Congressional Research Service
Informing the legislative debate since 1914

Financial Stability Oversight Council: Policy Issues in the 119th Congress

November 26, 2025

Congressional Research Service
https://crsreports.congress.gov
R48739

CRS REPORT
Prepared for Members and
Committees of Congress

Congressional Research Service
Informing the legislative debate since 1914

Financial Stability Oversight Council: Policy Issues in the 119th Congress

SUMMARY

R48739

November 26, 2025

Marc Labonte
Specialist in Macroeconomic Policy

The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act, P.L. 111-203), a wide-ranging financial reform bill, created the Financial Stability Oversight Council (FSOC) and the Office of Financial Research (OFR) in response to the 2008 financial crisis. Some observers contended that gaps and silos in the federal financial regulatory system hampered regulators from effectively responding to threats to financial stability in the buildup to the financial crisis. FSOC was seen as a way of ensuring that regulators work together and consider systemic risks to overall financial stability that go beyond their usual, narrower remit.

FSOC is a collaborative body headed by the Treasury Secretary whose other voting members consist of federal financial regulators and a presidentially appointed independent insurance expert. FSOC's statutory mission is to identify risks to financial stability, promote market discipline, and respond to emerging threats to financial stability. It is not a regulator: If it identifies a regulatory gap or an emerging threat to financial stability, it can make recommendations to a member agency to take action (if that agency has authority to act) or to Congress (if no agency has existing authority). In 15 years, FSOC's formal powers to recommend reforms to agencies has been used only once—for money market fund reforms in 2012. FSOC has rarely made formal recommendations to Congress to make legislative reforms, and Congress has not acted on the recommendations FSOC has made. FSOC has cataloged and at times coordinated agency actions in various policy areas.

FSOC's main rulemaking power is limited to designations. By two-thirds vote including the Treasury Secretary, FSOC may designate nonbank financial firms as *systemically important financial institutions* (SIFIs) or payment, clearing, and settlement systems as *financial market utilities* (FMUs). Designated SIFIs are subject to safety and soundness regulations by the Federal Reserve. Designated FMUs are subject to heightened risk-management standards by their primary regulators. Since enactment, four firms have been designated as SIFIs, all of which were de-designated by 2018. There have been eight FMUs continually since 2012. The previous three Administrations have issued guidance on SIFI designation that have alternately made it harder or easier to designate, and the current Administration has announced its intention to review the latest guidance from 2023. In the 119th Congress, H.R. 3682 would require FSOC to consider whether any other action could mitigate the systemic risk posed by a nonbank financial firm before designating that firm as a SIFI.

The OFR supports FSOC by monitoring the financial system for systemic risk, conducting research, and collecting data. Congress has considered eliminating or defunding OFR, most recently in a version of the FY2025 budget reconciliation bill (H.R. 1) passed by the House. This provision was not included in the version of the bill that became P.L. 119-21.

FSOC and OFR have seen swings in their budget and staffing levels across Administrations. Under current plans, OFR would have fewer employees in FY2026 than it has had since its initial ramp-up. Unusually for organizations that are not independent agencies or regulators, FSOC and OFR are not subject to appropriations and are funded through an assessment on large bank holding companies. This is the case although they are located within Treasury, which is otherwise subject to appropriations. Congress has debated whether FSOC and OFR should be moved onto appropriations.

Congressional oversight of FSOC and OFR is provided by statutory requirements for annual reporting and testimony. Congress has not always held these annual hearings, particularly in the case of OFR.

Greater coordination of systemic risk regulation across agencies may help reduce regulatory gaps and silos. It may also strengthen Treasury's control over independent regulators and may make regulation more political and subject to policy U-turns when leadership changes. For example, FSOC's focus on climate change as a source of systemic risk has been on again/off again under the past three Treasury Secretaries. Regulator independence has become more salient, because both President Trump and a majority of the Supreme Court have taken steps that may curb the independence of agencies.

Contents

Figures

Tables

Contacts

Introduction

The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act, P.L. 111-203), a wide-ranging financial reform bill enacted in response to the 2008 financial crisis, created the Financial Stability Oversight Council (FSOC) and the Office of Financial Research (OFR).[1] FSOC is a collaborative body headed by the Treasury Secretary and also consisting of federal financial regulators, a presidentially appointed independent insurance expert, and representatives of state financial regulators. The OFR supports FSOC by monitoring the financial system for systemic risk, conducting research on financial stability, and collecting data.

FSOC's statutory mission is to identify risks to financial stability, promote market discipline, and respond to emerging threats to financial stability. To pursue its mission, FSOC is to foster communication among financial regulators, monitor systemic risks in the financial system, designate systemically important firms and market utilities, provide annual reports on emerging systemic risks and current policy responses, recommend regulatory reforms to mitigate risks, and alert Congress and the President to any unaddressed potential risks.

Some observers, including financial regulators, contended that gaps and silos in the federal financial regulatory system hampered regulators from effectively responding to threats to financial stability in the buildup to the financial crisis.[2] FSOC was seen as a way of ensuring that regulators work together and consider systemic risks to overall financial stability that go beyond their usual, narrower remit.[3] But the Treasury Secretary heads FSOC, and the idea for creating FSOC officially originated with the Treasury.[4] Thus, FSOC also has the potential to be a vehicle for the Treasury Secretary to better impose and coordinate a policy agenda over otherwise independent agencies.

Another concern raised by the financial crisis was inadequate regulation of financial firms. Financial distress at nonbank financial firms such as Bear Stearns, Lehman Brothers, and American International Group (AIG) led to a deepening of the crisis.[5] The Dodd-Frank Act addressed this by granting FSOC the ability to designate nonbank financial firms as systemically important financial institutions (SIFIs) and payment, clearing, and settlement systems as financial market utilities (FMUs) subject to enhanced prudential regulation (EPR).

Some Members of Congress have long debated the appropriate scope of FSOC's powers, whether FSOC's and OFR's budgets should be subject to appropriations, and whether OFR should be eliminated.

This report provides an overview of FSOC's and OFR's structures and duties and analyzes FSOC policy-related issues and legislation.

---

[1] For more information, see CRS Report R41350, *The Dodd-Frank Wall Street Reform and Consumer Protection Act: Background and Summary*, coordinated by Baird Webel.

[2] Testimony of Mary L. Shapiro, Chairman, Securities and Exchange Commission, before the Senate Committee on Banking, Housing, and Urban Affairs, Subcommittee on Securities, Insurance, and Investment, June 22, 2009.

[3] For more information, see CRS Report R47026, *Financial Regulation: Systemic Risk*, by Marc Labonte.

[4] Many of the major reforms adopted in the Dodd-Frank Act, including the creation of FSOC, originated in a 2009 Treasury white paper that Congress later modified. U.S. Treasury, *Financial Regulatory Reform: A New Foundation*, 2009, https://fraser.stlouisfed.org/title/financial-regulatory-reform-5123.

[5] For more information, see CRS In Focus IF12755, *"Too Big to Fail" Financial Institutions: Policy Issues*, by Marc Labonte.

FSOC Structure

Membership

FSOC has 15 members: 10 voting members and five nonvoting members (see **Table 1**). FSOC's voting members include the Treasury Secretary, the heads of the federal financial regulators—Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board, Office of the Comptroller of the Currency, National Credit Union Administration, Securities and Exchange Commission (SEC), Commodity Futures Trading Commission (CFTC), Consumer Financial Protection Bureau (CFPB), and Federal Housing Finance Agency—and an independent insurance expert appointed by the President—a position created by the Dodd-Frank Act to serve on FSOC. Nonvoting members include the directors of OFR and Treasury's Federal Insurance Office and one state regulatory representative for each of insurance, banking, and securities. Depending on the type of action, decisions are made by majority vote or supermajority council vote and an affirmative vote by the chair. Only the head of each agency is on the council even if the agency is led by a board or commission.

Table 1. Membership of FSOC

Voting	Nonvoting
Treasury Secretary (chair)	Federal Insurance Office
Federal Reserve Board	Office of Financial Research
Office of the Comptroller of the Currency	State insurance regulator
Federal Deposit Insurance Corporation	State banking regulator
National Credit Union Administration	State securities regulator
Securities and Exchange Commission	
Commodity Futures Trading Commission	
Federal Housing Finance Agency	
Consumer Financial Protection Bureau	
Independent insurance expert	

Source: P.L. 111-203, Dodd-Frank Wall Street Reform and Consumer Protection Act, §111(b).

Note: The head of each agency serves on FSOC.

Chairperson

The chair of FSOC—the Treasury Secretary—has a number of powers and responsibilities concerning FSOC meetings, congressional reports and testimonies, and certain council rulemakings and recommendations. As chair, the Secretary calls FSOC meetings. Otherwise, meetings may be called by a majority of the members but must be held at least quarterly. In practice, the chair sets FSOC's agenda, and FSOC's priorities reflect those of whomever the current chair is. For many FSOC decisions where a vote is required, the chair's affirmative vote is required for a decision to be made.

The Secretary must testify before the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs in conjunction with the release of the annual FSOC report. If any member agencies have notified Congress of deficiencies in systemic risk efforts, the Secretary must address those concerns at the hearing.

Agency Representation

The heads of the financial regulatory agencies listed in **Table 1** are members of FSOC. If the agency has a vote, the head of the agency exercises sole discretion over the vote even if the agency is led by a commission or board, some of which are required to have bipartisan membership. By contrast, for their own internal agency matters, these agencies often issue new rules, initiate investigations, or change policies by majority votes of the boards or commissions.

Meetings

Each meeting is chaired by the Treasury Secretary and may be open or closed to the public depending on the meeting's agenda.[6] Public meetings may be aired via live webcast and may also be viewed online afterwards. Additionally, minutes are recorded for FSOC meetings. However, they may be subject to redactions as determined by the chairperson. The Dodd-Frank Act requires regular FSOC meetings, although FSOC may meet more often to consider emerging threats to financial stability or to determine whether a financial firm or market utility poses systemic risk. Only FSOC members, including the heads of member agencies, may attend official FSOC meetings and staff briefings as a matter of right. Agency commissioners and board members other than the heads may be invited or admitted to FSOC meetings but cannot attend as a matter of right. Reportedly, nonmember SEC commissioners complained about lack of access to FSOC meetings in 2014.[7] A Member of Congress on the committee of jurisdiction also attempted to attend an FSOC meeting and was denied admittance.[8]

Mission and Duties

Section 112(a) of the Dodd-Frank Act specifies the following three primary purposes and duties of the FSOC:

> (A) to identify risks to the financial stability of the United States that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected bank holding companies or nonbank financial companies, or that could arise outside the financial services marketplace;
>
> (B) to promote market discipline, by eliminating expectations on the part of shareholders, creditors, and counterparties of such companies that the Government will shield them from losses in the event of failure; and
>
> (C) to respond to emerging threats to the stability of the United States financial system.

The Dodd-Frank Act provides for 14 specific duties to fulfill that mission. The first five duties address financial market monitoring, including domestic and foreign data collection and sharing and support of FSOC's work by the OFR. Three duties are related to designating systemic financial market firms and utilities for heightened regulation and making recommendations for heightened prudential standards. Three duties relate to making nonbinding recommendations to

---

[6] FSOC's transparency policy is available at https://www.treasury.gov/initiatives/fsoc/Documents/The%20Council%27s%20Transparency%20Policy.pdf.

[7] Sarah Lynch, "At SEC, Discontent Grows Over Closed U.S. Risk Council Meetings," Reuters, April 2, 2014, http://www.reuters.com/article/us-sec-risks-complaints-idUSBREA3124320140402. H.R. 10, which passed the House in the 115th Congress, would have added all members of multimember boards and commissions to FSOC but would have given each agency one vote.

[8] Office of Representative Scott Garrett, "Garrett Denied Access to FSOC Meeting," press release, April 3, 2014. H.R. 10, which passed the House in the 115th Congress, would have allowed Members from the committees of jurisdiction to attend FSOC meetings.

primary regulators, including specific reference to accounting principles. Another duty is to provide a forum for regulators to discuss market developments and regulatory jurisdiction issues. FSOC must also identify regulatory gaps that might have systemic significance. FSOC's final duty is to provide an annual report and testimony to Congress on council activities, including statements by each member attesting that all reasonable steps to address systemic risk are being taken or, if not, what could be done.

Regulatory Authority

Following the financial crisis, some observers proposed creating a dedicated systemic risk regulator. By contrast, FSOC is not a regulator—it cannot impose regulatory requirements on financial firms, markets, activities, or products—and has limited regulatory authority. Generally, when FSOC has identified a threat to financial stability within a member agency's jurisdiction, it recommends that the agency take action rather than taking action itself. Under Section 120, this can be done using a formal procedure that requires FSOC to seek notice and comment.[9]

FSOC's primary rulemaking authority is related to its designation powers. It may designate certain financial firms, activities, and systems as systemically important (see below) and require those firms and large bank holding companies (BHCs) to provide OFR with information on its behalf (subject to burden reduction and confidentiality requirements).[10] Once an entity is designated, FSOC does not regulate or supervise it, as will be discussed below.

Since 2010, all of the rules FSOC has promulgated are related to its designation authority or its Freedom of Information Act policies.[11] FSOC has also at times issued requests for public comment on its recommendations or studies in the *Federal Register*. For example, it has requested comment on systemic risk posed by asset managers in 2014[12] and proposed money market fund reforms in 2012.[13] The money market reform recommendations were issued under Section 120, which requires FSOC to seek public comment.

OFR Duties and Responsibilities

Section 153 of the Dodd-Frank Act directs the OFR to "support the Council in fulfilling the purposes and duties of the Council … and to support member agencies."[14] Notably, OFR assists FSOC with monitoring the financial system for emerging threats. Its duties are to collect and standardize data, perform research related to systemic risk, and develop tools for measuring and monitoring risk. It is not a regulator—its rulemaking and subpoena authority is limited to collecting and standardizing data. If FSOC needs to collect information about a company to make

[9] See the section below entitled "Interactions with Member Agencies."

[10] See the section below entitled "Designation of Systemic Nonbank SIFIs and FMUs."

[11] FSOC's *Federal Register* notices can be accessed at https://www.federalregister.gov/agencies/financial-stability-oversight-council.

[12] FSOC, "Notice Seeking Comment on Asset Management Products and Activities," 79 *Federal Register* 247, December 24, 2014, https://www.federalregister.gov/documents/2014/12/24/2014-30255/notice-seeking-comment-on-asset-management-products-and-activities.

[13] FSOC, "Financial Stability Oversight Council Releases Proposed Recommendations for Money Market Mutual Fund Reform," press release, November 13, 2012, https://home.treasury.gov/news/press-releases/tg1764.

[14] Previously, there was a separate Treasury Office of Financial Stability to administer the Troubled Asset Relief Program (TARP) that was unrelated to FSOC or OFR. TARP ended operations in FY2023, and the Office of Financial Stability no longer exists.

a decision on designation, OFR collects the information on its behalf.[15] OFR's permanent researchers and analysts are distinct from researchers and staff at member agencies.[16]

The OFR is housed in the Department of the Treasury, but its funding and leadership were structured to give it some potential independence from Treasury. The Dodd-Frank Act instructs the OFR director to "consult with" the Secretary regarding the OFR's budget priorities, staffing, and research agenda. However, the OFR director has sole discretion in the exercise of the duties and responsibilities assigned to OFR by the act.[17] The director is required to report and testify annually before Congress.

The OFR director is appointed by the President and confirmed by the Senate and serves a six-year term—unlike other Treasury officials. A fixed six-year term is meant to promote continuity across Administrations, but the position was not granted "for cause" removal protections, as some regulators enjoy. No director has served out a full six-year term to date, and there has not been a permanent director since 2022.

Budget and Staffing

OFR and FSOC were provided an atypical, independent funding source outside of appropriations by Congress, although they are not regulatory or adjudicatory agencies and they are located within the Treasury Department.[18] By contrast, Treasury offices and bureaus are typically funded through appropriations. The OFR director, in consultation with the Treasury Secretary, sets OFR's budget and personnel levels, and the Treasury Secretary sets FSOC's budget (which includes the insurance representative on FSOC). Both budgets are currently funded through assessments on BHCs with over $250 billion in assets and nonbanks designated as SIFIs, with receipts deposited in the Financial Research Fund, whose balances can be carried over to future years if not used.[19]

OFR is a much larger organization than FSOC. In FY2024, OFR had 162 full-time equivalent (FTE) employees (see **Figure 1**) and a budget of $119 million (see **Figure 2**), whereas FSOC had 36 FTEs and a budget of $11 million.[20] After an initial ramp-up following their creation under Treasury Secretary Tim Geithner, both agencies grew under Treasury Secretary Jacob Lew, then shrank under Treasury Secretary Steve Mnuchin, then grew again under Treasury Secretary Janet Yellen. This cyclical pattern is more pronounced at OFR—in nominal terms, its budget in FY2024 was about twice as large as its budget in FY2019.[21] With the caveat that actual funding levels and employees have typically deviated from those initially proposed, under current plans OFR will have fewer employees in FY2026 than it has had since its initial ramp-up.

---

[15] FSOC may directly collect information from financial market utilities—OFR does not have to collect information on its behalf.

[16] Member agencies also individually monitor financial conditions insofar as it is within their duties and jurisdictions. Notably, the Fed produces a semi-annual report on financial stability.

[17] Section 152(b)(5) of the Dodd-Frank Act.

[18] Agencies can also provide staff and resources at their expense to assist FSOC.

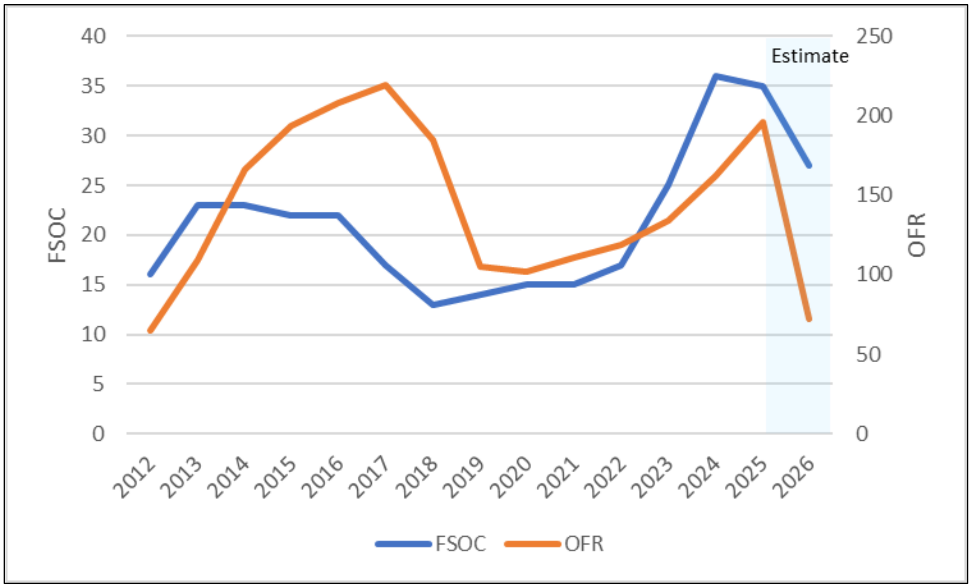
[19] Pursuant to Section 210 of the Dodd-Frank Act, the assessments also fund transfers to the FDIC for costs associated with its Orderly Liquidation Authority. Those amounts are not included in the data presented in this report.

[20] FSOC and OFR budget documents can be found at https://home.treasury.gov/about/budget-financial-reporting-planning-and-performance/budget-requestannual-performance-plan-and-reports/budget-in-brief.

[21] If adjusted for inflation, FSOC's and OFR's budgets would show a larger real decrease in FY2017-FY2019 relative to the preceding period and a smaller real increase from FY2022 to FY2024 for FSOC and from FY2020 to FY2024 for OFR relative to the FY2017-FY2019 period.

Figure 1. Full-Time Equivalent Employees at FSOC and OFR

FY2012-FY2026

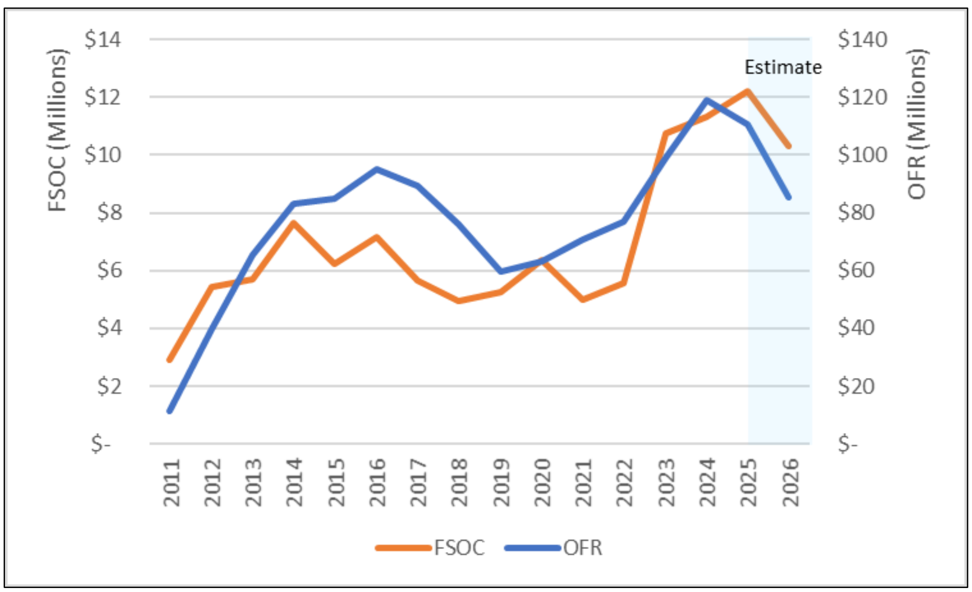


Source: U.S. Treasury, *Budget-in-Brief*, various years, https://home.treasury.gov/about/budget-financial-reporting-planning-and-performance/budget-requestannual-performance-plan-and-reports/budget-in-brief.

Notes: FY2025 and FY2026 are estimates.

Figure 2. FSOC and OFR Funding Levels

FY2011-FY2026



Source: U.S. Treasury, *Budget-in-Brief*, various years, https://home.treasury.gov/about/budget-financial-reporting-planning-and-performance/budget-requestannual-performance-plan-and-reports/budget-in-brief.

Notes: FY2025 and FY2026 are estimates.

FSOC Activities

Designation of Systemic Nonbank SIFIs and FMUs

Although FSOC is not a regulator of financial firms or the financial system, it does designate nonbank financial firms and payment, clearing, and settlement systems as SIFIs and FMUs, respectively.[22] This designation subjects the SIFIs to EPR and supervision by the Fed. (Certain large BHCs are automatically considered SIFIs and subject to heightened prudential regulation without FSOC designation.) The Fed promulgates those standards, but statute allows FSOC to recommend standards (and tailoring of those standards) to the Fed. The prudential regulator of a systemic FMU can be the Fed, SEC, or CFTC, depending upon its function. Most aspects of designation require a two-thirds vote, including the Treasury Secretary. In other words, the Treasury Secretary has an effective veto.

Statutory Factors for SIFI Designation

FSOC is to designate nonbank financial firms as SIFIs if "material financial distress" or the "nature, scope, size, scale, concentration, interconnectedness, or mix of [their] activities … could pose a threat to the financial stability of the United States." To decide whether a firm could pose a threat to financial stability, Section 113 of Dodd-Frank directs FSOC to consider 11 factors in designations:

> (A) the extent of the leverage of the company;
>
> (B) the extent and nature of the United States related off-balance-sheet exposures of the company;
>
> (C) the extent and nature of the transactions and relationships of the company with other significant nonbank financial companies and significant bank holding companies;
>
> (D) the importance of the company as a source of credit for United States households, businesses, and State and local governments and as a source of liquidity for the United States financial system;
>
> (E) the importance of the company as a source of credit for low-income, minority, or underserved communities in the United States, and the impact that the failure of such company would have on the availability of credit in such communities;
>
> (F) the extent to which assets are managed rather than owned by the company and the extent to which ownership of assets under management is diffuse;
>
> (G) the nature, scope, size, scale, concentration, interconnectedness, and mix of the activities of the company;
>
> (H) the extent to which the company is subject to prudential standards on a consolidated basis in its home country that are administered and enforced by a comparable foreign supervisory authority;
>
> (I) the amount and nature of the United States financial assets of the company;

[22] The act does not use the term SIFI, which is colloquial. In the act, FSOC votes to "determine that a U.S. nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards, in accordance with this title, if the Council determines that material financial distress at the U.S. nonbank financial company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the U.S. nonbank financial company, could pose a threat to the financial stability of the United States."

> (J) the amount and nature of the liabilities of the company used to fund activities and operations in the United States, including the degree of reliance on short-term funding; and
>
> (K) any other risk-related factors that the Council deems appropriate.[23]

Some of these factors include several components. For example, the seventh factor directs FSOC to consider the candidate's consequences of material distress, taking into account the nature, scope, size, scale, concentration, interconnectedness, and mix of its activities.[24] The 11th factor gives FSOC discretion to consider factors not specified in statute. FSOC issued its final rule for designations of SIFIs in 2012.[25] The final rule incorporates the factors in Section 113**Error! Reference source not found.** verbatim.

FSOC may request information (through OFR) from any nonbank financial firm to determine whether it should be designated and may require any designated nonbank SIFI or large BHC subject to EPR to provide it with ongoing information about its activities. However, statute requires FSOC to use existing information that is available publicly or from a member agency before requesting any new information from a firm.

Under Section 117 of Dodd-Frank, a BHC that is subject to EPR and participated in the Troubled Asset Relief Program's Capital Purchase Program during the financial crisis cannot convert to another type of charter to avoid EPR—if it did, it would automatically be considered to be a designated SIFI.[26] However, the company may appeal to FSOC that it does not pose systemic risk and should not be regulated as a SIFI, which is determined by a two-thirds vote of FSOC including the chair.[27] This has happened once to date—Zions Bank successfully appealed in 2018 after converting from a BHC to a standalone bank.[28]

Section 113 includes two avenues for a designated SIFI to avoid designation or be de-designated. This provides firms an incentive to change their business models or activities so that they are no longer systemically important. But it also raises the possibility that changing personnel on FSOC may reverse predecessors' designations for reasons unrelated to changes at the designated SIFI.

First, there is an appeal process. When FSOC proposes to designate a firm, the firm has a limited period of time to present evidence at a hearing before FSOC that it should not be designated, and FSOC has a limited period of time to reach a final decision on designation.[29] A firm can be designated only by a two-thirds vote of FSOC, including the chair. If the appeal to FSOC fails, the firm has 30 days to bring an action in district court to challenge its designation. The Dodd-Frank Act directs the court to determine only whether the designation was arbitrary and capricious.

---

[23] When FSOC is considering a foreign financial firm, similar factors apply to its U.S. activities.

[24] For more information, see CRS Report R45162, *Regulatory Reform 10 Years After the Financial Crisis: Systemic Risk Regulation of Non-Bank Financial Institutions*, by Jay B. Sykes.

[25] FSOC, "Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies," 77 *Federal Register* 21637, April 11, 2012, https://www.treasury.gov/initiatives/fsoc/rulemaking/Documents/Authority%20to%20Require%20Supervision%20and%20Regulation%20of%20Certain%20Nonbank%20Financial%20Companies.pdf.

[26] This backstop is more limited than it might first appear—it does not apply to thrift holding companies that drop their charters, which some large insurance companies did, or BHCs that become banks or did not participate in the Capital Purchase Program or nonbank firms that received other types of government assistance during the financial crisis.

[27] Section 117 of the Dodd-Frank Act, colloquially referred to as the "Hotel California" provision.

[28] FSOC, "Financial Stability Oversight Council Announces Final Decision to Grant Petition from ZB, N.A.," press release, September 12, 2018, https://home.treasury.gov/news/press-releases/sm478.

[29] The hearing may be waived if FSOC deems it to be an emergency. H.R. 4061, which would have reformed the designation process, passed the House in the 115th Congress.

Second, FSOC must reconsider at least annually whether each designated firm still meets the statutory criteria of a potential threat to financial stability. If it does not, the firm can be de-designated by a two-thirds vote, including the chair.

The History of SIFI Designation

Since the 2012 rule was issued, FSOC has designated four nonbank SIFIs—three insurance firms (AIG, Prudential Financial, and MetLife) and one nonbank lender (General Electric Capital Corporation), as summarized in **Table 2**. Some designation votes were not unanimous.[30] No other type of nonbank financial firm has been designated, such as those that operate in capital, derivatives, or securitization markets.

Table 2. Former Nonbank SIFIs

	Designation Date	De-designation Date
AIG	July 9, 2013	Sept. 29, 2017
GE Capital	July 9, 2013	June 29, 2016
Prudential	Sept. 20, 2013	Oct. 17, 2018
MetLife	Dec. 19, 2014	Mar. 30, 2016 (by court ruling)

Source: CRS, based on FSOC documents.

Between 2016 and 2018, FSOC de-designated AIG, GE Capital, and Prudential. MetLife was de-designated in 2016 as the result of a court decision that its designation was arbitrary and capricious. The decision was initially appealed, but the first Trump Administration chose to drop the appeal.[31] Some de-designations were not unanimous.

To de-designate firms, FSOC must demonstrate that they are no longer systemically important. It released a detailed report explaining each de-designation, but the public versions of the reports were heavily redacted.[32] Before de-designation, FSOC reported that GE Capital divested $272 billion of its assets, reduced its use of short-term funding by 86%, and reorganized its corporate structure.[33] For AIG and Prudential, the unredacted data supporting FSOC's claims that the firms no longer posed systemic risk was less clear-cut, making its decisions difficult to evaluate without access to its confidential deliberations.[34] For example, Prudential's total assets increased between designation and de-designation.

There is no public record of FSOC initiating a designation process for any firm since 2014.

[30] Votes are recorded at https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/fsoc/council-meetings.

[31] See CRS Report R45162, *Regulatory Reform 10 Years After the Financial Crisis: Systemic Risk Regulation of Non-Bank Financial Institutions*, by Jay B. Sykes.

[32] These reports are available at https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/fsoc/designations.

[33] FSOC, *Basis for the Financial Stability Oversight Council's Rescission of Its Determination Regarding GE Capital Global Holdings, LLC*, June 28, 2016, https://home.treasury.gov/system/files/261/GE%20Captial%20Global%20Holdings%2C%20LLC%20%28Recission%29.pdf.

[34] For a legal analysis, see David Zaring, "The Federal Deregulation of Insurance," *Texas Law Review*, vol. 97, no. 1 (November 2018), pp. 125-162, https://texaslawreview.org/the-federal-deregulation-of-insurance/.

FSOC Guidance on SIFI Designation Process

Since FSOC first issued a final rule implementing the designation process in 2012, it has also provided guidance that explained in greater detail how each step of the process would work. New guidance in 2019 and 2023 superseded previous guidance.

Under the Obama Administration, guidance laid out a three-stage process for considering firms for designation. In stage 1, a broad group of companies would be winnowed down using six simple quantitative metrics that proxy for some of the statutory factors. A subset of those companies would graduate to stage 2, at which point FSOC would consult with its primary (domestic or foreign) regulators and perform a more comprehensive evaluation. In the third stage, FSOC would collect information from the remaining companies to decide whether to propose designations. FSOC would vote on a final determination after the firm was notified and responded. The identity of firms under consideration would remain confidential until final determinations about designation were made.[35]

Under the first Trump Administration, FSOC reoriented its approach away from *institution-based regulation* (i.e., SIFI designation) and toward *activities-based regulation*—regulating particular financial activities or practices to prevent them from causing financial instability. Although these two approaches need not be mutually exclusive,[36] the guidance created a higher bar to designations. The 2019 guidance required a cost-benefit analysis before a designation was made, increased FSOC's engagement with a company under consideration, required FSOC to provide a designated SIFI with an "off-ramp" that explains how it can mitigate its systemic risk in order to be de-designated in the future, and made designation a last resort to be pursued "only if a potential risk or threat cannot be adequately addressed through an activities-based approach."[37]

Under the Biden Administration, FSOC issued guidance in 2023 to "remove unwarranted hurdles to designation imposed by" the 2019 guidance. Specifically, it removed the requirements that FSOC "would exhaust all available alternatives by prioritizing an 'activities-based approach,' perform a cost-benefit analysis, and assess a company's likelihood of material financial distress" before considering a designation.[38] It stated that whether activities-based regulation or designation was the appropriate response to systemic risk depended on the nature of the risk and the regulatory options available to address it. Simultaneously, FSOC adopted a policy statement entitled the *Analytic Framework for Financial Stability Risk Identification, Assessment, and*

[35] FSOC, "Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies." Supplemental guidance was issued in 2015 to further explain how the three-stage process worked. See FSOC, *Supplemental Procedures Relating to Nonbank Financial Company Determinations*, February 4, 2015, https://home.treasury.gov/system/files/261/Supplemental%20Procedures%20Related%20to%20Nonbank%20Financial%20Company%20Determinations%20%20%28February%204%2C%202015%29.pdf; FSOC *Staff Guidance Methodologies Relating to Stage 1 Thresholds*, June 8, 2015, https://home.treasury.gov/system/files/261/Staff%20Guidance%20Methodologies%20Relating%20to%20Stage%201%20Thresholds.pdf.

[36] Jeremy C. Kress et al., "Regulating Entities and Activities: Complementary Approaches to Nonbank Systemic Risk," *Southern California Law Review*, vol. 92, no. 6 (September 2019), pp. 1455-1528, https://southerncalifornialawreview.com/2019/09/01/regulating-entities-and-activities-complementary-approaches-to-nonbank-systemic-risk-article-by-jeremy-c-kress-patricia-a-mccoy-daniel-schwarcz/.

[37] FSOC, "Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies," 84 *Federal Register* 71740, December 30, 2019, https://home.treasury.gov/system/files/261/Authority-to-Require-Supervision-and-Regulation-of-Certain-Nonbank-Financial-Companies.pdf.

[38] FSOC, "Guidance on Nonbank Financial Company Determinations," 88 *Federal Register* 221, November 17, 2023, https://www.federalregister.gov/documents/2023/11/17/2023-25053/guidance-on-nonbank-financial-company-determinations. In the 118th Congress, the House Financial Services Committee reported H.J.Res. 120 to overturn this guidance using the Congressional Review Act.

Response.[39] The framework describes how FSOC identifies, assesses, and addresses potential risks to financial stability. It describes how FSOC may address risks through various actions, including SIFI designation.

Under the second Trump Administration, in September 2025, FSOC announced its "intention to review its guidance related to nonbank financial company determinations … and the Council's analytic framework for financial stability risks."[40]

FMU Designations

Title VIII of the Dodd-Frank Act allows FSOC to designate payment, clearing, and settlement (PCS) systems as systemically important FMUs or PCS activities as systemically important. The Fed, SEC, and CFTC are required to prescribe risk management standards for the FMUs under their jurisdictions and are granted examination and enforcement powers to ensure compliance.[41] Designation (and subsequent de-designation) requires a two-thirds vote by FSOC, including the Treasury Secretary. To limit the scope of Title VIII, various types of financial entities are statutorily exempted from being designated as FMUs. Designation is based on the value of the system's transactions, aggregate exposures, interdependencies with other PCS systems; the effect of a system's failure on financial stability; and any other factors deemed appropriate by FSOC. FSOC may request information from PCS systems to determine whether designation is warranted and may require an FMU to submit reports after it has been designated.[42] Before designation, FSOC is required to provide the PCS system advanced notice and an opportunity for a hearing. Similar to nonbank SIFIs, the PCS system may appeal its designation before FSOC. Unlike SIFIs, it cannot contest a failed appeal in court.

Similar to nonbank SIFIs, FSOC may de-designate an FMU if it no longer poses a threat to financial stability by a two-thirds vote including the Treasury Secretary. However, unlike nonbank SIFIs, statute does not require FSOC to periodically reconsider whether this is still the case.

The FSOC issued its final rule for designations of FMUs in 2011.[43] Eight FMUs (Clearing House Payments Company, CLS Bank International, Chicago Mercantile Exchange, Depository Trust Company, Fixed Income Clearing Corporation, ICE Clear Credit, National Securities Clearing Corporation, and the Options Clearing Corporation) were designated in 2012. There has been no

[39] FSOC, "Analytic Framework for Financial Stability Risk Identification, Assessment, and Response," 88 *Federal Register* 218, November 14, 2023, https://www.federalregister.gov/documents/2023/11/14/2023-25055/analytic-framework-for-financial-stability-risk-identification-assessment-and-response.

[40] Department of the Treasury, "Readout: Financial Stability Oversight Council Meeting on September 10, 2025," press release, September 10, 2025, https://home.treasury.gov/system/files/261/FSOC-20250910-Readout.pdf.

[41] If the Fed finds the SEC's and CFTC's risk management standards insufficient, it may request that FSOC require the SEC and CFTC to impose risk management standards prescribed by FSOC. FSOC, by a two-thirds vote including the Treasury Secretary, can accept the SEC's or CFTC's existing standards or prescribe new standards. Similarly, the Fed can recommend that the SEC and CFTC take enforcement actions against FMUs under their jurisdictions, and FSOC can require by a majority vote that the SEC and CFTC take those enforcement actions. The Fed also has emergency authority to examine FMUs and take enforcement actions against FMUs under the SEC's and CFTC's jurisdictions following a majority vote by FSOC.

[42] Unlike nonbank financial firms, OFR does not play a role in information requests and reporting for PCS systems.

[43] FSOC, "Authority to Designate Financial Market Utilities as Systemically Important," 76 *Federal Register* 44763, July 27, 2011, https://www.treasury.gov/initiatives/fsoc/rulemaking/Documents/Final%20Rule%20on%20Authority%20to%20Designate%20Financial%20Market%20Utilities%20as%20Systemically%20Important.pdf.

change in designations since. **Table 3** provides a description of the FMUs and their primary regulators. No PCS activities have ever been designated as systemically important.

Table 3. Designated FMUs

FMU	Primary Regulator	Description
Clearing House Payments Company	Fed	operates CHIPS, a payment settlement system
CLS Bank International	Fed	foreign exchange settlement special purpose bank
Chicago Mercantile Exchange	CFTC	central counterparty clearing services for swaps, options, and futures
Depository Trust Company	SEC	central securities depository and securities settlement system
Fixed Income Clearing Corporation	SEC	central counterparty clearing services for Treasury and agency securities
ICE Clear Credit	CFTC	central counterparty clearing services for credit default swaps
National Securities Clearing Corporation	SEC	central counterparty that provides clearing and settlement services for corporate securities
Options Clearing Corporation	SEC	central counterparty clearing services for U.S. options and futures

Source: Federal Reserve, "Designated Financial Market Utilities," https://www.federalreserve.gov/paymentsystems/designated_fmu_about.htm.

FMUs are not subject to the enhanced prudential requirements that apply to nonbank SIFIs but instead to enhanced risk-management standards and examinations by the Fed, SEC, or CFTC, depending on the type of FMU.[44] The Dodd-Frank act requires regulators to consult with FSOC when setting standards. Unlike nonbank SIFIs, all of which are regulated by the Fed, FMUs have the same primary regulators as if they were not designated. The Fed has some emergency override authority, however, which has never been used. Balancing these costs, the Dodd-Frank Act granted the FMUs direct access to the Fed's discount window, payment systems, and interest-bearing accounts at the Fed.

Reports

Congressional oversight is provided through statutory reporting and testimony requirements.[45] FSOC is required to issue an annual report and the Treasury Secretary is required to testify before the committees of jurisdiction (House Financial Services Committee and Senate Banking, Housing, and Urban Affairs Committee) to update and make recommendations to Congress where

[44] Fed, SEC, CFTC, *Risk Management Supervision of Designated Clearing Entities*, July 2011, https://www.federalreserve.gov/publications/other-reports/files/risk-management-supervision-report-201107.pdf. See also CRS Report R41529, *Supervision of U.S. Payment, Clearing, and Settlement Systems: Designation of Financial Market Utilities (FMUs)*, by Marc Labonte.

[45] In addition, Section 122 of Dodd-Frank provides for oversight by granting the Government Accountability Office audit powers over FSOC, and FSOC is required to report to Congress when it exercises some of its duties, such as making regulatory recommendations (Section 120).

statutory changes are required. The FSOC annual report has a number of statutorily required elements:

> i. the activities of the Council;
>
> ii. significant financial market and regulatory developments, including insurance and accounting regulations and standards, along with an assessment of those developments on the stability of the financial system;
>
> iii. potential emerging threats to the financial stability of the United States;
>
> iv. all determinations made under Section 113 or Title VIII, and the basis for such determinations;
>
> v. all recommendations made under Section 119 and the result of such recommendations; and
>
> vi. recommendations—
>
>> I. to enhance the integrity, efficiency, competitiveness, and stability of United States financial markets;
>>
>> II. to promote market discipline; and
>>
>> III. to maintain investor confidence.[46]

Each annual report is hundreds of pages long and covers a wide array of potential threats to financial stability. Many of the same topics and recommendations appear each year. The report rarely makes recommendations to Congress, and Congress has not acted on those recommendations it has made. For example, several annual reports recommended that Congress enact housing government-sponsored enterprise (GSE) reform. In 2021, the report did not recommend that Congress address LIBOR transition risk even though the House had already passed such a bill (H.R. 4616), which the Treasury had previously endorsed.[47] The annual report makes recommendations to member agencies, but those recommendations are most frequently that the agencies should monitor the issues or continue to pursue the policies they are currently pursuing. Arguably, this coordination of the regulatory agenda helps avoid regulatory gaps or duplication, but it has not imparted a sense of urgency to act on emerging threats.

Alongside the annual report released by the FSOC, all voting members of the FSOC are required to either (1) state that the FSOC, the government, and the private sector are taking all reasonable steps to ensure financial stability and to mitigate systemic risk that would negatively affect the economy or, if they do not agree with those statements, (2) submit statements indicating what actions they believe should be taken to ensure financial stability and the mitigation of systemic risk.[48]

In addition, OFR is required to provide an annual report and testimony. However, Congress has not always exercised its oversight authority—it has sometimes requested the Treasury Secretary to testify and rarely requested the OFR director to provide testimony between 2011 and 2024.[49]

---

[46] P.L. 111-203, §112(a).

[47] Testimony of Deputy Assistant Treasury Secretary Brian Smith in U.S. Congress, House Committee on Financial Services, Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, *The End of LIBOR*, 117th Cong., 1st sess., April 15, 2021, https://financialservices.house.gov/uploadedfiles/hhrg-117-ba16-wstate-smithb-20210415.pdf.

[48] P.L. 111-203, §112(b).

[49] CRS identified 10 House FSOC hearings and seven Senate FSOC hearings in the 14 years between 2011 and 2024. This does not include testimony on other topics by the Treasury Secretary. For OFR, CRS identified three House hearings and one Senate hearing in that time period. FSOC was created in October 2010.

The Dodd-Frank Act also required one-time reports to Congress on specific topics, including "haircuts" on secured creditors (Section 215), international coordination on financial company bankruptcy (Section 202), contingent capital (Section 165), size and complexity of financial firms (Section 123), concentration limits for financial firms (Section 622), and the Volcker Rule (Section 619). The Dodd-Frank Act also allows OFR to publish occasional topical reports to Congress and otherwise promote research on financial stability topics.

FSOC has occasionally published reports (that were not statutorily required) on specific financial stability issues—nonbank mortgage servicing (2024), digital assets (2022), and climate-related financial risk (2021).

Interactions with Member Agencies

The FSOC is supposed to help coordinate member agencies within a complex regulatory architecture.[50] In this context, the *regulatory architecture* refers to the array of regulatory agencies, the scope of their authorities, and their relations to one another.[51] There may be regulatory gaps and overlaps in the coverage of regulatory authority, where either multiple regulatory agencies claim they have jurisdiction over a certain financial firm, activity, or product or no agencies believe they have the authority to regulate. Dodd-Frank created formal processes for FSOC to help resolve these situations. FSOC's authority generally does not supersede the authority of its member agencies. Instead, it generally serves as a nonbinding facilitator of agency communication and potential cooperation.

Jurisdictional Disputes

Section 119 of the Dodd-Frank Act established a formal process for jurisdictional dispute resolutions among FSOC member agencies. If two or more member agencies have a dispute regarding which agency is responsible for regulating a particular BHC, nonbank financial company, or a financial activity or product, they can request that FSOC produce a written recommendation for how the agencies should proceed. These recommendations from FSOC are nonbinding and must be approved by two-thirds of voting members.[52] This formal process has never been invoked, and FSOC has never publicly shown signs of disagreement among members on jurisdiction.[53]

Recommending Systemic Risk Regulations to Member Agencies

In addition, Section 120 of the Dodd-Frank Act established a formal process for FSOC to recommend additional regulation of financial activities that may increase the risk of financial instability. If FSOC determines that a primary regulatory agency already has the authority to regulate the financial activity, FSOC can use the rulemaking process to develop recommendations to the agency for new or heightened regulatory standards and safeguards to prevent the financial activity from increasing the risk of financial instability. Alternatively, if no regulatory agency currently has the authority to regulate the financial activity, FSOC can prepare and submit

[50] Department of the Treasury, *Financial Regulatory Reform: A New Foundation*, October 2009, https://fraser.stlouisfed.org/title/financial-regulatory-reform-5123.

[51] CRS Report R44918, *Who Regulates Whom? An Overview of the U.S. Financial Regulatory Framework*, by Marc Labonte.

[52] The Treasury Secretary's affirmative vote is not required.

[53] Similarly, under Section 712 of Dodd-Frank, FSOC can intervene if the SEC and CFTC cannot jointly prescribe rules on swaps in a timely manner.

recommendations to Congress for legislation that would prevent the financial activity from increasing the risk of financial instability.

This formal process was invoked once for money market fund regulatory reform in 2012,[54] which was subsequently acted on through regulation by the SEC.[55] Reportedly, this process was invoked at the SEC chair's request because a majority of SEC commissioners would not vote for reforms.[56] However, FSOC has also published informal recommendations to members, such as proposals to implement GSE capital requirements[57] (which were adopted) and to address climate risk.[58] In addition, each annual report contains multiple recommendations for member agencies (typically to continue implementing planned reforms) and occasionally for Congress.

Nullifying CFPB Rules

FSOC has a unique relationship with CFPB in that its purview regarding the agency's rulemaking extends beyond offering nonbinding recommendations. Section 1023 of the Dodd-Frank Act provides a procedure for CFPB rules to be evaluated for systemic risk implications. Upon an FSOC two-thirds vote, a CFPB-issued rule can be subject to a stay or set aside.[59] To date, no CFPB rules have been subject to a vote, stayed, or set aside by the FSOC.

Consulting on Agency Regulations

There are various provisions in the Dodd-Frank Act that require regulators to consult with FSOC before implementing regulations or taking actions related to FDIC Orderly Liquidation Authority of failing firms that pose a threat to financial stability and various Fed EPR requirements on large BHCs or nonbank SIFIs,[60] for example.

Approving Use of Emergency Powers

Some emergency powers in the Dodd-Frank Act (that have never been used, to date) require FSOC approval. For example, under Section 165(j) the Fed can impose a 15-1 leverage limit on SIFIs and BHCs subject to EPR if FSOC determines that there is a grave threat to financial stability.[61] Under Section 121, when at least two-thirds of FSOC members find that a bank with more than $250 billion in assets poses a grave threat to financial stability, the Fed may limit the firm's mergers and acquisitions, restrict specific products it offers, and terminate or limit specific activities. If none of those steps eliminates the threat, the Fed may require the firm to divest assets. Under Section 716, FSOC may deny institutions with swaps access to federal assistance

---

[54] FSOC, "Financial Stability Oversight Council Releases Proposed Recommendations for Money Market Mutual Fund Reform," press release, November 13, 2012, https://home.treasury.gov/news/press-releases/tg1764.

[55] See FSOC, *Annual Report*, 2015, p. 15, https://home.treasury.gov/system/files/261/2015-FSOC-Annual-Report.pdf.

[56] Dwight C. Smith, "Money Market Funds: FSOC Proposes Reforms," Harvard Law School Forum on Corporate Governance, December 9, 2012, https://corpgov.law.harvard.edu/2012/12/09/money-market-funds-fsoc-proposes-reforms/.

[57] FSOC, "Statement on Activities-Based Review of Secondary Mortgage Market Activities," September 25, 2020, https://home.treasury.gov/system/files/261/Financial-Stability-Oversight-Councils-Statement-on-Secondary-Mortgage-Market-Activities.pdf.

[58] FSOC, *Report on Climate-Related Risk*, October 21, 2021, https://home.treasury.gov/system/files/261/FSOC-Climate-Report.pdf.

[59] The Treasury Secretary's vote is not required.

[60] For example, the Fed must consult FSOC on EPR requirements related to bank capital, early remediation, and required divestiture if has noncredible resolution plans.

[61] The statute does not specify any voting requirements for the determination.

(by a two-thirds vote including the Treasury Secretary, Fed chair, and FDIC chair) if it finds that the section's provisions are insufficient to mitigate systemic risk and taxpayer exposure to losses.

Policy Issues

SIFI Designation

The 2008 financial crisis demonstrated that instability at large nonbank financial firms in markets such as securities (Lehman Brothers), insurance (AIG), and housing finance (Fannie Mae and Freddie Mac) can result in broader financial instability. Those firms were not subject to federal prudential regulation comparable to what banks faced. Rather than apply safety and soundness regulations to all firms with certain business models or all firms of a certain size to mitigate systemic risk, the Dodd-Frank Act's compromise was to apply them to firms designated by FSOC.

The fact that there have not been any designated SIFIs since 2018 could have at least three explanations. First, it could mean that there are no longer any large nonbank financial firms whose failure would pose systemic risk, although the largest firms have generally grown larger since 2018. In 2019, then-Treasury Secretary Steven Mnuchin stated, "Part of the benefit of the designation was it encouraged all these companies to de-risk. It's good news to the economy that we don't have anything designated."[62] Second, it could mean that the members of FSOC are unwilling to designate (despite the law) because they do not think that designation reduces systemic risk. Third, it could mean that FSOC designation—FSOC's most significant authority—proved to be politically untenable.

Several aspects of the history of designation support the view that it was politically untenable. First, in hindsight, four SIFIs seemed to be too few to be politically sustainable—those four could credibly argue that they were unfairly singled out in such a way that would have made it hard to compete with their peers (had regulations been finalized).

Second, the designation process was too slow to achieve a critical mass of SIFIs or respond to potentially rapidly evolving risks—taking over a year before the first firm was designated after the rule was finalized—.

Third, designation was mostly limited to insurers. Although investment banks (securities firms) were central to the crisis, no firm from the securities industry was designated.[63] Consideration by FSOC of "asset managers" for SIFI designation was successfully batted down in the initial stages, reportedly by industry and the SEC.[64] Fannie Mae and Freddie Mac were never designated on the grounds that they were already in federal conservatorship. This allowed the insurance industry to argue that SIFI designation was a backdoor attempt to impose federal regulation on an industry

---

[62] Victoria Guida and Katy O'Donnell, "Mnuchin Rebuked by Democrats over Diminished Role of Financial Watchdog," *Politico,* December 5, 2019, https://www.politico.com/news/2019/12/05/steven-mnuchin-fsoc-testimony-076702.

[63] This is partly because the five large investment banks that operated before the financial crisis no longer existed as standalone investment banks after the crisis.

[64] FSOC issued a request for comment on systemic risk posed by asset managers in 2014. FSOC, "Notice Seeking Comment on Asset Management Products and Activities"; Joshua S. Wan, "Systemically Important Asset Managers: Perspectives on Dodd-Frank's Systemic Designation Mechanism," *Columbia Law Review*, vol. 116, no. 3, https://columbialawreview.org/content/systemically-important-asset-managers-perspectives-on-dodd-franks-systemic-designation-mechanism/.

where Congress assigned regulatory authority solely to the states—as opposed to a broader attempt to regulate all nonbank financial firms for systemic risk.

Fourth, the designation and de-designation process was opaque and subjective enough that FSOC could first argue that Prudential was a SIFI and then argue that it had ceased to be a SIFI despite the fact that it had grown larger in the meantime. FSOC issued a 66-page document explaining its decision to de-designate, but much of the evidence presented either contradicted the position that Prudential had become less systemically important[65] or was heavily redacted.

Finally, EPR requirements were proposed but never finalized for nonbank SIFIs, so EPR was never applied to the four SIFIs before their de-designations. The Fed struggled to effectively adjust EPR requirements based on bank regulation administered by a bank regulator to a different nonbank business model. Thus, it could never clearly articulate why EPR would be beneficial.

MetLife's successful court challenge to its designation (which the first Trump Administration decided not to appeal in 2018) may make it more difficult for FSOC to designate firms or fend off legal challenges to a designation in the future. As a result, if nonbank financial firms do pose systemic risk in the future, there are neither federal regulations in place to mitigate those risks nor supervisory oversight to monitor those, other than the pre-crisis regulatory regime.[66] Large banks now face additional enhanced prudential regulatory requirements and nonbank financial firms do not, raising concerns about a level playing field and activities being pushed out of the banking system by regulatory arbitrage.

Options for Congress

Although designation may remain effectively dormant for the foreseeable future, eliminating FSOC's designation authority would require an act of Congress. If Congress wished to eliminate designation, it could consider whether an alternative approach to addressing systemic risk would be superior. The 2019 FSOC guidance posited activities-based regulation as a superior alternative to institution-based (SIFI) regulation. The two are not mutually exclusive—both could be pursued simultaneously, as they offer different approaches to address different risks. But as a practical matter, almost no activities-based systemic risk regulations have been adopted since 2019. Unlike with activities-based regulation, FSOC can require entity-based regulation through its SIFI designation authority, whereas it can make only nonbinding recommendations on activity-based regulations to regulators (if they have existing authority) or Congress (if regulators do not have authority) to adopt them—although that has happened rarely to date. Alternatively, Congress could parallel the approach used for BHCs of setting a simple objective threshold for automatic regulation, such as asset size. However, the same asset size does not translate to comparable significance across industries.

If Congress wished to reform designation with the goal of revitalizing it, it could consider reforms that would make it more flexible, more tailored, or less onerous for designated firms—although that does not guarantee that firms would still not oppose it or that FSOC would be willing to

[65] For example, "Certain aspects of Prudential's business and activities have not changed materially since the Council's final determination regarding the company in 2013…. Prudential's aggregate capital markets exposures do not appear to have changed significantly…. Prudential's market share in its key businesses has been stable since the Council's final determination regarding Prudential…. Prudential's legal structure remains complex, with hundreds of legal entities." See FSOC, *Notice and Explanation of the Basis for the Financial Stability Oversight Council's Rescission of Its Determination Regarding Prudential Financial, Inc. (Prudential)*, October 16, 2018, https://home.treasury.gov/system/files/261/Prudential-Financial-Inc-Rescission.pdf.

[66] In the case of large insurers, there is in many cases less federal regulation than before the crisis, as many of them have changed their holding company status so they are no longer overseen by the Federal Reserve at all.

consider designations. For example, the FMU designation framework did not prove politically controversial because it focused on risk management and was not fundamentally different from existing regulation in terms of regulatory requirements or jurisdiction.[67] Some have argued for adding a "SIFI-lite" designation status.[68] Critics complain that the problem with designation is that bank-like regulations are not appropriate for nonbank SIFIs, but Section 165(a)(2) of the Dodd-Frank Act already allows EPR standards to be tailored to "differentiate among companies on an individual basis or by category, taking into consideration their capital structure, riskiness, complexity, financial activities … size, and any other risk-related factors that the (Fed) deems appropriate." This provides the Fed with significant discretion and flexibility—the main constraint is that SIFIs must be subject to some form of stress tests; liquidity, concentration, and risk management requirements; and requirements to file resolution plans and credit exposure reports.[69]

Congress has considered legislation to change the designation process. H.R. 10 in the 115th Congress, which passed the House, would have repealed FSOC's authority to designate nonbank financial firms and FMUs as SIFIs. In the 119th Congress, the House Financial Services Committee marked up H.R. 3682 on September 16, 2025. H.R. 3682 would require FSOC to consider whether any other action could mitigate the systemic risk posed by a nonbank financial firm before designating that firm as a SIFI.

(De)Funding

Both Congress and the Administration have proposed reducing OFR's budget. In Treasury's congressional budget justification for FY2026, it proposes to reduce FTEs at OFR from 196 in FY2025 to 72 in FY2026 and to reduce nominal spending by 22.7%.[70]

The version of the One Big Beautiful Bill Act (H.R. 1), the FY2025 budget reconciliation act, passed by the House on May 22, 2025, included a provision to reduce the level of budgetary resources available to FSOC and OFR. Chairman Tim Scott also included this provision in proposed legislative text of the Senate Banking, Housing, and Urban Affairs Committee's provisions for the Senate's version of H.R. 1. The provision was not included in the version of the bill that was passed by the Senate and became law (P.L. 119-21).[71]

Under current law, there are no statutory limits on the amounts of large bank assessments, FRF, or outlays of OFR or FSOC. The OFR director determines these in consultation with the Treasury Secretary, and FSOC's expenses are considered expenses of OFR. The provision in H.R. 1 would have limited both the annual assessments that fund the FRF and the FRF balance to the average

[67] It also offered offsetting benefits to designated FMUs in terms of permanent access at the Fed's discretion to the Fed's discount window, master accounts at the Fed, and other Fed payment services.

[68] Christina Parajon Skinner, "Regulating Nonbanks: A Plan for SIFI Lite," *Georgetown Law Journal*, vol. 105, no. 5 (June 2017), pp. 1379-1432, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2740424.

[69] Arguably, the Fed has treated even these mandates—which apply to large BHCs as well—as discretionary. The Fed has never required large BHCs to file credit exposure reports.

[70] Department of the Treasury, *Office of Financial Research: Congressional Budget Justification FY 2026*, https://home.treasury.gov/system/files/266/14.-OFR-FY-2026-CJ.pdf.

[71] According to the ranking member of the Senate Budget Committee, the provision was removed because the Senate Parliamentarian advised that it would violate the Byrd rule. Senate Committee on the Budget, "Senate Parliamentarian Advises Several Provisions in Republicans' 'One Big, Beautiful Bill' Are Not Permissible, Subject to Byrd Rule," press release, June 19, 2025, https://www.budget.senate.gov/ranking-member/newsroom/press/senate-parliamentarian-advises-several-provisions-in-republicans-one-big-beautiful-bill-are-not-permissible-subject-to-byrd-rule. For information on the Byrd rule, see CRS Report R48640, *The Senate's Byrd Rule: Frequently Asked Questions*, by Tori Gorman.

FSOC budget over the previous three years, which from FY2023 to FY2025 was $16 million.[72] Fund balances above the limit would have been transferred to the Treasury's General Fund. This compares to FSOC's and OFR's combined estimated obligations of $136 million, assessments of $124 million in FY2025, and an FRF unobligated balance of $74 million at that time (April 2025). Thus, this section would have led to a significant decrease in annual assessments and OFR—and potentially FSOC—spending. The Congressional Budget Office estimated that the House version of this provision would decrease the deficit by $292 million over 10 years.[73]

Chairman Scott described his proposal as eliminating OFR, but the draft bill would have reduced its funding—which could result in it being effectively eliminated if reduced to zero—rather than formally eliminating it.[74] It was presumably structured that way in an effort to comply with the Byrd rule's requirement that a provision is extraneous if it "produces a change in outlays or revenues which is merely incidental to the non-budgetary components of the provision."[75] However, because the Dodd-Frank Act structured the FRF to cover the expenses of OFR and FSOC, it would be up to the Treasury Secretary (technically, the OFR director, in consultation with the Treasury Secretary) to decide whether the funds made available in the bill would be used to fund OFR or FSOC. At those levels, FSOC could be funded at recent levels if OFR's budget were reduced to zero, or OFR could be funded at a fraction of its recent size if FSOC funding were cut from recent levels. Congress has also proposed eliminating OFR (as opposed to zeroing out its budget) in the past—see, for example, H.R. 10 in the 115th Congress, which passed the House.

Congress has also proposed moving FSOC and OFR onto appropriations. Most recently an untitled draft bill to do this was considered at a July 15, 2025, legislative hearing of the House Financial Services Committee.[76]

What Would Happen If OFR Were Defunded or Eliminated?

The effects of zeroing out OFR's budget depends in part on the extent to which its output could be replicated, if desired, by other agencies or the private sector. Considering each of OFR's major outputs:

- OFR publishes research on financial stability and systemic risk that is similar to that produced by academics and other agencies, such as the Federal Reserve, which has a Division of Financial Stability.
- It publishes an annual report that includes information on current sources of systemic risk, similar to information found in FSOC's annual report or the Fed's semi-annual *Financial Stability Report*.

---

[72] That average includes transfers that FSOC makes to the FDIC. The provision did not specify whether these transfers should be included.

[73] Congressional Budget Office, Estimated Budgetary Effects of an Amendment in the Nature of a Substitute to H.R. 1, the One Big Beautiful Bill Act, Relative to the Budget Enforcement Baseline for Consideration in the Senate, June 28, 2025, https://www.cbo.gov/publication/61533.

[74] Senate Committee on Banking, Housing, and Urban Affairs, "Scott Releases Banking Committee Provisions for the One Big Beautiful Bill," press release, June 6, 2025, https://www.banking.senate.gov/newsroom/majority/scott-releases-banking-committee-provisions-for-the-one-big-beautiful-bill.

[75] CRS Report RL30862, *The Budget Reconciliation Process: The Senate's "Byrd Rule"*, by Bill Heniff Jr.

[76] The bill text is available at https://docs.house.gov/meetings/BA/BA00/20250715/118488/BILLS-119pih-authorizesappropriationsforfiscalyears2025and2026forOFRandFSOC.pdf. Another example of moving FSOC onto appropriations is H.R. 10, which passed the House in the 115th Congress.

- It produces systemic risk monitoring metrics that are not based on proprietary data, so those metrics could hypothetically be replicated by others. In some cases, the metrics use regulatory data, so they could be replicated only by the agencies that collect the data.
- It collects data on the repurchase agreement (repo) market. OFR publishes centrally cleared repo data that is available from the clearinghouse and triparty data that is available from the triparty clearing bank, but the non-centrally cleared bilateral data it collects would need to be collected (if desired) by another agency if OFR were eliminated, assuming some other agency had the authority to collect it.[77]
- It spearheaded the adoption of legal entity identifiers (LEI) in the United States. However, this initiative is now led by an international organization, the Regulatory Oversight Committee,[78] whose current chair is from OFR, so a new chair would be needed if OFR were eliminated. Companies obtain LEIs through private entities, and the financial regulators have encouraged companies under their jurisdictions to use LEIs, so OFR does not play an ongoing direct role in generating LEIs.[79]
- If FSOC were to need information about a nonbank financial firm in order to make a determination about a SIFI designation, OFR would collect that information on its behalf. However, FSOC's designation powers have been dormant for over a decade (see the section above entitled "The History of SIFI Designation").

Independence vs. Coordination

As noted above, many observers argued following the financial crisis that one contributing factor to the crisis was the regulatory structure—no regulator was focused on an overall picture of risks, regulators were too siloed and narrowly focused, and identifying and containing systemic risk requires regulators to work together. This critique implies that regular communication and policy coordination will better promote financial stability. FSOC provides a forum for coordination and communication under the Treasury Secretary's leadership. The Treasury's role in financial regulation is limited. However, because the Dodd-Frank Act did not create a systemic risk regulator responsible for either financial stability or the "big picture" and regulators are supposed to be equals, the Treasury Secretary is arguably best placed to lead FSOC.

At the same time, financial regulators were designed, to varying degrees, to be independent from the executive branch.[80] By contrast, the Treasury Secretary's role is to carry out the President's economic agenda and reflect his political preferences. FSOC created a formal vehicle for the Treasury Secretary to potentially impose that political agenda on the independent agencies, if desired. Because the agencies are independent, they have the ability to actively or passively resist that agenda, but FSOC provides both a venue for and an argument for control (i.e., the need for coordination to promote financial stability) that did not previously exist.

---

[77] For more information, see OFR, "Non-Centrally Cleared Bilateral Repo Data," https://www.financialresearch.gov/data/collections/non-centrally-cleared-bilateral-repo-data/.

[78] The committee's website is https://www.leiroc.org/.

[79] OFR, "Frequently Asked Questions," https://www.financialresearch.gov/data/legal-entity-identifier/faqs/.

[80] See CRS Report R43391, *Independence of Federal Financial Regulators: Structure, Funding, and Other Issues*, by Henry B. Hogue, Marc Labonte, and Baird Webel.

In practice, FSOC has operated on a collegial, consensus basis that has not featured any notable overt resistance to the Treasury Secretary's agenda.[81] As a result, the Treasury Secretary has not needed to use FSOC's dispute mechanisms to try to impose moral suasion or consensus on resistant or feuding regulators. This record is consistent with the improved coordination that its creators intended FSOC to achieve, but it is also consistent with Treasury exerting more control over regulators that could reduce their independence to some degree. However, one could also argue that consensus is generated primarily by the fact that the President chooses the heads of financial regulators (although not necessarily at the beginning of the President's term), and the President is likely to choose like-minded people who share his or her policy priorities for these positions. If so, FSOC may affect appearances of independence more than outcomes.

As noted, the FSOC structure could also make financial regulation more political. According to one law review article, FSOC "lost momentum because design flaws left it vulnerable to political cycles … [and] lost its effectiveness and legitimacy because of structural flaws in its design that make it a partisan player."[82] While measuring the degree to which regulation is political is inherently subjective, there have been some high-profile reversals in FSOC's priorities when Administrations have changed. For example, Treasury Secretary Mnuchin reportedly testified in 2019 that he did not see climate change as within the purview of FSOC.[83] Under his successor Janet Yellen, climate-related financial risk was a major focus of FSOC. It issued a report that made policy recommendations, coordinated member actions, and created an internal committee and advisory committee within FSOC.[84] In September 2025, under Treasury Secretary Scott Bessent, FSOC disbanded the two committees, reportedly arguing that it would allow "better focus its attention and resources on core financial stability issues."[85] Whether climate change should be viewed as a financial stability issue and whether it should be addressed through financial regulation has been highly partisan and contentious. Reversals such as these could be viewed as evidence that FSOC has increased agency politicization and reduced agency independence. By contrast, some other systemic risks, such as cybersecurity, have been consistently highlighted across Administrations.

The trade-off between FSOC's role in promoting greater coordination and reducing regulatory independence has become more salient because both President Trump and a majority of the Supreme Court have been critical of the concept of independent agencies, which may result in actions in the near term to reduce regulatory independence.[86] If one favors agency independence,

---

[81] One notable instance of disagreement among members has been statements of dissent by some members surrounding designations and de-designations of some nonbank SIFIs.

[82] Paolo Saguato, "Rethinking the Financial Stability Oversight Council," *Virginia Law and Business Review*, vol. 16, no. 3 (Summer 2022), https://administrativestate.gmu.edu/wp-content/uploads/2022/08/Saguato_22-08.pdf.

[83] Guida and O'Donnell, "Mnuchin Rebuked by Democrats." FSOC did not propose any climate-related reforms under Secretaries Geithner or Lew either.

[84] For a summary, see FSOC, "Fact Sheet: The Financial Stability Oversight Council and Progress in Addressing Climate-Related Financial Risk," July 28, 2022, https://home.treasury.gov/system/files/261/FSOC_20220728_Factsheet_Climate-Related_Financial_Risk.pdf.

[85] David Lawder, "US Treasury-Led Watchdog Dismantles Climate Advisory Panels," Reuters, September 10, 2025, https://www.reuters.com/legal/government/us-treasury-led-watchdog-dismantles-climate-advisory-panels-2025-09-10/.

[86] In February 2025, President Trump issued an executive order "to ensure Presidential supervision and control of the entire executive branch" by reducing the independence of regulatory agencies. See White House, "Ensuring Accountability for All Agencies," 90 *Federal Register* 10447, February 18, 2025, https://www.federalregister.gov/documents/2025/02/24/2025-03063/ensuring-accountability-for-all-agencies. Breaking with tradition, President Trump has removed (or attempted to remove) Democratic-appointed board members from financial regulators with bipartisan or nonpartisan multimember boards with implicit or explicit "for cause" removal protections. According to a CRS Legal Sidebar, "On May 22, 2025, the Supreme Court granted the executive branch's motion, staying the reinstatement (continued...)

one might argue that the costs of FSOC promoting greater coordination have outweighed the benefits in practice, as policy actions by FSOC to promote financial stability (outside of reporting) have been limited and less frequent over time. Furthermore, the FSOC model of a coordinated unified agenda and peer pressure on regulators to conform is better for financial stability if the Treasury Secretary chooses the correct policies but worse if the Secretary chooses the wrong ones. For example, a greater diversity of perspectives among regulators could reduce "groupthink" that might make the identification of emerging threats to financial stability more likely.

Conclusion

Each financial crisis is unique, so the cause of the next crisis is unlikely to be the same as the last. The Dodd-Frank Act created FSOC and OFR with this "fighting the last war" problem in mind. Ideally, FSOC and OFR could identify threats as they emerge, and member regulators and Congress could address those threats before they become serious. Arguably, this dynamic has not played out over the past 15 years.

Compared to the high-profile public scrutiny surrounding the financial crisis, FSOC's impact on policy and the public discourse over the past 15 years has been modest. In a sense, this is good news: FSOC would likely attract high-profile attention only if there were another crisis. As is the case with much crisis-management infrastructure, its greatest value is that it is already in place to coordinate any policy response when crisis strikes. Despite its short list of concrete policy accomplishments, its impact could be viewed as positive—it has arguably better focused policymakers' minds on financial stability issues than the pre-crisis regulatory structure did; it has overseen an era where consensus has ruled and dissent has been largely absent among regulators; and the ability to highlight risks with one, official voice is more effective. Absent action, heightened awareness of threats to stability may still be an improvement. FSOC's budgetary costs are minor compared to its member agencies, so the bar for FSOC to provide net policy benefits is low.

Alternatively, a less flattering story could be told about FSOC's first 15 years. As discussed above, there are concerns about designation proving to be unworkable and the politicization of independent regulators. More broadly, concrete action by FSOC has been limited and subject to reversal. Crises move quickly, but FSOC has arguably not proven to be nimble. Policymaking by consensus may result in sluggishness or inertia and a lowest-common-denominator approach. One could cast doubt on the likelihood that FSOC would successfully identify a credible emerging threat to financial stability before it is too late. The private sector and academia may be better positioned and more skilled than government is at identifying threats, although they lack the platform to promote action to neutralize threats. The history of financial regulation repeatedly reveals the difficulties of regulation effectively keeping pace with financial innovation. The rapid growth in the crypto industry without any overarching federal policy response is the latest example of the regulatory gaps and silos that FSOC was created to prevent.

Finally, were FSOC to successfully identify a threat before it is too late, political realities may prevent it from acting. Generally, a regulatory response involves imposing costs on industry, which may not be viable when the threat is abstract and uncertain and when there is no present realized economic cost imposed by the threat. FSOC's actions on identifying emerging threats,

---

of the NLRB and MSPB officials. In an unsigned order, the Court cast doubt on the constitutionality of statutory removal protections." See CRS Legal Sidebar LSB11292, *Supreme Court Grants Emergency Motion on President's Removal Power*, by Benjamin M. Barczewski and Todd Garvey.

particularly the role of the annual report, could be viewed as a bureaucratic exercise in providing cover in case something were to go wrong in the future rather than effectively eliminating threats as they emerge, as it proponents had intended. By identifying every potential threat, nothing is prioritized. For example, in 2022, FSOC had a textbox on page 38 of its annual report on interest rate risk for banks, insurance companies, and pension funds.[87] Despite this warning, regulators took no public actions until three of the four largest bank failures in U.S. history occurred the next spring, in no small part due to interest rate risk.

With 10 voting members and five nonvoting members with diverse expertise and viewpoints, FSOC may be a cumbersome venue for setting policy. Perhaps for that reason, since 2020, ad hoc subsets of members acting outside of FSOC have coordinated the response to potential systemic risk posed by stablecoins, Treasury market dysfunction, and money market funds.[88] In its 2021 annual report, FSOC highlighted all three of these but offered no recommendations for the former two. This may raise questions about whether Treasury is ignoring Congress's will to have systemic risk policy centered in FSOC, where all of its members can weigh in, or whether the 15-member structure has proven optimal.

Congress has also been something of a silent partner in this setup, as is its prerogative. Neither congressional committee of jurisdiction has scheduled the statutorily required annual testimony every year in recent years. FSOC rarely makes recommendations to Congress, and Congress has not acted on the recommendations it has made, such as GSE reform.

Author Information

Marc Labonte
Specialist in Macroeconomic Policy

Acknowledgments

Some of this material was originally written by Jeffrey Stupak, formerly of CRS. Graham Tufts provided research assistance.

[87] FSOC, *Annual Report*, 2022, p. 38, https://home.treasury.gov/system/files/261/FSOC2022AnnualReport.pdf.

[88] In some cases, the response has involved the President's Working Group on Financial Markets, an informal coordinating body of regulators (all of which are FSOC members) and the Treasury Secretary that pre-dated the creation of FSOC.

Disclaimer