§ 5373. International policy coordination

(a) By the President

The President, or a designee of the President, may coordinate through all available international policy channels, similar policies as those found in United States law relating to limiting the scope, nature, size, scale, concentration, and interconnectedness of financial companies, in order to protect financial stability and the global economy.

(b) By the Council

The Chairperson of the Council, in consultation with the other members of the Council, shall regularly consult with the financial regulatory entities and other appropriate organizations of foreign governments or international organizations on matters relating to systemic risk to the international financial system.

(c) By the Board of Governors and the Secretary

The Board of Governors and the Secretary shall consult with their foreign counterparts and through appropriate multilateral organizations to encourage comprehensive and robust prudential supervision and regulation for all highly leveraged and interconnected financial companies.

(Pub. L. 111–203, title I, § 175, July 21, 2010, 124 Stat. 1442.)

§ 5374. Rule of construction

No regulation or standard imposed under this subchapter may be construed in a manner that would lessen the stringency of the requirements of any applicable primary financial regulatory agency or any other Federal or State agency that are otherwise applicable. This subchapter, and the rules and regulations or orders prescribed pursuant to this subchapter, do not divest any such agency of any authority derived from any other applicable law.

(Pub. L. 111–203, title I, § 176, July 21, 2010, 124 Stat. 1442.)

SUBCHAPTER II—ORDERLY LIQUIDATION AUTHORITY

§ 5381. Definitions

(a) In general

In this subchapter, the following definitions shall apply:

(1) Administrative expenses of the receiver

The term ''administrative expenses of the receiver'' includes—

(A) the actual, necessary costs and expenses incurred by the Corporation as receiver for a covered financial company in liquidating a covered financial company; and

(B) any obligations that the Corporation as receiver for a covered financial company determines are necessary and appropriate to facilitate the smooth and orderly liquidation of the covered financial company.

(2) Bankruptcy Code

The term ''Bankruptcy Code'' means title 11.

(3) Bridge financial company

The term ''bridge financial company'' means a new financial company organized by the Corporation in accordance with section 5390(h) of this title for the purpose of resolving a covered financial company.

(4) Claim

The term ''claim'' means any right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(5) Company

The term ''company'' has the same meaning as in section 1841(b) of this title, except that such term includes any company described in paragraph (11), the majority of the securities of which are owned by the United States or any State.

(6) Court

The term ''Court'' means the United States District Court for the District of Columbia, unless the context otherwise requires.

(7) Covered broker or dealer

The term ''covered broker or dealer'' means a covered financial company that is a broker or dealer that—

(A) is registered with the Commission under section 78o(b) of title 15; and

(B) is a member of SIPC.

(8) Covered financial company

The term ''covered financial company''—

(A) means a financial company for which a determination has been made under section 5383(b) of this title; and

(B) does not include an insured depository institution.

(9) Covered subsidiary

The term ''covered subsidiary'' means a subsidiary of a covered financial company, other than—

(A) an insured depository institution;

(B) an insurance company; or

(C) a covered broker or dealer.

(10) Definitions relating to covered brokers and dealers

The terms ''customer'', ''customer name securities'', ''customer property'', and ''net equity'' in the context of a covered broker or dealer, have the same meanings as in section 78lll of title 15.

(11) Financial company

The term ''financial company'' means any company that—

(A) is incorporated or organized under any provision of Federal law or the laws of any State;

(B) is—

(i) a bank holding company, as defined in section 1841(a) of this title;

(ii) a nonbank financial company supervised by the Board of Governors;

(iii) any company that is predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 1843(k) of this title other than a company described in clause (i) or (ii); or

(iv) any subsidiary of any company described in any of clauses (i) through (iii) that is predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 1843(k) of this title (other than a subsidiary that is an insured depository institution or an insurance company); and

(C) is not a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 et seq.), a governmental entity, or a regulated entity, as defined under section 4502(20) of this title.

(12) Fund

The term ''Fund'' means the Orderly Liquidation Fund established under section 5390(n) of this title.

(13) Insurance company

The term ''insurance company'' means any entity that is—

(A) engaged in the business of insurance;

(B) subject to regulation by a State insurance regulator; and

(C) covered by a State law that is designed to specifically deal with the rehabilitation, liquidation, or insolvency of an insurance company.

(14) Nonbank financial company

The term ''nonbank financial company'' has the same meaning as in section 5311(a)(4)(C) of this title.

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

The term ''nonbank financial company supervised by the Board of Governors'' has the same meaning as in section 5311(a)(4)(D) of this title.

(16) SIPC

The term ''SIPC'' means the Securities Investor Protection Corporation.

(b) Definitional criteria

For purpose of the definition of the term ''financial company'' under subsection (a)(11), no company shall be deemed to be predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 1843(k)

of this title, if the consolidated revenues of such company from such activities constitute less than 85 percent of the total consolidated revenues of such company, as the Corporation, in consultation with the Secretary, shall establish by regulation. In determining whether a company is a financial company under this subchapter, the consolidated revenues derived from the ownership or control of a depository institution shall be included.

(Pub. L. 111–203, title II, § 201, July 21, 2010, 124 Stat. 1442.)

§ 5382. Judicial review

(a) Commencement of orderly liquidation

(1) Petition to District Court

(A) District Court review

(i) Petition to District Court

Subsequent to a determination by the Secretary under section 5383 of this title that a financial company satisfies the criteria in section 5383(b) of this title, the Secretary shall notify the Corporation and the covered financial company. If the board of directors (or body performing similar functions) of the covered financial company acquiesces or consents to the appointment of the Corporation as receiver, the Secretary shall appoint the Corporation as receiver. If the board of directors (or body performing similar functions) of the covered financial company does not acquiesce or consent to the appointment of the Corporation as receiver, the Secretary shall petition the United States District Court for the District of Columbia for an order authorizing the Secretary to appoint the Corporation as receiver.

(ii) Form and content of order

The Secretary shall present all relevant findings and the recommendation made pursuant to section 5383(a) of this title to the Court. The petition shall be filed under seal.

(iii) Determination

On a strictly confidential basis, and without any prior public disclosure, the Court, after notice to the covered financial company and a hearing in which the covered financial company may oppose the petition, shall determine whether the deter-