

114TH CONGRESS  
1ST SESSION

# H. R. 1550

To amend the Financial Stability Act of 2010 to improve the transparency of the Financial Stability Oversight Council, to improve the SIFI designation process, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2015

Mr. ROSS (for himself and Mr. DELANEY) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Financial Stability Act of 2010 to improve the transparency of the Financial Stability Oversight Council, to improve the SIFI designation process, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Financial Stability  
5 Oversight Council Improvement Act of 2015”.

6 **SEC. 2. SIFI DESIGNATION PROCESS.**

7 Section 113 of the Financial Stability Act of 2010  
8 (12 U.S.C. 5323) is amended—

1 (1) in subsection (a)(2)—

2 (A) in subparagraph (J), by striking “and”  
3 at the end;

4 (B) by redesignating subparagraph (K) as  
5 subparagraph (L); and

6 (C) by inserting after subparagraph (J)  
7 the following:

8 “(K) the appropriateness of the imposition  
9 of prudential standards as opposed to other  
10 forms of regulation to mitigate the identified  
11 risks; and”;

12 (2) in subsection (b)(2)—

13 (A) in subparagraph (J), by striking “and”  
14 at the end;

15 (B) by redesignating subparagraph (K) as  
16 subparagraph (L);

17 (C) by inserting after subparagraph (J)  
18 the following:

19 “(K) the appropriateness of the imposition  
20 of prudential standards as opposed to other  
21 forms of regulation to mitigate the identified  
22 risks; and”; and

23 (3) by amending subsection (d) to read as fol-  
24 lows:

25 “(d) REEVALUATION AND RESCISSION.—

1           “(1) ANNUAL REEVALUATION.—Not less fre-  
2           quently than annually, the Council shall reevaluate  
3           each determination made under subsections (a) and  
4           (b) with respect to a nonbank financial company su-  
5           pervised by the Board of Governors and shall—

6                   “(A) provide written notice to the nonbank  
7                   financial company being reevaluated and afford  
8                   such company an opportunity to submit written  
9                   materials, within such time as the Council de-  
10                  termines to be appropriate (but which shall be  
11                  not less than 30 days after the date of receipt  
12                  by the company of such notice), to contest the  
13                  determination, including materials concerning  
14                  whether, in the company’s view, material finan-  
15                  cial distress at the company, or the nature,  
16                  scope, size, scale, concentration, interconnected-  
17                  ness, or mix of the activities of the company  
18                  could pose a threat to the financial stability of  
19                  the United States;

20                  “(B) provide an opportunity for the  
21                  nonbank financial company to meet with the  
22                  Council to present the information described in  
23                  subparagraph (A); and

24                  “(C) if the Council does not rescind the de-  
25                  termination, provide notice to the nonbank fi-

1 nancial company, its primary financial regu-  
2 latory agency and the primary financial regu-  
3 latory agency of any of the company's signifi-  
4 cant subsidiaries of the reasons for the Coun-  
5 cil's decision, which notice shall address with  
6 specificity how the Council assessed the mate-  
7 rial factors presented by the company under  
8 subparagraphs (A) and (B).

9 “(2) PERIODIC REEVALUATION.—

10 “(A) REVIEW.—Every 5 years after the  
11 date of a final determination with respect to a  
12 nonbank financial company under subsection  
13 (a) or (b), as applicable, the nonbank financial  
14 company may submit a written request to the  
15 Council for a reevaluation of such determina-  
16 tion. Upon receipt of such a request, the Coun-  
17 cil shall conduct a reevaluation of such deter-  
18 mination and hold a vote on whether to rescind  
19 such determination.

20 “(B) PROCEDURES.—Upon receipt of a  
21 written request under paragraph (A), the Coun-  
22 cil shall fix a time (not earlier than 30 days  
23 after the date of receipt of the request) and  
24 place at which such company may appear, per-  
25 sonally or through counsel, to—

1           “(i) submit written materials (which  
2           may include a plan to modify the com-  
3           pany’s business, structure, or operations,  
4           which shall specify the length of the imple-  
5           mentation period); and

6           “(ii) provide oral testimony and oral  
7           argument before the members of the Coun-  
8           cil.

9           “(C) TREATMENT OF PLAN.—If the com-  
10          pany submits a plan in accordance with sub-  
11          paragraph (B)(i), the Council shall consider  
12          whether the plan, if implemented, would cause  
13          the company to no longer meet the standards  
14          for a final determination under subsection (a)  
15          or (b), as applicable. The Council shall provide  
16          the nonbank financial company an opportunity  
17          to revise the plan after consultation with the  
18          Council.

19          “(D) EXPLANATION FOR CERTAIN COMPA-  
20          NIES.—With respect to a reevaluation under  
21          this paragraph where the determination being  
22          reevaluated was made before the date of enact-  
23          ment of this paragraph, the nonbank financial  
24          company may require the Council, as part of

1 such reevaluation, to explain with specificity the  
2 basis for such determination.

3 “(3) RESCISSION OF DETERMINATION.—

4 “(A) IN GENERAL.—If the Council, by a  
5 vote of not fewer than  $\frac{2}{3}$  of the voting members  
6 then serving, including an affirmative vote by  
7 the Chairperson, determines under this sub-  
8 section that a nonbank financial company no  
9 longer meets the standards for a final deter-  
10 mination under subsection (a) or (b), as appli-  
11 cable, the Council shall rescind such determina-  
12 tion.

13 “(B) APPROVAL OF COMPANY PLAN.—Ap-  
14 proval by the Council of a plan submitted or re-  
15 vised in accordance with paragraph (2) shall re-  
16 quire a vote of not fewer than  $\frac{2}{3}$  of the voting  
17 members then serving, including an affirmative  
18 vote by the Chairperson. If such plan is ap-  
19 proved by the Council, the company shall imple-  
20 ment the plan during the period identified in  
21 the plan, except that the Council, in its sole dis-  
22 cretion and upon request from the company,  
23 may grant one or more extensions of the imple-  
24 mentation period. After the end of the imple-  
25 mentation period, including any extensions

1 granted by the Council, the Council shall pro-  
2 ceed to a vote as described under subparagraph  
3 (A).”;

4 (4) by amending subsection (e) to read as fol-  
5 lows:

6 “(e) REQUIREMENTS FOR PROPOSED DETERMINA-  
7 TION, NOTICE AND OPPORTUNITY FOR HEARING, AND  
8 FINAL DETERMINATION.—

9 “(1) NOTICE OF IDENTIFICATION FOR INITIAL  
10 EVALUATION AND OPPORTUNITY FOR VOLUNTARY  
11 SUBMISSION.—Upon identifying a nonbank financial  
12 company for comprehensive analysis of the potential  
13 for the nonbank company to pose a threat to the fi-  
14 nancial stability of the United States, the Council  
15 shall provide the nonbank financial company with—

16 “(A) written notice that explains with  
17 specificity the basis for so identifying the com-  
18 pany, a copy of which shall be provided to the  
19 company’s primary financial regulatory agency;

20 “(B) an opportunity to submit written ma-  
21 terials for consideration by the Council as part  
22 of the Council’s initial evaluation of the risk  
23 profile and characteristics of the company;

24 “(C) an opportunity to meet with the  
25 Council to discuss the Council’s analysis; and

1           “(D) a list of the public sources of infor-  
2           mation being considered by the Council as part  
3           of such analysis.

4           “(2) REQUIREMENTS BEFORE MAKING A PRO-  
5           POSED DETERMINATION.—Before making a pro-  
6           posed determination with respect to a nonbank fi-  
7           nancial company under paragraph (3), the Council  
8           shall—

9           “(A) by a vote of not fewer than  $\frac{2}{3}$  of the  
10          voting members then serving, including an af-  
11          firmative vote by the Chairperson, approve a  
12          resolution that identifies with specificity any  
13          risks to the financial stability of the United  
14          States the Council has identified relating to the  
15          nonbank financial company;

16          “(B) with respect to nonbank financial  
17          company with a primary financial regulatory  
18          agency, provide a copy of the resolution de-  
19          scribed under subparagraph (A) to the primary  
20          financial regulatory agency and provide such  
21          agency with at least 180 days from the receipt  
22          of the resolution to—

23                  “(i) consider the risks identified in the  
24                  resolution; and



1           “(ii) provide a written response to the  
2           Council that includes its assessment of the  
3           risks identified and the degree to which  
4           they are or could be addressed by existing  
5           regulation and, as appropriate, issue pro-  
6           posed regulations or undertake other regu-  
7           latory action to mitigate the identified  
8           risks;

9           “(C) provide the nonbank financial com-  
10          pany with written notice that the Council—

11           “(i) is considering whether to make a  
12           proposed determination with respect to the  
13           nonbank financial company under sub-  
14           section (a) or (b), as applicable, which no-  
15           tice explains with specificity the basis for  
16           the Council’s consideration, including any  
17           aspects of the company’s operations or ac-  
18           tivities that are a primary focus for the  
19           Council; or

20           “(ii) has determined not to subject the  
21           company to further review, which action  
22           shall not preclude the Council from issuing  
23           a notice to the company under subpara-  
24           graph (1)(A) at a future time; and

1           “(D) in the case of a notice to the nonbank  
2 financial company under subparagraph (C)(i),  
3 provide the company with—

4                   “(i) an opportunity to meet with the  
5 Council to discuss the Council’s analysis;

6                   “(ii) an opportunity to submit written  
7 materials, within such time as the Council  
8 deems appropriate (but not less than 30  
9 days after the date of receipt by the com-  
10 pany of the notice described under clause  
11 (i)), to the Council to inform the Council’s  
12 consideration of the nonbank financial  
13 company for a proposed determination, in-  
14 cluding materials concerning the com-  
15 pany’s views as to whether it satisfies the  
16 standard for determination set forth in  
17 subsection (a) or (b), as applicable;

18                   “(iii) an explanation of how any re-  
19 quest by the Council for information from  
20 the nonbank financial company relates to  
21 potential risks to the financial stability of  
22 the United States and the Council’s anal-  
23 ysis of the company;

24                   “(iv) written notice when the Council  
25 deems its evidentiary record regarding

1           such nonbank financial company to be  
2           complete; and

3           “(v) an opportunity to meet with the  
4           members of the Council.

5           “(3) PROPOSED DETERMINATION.—

6           “(A) VOTING.—The Council may, by a  
7           vote of not fewer than  $\frac{2}{3}$  of the voting members  
8           then serving, including an affirmative vote by  
9           the Chairperson, propose to make a determina-  
10          tion in accordance with the provisions of sub-  
11          section (a) or (b), as applicable, with respect to  
12          a nonbank financial company.

13          “(B) DEADLINE FOR MAKING A PROPOSED  
14          DETERMINATION.—With respect to a nonbank  
15          financial company provided with a written no-  
16          tice under paragraph (2)(C)(i), if the Council  
17          does not provide the company with the written  
18          notice of a proposed determination described  
19          under paragraph (4) within the 180-day period  
20          following the date on which the Council notifies  
21          the company under paragraph (2)(C) that the  
22          evidentiary record is complete, the Council may  
23          not make such a proposed determination with  
24          respect to such company unless the Council re-

1 peats the procedures described under paragraph  
2 (2).

3 “(C) REVIEW OF ACTIONS OF PRIMARY FI-  
4 NANCIAL REGULATORY AGENCY.—With respect  
5 to a nonbank financial company with a primary  
6 financial regulatory agency, the Council may  
7 not vote under subparagraph (A) to make a  
8 proposed determination unless—

9 “(i) the Council first determines that  
10 any proposed regulations or other regu-  
11 latory actions taken by the primary finan-  
12 cial regulatory agency after receipt of the  
13 resolution described under paragraph  
14 (2)(A) are insufficient to mitigate the risks  
15 identified in the resolution;

16 “(ii) the primary financial regulatory  
17 agency has notified the Council that the  
18 agency has no proposed regulations or  
19 other regulatory actions to mitigate the  
20 risks identified in the resolution; or

21 “(iii) the period allowed by the Coun-  
22 cil under paragraph (2)(B) has elapsed  
23 and the primary financial regulatory agen-  
24 cy has taken no action in response to the  
25 resolution.

1           “(4) NOTICE OF PROPOSED DETERMINATION.—

2           The Council shall—

3                   “(A) provide to a nonbank financial com-  
4                   pany written notice of a proposed determination  
5                   of the Council, including an explanation of the  
6                   basis of the proposed determination of the  
7                   Council, that a nonbank financial company shall  
8                   be supervised by the Board of Governors and  
9                   shall be subject to prudential standards in ac-  
10                  cordance with this title, an explanation of the  
11                  specific risks to the financial stability of the  
12                  United States presented by the nonbank finan-  
13                  cial company, and a detailed explanation of why  
14                  existing regulations or other regulatory action  
15                  by the company’s primary financial regulatory  
16                  agency, if any, is insufficient to mitigate such  
17                  risk; and

18                   “(B) provide the primary financial regu-  
19                   latory agency of the nonbank financial company  
20                   a copy of the nonpublic written explanation of  
21                   the Council’s proposed determination.

22           “(5) HEARING.—

23                   “(A) IN GENERAL.—Not later than 30  
24                   days after the date of receipt of any notice of  
25                   a proposed determination under paragraph (4),

1 the nonbank financial company may request, in  
2 writing, an opportunity for a written or oral  
3 hearing before the Council to contest the pro-  
4 posed determination, including the opportunity  
5 to present a plan to modify the company’s busi-  
6 ness, structure, or operations in order to miti-  
7 gate the risks identified in the notice, and  
8 which plan shall also include any steps the com-  
9 pany expects to take during the implementation  
10 period to mitigate such risks.

11 “(B) GRANT OF HEARING.—Upon receipt  
12 of a timely request, the Council shall fix a time  
13 (not earlier than 30 days after the date of re-  
14 ceipt of the request) and place at which such  
15 company may appear, personally or through  
16 counsel, to—

17 “(i) submit written materials (which  
18 may include a plan to modify the com-  
19 pany’s business, structure, or operations);  
20 or

21 “(ii) provide oral testimony and oral  
22 argument to the members of the Council.

23 “(6) COUNCIL CONSIDERATION OF COMPANY  
24 PLAN.—

1           “(A) IN GENERAL.—If a nonbank financial  
2 company submits a plan in accordance with  
3 paragraph (5), the Council shall, prior to mak-  
4 ing a final determination—

5                   “(i) consider whether the plan, if im-  
6 plemented, would mitigate the risks identi-  
7 fied in the notice under paragraph (4); and

8                   “(ii) provide the nonbank financial  
9 company an opportunity to revise the plan  
10 after consultation with the Council.

11           “(B) VOTING.—Approval by the Council of  
12 a plan submitted under paragraph (5) or re-  
13 vised under subparagraph (A)(ii) shall require a  
14 vote of not fewer than  $\frac{2}{3}$  of the voting members  
15 then serving, including an affirmative vote by  
16 the Chairperson.

17           “(C) IMPLEMENTATION OF APPROVED  
18 PLAN.—With respect to a nonbank financial  
19 company’s plan approved by the Council under  
20 subparagraph (B), the company shall have one  
21 year to implement the plan, except that the  
22 Council, in its sole discretion and upon request  
23 from the nonbank financial company, may  
24 grant one or more extensions of the implemen-  
25 tation period.

1 “(D) OVERSIGHT OF IMPLEMENTATION.—

2 “(i) PERIODIC REPORTS.—The Coun-  
3 cil, acting through the Office of Financial  
4 Research, may require the submission of  
5 periodic reports from a nonbank financial  
6 company for the purpose of evaluating the  
7 company’s progress in implementing a plan  
8 approved by the Council under subpara-  
9 graph (B).

10 “(ii) INSPECTIONS.—The Council may  
11 direct the primary financial regulatory  
12 agency of a nonbank financial company or  
13 its subsidiaries (or, if none, the Board of  
14 Governors) to inspect the company or its  
15 subsidiaries for the purpose of evaluating  
16 the implementation of the company’s plan.

17 “(E) AUTHORITY TO RESCIND AP-  
18 PROVAL.—

19 “(i) IN GENERAL.—During the imple-  
20 mentation period described under subpara-  
21 graph (C), including any extensions grant-  
22 ed by the Council, the Council shall retain  
23 the authority to rescind its approval of the  
24 plan if the Council finds, by a vote of not  
25 fewer than  $\frac{2}{3}$  of the voting members then



1 serving, including an affirmative vote by  
2 the Chairperson, that the company’s imple-  
3 mentation of the plan is no longer suffi-  
4 cient to mitigate or prevent the risks iden-  
5 tified in the resolution described under  
6 paragraph (2)(A).

7 “(ii) FINAL DETERMINATION VOTE.—  
8 The Council may proceed to a vote on final  
9 determination under subsection (a) or (b),  
10 as applicable, not earlier than 10 days  
11 after providing the nonbank financial com-  
12 pany with written notice that the Council  
13 has rescinded the approval of the com-  
14 pany’s plan pursuant to clause (i).

15 “(F) ACTIONS AFTER IMPLEMENTATION.—

16 “(i) EVALUATION OF IMPLEMENTA-  
17 TION.—After the end of the implementa-  
18 tion period described under subparagraph  
19 (C), including any extensions granted by  
20 the Council, the Council shall consider  
21 whether the plan, as implemented by the  
22 nonbank financial company, adequately  
23 mitigates or prevents the risks identified in  
24 the resolution described under paragraph  
25 (2)(A).

1           “(ii) VOTING.—If, after performing  
2           an evaluation under clause (i), not fewer  
3           than  $\frac{2}{3}$  of the voting members of the  
4           Council then serving, including an affirma-  
5           tive vote by the Chairperson, determine  
6           that the plan, as implemented, adequately  
7           mitigates or prevents the identified risks,  
8           the Council shall not make a final deter-  
9           mination under subsection (a) or (b), as  
10          applicable, with respect to the nonbank fi-  
11          nancial company and shall notify the com-  
12          pany of the Council’s decision to take no  
13          further action.

14          “(7) FINAL COUNCIL DECISIONS.—

15                 “(A) IN GENERAL.—Not later than 90  
16                 days after the date of a hearing under para-  
17                 graph (5), the Council shall notify the nonbank  
18                 financial company of—

19                         “(i) a final determination under sub-  
20                         section (a) or (b), as applicable;

21                         “(ii) the Council’s approval of a plan  
22                         submitted by the nonbank financial com-  
23                         pany under paragraph (5) or revised under  
24                         paragraph (6); or

1           “(iii) the Council’s decision to take no  
2           further action with respect to the nonbank  
3           financial company.

4           “(B) EXPLANATORY STATEMENT.—A final  
5           determination of the Council, under subsection  
6           (a) or (b), shall contain a statement of the basis  
7           for the decision of the Council, including the  
8           reasons why the Council rejected any plan by  
9           the nonbank financial company submitted under  
10          paragraph (5) or revised under paragraph (6).

11          “(C) NOTICE TO PRIMARY FINANCIAL REG-  
12          ULATORY AGENCY.—In the case of a final de-  
13          termination under subsection (a) or (b), the  
14          Council shall provide the primary financial reg-  
15          ulatory agency of the nonbank financial com-  
16          pany a copy of the nonpublic written expla-  
17          nation of the Council’s final determination.”;

18          (5) in subsection (g), strike “before the Council  
19          makes any final determination” and insert “from  
20          the outset of the Council’s consideration of the com-  
21          pany, including before the Council makes any pro-  
22          posed or final determination”; and

23          (6) by adding at the end the following:

24          “(j) PUBLIC DISCLOSURE REQUIREMENT.—The  
25          Council shall—

1           “(1) in each case where a nonbank financial  
2 company has been notified that it is subject to the  
3 Council’s review and the company has publicly dis-  
4 closed such fact, confirm that the nonbank financial  
5 company is subject to the Council’s review, in re-  
6 sponse to a request from a third party;

7           “(2) upon making a final determination, pub-  
8 licly provide a written explanation of the basis for its  
9 decision with sufficient detail to provide the public  
10 with an understanding of the specific bases of the  
11 Council’s determination, including any assumptions  
12 related thereof, subject to the requirements of sec-  
13 tion 112(d)(5);

14           “(3) include, in the annual report required by  
15 section 112, the number of nonbank financial com-  
16 panies from the previous year subject to preliminary  
17 analysis, further review, and subject to a proposed  
18 or final determination; and

19           “(4) within 90 days after the enactment of this  
20 subsection, publish information regarding its meth-  
21 odology for calculating any quantitative thresholds  
22 or other metrics used to identify nonbank financial  
23 companies for analysis by the Council.

24           “(k) PERIODIC ASSESSMENT OF THE IMPACT OF  
25 DESIGNATIONS.—

1           “(1) ASSESSMENT.—Every five years after the  
2           date of enactment of this section, the Council  
3           shall—

4                   “(A) conduct a study of the Council’s de-  
5                   terminations that nonbank financial companies  
6                   shall be supervised by the Board of Governors  
7                   and shall be subject to prudential standards;  
8                   and

9                   “(B) comprehensively assess the impact of  
10                  such determinations on the companies for which  
11                  such determinations were made and the wider  
12                  economy, including whether such determina-  
13                  tions are having the intended result of improv-  
14                  ing the financial stability of the United States.

15           “(2) REPORT.—Not later than 90 days after  
16           completing a study required under paragraph (1),  
17           the Council shall issue a report to the Congress  
18           that—

19                   “(A) describes all findings and conclusions  
20                   made by the Council in carrying out such study;  
21                   and

22                   “(B) identifies whether any of the Coun-  
23                   cil’s determinations should be rescinded or  
24                   whether related regulations or regulatory guid-

1           ance should be modified, streamlined, expanded,  
2           or repealed.”.

3 **SEC. 3. RULE OF CONSTRUCTION.**

4           None of the amendments made by this Act may be  
5 construed as limiting the Financial Stability Oversight  
6 Counsel’s emergency powers under section 113(f) of the  
7 Financial Stability Act of 2010 (12 U.S.C. 5323(f)).

○