(b) Definitional criteria

The Board of Governors shall establish, by regulation, the requirements for determining if a company is predominantly engaged in financial activities, as defined in subsection (a)(6).

(c) Foreign nonbank financial companies

For purposes of the application of parts A and C (other than section 5323(b) of this title) with

respect to a foreign nonbank financial company, references in this subchapter to “company” or “subsidiary” include only the United States activities and subsidiaries of such foreign company, except as otherwise provided.

(Pub. L. 111–203, title I, §102, July 21, 2010, 124 Stat. 1391.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (c), was in the original “this title”, meaning title I of Pub. L. 111–203, July 21, 2010, 124 Stat. 1391, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Bank Holding Company Act of 1956, referred to in subsec. (a)(1), is act May 9, 1956, ch. 240, 70 Stat. 133, which is classified principally to chapter 17 (§1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables.

The Farm Credit Act of 1971, referred to in subsec. (a)(4)(B), is Pub. L. 92–181, Dec. 10, 1971, 85 Stat. 583, which is classified principally to chapter 23 (§2001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of this title and Tables.

Part C, referred to in subsec. (c), was in the original “subtitle C”, meaning subtitle C (§§161–176) of title I of Pub. L. 111–203, July 21, 2010, 124 Stat. 1420, which is classified principally to part C (§5361 et seq.) of this subchapter. For complete classification of subtitle C to the Code, see Tables.

EFFECTIVE DATE

Subchapter effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of this title.

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 nonvoting 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.

(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 FACA

The Federal Advisory Committee Act (5 U.S.C. App.) 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 special 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.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

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.

§ 5322. Council authority

(a) Purposes and duties of the Council

(1) In general

The purposes of the Council are—