

116TH CONGRESS
2D SESSION

H. R. 6501

To strengthen the Financial Stability Oversight Council, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2020

Mr. GARCÍA of Illinois (for himself, Ms. PORTER, Mr. GRIJALVA, Ms. SCHAKOWSKY, Mr. MCGOVERN, Ms. NORTON, and Mr. DANNY K. DAVIS of Illinois) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To strengthen the Financial Stability Oversight Council, 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 “Systemic Risk Mitiga-
5 tion Act of 2020”.

6 **SEC. 2. MEMBER AGENCY FINANCIAL STABILITY MANDATE.**

7 (a) IN GENERAL.—Subtitle A of the Financial Sta-
8 bility Act of 2010 (12 U.S.C. 5321 et seq.) is amended
9 by adding at the end the following:

1 **“SEC. 124. MEMBER AGENCY FINANCIAL STABILITY MAN-**
 2 **DATE.**

3 “Each member agency shall have, as part of the
 4 agency’s mission, a mandate to ensure the financial sta-
 5 bility of the United States.”.

6 (b) CLERICAL AMENDMENT.—The table of contents
 7 for the Dodd-Frank Wall Street Reform and Consumer
 8 Protection Act is amended by inserting after the item re-
 9 lating to section 123 the following:

“Sec. 124. Member agency financial stability mandate.”.

10 **SEC. 3. AUTOMATIC DESIGNATION OF CERTAIN LARGE**
 11 **NONBANK FINANCIAL COMPANIES.**

12 (a) IN GENERAL.—The Financial Stability Act of
 13 2010 (12 U.S.C. 5311 et seq.) is amended by inserting
 14 after section 113 the following:

15 **“SEC. 113A. AUTOMATIC DESIGNATION OF CERTAIN LARGE**
 16 **NONBANK FINANCIAL COMPANIES.**

17 “(a) NOTICE OF AUTOMATIC DESIGNATION.—If a
 18 nonbank financial company meets the criteria described in
 19 subsection (b), the Council shall notify such nonbank fi-
 20 nancial company that if, on the date that is 9 months after
 21 the date on which the notice is sent, such nonbank finan-
 22 cial company meets the criteria described in subsection
 23 (b), such nonbank financial company shall be deemed to
 24 be designated as systemically important.

25 “(b) CRITERIA.—

1 “(1) IN GENERAL.—A nonbank financial com-
2 pany meets the criteria described in this subsection
3 if such nonbank financial company satisfies—

4 “(A) the asset criteria in paragraph (2)
5 and the other criteria in paragraph (3); or

6 “(B) the criteria for an investment adviser
7 that is registered with the Commission under
8 the Investment Advisers Act of 1940 in para-
9 graph (4).

10 “(2) ASSET CRITERIA.—A nonbank financial
11 company satisfies the asset criteria in this para-
12 graph if such nonbank financial company has—

13 “(A) in the case of a company that would
14 be an investment company (as defined in the
15 Investment Company Act of 1940) but for sec-
16 tion 3(c)(1) or 3(c)(7) of that Act,
17 \$400,000,000,000 or more in gross notional ex-
18 posure (as defined in Form PF) individually or
19 in combination with any feeder funds, parallel
20 funds, or dependent parallel managed accounts
21 of the company; or

22 “(B) in the case of any nonbank financial
23 company not described under subparagraph (A)
24 or paragraph (4), \$50,000,000,000 or more in
25 consolidated assets.

1 “(3) OTHER CRITERIA.—A nonbank financial
2 company satisfies the criteria in this paragraph if
3 such nonbank financial company has—

4 “(A) \$30,000,000,000 or more in gross no-
5 tional credit default swaps outstanding for
6 which the nonbank financial company is the ref-
7 erence entity;

8 “(B) \$3,500,000,000 or more of deriva-
9 tives liabilities;

10 “(C) \$20,000,000,000 or more in total
11 debt outstanding;

12 “(D) a 15–1, or higher, leverage ratio; or

13 “(E) a 10 percent, or higher, short-term
14 debt ratio.

15 “(4) INVESTMENT ADVISER CRITERIA.—With
16 respect to an investment adviser that is registered
17 with the Commission under the Investment Advisers
18 Act of 1940, the criteria in this paragraph is that
19 the investment adviser has more than
20 \$1,500,000,000,000 in assets under management.

21 “(c) RESCISSION OF DESIGNATION.—

22 “(1) IN GENERAL.—With respect to a nonbank
23 financial company designated as systemically impor-
24 tant under subsection (a), if the Council determines
25 that neither material financial distress at the

1 nonbank financial company, nor the nature, scope,
2 size, scale, concentration, interconnectedness, or mix
3 of the activities of the nonbank financial company,
4 could pose a threat to the financial stability of the
5 United States, the Council may rescind such des-
6 ignation (in this subsection referred to as a ‘rescis-
7 sion determination’) for a period of 2 years.

8 “(2) AUTHORITY TO RENEW RESCISSION.—The
9 Council may renew a rescission determination made
10 under paragraph (1) for an unlimited number of ad-
11 ditional 2-year periods, if the Council makes a new
12 determination that the nonbank financial company
13 meets the criteria described under paragraph (1) at
14 the beginning of each such renewal.

15 “(3) AUTHORITY TO REVIEW RESCISSION.—The
16 Chairperson may review the status of a nonbank fi-
17 nancial company with respect to a rescission deter-
18 mination before the end of a 2-year period described
19 under paragraph (1) or (2) for any reason. The
20 Chairperson shall notify the members of the Council
21 of such review and shall call a vote to renew the re-
22 scission determination within 7 days of such notifi-
23 cation. If the Council fails to renew the rescission
24 determination, the nonbank financial company shall

1 be deemed once again to be designated as system-
 2 ically important.

3 “(d) AUTOMATIC RESCISSION OF DESIGNATION.—If
 4 a nonbank financial company does not meet the criteria
 5 described in subsection (b) for 9 consecutive months, the
 6 Council shall immediately, and automatically rescind the
 7 designation of the nonbank financial company as system-
 8 ically important.

9 “(e) APPLICATION.—For purposes of this section, the
 10 term ‘nonbank financial company’ does not include a Gov-
 11 ernment-sponsored enterprise or an investment company
 12 registered with the Commission under the Investment
 13 Company Act of 1940.

14 “(f) DEFINITION.—In this section and with respect
 15 to a nonbank financial company, the term ‘designated as
 16 systemically important’ means the nonbank financial com-
 17 pany is subject to a determination under section 113 that
 18 the nonbank financial company shall be supervised by the
 19 Board of Governors and shall be subject to prudential
 20 standards, in accordance with this title.”.

21 (b) CLERICAL AMENDMENT.—The table of contents
 22 for the Dodd-Frank Wall Street Reform and Consumer
 23 Protection Act is amended by inserting after the item re-
 24 lating to section 113 the following:

“Sec. 113A. Automatic designation of certain large nonbank financial compa-
 nies.”.

1 (c) EFFECTIVE DATE.—This section and the amend-
2 ments made by this section shall take effect not later than
3 9 months after the date of the enactment of this Act.

4 **SEC. 4. COUNCIL REGULATION OF SYSTEMICALLY RISKY**
5 **ACTIVITIES.**

6 (a) IN GENERAL.—Subtitle A of the Financial Sta-
7 bility Act of 2010 (12 U.S.C. 5321 et seq.), as amended
8 by section 2, is further amended by adding at the end the
9 following:

10 **“SEC. 125. COUNCIL REGULATION OF SYSTEMICALLY RISKY**
11 **ACTIVITIES.**

12 “(a) AUTHORITY OF THE COUNCIL.—Subject to sub-
13 section (b), the Council shall issue such rules as may be
14 required to regulate an activity or practice if the Council
15 determines that the conduct, scope, nature, size, scale,
16 concentration, or interconnectedness of such activity or
17 practice could create or increase the risk of significant li-
18 quidity, credit, or other problems spreading among bank
19 holding companies and nonbank financial companies, fi-
20 nancial markets of the United States, or low-income, mi-
21 nority, or under-served communities.

22 “(b) COUNCIL DELEGATION TO THE PRIMARY REGU-
23 LATOR.—With respect to an activity or practice that the
24 council determines meets the standard outlined in sub-
25 section (a)—

1 “(1) the Council shall issue recommendations to
2 the primary regulator for a rulemaking to address
3 the risk posed by the activity, and provide the pri-
4 mary regulator with a 12-month period to issue a
5 final rule to address such risk; and

6 “(2) if the primary regulator does not issue
7 such a final rule within the period described under
8 paragraph (1) or the Council determines that such
9 final rule is insufficient to address the risk, the
10 Council may—

11 “(A) terminate such final rule, if applica-
12 ble; and

13 “(B) issue a rule to address the risk.

14 “(c) BACKUP AUTHORITY OF THE COUNCIL FOR
15 MEMBER AGENCY RULEMAKINGS.—With respect to any
16 rulemaking required of a member agency by Federal stat-
17 ute, if the member agency does not issue the rule within
18 the time frame required by such Federal statute, the
19 Council may issue such rule in place of the member agen-
20 cy.

21 “(d) PRIMARY REGULATOR DEFINED.—With respect
22 to an activity, the term ‘primary regulator’ means—

23 “(1) one or more member agencies that the
24 Council determines are primarily responsible for reg-
25 ulating the activity; or

1 “(2) if the Council cannot make a determina-
 2 tion under paragraph (1), the member agency that
 3 the Council determines is the best choice to serve as
 4 the primary regulator with respect to such activity.”.

5 (b) CLERICAL AMENDMENT.—The table of contents
 6 for the Dodd-Frank Wall Street Reform and Consumer
 7 Protection Act, as amended by section 2, is further
 8 amended by inserting after the item relating to section
 9 124 the following:

“Sec. 125. Council regulation of systemically risky activities.”.

10 **SEC. 5. MINIMUM STAFFING AND FUNDING LEVELS FOR**
 11 **THE COUNCIL AND THE OFFICE OF FINAN-**
 12 **CIAL RESEARCH.**

13 (a) IN GENERAL.—The Financial Stability Act of
 14 2010 (12 U.S.C. 5311 et seq.) is amended—

15 (1) in section 118—

16 (A) in the section heading, by adding
 17 “**AND STAFFING**” at the end;

18 (B) by striking “Any expenses” and insert-
 19 ing the following:

20 “(a) EXPENSES.—Any expenses”;

21 (C) by inserting after “Office of Financial
 22 Research.” the following: “The Office of Finan-
 23 cial Research shall transfer a minimum of
 24 \$18,000,000 to the Council each year (adjusted
 25 for inflation) to pay for the costs of the Council

1 in carrying out the duties and responsibilities of
2 the Council.”; and

3 (D) by adding at the end the following:

4 “(b) MINIMUM STAFFING LEVELS.—The Council
5 shall maintain a minimum staff of 75 employees.”;

6 (2) in section 152—

7 (A) in subsection (c), by striking “, in con-
8 sultation with the Chairperson,”; and

9 (B) in subsection (d)(1)—

10 (i) by striking “, in consultation with
11 the Chairperson,”; and

12 (ii) by inserting before the period at
13 the end the following: “, except that the
14 Office shall maintain a minimum staff of
15 300 employees”;

16 (3) in section 153(b)—

17 (A) in paragraph (2), by striking “and” at
18 the end;

19 (B) in paragraph (3), by striking the pe-
20 riod on the end and inserting “; and”; and

21 (C) by adding at the end the following:

22 “(4) require any member agency to produce
23 such data and other information as the Director
24 may determine necessary to carry out the duties of
25 the Office.”; and

1 (4) in section 155(d)—

2 (A) by striking “the Secretary” and insert-
3 ing “the Office”; and

4 (B) by adding at the end the following:
5 “The aggregate amount of assessments under
6 this subsection with respect to a calendar year
7 shall not be less than \$168,000,000 (adjusted
8 for inflation).”.

9 (b) CLERICAL AMENDMENT.—The table of contents
10 for the Dodd-Frank Wall Street Reform and Consumer
11 Protection Act is amended in the item relating to section
12 118 by adding at the end the following: “and staffing”.

13 **SEC. 6. TRANSPARENCY IN OPERATIONS OF THE FINAN-**
14 **CIAL STABILITY OVERSIGHT COUNCIL.**

15 (a) MEETINGS.—Section 111(e) of the Financial Sta-
16 bility Act of 2010 (12 U.S.C. 5321(e)) is amended—

17 (1) in paragraph (1), by striking “not less fre-
18 quently than quarterly.” and inserting “not less fre-
19 quently than twice each quarter. At least 1 of such
20 quarterly meetings shall be open to the public.”; and

21 (2) by adding at the end the following:

22 “(3) TRANSCRIPTS.—The Council shall publicly
23 release transcripts of meetings held pursuant to
24 paragraph (1) not later than 5 years after the date
25 of such meeting.”.

1 (b) TESTIMONY.—Section 112(c) of the Financial
2 Stability Act of 2010 (12 U.S.C. 5322(c)) is amended—

3 (1) in the subsection heading, by striking “BY
4 THE CHAIRPERSON”; and

5 (2) by inserting “and each voting member of
6 the Council” after “The Chairperson”.

7 (c) MEMBER AGENCY STATEMENTS.—Section 112 of
8 the Financial Stability Act of 2010 (12 U.S.C. 5322) is
9 amended by adding at the end the following:

10 “(e) MEMBER AGENCY STATEMENTS.—After pro-
11 viding testimony pursuant to subsection (c), the head of
12 each member agency shall submit to Congress a signed
13 statement—

14 “(1) affirming that the member agency is tak-
15 ing all reasonable steps to ensure financial stability
16 and to mitigate systemic risk that would negatively
17 affect the economy; or

18 “(2) detailing additional steps that the member
19 agency should take to ensure financial stability and
20 to mitigate systemic risk that would negatively affect
21 the economy.”.

22 **SEC. 7. CLIMATE CHANGE SUBCOMMITTEE.**

23 (a) IN GENERAL.—Subtitle A of the Financial Sta-
24 bility Act of 2010 (12 U.S.C. 5321 et seq.), as amended

1 by section 4, is further amended by adding at the end the
2 following:

3 **“SEC. 126. CLIMATE CHANGE SUBCOMMITTEE.**

4 “(a) IN GENERAL.—The Council shall establish a
5 subcommittee of the Council that shall support the Council
6 in identifying risks to, and in responding to emerging
7 threats to, the stability of the United States financial sys-
8 tem as a result of climate change.

9 “(b) RESPONSIBILITIES.—

10 “(1) SUBCOMMITTEE.—The subcommittee es-
11 tablished under subsection (a) shall, not later than
12 1 year after the date of enactment of this section,
13 and in consultation with the Office of Financial Re-
14 search, submit to Congress an assessment of the risk
15 posed by climate change to the efficiency, competi-
16 tiveness, and stability of the United States financial
17 system as a whole.

18 “(2) COUNCIL.—For each year after the year in
19 which the assessment required under paragraph (1)
20 is submitted, the Financial Stability Oversight Coun-
21 cil shall include in the annual report required under
22 section 112(a)(2)(N) an update to that assessment.

23 “(c) COMPOSITION.—The subcommittee established
24 under subsection (a) shall be composed of—

1 “(1) the Chairman of the Board of Governors
2 of the Federal Reserve System;

3 “(2) the Secretary of the Treasury;

4 “(3) the Comptroller of the Currency;

5 “(4) the Chairperson of the Board of Directors
6 of the Federal Deposit Insurance Corporation;

7 “(5) the Chairman of the Securities and Ex-
8 change Commission;

9 “(6) the Chairperson of the Commodity Fu-
10 tures Trading Commission; and

11 “(7) any other voting or nonvoting members
12 that the Council determines to be appropriate.”.

13 (b) CLERICAL AMENDMENT.—The table of contents
14 for the Dodd-Frank Wall Street Reform and Consumer
15 Protection Act, as amended by section 4, is further
16 amended by inserting after the item relating to section
17 125 the following:

“Sec. 126. Climate change subcommittee.”.

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